Federal Register
Vol. 46, No. 175
Thursday, September 10, 1981

Presidential Documents

Title 3—

The President

Proclamation 4856 of September 8, 1981

Death of Roy Wilkins

By the President of the United States of America

A Proclamation

To the People of the United States:

With sadness, I announce the death of Roy Wilkins who died today in New York City.

Roy Wilkins worked for equality, spoke for freedom, and marched for justice. His quiet and unassuming manner masked his tremendous passion for civil and human rights.

He once said, "The heritage of a man of peace will endure and shine into the darkness of this world." Although Roy Wilkins' death darkens our day, the accomplishments of his life will continue to endure and shine forth.

As a mark of respect for the memory of Roy Wilkins, I hereby order that the flag of the United States shall be flown at half-staff upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until his interment. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

Editorial Note: The President's statement of September 8, 1981, concerning the death of Roy Wilkins, is printed in the *Weekly Compilation of Presidential Documents* (vol. 17, no. 37).

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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 680; Valencia Orange Reg. 679, Amdt. 1]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 11–17, 1981, and increases the quantity of such oranges that may be so shipped during the period September 4–10, 1981. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: This regulation becomes effective September 11, 1981, and the amendment is effective for the period September 4–10, 1981.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, (202) 447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a non-major rule. This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81. The marketing policy was recommended by the committee following discussion at a public meeting on January 27, 1981. A regulatory impact analysis on the marketing policy is available from William J. Doyle, Acting Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–227–5975.

The committee met again publicly on September 8, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continues to improve.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Forms required for operation under this part are subject to clearance by the office of management and budget and are in the process of review.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

1. Section 908.980 is added as follows:

§ 908.980 Valencia Orange Regulation 680.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period September 11, 1981, through September 17, 1981, are established as follows:

(a) District 1: 500,000 cartons;

(b) District 2: Unlimited cartons;

(c) District 3: Unlimited cartons.

2. Section 908.979 Valencia Orange Regulation 679 (46 FR 44147), is hereby amended to read:

§ 908.979 Valencia Orange Regulation 679.

* * * * *

(a) District 1: 450,000 cartons;

(b) District 2: 350,000 cartons;

(c) District 3: Unlimited cartons.

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

Dated: September 9, 1981.

D. S. Kuryloski,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81-26628 Filed 9-9-81; 11:32 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1446

[Amdt. 2]

Peanuts; General Regulations Governing 1979 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule provides for optional methods for the supervision of contract additional peanuts and provides that Segregation 2 or 3 peanuts containing in excess of 10 percent moisture and/or foreign material may be pledged for loan and stored if the producer has made a bona fide effort to clean and dry such peanuts. The purpose of this rule is to simplify compliance requirements and will result in savings to handlers trading in contract additional peanuts. This rule will also permit Segregations 2 and 3 peanuts to be accumulated by Producer Associations before transferring such peanuts to crushing plants, thus resulting in a savings to Commodity Credit Corporation (CCC).

EFFECTIVE DATE: September 9, 1981.

FOR FURTHER INFORMATION CONTACT: David Kincannon, (202) 447–6734. The Final Regulatory Impact Analysis describing the options considered in developing the final rule and the impact of implementing each option is available upon request.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures and Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "non-major." It has been determined that this rule will not: (1) result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical region; or (2) have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program that this final rule applies to is: 10.051, as found in the Catalog of Federal Domestic Assistance. This final rule will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to this subject matter.

A notice that the Department was preparing to make determininations with respect to these provisions was published in the Federal Register on July 9, 1981 [46 FR 35520]. The comment period ended July 28, 1981.

Handler Supervision

Current regulations governing the exportation of contract additional peanuts provided that quota and additional peanuts may be commingled to facilitate efficient usage of storage facilities. Under presently existing procedures, when additional peanuts are removed from storage they must be physically supervised by inspectors of the applicable peanut association with supervision costs borne by handlers. Such peanuts are sealed at receiving plants and an inspector of the peanut association then personally supervises unloading and all milling and in-plant operations. This supervisory procedure eliminates the flexibility necessary for efficient operations, places significant regulatory burdens on all exporting handlers, indirectly reduces grower income, and directly increases costs to consumers.

The procedures described above were instituted in connection with the implementation of Title VIII of the Food and Agriculture Act of 1977, Pub. L. 95–113, 91 Stat. 944. Title VIII establishes a two-tiered system of marketing peanuts. Under that system, which has been in effect since 1978, only "quota peanuts" are eligible for domestic edible use. "Additional peanuts", (i.e., peanuts grown in excess of the farm's poundage quota) may only be used for crushing for oil or for export.

It is essential to the proper operation of this system that additional peanuts be prevented from being diverted to domestic edible use. To this end, Title VIII directed the Secretary to prescribe procedures for supervising the handling of additional peanuts.

The procedures described above were adopted for the 1978 and subsequent crops of peanuts. At that time, given the total lack of experience with a two-tiered marketing system and the very significant possibility of diversion to domestic edible use, it was determined that strict physical supervision of all additional peanuts was necessary.

The Department now has three years of experience in implementing a two-tiered marketing system. In light of this experience and information received from the peanut industry, it was felt that the supervisory procedure could be modified to lessen the regulatory burden on handlers without detracting from the effectiveness of the supervision program. Therefore, in order to eliminate unnecessary supervision, to minimize expenses to handlers of contract additional peanuts, and to lessen the burden of unnecessary regulations, it was proposed to simplify the procedure for the supervision of contract additional peanuts (See 46 FR 35520). It was proposed to: (1) require on-site supervision during the load out process; (2) require on-site supervision at manufacturing plants where peanuts are being processed into products to be exported; and (3) require on-site supervision for the crushing of the shelled and broken kernels from the shelling of contract additional peanuts to be exported and for contract additional peanuts purchased for domestic crushing. It was further proposed to require handlers to furnish at the time of load out (when the dollar value of the peanuts is established) an irrevocable letter of credit in an amount equal to 120 percent of the quota support rate for all additional peanuts in-store. In addition, at time of load out, samples would be graded and screen sizes determined. A net weight of each screen size would be determined and the handler would be required to export the determined quantities by screen size. When peanuts were exported, handlers would be required to furnish proof that the required quantity of peanuts by screen sizes were exported. When the appropriate documenting evidence is received, the letters of credit would be reduced accordingly.

There were 12 responses to this proposal: 2 from sheller organizations, 2 from manufacturers, 1 from a bank, 6 from shellers, and 1 from a growers' group. Eight respondents favored the proposed changes in the supervision requirements for additional peanuts. Most respondents felt that the operation of the price support program would not be adversely affected and that nonphysical supervision would be less costly and reduce the regulatory burden. One respondent, however, stressed the need for a timely accounting of export liability so that the letter of credit may be reduced accordingly, thus reducing the cost to handlers as well as releasing bank funds for other purposes. Four respondents opposed any change in the supervision requirements. The basic objection to the rule change is that it will make more split peanuts available for the domestic markets while reducing the availability of whole kernels in the same market. It was pointed out that the sample of farmer stock peanuts may show different screen sizes than the actual sheller turnout, especially in the Southwest where dryer conditions can cause more split kernels at the time of shelling. If this happened, handlers would have excess split kernels from shelling which would enter the domestic market and would also have to divert whole kernels from the domestic market in order to meet export obligations for whole kernels.

