Rules and Regulations

Federal Register
Vol. 46, No. 85
Monday, May 4, 1981

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Official Standards for Grades of Sea Island Cotton, and Tentative Standards for the Preparation of Long-Staple Cotton

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The regulations (7 CFR Part 28) under the United States Cotton Standards Act (7 U.S.C. 51–65) are amended through rescission of (1) the Official Standards of the United States for the Grades of Sea Island Cotton (7 CFR 28.551 through 28.560, and § 28.303(c)), and (2) the Tentative Standards for the Preparation of Long-Staple Cotton (7 CFR 28.591 through 28.594). The maintenance of these standards presently serves no purpose.

EFFECTIVE DATE: June 3, 1981.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, standards and Testing Branch, Cotton Division, Agricultural Marketing Service, Washington, D.C. 20250 (202–447–2167). The final Impact Analysis detailing the options considered in developing this final rule and the impact of implementing each option is published in its entirety below in "Supplementary Information."

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and has been classified "nonmajor." William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action will not have a significant impact on a substantial number of small entities. The proposed rescission was published on page 75218 of the Federal Register of November 14, 1980. The deadline for comments to be received was January 15, 1981.

The proposed rescission was well disseminated to all interested parties through news releases, trade journal articles, and through contacts with cotton industry associations. No negative comments were received. In light of that and of the following points, it was determined that no impact would result.

(1) No production of Sea Island cotton has been reported since 1949.

(2) The USDA-AMS Cotton Division has not classed cotton against Sea Island types, has not issued Sea Island cotton standards, and has not reported Sea Island cotton production or carry-over for at least 15 years (the last reference was in combination with Sealand cotton in a 1965 Market News footnote).

The maintenance of Sea Island cotton standards therefore presently serves no purpose. In the event that Sea Island cotton production should again become significant, new standards would have to be prepared. The standards now maintained by the USDA were prepared and officially adopted in 1939 and are no longer useful.

(3) The tentative standards for the preparation of long-staple cotton have not been used, nor prepared, for at least 15 years. Improvements in ginning technology have removed the need for separate standards for the preparation of long staple cotton.

Accordingly, the following action is to become effective 30 days after publication (June 3, 1981).

§§ 28.551—28.5607 [Removed]

1. 7 CFR 28.551 through 7 CFR 28.560 are removed.

§ 28.303 [Amended]

2. 7 CFR 28.303(c) is removed.

3. 7 CFR Part 28 is amended by revising § 28.2 (o) and (p) to read as follows:

§ 28.2 Terms defined.

* * * * *

(o) *Upland Cotton.* All cotton grown anywhere within the continental United States including the growths sometimes referred to as Upland, Gulf, and Texas cotton, but excluding American Pima growths.

(p) *Official Cotton Standards.* Official cotton standards of the United States for the grade of American Upland cotton, and American Pima cotton, for length of staple, and for fiber fineness and maturity, adopted or established pursuant to the act, or any change or replacement thereof.

* * * * *

§ 28.591–28.594 [Removed]

4. 7 CFR 28.591 through 28.594 are removed.

Dated: April 27, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81–13327 Filed 5-1-81; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1032 and 1050

[Milk Order Nos. 32 and 50]

Milk in the Southern Illinois and Central Illinois Marketing Areas; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the orders. The suspension removes the limits on such movements of milk during the months of April through July 1981 in the Southern Illinois market and during the month of April 1981 in the Central Illinois market. Comments received in response to the proposed action asserted the suspension was needed to assure the efficient disposition of milk not needed for fluid use and still maintain producer status under the respective orders for dairy farmers regularly associated with the markets.

EFFECTIVE DATE: May 4, 1981.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Proposed Suspension: Issued April 3, 1981; published April 9, 1981 (46 FR 21183).

It has been determined that this action is not a major rule under the criteria set forth in Executive Order 12291.