It was also stressed that this proposed rule would cause hardship to shellers who handle only contract additional peanuts for export. If the handler's actual turnout consisted of fewer whole kernels than his export obligation determined from the sample shelling, the handler would be forced to purchase quota whole kernels on the open market in order to meet his export obligation. It was further pointed out that requiring all shellers to change to nonphysical supervision would involve changing the rules just before the harvest season when contracts have already been made with producers for their contract additional peanuts and export obligations have been established. One respondent suggested two alternatives

to the proposal. The first alternate proposal would provide that export obligations be established on the basis of the average outturns for both quota and additional peanuts, that the handler be bonded for compliance, and that handlers show proof of export. This method was not adopted since this would involve a detailed audit of the handler's records and would increase CCC's operating expenses. Also, it was determined that a bond would not provide adequate protection in the event additional peanuts entered the domestic market contrary to the applicable statute and regulations since it has been the Department's experience that recovery on bonds has been administratively difficult. The second suggested alternative was that the proposed method of supervision be adopted as an optional method of supervision, and that a handler be given a choice as to which supervision method he chooses in his plant.

After careful consideraton of the comments submitted, it has been determined that the current method of physical supervision will be retained as one option and the proposed method of nonphysical supervison will be implemented as an alternative option. Handlers will be able to select one of the two options. This will permit shellers in the Southwest who may incur excess split kernels at time of shelling to select physical supervision and ship only the actual outturns from their plants. It will also permit those shellers who only handle contract additional peanuts to ship the peanuts actually milled from the contract additional peanuts. This final rule will, therefore, permit handlers to obtain the benefits of nonphysical supervision if they so desire, while at the same time taking into account the situation of shellers in the Southwest and shellers who handle only contract additional peanuts.

Changes in Loan Eligibility Requirements for Segregation 2 and 3 Peanuts Having in Excess of 10 Percent Moisture and/or Foreign Material

Current regulations provide that Segregation 2 and 3 peanuts containing more than 10 percent moisture and/or foreign material may be pledged as collateral for a price support loan only if such peanuts will not be stored. This eligibility requirement was included in the regulations in order to allow area associations to accept such peanuts in years of extreme quality problems. However, problems have arisen in that in some cases producers have not made an effort to clean and dry such peanuts. This results in peanuts being pledged as collateral for a loan which have excessively high moisture and foreign material content. High moisture peanuts are especially susceptible to deterioration and excess foreign material causes additional expenses in transportation and in crushing. Also, in some cases, peanuts cannot be immediately crushed because of unavailability of crushing facilities, and must be stored for short periods of time.

Therefore, in order to minimize expense to CCC in handling such peanuts and to alleviate the problems described above, it was proposed to amend the regulations to provide that such peanuts can be pledged as collateral for a price support loan provided: (1) the level of moisture does not exceed a level determined appropriate by the Peanut Association; (2) short term temporary storage is available in the area; (3) the local crushing market can crush the peanuts within a reasonable period of time; and (4) the producer has made a bona fide effort to clean and dry the peanuts. This change will not have any impact on the quality control procedures now in effect which prevent low quality or contaminated peanuts from entering the edible market.

There were 9 responses to the proposed change. Seven favored the change and two were opposed. Of the four respondents who were opposed to the proposal, only one specified a reason for his opposition. That respondent felt the limited storage space for farmers stock peanuts would be limited even further by this change. After careful consideration of the comments submitted, the proposed change will be adopted since it will result in a savings to CCC. This provision will not limit storage space, since peanuts will only be stored for short periods of time and only when temporary storage space is available.

Final Rule

Effective for the 1981 and subsequent crops of peanuts, the regulations at 7 CFR Part 1446 are amended as follows:

PART 1446—PEANUTS

1. Section 1446.8 is amended by revising the introductory paragraph and paragraph (b) to read as follows:

§ 1446.8 Compliance by handlers of contract additional peanuts.

All contract additional peanuts acquired by a handler shall be disposed of by domestic crushing or export to an eligible country in accordance with the conditions set forth in these regulations. All handler's records shall be subject to a review by CCC or other representatives of the Secretary to determine compliance with the provision of this subpart. Refusal to make such handler's records available to authorized representatives of the Secretary or the failure of such records submitted to establish such disposition by the handler shall constitute prima facie evidence of noncompliance with this subpart. Reviews shall be made by the Association in accordance with guidelines established by CCC. The Association shall not take any administrative actions concerning program violations prior to notification by the Director, Producer Associations Division, Agricultural Stabilization and Conservation Service (ASCS). Handlers shall have the option, upon prior notification by the handler of the Association, to select one of the two methods of supervision for handling and disposing of contract additional peanuts as provided in §§ 1446.9 and 1446.10. Each handler must select one method of supervision prior to the beginning of processing or loadout of contract additional peanuts and use the method selected to account for the disposition of all contract additional peanuts purchased from producers.

(a) * * *

(b) *Method of determining compliance.*

(1) *Commingled storage.* Handlers may commingle quota loan, quota commercial, additional loan and contract additional peanuts. In such instance, quota loan and additional loan peanuts must be inspected as farmers stock peanuts and settled on a dollar value basis less adjustments for shrinkage except when such peanuts are purchased from the Association for domestic edible and related use on an in-grade, in-weight basis. Contract additional peanuts must be inspected on a farmers stock basis and accounted for on a dollar value basis less a one-time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value for Virginia type peanuts and 3.5 percent for all other types. However, if the contract additional peanuts are graded out and accounted for prior to February 1, the adjustment shall be 3.5 for Virginia type and 3.0 percent of the dollar value for all other peanuts. Contract additional peanuts shall also be accounted for by screen sizes if the handler elects to use the nonphysical method of supervision.

(2) *Identity preserved storage.* (i) *Physical method of supervision.* Contract additional peanuts stored identity preserved shall be inspected as farmers stock peanuts and settled on a dollar value basis. The handler shall receive, store, and otherwise handle

such peanuts in accordance with good commercial practices.

(ii) *Nonphysical method of supervision.* Contract additional peanuts stored identity preserved shall be inspected as farmers stock peanuts at time of grade out and settled on a dollar value basis less a one time adjustment for shrinkage for each crop equal to 4.0 percent of the dollar value for Virginia type peanuts and 3.5 percent for all other types. However, if the contract additional peanuts are graded out and accounted for prior to February 1, an adjustment shall be made in an amount equal to 3.5 percent for Virginia type and 3.0 percent of the dollar value for all other type peanuts. The handler shall receive, store, and otherwise handle such peanuts in accordance with good commercial practices. Such peanuts shall also be accounted for by screen sizes.

* * * * *

2. Sections 1446.9 through 1446.15 are revised by: (1) redesignating §§ 1446.10 through 1446.15 as §§ 1446.11 through 1446.16 respectively; (2) adding a new § 1446.10 before the subheading "Warehouse Storage Loans"; (3) amending the first paragraph of § 1446.9, and (4) amending § 1446.15(b) (formerly designated § 1446.14(b)), to read as follows:

§ 1446.9 Physical supervision and handling of contract additional peanuts.

The Association shall conduct onsite supervision of domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, weighing, and shipping. By selecting the option of physical supervision as provided in this section, the handler agrees that all of the handler's contract additional peanuts will be handled and accounted for under the provisions of this section.

* * * * *

§ 1446.10 Nonphysical supervision and handling of contractor additional peanuts.

The Association shall conduct onsite loadout supervision to ensure that all contract additional peanuts are identified and dollar value and screen sizes determined and such other supervision of domestic handling of contract additional peanuts to the extent necessary to ensure that such peanuts are exported or crushed in accordance with these regulations. By selecting the option of nonphysical supervision as provided in this section, the handler agrees that all of the handler's contract additional peanuts will be handled and accounted for under the provisions of this section.

(a) *Access of facilities.* The handler, by entering into contracts to receive contract additional peanuts, agrees that authorized representative(s) of CCC and the Association:

(1) May enter and remain upon any of the premises when such peanuts are loaded out, weighed, graded and sized as farmers stock contract additional peanuts.

(2) May, if determined necessary by CCC or the Association inspect the premises, facilities, operations, books, and records to determine that such peanuts have been handled in accordance with these regulations.

(3) May supervise the transition from positive lot shelled peanuts to the processing line of the manufacturing plants at which the peanuts will be made into peanut products when such peanuts or peanut products are to be exported as contract additional peanuts.

(4) May supervise and inspect nonedible quality peanuts crushed or exported for crushing.

(b) *Notifying the Association.* The handler (or cleaner, sheller, or processor under contract with the handler) shall notify the Association of the time when dollar value and screen size determinations will begin on farmers stock contract additional peanuts and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days advance notice to the Association so that supervision can be arranged.

(c) *Special sizing requirements.* The handler shall load out, weigh, grade, and account for all contract additional peanuts on a dollar value basis. A representative sample of peanuts loaded out as contract additional peanuts, from either commingled storaged or identity preserved storage, shall be taken by a Federal or State Inspector during the load out process when dollar value is being determined. The sample shall be graded and the kernels shall be sized to determine the percentages of kernels which ride specified screen sizes. The net weight of each screen size for such peanuts shall be determined by CCC or the Association and the handler shall be obligated to export or crush the determined quantities by screen size in addition to compliance requirements set forth in § 1446.8.

(d) *Furnishing irrevocable letters of credit.* Immediately after dollar value has been determined, the handler shall furnish the Association an irrevocable letter of credit in an amount equal to 120 percent of the quota support value for all contract additional peanuts loaded out. The handler shall not shell or otherwise process any contract additional peanuts until the Association notifies the handler that the letter of credit has been received and accepted. Such a letter of credit shall be issued in a form and by a bank acceptable to CCC. Credit may be given and the letter of credit reduced accordingly for an equivalent quantity of quota peanuts of the same crop, type, area and screen size which have been exported prior to the determination of a handler's contract additional export obligation. The handler shall deliver to the Association satisfactory evidence that such peanuts have been exported in accordance with these regulations. As contract additional peanuts are exported, the handler shall submit to the Association satisfactory documentation as required herein, and upon receipt of such documentation, the letter of credit will be reduced accordingly. Such evidence must be submitted not later than 30 days after the final date for exportation. If satisfactory evidence is not submitted by such date, the Association will draw against the letter of credit the full amount of the marketing penalty applicable to the quantity of peanuts which were not exported.

(e) *Processing.* Shelled peanuts which will be exported as contract additional peanuts, or quota peanuts which will be exported as replacements, shall be identified with positive lot identity tags and shall include shelled screen sizes applicable to the lot and recorded on the inspectors sizing worksheet. In order to be eligible for export credit, positive lot identity must be maintained except as authorized by the Association when peanuts are transported and stored domestically.

(f) *Expense charged to handlers.* All supervision costs shall be borne by handlers.

(g) *Domestic sale or transfer*—(1) *Farmers stock.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of farmers stock contract additional peanuts to the Association and obtain written approval prior to any physical movement of the peanuts from the buying point. Approval of such contracts may be made before or after delivery by the producer. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees in writing to handle and crush, or export, such peanuts as raw peanuts or peanut products in accordance with the terms and conditions of these regulations.

(2) *Milled peanuts.* The handler must submit contracts covering any domestic sale, transfer, or other disposition of milled contract additional peanuts to the

Association and obtain approval prior to any physical movement of the peanuts. Approval of any domestic sale, transfer, or other disposition may be made only if the person to whom the peanuts are sold, transferred, or disposed of agrees, in writing, to handle and crush, or export, such peanuts in accordance with the terms and conditions of these regulations.

(h) *Disposal of contract additional peanuts.* Contract additional peanuts may be disposed of by domestic crushing or by exportation to an eligible country as follows:

(1) All kernels may be crushed domestically; or

(2) All kernels may be exported for crushing, if fragmented; or

(3) All kernels that are graded to meet the edible export standards may be exported and the remaining kernels:

(i) Crushed domestically; or

(ii) Exported for crushing if peanuts are fragmented; or

(4) All of the peanuts may be exported as farmers stock peanuts; or

(5) Peanuts may be exported as peanut products if such peanuts meet edible export standards; or

(6) Peanuts may be exported as milled or inshell peanuts.

(i) *Disposal of Meal contaminated by aflatoxin.* All meal produced from peanuts which are crushed domestically and found to be unsuitable for use as feed because of contamination by aflatoxin shall be disposed of for nonfeed purposes only. If the meal is exported, the export bill of lading shall reflect the analysis of the lot by inclusion thereon of the following statement: "This shipment consists of lots of meal which contain aflatoxin ranging from —— to —— PPB and averaging —— PPB."

(j) *Final dates for scheduling supervision.* Contract additional peanuts shall be scheduled for supervision by the Association during the normal marketing period but not later than July 31 following the calendar year in which the crop is grown unless prior approval of a later date is granted by the Association.

(k) *Export provisions.* (1) *General.* Exports to certain countries are regulated by U.S. Department of Commerce regulations and require a validated export license. Additional information concerning the regulations may be obtained from the Bureau of International Commerce or from the field office of the Department of Commerce.

(2) *Export to a U.S. Government agency.* Except for the export of raw peanuts to the military exchange services for processing outside the United States, export of peanuts in any form by or to a United States government agency shall not be considered exportation to an eligible country. However, sales to a foreign government which are financed with funds made available by a United States agency such as the Agency for International Development are not considered sales to a United States government agency: *Provided,* The peanuts were not purchased by the foreign buyer for transfer to a United States agency.