It also has been determined that the need for suspending certain provisions of the orders on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the Federal Register. However, this would not permit the issuance of the suspension on a timely basis necessary to include April 1981 in the suspension period. In this instance, the initial requests for the action was received on March 25, 1981. Then, a notice of proposed suspension was issued April 3, 1981, inviting interested parties to submit comments on the proposed action on or before April 16, 1981.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the orders regulating the handling of milk in the Southern Illinois and Central Illinois marketing areas.

Notice of proposed rulemaking was published in the Federal Register (46 FR 21183) concerning a proposed suspension of certain provisions of the orders. Interested persons were afforded opportunity to file written data, view, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that the following provisions of the orders do not tend to effectuate the declared policy of the Act for the months specified:

1. In 7 CFR Part 1032 (Southern Illinois).

a. During the month of April 1981, in § 1032.13(b)(2), the language "during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer".

b. During the months of April 1981 through July 1981, in § 1032.13(b)(3), the language "for not more days of production of producer milk, by such producer than is received at a pool plant(s) pursuant to paragraph (a) of this section".

2. In 7 CFR Part 1050 (Central Illinois) during the month of April 1981.

a. In § 1050.13(d)(1), the language "During May, June and July".

b. In § 1050.13, paragraph (d) (2), (3), (4), and (5).

Statement of Consideration

This action removes the limits on the amount of milk that may be diverted from pool plants to nonpool plants during the months of April through July 1981 under the Southern Illinois order and during the month of April 1981 under the Central Illinois order. The Southern Illinois order now provides that during the months of January through April and September through November not more than 8 days' production of a producer may be diverted to nonpool plants that are not other order plants. Such diversions are limited to not more than 12 days' production of a producer during August and December. Diversions to nonpool plants that are also other order plants are limited each month of the year to not more than the number of days of production of a producer that is received at pool plants. The Central Illinois order now provides that diversions to nonpool plants may not exceed the number of days of production that is received at pool plants during the months of August through April, provided that the total quantity of producer milk diverted does not exceed 35 percent of the amount of milk physically received at pool plants.

The basis for this action is an increase in production by dairy farmers who supply milk to handlers regulated under the Southern Illinois and the Central Illinois orders. In the Southern Illinois market, producer receipts in April 1981 are projected to be 7 percent above year earlier levels. With this increase in production, a greater quantity of milk will have to be diverted to manufacturing plants during April than during the previous year when such movements approached the diversion limits of the order. Similar increases in production are being experienced by dairy farmers who supply the Central Illinois market. Without suspension of the limits on the amount of milk that can be moved directly from farms to manufacturing plants, uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the respective markets.

Increased producer receipts are expected to continue throughout the spring and summer months. Accordingly, the diversion limits should also be suspended for the months of May–July 1981 in the Southern Illinois order to prevent uneconomic movements of milk solely for pooling purposes. Suspension action other than for the month of April is not necessary in the Central Illinois order however, as the order contains no diversion limits during the months of May through July.

Interested parties were given an opportunity to submit written data, views, or arguments concerning the suspension. The suspension was requested by a cooperative association and comments by a handler and two cooperative associations supported the action on the basis that it would facilitate the orderly and economic disposition of an increasing supply of milk above fluid requirements to manufacturing plants. No views in opposition to the suspension were received.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing areas in that without this action uneconomic movements of milk would be made solely for the purpose of pooling the milk of dairy farmers who have regularly been associated with the respective markets;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the Federal Register (May 4, 1981).

§§ 1032.13 and 1050.13 [Amended]

It is therefore ordered, That the aforesaid provisions in § 1032.13(b)(2) of the Southern Illinois order are hereby suspended for the month of April 1981, the aforesaid provisions in § 1032.13(b)(3) of the Southern Illinois order are hereby suspended for the months of April through July 1981, and the aforesaid provisions in § 1050.13 of the Central Illinois order are hereby suspended for the month of April 1981.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: May 4, 1981.

Signed at Washington, D.C., on April 27, 1981.

C. W. McMillan,

Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 81-13418 Filed 5-1-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

Termination of Parole

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulations expresses Service policy that the Service is no longer required, in certain instances, to serve an alien written notice of the termination of his or her parole.