(3) *Exportation of contract additional peanuts.* All contract additional peanuts which are not crushed domestically and which are eligible for export shall be exported to an eligible country as peanuts or peanut products.

(4) *Reentry Transshipment and Liquidated Damages*—(i) *Reentry Transshipment.* Peanuts and peanut products exported shall not be reentered by anyone into the United States in any form or product and shall not be caused by the handler to be diverted or transshipped to other than an eligible country, in any form or product, and if they are reentered, the handler shall be subject to liquidated damages as specified in subparagraph (4)(ii) of this paragraph.

(ii) *Liquidated Damages.* The handler, by entering into contracts to receive contract additional peanuts, agrees that CCC will incur serious and substantial damages to its program to support the price of quota peanuts if contract additional peanuts are exported and later are reentered into the United States or diverted or transshipped to other than an eligible country in any form or product; that the amount of such damages will be difficult, if not impossible, to ascertain exactly; and that the handler shall, with respect to any peanuts or peanut products reentered into the United States or diverted or transshipped to other than an eligible country, pay to CCC, as liquidated damages and not as a penalty, ten cents ($.10) per net pound for such peanuts or peanut products. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such reentry, diversion, or transshippment.

(5) *Evidence of Export.* The handler shall furnish the Association with the following documentary evidence of exportation of peanuts or peanut products not later than 30 days after the date of exportation as provided in § 1446.8(c).

(i) *Export by water.* A nonnegotiable copy of an onboard ocean bill of lading, signed, on behalf of the carrier, showing the date and place of loading onboard vessel, the weight of the peanuts, peanut meal, or products exported, the name of the vessel, the name and address of the exported, and the country of destination. In addition, a copy of the FVQ–184 and a copy of the inspectors special sizing notesheet for each lot shall be furnished. Peanut meal which is unsuitable for use as feed because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(ii) *Export by rail or truck.* A copy of the bill of lading (showing the weight of the peanuts, weight of the peanut meal, or products exported, supplemented by a copy of Shipper's Export Declaration or other documentation acceptable to the Association). In addition, a copy of the FVQ–184 and a copy of the inspectors special sizing notesheet for each lot shall be furnished. Peanut meal which is unsuitable for feed use because of contamination by aflatoxin shall be identified on the bill of lading in accordance with this section.

(iii) *Export by air.* A copy of the Airway Bill (showing weight of peanuts, weight of peanut meal or products exported, consignee and shipper) and other documentation acceptable to the Association. In addition, a copy of the FVQ–184 and a copy of the inspectors special sizing notesheet shall be furnished.

(iv) *Certified statement.* A statement signed by the handler specifying the name and address of the consignee and the applicable Bureau license number if exporations have been made to one or more of the countries or areas for which a validated license is required under regulations issued by the Bureau of International Commerce, U.S. Department of Commerce.

(6) *Penalties.* Failure to dispose of contract additional peanuts acquired by a handler for domestic crushing or export by the final date for exportation, failure to obtain supervision from the Association, or failure to properly handle contract additional peanuts by the handler shall constitute noncompliance with the provisions of this subpart. In such case, the handler will be obligated to pay a penalty equal to 120 percent of the basic quota support rate on the quantity of the additional peanuts which have not been crushed, exported, supervised, and/or properly handled. Such penalty may be reduced as provided in §§ 1446.8(d) and 1446.8(e).

§ 1446.15 Eligible peanuts.

* * * * *

(b) *Additional support.* Peanuts eligible for additional support are peanuts which meet the following requirements. The peanuts:

(1) Must contain not more than 10 percent moisture;

(2) Must contain not more than 10 percent foreign material, except that such peanuts may contain more foreign material if the handler agrees to purchase such peanuts for domestic edible use as provided in the first sentence of § 1446.7 of these regulations;

(3) If graded Segregation 2 or 3 and contain more than 10 percent moisture and/or foreign material must meet the following criteria: (i) the level of mositure does not exceed a level determined appropriate by the Association; (ii) short term temporary storage is available in the area, as determined by the Association; (iii) the local crushing market for peanuts can crush the peanuts within a reasonable time, as determined by the Association; and (iv) the producer has made a bona fide effort, as determined by the Association, to clean and dry such peanuts prior to offering for loan;

(4) Must be free and clear of all liens and encumbrances, including landlord's lien, or if liens or encumbrances exist on the peanuts, acceptable waivers are obtained;

(5) If delivered to the Association in bags in the Southwestern area, must be in new or thoroughly cleaned used bags which are made of material other than mesh or net, weighing not less than 7½ ounces nor more than 10 ounces per square yard and containing no sisal fibers, which are free from holes, which are finished at the top with either the selvage edge of the material, binding, or a hem, and which are uniform in size with approximately 2 bushel capacity;

(6) Must not have been produced on land owned by the Federal Government if such land is occupied without a lease permit or other right of possession; and

(7) Must have been inspected as farmers stock peanuts and have an official grade determined by an inspector.

In addition to the above requirements, the beneficial interest in the peanuts must be in the producer who delivers them to the Association and must always have been in such producer or a former producer whom such producer succeeded before the peanuts were harvested. In order to meet the requirements of succession, the rights, responsibilities, and interest of the former producer with respect to the farm on which the peanuts were produced shall have been substantially assumed by the person claiming succession. Mere purchase of a crop prior to harvest, without acquisition of any additional interest in the farm on which the peanuts were produced, shall not consitute succession. Any producer in doubt as to whether such interest in the peanuts complies with the requirements of this section should, before applying for price support, make available to the appropriate county Agricultural Stablization and Conservation (ASC) committee all pertinent information which will permit a determination with respect to succession to be made by CCC. Also, if the peanuts are produced on acreage in excess of the effective farm allotment, the marketing penalty with respect to such peanuts must have been collected in accordance with Part 729 of this title.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421); sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359); and sec. 359, 93 Stat. 81 (7 U.S.C. 1359 note)).

Signed at Washington, D.C., on September 4, 1981.

C. Hoke Leggett,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-26448 Filed 9-9-81; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 108, 207, and 209

Aliens and Nationality; Refugee and Asylum Procedures

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the Service's interim and related regulations relating to refugee and asylum procedures which were published in the Federal Register on June 2, 1980 and effective June 1, 1980. After considering constructive public comments and experience with implementing the refugee and asylum procedures during the interim period, the Service is publishing final rules which efficiently implement the provisions of the Refugee Act of 1980.

EFFECTIVE DATE: October 12, 1981.

FOR FURTHER INFORMATION CONTACT:

For general information—Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C., 20536, Telephone: (202) 633-3048.

For specific information—John L. Rebsamen, Director Refugee and Parole Staff Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C., 20536, Telephone: (202) 633-2361.

SUPPLEMENTARY INFORMATION:.

General

On June 2, 1980, at 45 FR 37393, the Service published interim regulations, effective June 1, 1980, to implement Title II of the Refugee Act of 1980, Pub. L. 96-212, 94 Stat 102. The Refugee Act of 1980 is a major departure from prior legislation which provided relief for refugees. The Act establishes a permanent and systematic procedure for meeting the humanitarian needs of refugees and those seeking asylum in the United States. Prior statutory provisions have proven to be inadequate because of the lack of uniformity in treating refugees from different parts of the world.

The regulations accomplish the following specific objectives: Determine who qualifies as a refugee; establish procedures for inspecting and examining refugees; provide for waiver of certain exclusionary grounds for admittance; provide for termination of status of those who no longer qualify as refugees; and provide for the admittance of refugees subject to numerical limitations.

Admission of Refugees

The regulations on the admission of refugees are contained in 8 CFR Part 207. Any alien who believes he/she is eligible for admission to the United States as a refugee, and who is within one of the groups designated by the President to be of special humanitarian concern, may apply overseas to the Immigration & Naturalization Service officer in charge of the area in which the alien is located, or if remote from established Immigration & Naturalization Service offices, may apply preliminarily to the nearest designated American consular officer, pending an interview by an Immigration & Naturalization Service officer to determine eligibility. Any alien who is firmly resettled in a third country is not eligible for admission as a refugee. If an applicant is qualified for admission to the United States as an immediate relative of a United States citizen or a special immigrant, he/she will not be processed for admission as a refugee unless to do so would be in the public interest. If it appears that the applicant could be admitted to the United States

as an immigrant other than as an immediate relative, and if a visa is immediately available, he/she will be advised but not required to seek admission by that other process.

The applicant, unless under 14 years of age, must appear in person for questioning before an Immigration & Naturalization Service officer, or other designated officer, and all applicants must submit to medical examinations. In addition, a sponsorship agreement in behalf of the alien executed by an acceptable party, and an assurance of transportation to the U.S. destination, must be obtained before refugee status is granted. If the alien needs a waiver of inadmissibility, an application may be made to the Immigration & Naturalization Service officer in charge having jurisdiction over the area where the alien is located. No appeal is provided for a denial of eligibility under section 207(c) of the Act. Waiting lists will be maintained according to the date applications are received. The Attorney General, however, may select refugees for admission from these lists in other than chronological order for reasons which best support the policies and interests of the United States. Each time refugee status is approved, a number will be deducted from the number authorized by the President for the particular group. The approval of an application for admission as a refugee is valid for four months from date of approval, which is considered to be the date the alien is given final clearances by U.S. officials to travel to the United States.

Adjustment to Permanent Resident

Section 209 contains the procedures for adjustment to lawful permanent resident alien status by refugees and asylees. Notice will be sent to all refugees after one year to report for an interview. If the refugee is admissible, he/she will be adjusted to lawful permanent resident status at that time. An alien who has been granted asylum, and continues to remain eligible for asylum status may be adjusted to permanent resident status if the alien is otherwise admissible and there is a refugee number available. Under the Refugee Act, up to 5,000 numbers per year may be made available for adjusting asylees. A denial of adjustment may not be appealed; however, the application may be renewed in deportation or exclusion proceedings before an immigration judge. Pending applications for adjustment by aliens who were eligible under the provision to section 203(a)(7) will be considered for adjustment as asylees.

Part and Section Analyses

The following section by section analyses are based upon the public comments received during the 60 day comment period following publication of the interim regulations on June 2, 1980, and on the Service's experience during this period:

Part 108—Asylum

The former Part 108—Asylum, is revoked by this order. With the enactment of the Refugee Act of 1980, the former regulations under Part 108 are no longer applicable.

Part 207—Admission of Refugees

This Part revises the former Part 207 published as an interim regulation. The revision is the result of evaluating public comments received, and the Service's experience in working with the interim regulations. One commenter believed that under § 207.1(d), a refugee should be able to apply for one or more classifications for benefits and still be processed as a refugee. The final rule provides that if an immigrant visa is immediately available to an alien, this avenue shall be used for entry in order to save the refugee numbers available for those refugees who are ineligible for any other benefits under the Act.

Another commenter suggested clarifying the language in § 207.1(e) from "* * * if not otherwise entitled to admission * * *" to "* * * if not an immediate relative or special immigrant * * *". We believe no change is necessary. The wording in the final rule accurately paraphrases the language in section 207(c)(2) of the Act and immediate relatives and special immigrants are fully considered under § 207.1(d).

Another commenter suggested that resettlement and sponsorship were more relevant to the admission rather than the status of a refugee. Under section 207(c) of the Act, a refugee must qualify for admission before being processed for entry to the United States. Once determined to be admissible, the mechanics of refugee processing follow sequentially. The process needs to be viewed in its entirety rather than as separate issues as suggested by the commenter.

Another suggested that the hearing required under § 207.2 should be waived in special circumstances. Applicants under 14 years of age already are exempt from the hearing requirement and, further exemptions, particularly for adult applicants, defeat the orderly screening of refugees which is essential for control purposes.

There were several comments to eliminate the sponsorship and assurances required by § 207.2 regarding employment, housing, and transportation for the refugees. It would be improper for the United States to allow refugees to enter this country without providing an orderly program under which these refugees would be assured transportation to their destination, housing, and assistance in this country. Subsection 207.2(d) of the final rule now expands sponsorship to organizations as well as to individuals. Concern was expressed for obtaining housing and employment assurances in those areas where there were no voluntary agencies to assist the refugees in resettling. The Service encourages voluntary agencies to participate in refugee programs and efforts will be made to place refugee applicants in contact with interested assistance groups. Also, under Title IV of the Refugee Act, the Director of the Office of Refugee Resettlement is authorized funds for social services for refugees.

A group representative stated that priority for admission should be based on "family reunification and humanitarian considerations such as immediate danger to the security and/or health of the applicants". The group is strongly opposed to the use of "close association with the United States", or "public interest" as grounds for "preferential treatment". The representative did not specify why consideration of the "public interest" should not be part of the criteria for selection. These refugees may be subject to some degree of danger to their health and security. The criteria of "close association" and "public interest" are considered appropriate as a means to fulfill national policies and commitments under the Act.

Several commenters suggested changing § 207.6 regarding the control of approved refugee numbers. One suggested that the number not be deducted until the refugee actually arrives in the United States; this could result in a refugee arriving at the port of entry without a number being available. The present rule provides for more orderly control of the numbers and the flow of refugees. Another commenter suggested that accounting control track both approvals and denials. Section 207 of the Act requires only that the number of refugees who enter the United States within a given period be limited. The Act does not require an accounting for refugee applications denied.

Part 209—Adjustment of Status of Refugees and Aliens Granted Asylum

Some commenters stated that the annual interview of the asylee should be waived unless termination of asylum status was contemplated by the Service. They also questioned the statutory authority of the Service to limit the approval of asylum status to one year. Subsection 209(b) of the Act requires the Service to promulgate regulations to inspect and examine every alien granted asylum who has been physically present in the United States for at least one year, and who has not acquired permanent resident status. The purpose of the Refugee Act, clearly stated in Title I, is to provide a permanent and systematic procedure for the admission to this country of refugees and to provide for effective resettlement and absorption of those who are admitted.