EFFECTIVE DATE: June 1, 1981.

FOR FURTHER INFORMATION:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Alvin Braunstein, Immigration Inspector, Immigration and Naturalization Service, 425 I Street, N.W., Washington, D.C. 20536, Telephone: (202) 633–2725.

SUPPLEMENTARY INFORMATION: The present 8 CFR 212.5(b) requires that an alien be served written notice that his/her parole is terminated when the authorized parole expires, when the purpose of the parole has been accomplished, or when the district director in the area where the alien resides decides that neither emergency nor public interest warrants the alien's continued presence in the United States.

The section also provides for further inspection of the alien in an exclusion hearing before an immigration judge, or execution of a previous exclusion or deportation order, or for a new parole, after the initial parole period has been terminated.

It is Service policy that parole terminates without service of a written notice either when the alien departs from the United States, or if he or she has not departed, when the authorized parole period expires. Accordingly, the Service has divided 8 CFR 212.5(b) into two subparagraphs: "(1) *Automatic*" and "(2) *On Notice.*"

The new 8 CFR 212.5(b)(1) provides that parole automatically terminates without written notice if the alien departs from the United States or, if he has not departed, when the authorized parole period expires.

The Notice of Proposed Rules published September 2, 1980, at 45 FR 58131, resulted in three responses involving three separate issues as follows:

Issue No. 1.—Upon revocation of parole the alien should be processed in deportation rather than exclusion proceedings.

INS Position.—Although exclusion of an alien who is in reality firmly within the United States may be paradoxical, there is no doubt that Congress intended this by the specific and unequivocal language used in section 212(d)(5) of the Immigration and Nationality Act, which reads in pertinent part:

> (5)(A) The Attorney General may, except as provided in subparagraph (B), in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States. (Amended March 17, 1980, Pub. L. 96–212, Title II, § 203(f), 94 Stat. 107. Effective March 17, 1980)

A distinction must be drawn between the physical presence of the alien in the United States on one hand, and the legal posture on the other which is mandated by statute. *(Matter of B*—2 I & N Dec. 172).

Issue No. 2—This proposed amendment violates the *Matter of O*, 16 I & N 344 (1977), which holds that under present regulation an alien is entitled to written notice of termination of parole prior to the institution of exclusion proceedings, regardless of the manner in which parole is terminated. It also violates the rules of due process.

INS Position—While we agree that due process requires notice of termination for cause, the automatic termination proposed is obvious and notice thereof is unnecessary and administratively cumbersome. In the case of a parolee who departs from the United States, to reenter he or she must again apply for admission and, if inadmissible, a new parole must be authorized if entry is deemed appropriate. On the other hand, an alien who has been paroled is given sufficient notice of termination of that parole on Form I–94 (Arrival-Departure Record) which indicates the date such parole ends.

Since no exclusion proceeding may be initiated without service of Form I–122, which explains right to counsel, due process is preserved (see 8 CFR 235.6(a)).

Issue No. 3—Service of Form I–122 sets into motion formal exclusion proceedings before an immigration judge thereby estopping the Service from further inspection.

INS Position—This point is well taken. Therefore, reference to the Form I–122 as the vehicle for serving notice of parole termination has been deleted from the final rule.

In accordance with 5 U.S.C. 605(b) the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities since the rule is technical in nature and does not impose any additional burden on the public.

The rule is not a major rule as defined in section 1(b) of E.O. 12291 because it does not have an annual effect on the economy of $100 million or more; does not increase costs to the public; does not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For the reasons set out in the preamble, Part 212 of Chapter I of Title 8, Code of Federal Regulations, is amended by revising paragraph (b) as set forth below:

PART 212—PAROLE

§ 212.5 [Amended]

* * * * *

(b) *Termination of parole*—(1) *Automatic.* Parole shall be automatically terminated without written notice (i) upon the departure from the United States of the alien, or, (ii) if not departed, at the expiration of the time for which parole was authorized, and in the latter case the alien shall be processed in accordance with § 212.5(b)(2) except that no written notice shall be required.