This final order is not a major rule within the definition of subsection 1(b) of E.O. 12291. The order makes technical revisions to interim regulations which have been in effect since June 1, 1980.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that promulgation of this final rule will not have a significant economic impact on a substantial number of small entities because the rule is substantially a technical revision of existing interim regulations and does not add an additional burden.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 108—ASYLUM [REMOVED]

1. 8 CFR Part 108—Asylum is revoked and removed in its entirety.

2. 8 CFR Part 207—Admission of Refugees is revised to read as follows:

PART 207—ADMISSION OF REFUGEES

Secs.

Authority: Secs. 101, 103, 201, 207, 209, and 212; (8 U.S.C. 1101, 1103, 1151, 1157, 1159, and 1182)

§ 207.1 Eligibility.

(a) *Presidential designation.* Before the beginning of each fiscal year the President determines (after appropriate consultation) the number and allocation of refugees who are of special humanitarian concern to the United States and who are to be admitted during the succeeding twelve months. Any alien who believes he/she is a "refugee" as defined in section 101(a)(42) of the Act, and is included in a refugee group of special humanitarian concern as designated by the President, may apply for admission to the United States by filing Form I-590 (Registration for Classification as Refugee) with the overseas Immigration and Naturalization Service's officer in charge responsible for the area where the applicant is located. In those areas too distant from an officer in charge, making direct filing impracticable, the Form I-590 may be filed preliminarily at a designated consular office.

(b) *Firmly resettled.* A refugee is considered to be "firmly resettled" if he/she has been offered resident status, citizenship, or some other type of permanent resettlement by a country other than the United States and has travelled to and entered that country as a consequence of his/her flight from persecution. Any applicant who has become firmly resettled in a foreign country is not eligible for refugee status under this chapter.

(c) *Not firmly resettled.* Any applicant who claims not to be firmly resettled in a foreign country must establish that the conditions of his/her residence in that country are so restrictive as to deny resettlement. In determining whether or not an applicant is firmly resettled in a foreign country, the officer reviewing the matter shall consider the conditions under which other residents of the country live: (1) Whether permanent or temporary housing is available to the refugee in the foreign country; (2) nature of employment available to the refugee in the foreign country; and (3) other benefits offered or denied to the refugee by the foreign country which are available to other residents, such as (i) right to property ownership, (ii) travel documentation, (iii) education, (iv) public welfare, and (v) citizenship.

(d) *Immediate relatives and special immigrants.* Any applicant for refugee status who qualifies as an immediate relative or as a special immigrant shall not be processed as a refugee unless it is in the public interest. The alien shall be advised to obtain an immediate relative or special immigrant visa and shall be provided with the proper petition forms to send to any prospective petitioners. An applicant who may be eligible for classification under sections 203(a)(1), (2), (3), (4), (5), (6), or (7) of the Act, and for whom a visa number is now available, shall be advised of such eligibility but is not required to apply.

(e) *Spouse and children.* The spouse of child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E) of the Act) of any refugee who qualifies for admission, shall if not otherwise entitled to admission and if not a person described in the second sentence of section 101(a)(42) of the Act, be entitled to the same status as such refugee if accompanying, or following to join such refugee. His/her entry shall be charged against the numerical limitation under which the refugee's entry is charged.

§ 207.2 Applicant processing.

(a) *Forms.* Each applicant who seeks admission as a refugee shall submit an individual Form I-590 (Registration for Classification as Refugee). Additionally, each applicant 14 years old or older must submit completed forms G-325C (Biographical Information) and FD-258 (Applicant Card).

(b) *Hearing.* Each applicant 14 years old or older shall appear in person before an immigration officer for inquiry under oath to determine his/her eligibility for admission as a refugee.

(c) *Medical examination.* Each applicant shall submit to a medical examination as required by sections 221(d) and 234 of the Act.

(d) *Sponsorship.* Each applicant must be sponsored by a responsible person or organization. Transportation for the applicant from his/her present abode to the place of resettlement in the United States must be guaranteed by the sponsor. The application for refugee status will not be approved until the Service receives an acceptable sponsorship agreement and guaranty of transportation in behalf of the applicant.

§ 207.3 Inadmissible applicant.

(a) *Statutory exclusion.* An applicant within the class of aliens excluded from admission to the United States under paragraphs (27), (29), (33), or so much of paragraph (23) as it relates to trafficking in narcotics of section 212(a) of the Act, shall not be admitted as a refugee under section 207 of the Act. However, an applicant seeking refugee status under section 207 is exempt by statute from the exclusionary provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Act and a waiver of exclusion is not required.

(b) *Waiver of exclusion.* Except for the exclusionary and statutory exemption provisions noted in § 207.3(a) any other exclusionary provisions of section 212(a) of the Act may be waived for humanitarian purposes, to assure family unity, or when it is in the public interest. This authority is delegated to officers in charge who shall initiate the

necessary investigations to establish the facts in each waiver application pending before them. Form I–602 (Application by Refugee for Waiver of Grounds of Excludability) may be filed with the officer in charge before whom the applicant's Form I–590 is pending. The burden is upon the applicant to show that the waiver should be granted based upon: (1) Humanitarian purposes, (2) family unity, or (3) public interest. The applicant shall be notified in writing regarding the application for waiver, including the reason for denial if the application is denied. There is no appeal from a waiver denial under this chapter.

§ 207.4 Approved application.

Approval of Form I–590 by an officer in charge outside the United States authorizes the district director of the port of entry in the United States to admit the applicant conditionally as a refugee upon arrival at the port within four months of the date the Form I–590 was approved. There is no appeal from a denial of refugee status under this chapter.

§ 207.5 Waiting lists and priority of handling.

Waiting lists are maintained for each designated refugee group of special humanitarian concern. Each applicant whose application is accepted for filing by the Immigration and Naturalization Service shall be registered as of the date of filing. The date of filing is the priority date for purposes of case control. Refugees or groups of refugees may be selected from these lists in a manner that will best support the policies and interests of the United States. The Attorney General may adopt appropriate criteria for selecting the refugees and assignment of processing priorities for each designated group based upon such considerations as: Reuniting families, close association with the United States, compelling humanitarian concerns, and public interest factors.

§ 207.6 Control over approved refugee numbers.

Current numerical accounting of approved refugees is maintained for each special group designated by the President. As refugee status is authorized for each applicant, the total count is reduced correspondingly from the appropriate group so that information is readily available to indicate how many refugee numbers remain available for issuance.

§ 207.7 Physical presence in the United States.

For the purpose of adjustment of status under section 209(a)(1) of the Act, the required one year physical presence of the applicant in the United States is computed from the date the applicant entered the United States as a refugee.

§ 207.8 Termination of refugee status.

The refugee status of any alien (and of the spouse or child of the alien) admitted to the United States under section 207 of the Act shall be terminated by any district director in whose district the alien is found if the alien was not a refugee within the meaning of section 101(a)(42) of the Act at the time of admission. The district director shall notify the alien in writing of the Service's intent to terminate the alien's refugee status. The alien shall have 30 days from the date notice is served upon him/her or, delivered to his/her last known address, to present written or oral evidence to show why the alien's refugee status should not be terminated. There is no appeal under this chapter from the termination of refugee status by the district director. Upon termination of refugee status, the district director shall process the alien under sections 235, 236, and 237 of the Act.

3. 8 CFR Part 209—Adjustment of Status of Refugees and Aliens Granted Asylum is revised to read as follows:

PART 209—ADJUSTMENT OF STATUS OF REFUGEES AND ALIENS GRANTED ASYLUM

Secs.

Authority: Secs. 101, 103, 207, and 209; 94 Stat. 105; (8 U.S.C. 1101, 1103, and 1159).

§ 209.1 Admission as permanent resident after one year.

(a) *Eligibility.* (1) Every alien in the United States as a refugee under section 207 of this chapter whose status has not been terminated, is required to appear before an immigration officer one year after entry to determine his/her admissibility under sections 235, 236, and 237 of the Act. The applicant shall be examined under oath to determine admissibility. If the applicant is found to be admissible, he/she shall be inspected and admitted for lawful permanent residence as of the date of the alien's arrival in the United States. If the applicant is determined to be inadmissible, he/she shall be informed that he/she may renew the request for admission to the United States as an immigrant in exclusion proceedings under section 236 of the Act. The provisions of this section shall provide the sole and exclusive procedure for adjustment of status by a refugee admitted under section 207 of the Act, whose application is based on his/her refugee status.

(2) Every alien processed by the Immigration and Naturalization Service abroad and paroled into the United States as a refugee after April 1, 1980, and before May 18, 1980 shall be considered as having entered the United States as a refugee under section 207(a) of the Act.

(b) *Processing Application.* One year after arrival in the United States, every refugee entrant shall be notified to appear for examination before an immigration officer. Each applicant shall be examined under oath to determine eligibility for permanent residence. If the refugee entrant has been physically present in the United States for at least one year, forms FD–258 (Applicant Card) and G–325A (Biographical Information) will be processed. Unless there were medical grounds for exclusion at the time of arrival, a United States Public Health Service medical examination is not required. If the alien is found admissible after inspection under section 209(a) of the Act, he/she shall be processed for issuance of Form I–551 (Alien Registration Receipt Card).

§ 209.2 Adjustment of status of alien granted asylum.

(a) *Eligibility.* The status of any alien who has been granted asylum in the United States may be adjusted by the district director to that of an alien lawfully admitted for permanent residence, provided the alien: (1) Applies for such adjustment; (2) has been physically present in the United States for at least one year after having been granted asylum; (3) continues to be a refugee within the meaning of section 101(a)(42) of the Act, or the spouse or child of a refugee; (4) has not been firmly resettled in any foreign country; (5) is admissible to the United States as an immigrant under the Act at the time of examination for adjustment without regard to paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Act, and; (6) has a refugee number available under section 207(a) of the Act. If the application for adjustment filed under this part exceeds the refugee numbers available under Section 207(a) of the Act for the fiscal year, a waiting list will be established on a priority basis by the date the application was properly filed. The provisions of this section shall provide the sole and exlusive procedure for adjustment of status by an asylee admitted under section 208 of the Act whose application is based on his/her asylee status.

(b) *Inadmissible Alien.* An applicant who is inadmissible to the United States under section 212(a) of the Act, may, under section 209(c) of the Act, have the grounds of inadmissibility waived by the district director (except for those grounds under paragraphs (27), (29), (33), and so much of (23) as relates to trafficking in narcotics) for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. An application for the waiver may be filed on Form I–602 (Application by Refugee for Waiver of Grounds of Excludability) with the application for adjustment. An applicant for adjustment who has had the status of an exchange alien nonimmigrant under section 101(a)(15)(J) of the Act, and who became subject to the foreign resident requirement of section 212(e) of the Act, shall be eligible for adjustment without regard to the foreign residence requirement.

(c) *Application.* An application without fee for the benefits of section 209(b) of the Act may be filed on Form I–485 (Application for Status as Permanent Resident) with the district director having jurisdiction over the applicant's place of residence. A separate application must be filed by each alien, and if the alien is 14 years or older it must be accompanied by a completed Form G–325A (Biographical Information) and Form FD–258 (Applicant Card). The application must be supported by evidence that the applicant has been granted asylum and has thereafter been physically present in the United States for at least one year. After an alien has been served with an order to show cause or placed under exclusion proceedings, the application can be filed and considered only in proceedings under Section 242 or 236 of the Act.

(d) *Medical Examination.* Upon acceptance of the application, the applicant shall submit to an examination by a selected civil surgeon as required by section 221(d) and 234 of the Act. The report setting forth the findings of the mental and physical condition of the applicant shall be incorporated into the record.

(e) *Interview.* Each applicant for adjustment of status under this part shall be interviewed by an immigration officer. The interview may be waived for a child under 14 years of age.

(f) *Decision.* The applicant shall be notified of the decision, and if the application is denied, of the reasons for denial. No appeal shall lie from the denial of an application by the district director but such denial will be without prejudice to the alien's right to renew the application in proceedings under Parts 242 and 236 of this chapter. If the application is approved, the district director shall record the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application.

Dated: August 26, 1981.

Doris M. Meissner,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-26342 Filed 9-8-81; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 556

Statement of Policy Regarding Supervisory Mergers and Acquisitions

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

Dated: September 3, 1981.

SUMMARY: The Federal Home Loan Bank Board has amended its regulations to clarify its policy regarding branch applications by Federal savings and loan associations that have established an interstate branch office through supervisory merger, consolidation, or purchase of assets.

EFFECTIVE DATE: September 3, 1981.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. (Telephone: (202) 377–6445).

SUPPLEMENTARY INFORMATION: On March 23, 1981 (Board Resolution No. 81–157; 46 FR 19221, March 30, 1981), the Board amended its policy statement on branching (12 CFR 556.5) to clarify that the Board may approve a merger, consolidation, or purchase of assets involving a Federal association that would not otherwise be permissible under the general rule permitting Federal associations to operate branch offices only in the state in which the association's home office is located. Such approval would be given if: (1) The proposed acquisition would be effected pursuant to a plan to prevent the failure of an institution insured by the FSLIC, (2) the Board determined that the insurance liability or risk of the FSLIC would be reduced as a result of the proposed acquisition, and (3) the Board determined that the insurance liability or risk of the FSLIC resulting from the proposed acquisition transaction would be substantially less than the liability or risk that would result from otherwise equally desirable acquisition alternatives, if any, that would not result in interstate branch operations.

By its action today, the Board is amending the policy statement on branching to provide that an institution, that has established a branch office in a state other than the state in which its home office is located through supervisory action by the FSLIC, may establish additional branch offices in that state with Board approval. It should be noted that the amendment provides an exception to the general rule only in the specified types of supervisory case and does not alter the Board's policy regarding interstate branching in non-supervisory contexts or the preference for intrastate supervisory mergers and acquisitions.

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) and the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) would be contrary to the public interest. An immediate effective date is necessary to clarify Board policy and facilitate the operations of the FSLIC in this area.

Accordingly, the Board hereby amends Part 556, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

Subchapter C—Federal Savings and Loan System

PART 556—STATEMENTS OF POLICY

Amend subparagraph (a)(3) of § 556.5 by adding a new subparagraph (a)(3)(iii), to read as follows:

§ 556.5 Establishment of branch offices.

(a) * * *

(3)(i) The Board generally will approve the establishment of a branch only in the state in which the home office is located.

(ii)(*a*) Notwithstanding the preceding paragraph (a)(3)(i), the Board may approve the establishment of a branch office in a state other than the state in which the home office is located, provided that:

(*1*) the establishment of the branch office will be achieved by acquiring assets of another institution, by merger or otherwise, pursuant to an action by the Federal Savings and Loan Insurance Corporation to prevent the failure of the other institution.

(*2*) the Board determines that the insurance liability or risk of the Federal Savings and Loan Insurance Corporation will be reduced as a result of maintaining the branch office, and

(*3*) if any otherwise equally desirable acquisition alternative that could be approved in accordance with

subparagraph (3)(i) of this section has been submitted, the Board determines that the insurance liability or risk of the FSLIC resulting from the proposed interstate acquisition transaction will be substantially less than the liability or risk that would result from such other acquisition alternative.

(*b*) In reviewing acquisition alternatives submitted for consideration in accordance with this subparagraph (3)(ii), the board will give preference to a particular alternative on the basis that a home office or an operating branch office of an association that will be a party to the proposed acquisition is located in the same Standard Metropolitan Statistical Area or locality as a home office or an operating branch office of the other association or each of the other associations that will be parties to the acquisition.

(iii) Notwithstanding paragraph (a)(3)(i) of this section, the Board may approve the establishment of a branch office in any state in which the applicant has established a branch office pursuant to the conditions set forth in paragraph (a)(3)(ii)(a)(1) of this section.

* * * * *

(12 U.S.C. 1464, 1729; Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-26447 Filed 9-9-81; 8:45 am]

BILLING CODE 6720-01-M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

Qualified Tax-Exempt Savings Certificates; Interest on Deposits

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rules.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has established a new category of time deposit in order to permit depositors to take advantage of the Federal income tax benefits applicable to interest earned on qualified tax-exempt savings certificates, the so-called All-Savers Certificates ("ASCs"), and in order to help depository institutions reduce their costs of funds and increase their deposit flows. The Economic Recovery Tax Act of 1981 ("Tax Act"), with certain restrictions, authorizes a maximum lifetime exclusion of $1,000 ($2,000 in the case of a joint return) from gross income for interest earned on ASCs, which (1) are issued from October 1, 1981 through December 31, 1982, (2) have a maturity of one year, (3) are available in denominations of $500 and any other denomination determined by the depository institution and (4) have an annual investment yield equal to 70 percent of the average investment yield for the most recent auction of 52-week U.S. Treasury bills prior to the calendar week in which the ASCs are issued. The Committee also required that certain notice regarding the tax implications of ASCs be given to a depositor prior to the purchase of an ASC.

EFFECTIVE DATE: October 1, 1981.

FOR FURTHER INFORMATION CONTACT: Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446), F. Douglas Birdzell or Joseph A. DiNuzzo, Counsels, Federal Deposit Insurance Corporation (202/389–4324 or 389–4237), Daniel Rhoads, Attorney, Board of Governors of the Federal Reserve System (202/452–3711), Allan Schott or Elaine Boutilier, Attorney-Advisors, Treasury Department (202/566–6798 or 566–8737), David Ansell, Attorney, Office of the Comptroller of the Currency (202/447–1880).

SUPPLEMENTARY INFORMATION: Title III of the Tax Act, Public Law 97–34, 95 Stat. 172, (26 U.S.C. 128) provides that up to certain maximum dollar limitations and under certain restrictions, an individual's gross income (for Federal income tax purposes) does not include interest earned on qualified ASCs. In general, the Tax Act authorizes a lifetime exclusion from gross income of $1,000 for an individual return and $2,000 for a joint return, *i.e.*, regardless of how much interest is earned on all ASCs, and regardless of during which taxable years interest on ASCs is earned, no more than a total of $1,000 ($2,000 in the case of a joint return) can be excluded from gross income for all taxable years. However, interest earned on a particular ASC may not be excluded from gross income, if (1) any portion of the principal of that ASC is redeemed prior to its maturity, or (2) any portion of that ASC is used as collateral or security for a loan.

In order for interest to qualify for exclusion from gross income under the Tax Act, an ASC must meet several requirements. First, ASCs may be issued only during the period beginning on October 1, 1981, and ending on December 31, 1982. Second, the certificates must have a maturity period of one year. Third, the certificate must have an annual investment yield equal to 70 percent of the average annual investment yield on 52-week Treasury bills. Fourth, the issuing institution must provide that ASCs are available in denominations of $500.

The Tax Act imposes limitations on the issuing institution with respect to the use of deposit funds derived from ASCs. Generally, for commercial banks, mutual savings banks and savings and loan associations, the Tax Act requires that at least 75 percent of the lesser of: (1) the proceeds from ASCs issued during a calendar quarter or (2) "qualified net savings", be used to provide "qualified residential financing" by the end of the subsequent calendar quarter. If an institution fails to meet the "qualified residential financing" requirement by the end of any calendar quarter, it may not issue additional ASCs until the requirement is satisfied.

The term "qualified net savings" is the amount by which deposits into passbook savings accounts, 6-month money market certificates, 30-month small saver certificates, time deposits of less than $100,000, and ASCs exceed the amount withdrawn or redeemed from such accounts measured at the beginning and end of each calendar quarter.

"Qualified residential financing" is any of the following:

(a) any loan secured by a lien on a single-family or multifamily residence;

(b) any secured or unsecured qualified home improvement loan;

(c) any mortgage on a single-family or multifamily residence that is insured or guaranteed by the Federal, State or local government or any instrumentality thereof;

(d) any loan to acquire a mobile home;

(e) any loan for the construction or rehabilitation of a single-family or multifamily residence;

(f) any mortgage secured by single-family or multifamily residences purchased on the secondary market, but only to the extent such purchases exceed sales of such assets;

(g) any security issued or guaranteed by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or any security issued by any other person if such security is secured by mortgages, but only to the extent such purchases exceed sales of such assets; and

(h) any loan for agricultural purposes.

The Tax Act defines single-family residence to include stock in a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code, and 2, 3, and 4 family residences.

The Tax Act does not, however, authorize depository institutions to offer