Rules and Regulations

Federal Register
Vol. 46, No. 171
Thursday, September 3, 1981

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 679]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

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

EFFECTIVE DATE: September 4, 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 is 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). This 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 which 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 202–447–5975.

The committee met again publicly on September 1, 1981 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencias deemed advisable to be handled during the specified week. 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 is 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. It is necessary to effectuate the declared policy 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.

Section 908.979 is added as follows:

§ 908.979 Valencia Orange Regulation 679.

The quantities of Valencia oranges grown in Arizona and California which may be handled during the period September 4, 1981, through September 10, 1981, are established as follows:

(1) District 1: 350,000 cartons;

(2) District 2: 350,000 cartons;

(3) District 3: Unlimited cartons.

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

Dated: September 2, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 81–26011 Filed 9–2–81; 11:43 am]
BILLING CODE 3410–02–M

7 CFR Part 1135

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action will continue through December 1981 the present suspension of a portion of the pooling standards for distributing plants and the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The suspension is based on proposals of two cooperative associations that were considered at a public hearing held on July 15, 1981, in Boise, Idaho, and on subsequent market information. Continuation of the suspension will enable producers who are regularly associated with the fluid market to continue to have their milk pooled and priced under the order pending a decision on whether the order should be amended to relax the pooling standards and diversion limits in the manner proposed by the cooperatives.

EFFECTIVE DATE: Effective upon September 3, 1981.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Prior documents in this proceeding:

Notice of Hearing: Issued June 22, 1981; published June 25, 1981 (46 FR 32873).

Notice of Proposed Suspension: Issued June 22, 1981; published June 25, 1981 (46 FR 32874).

Order Suspending certain provisions: Issued July 15, 1981; published July 20, 1981 (46 FR 37237).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will 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 Grade A dairy farmers in the area will 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 order regulating the handling of milk in the Southwestern Idaho-Eastern Oregon marketing area.

PART 1135—MILK IN SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

It is hereby found and determined that for the months of September through December 1981 the following provisions of the order do not tend to effectuate the declared policy of the Act:

§ 1135.7 [Amended]

1. In § 1135.7 paragraph (a)(2).

§ 1135.13 [Amended]

2. In § 1135.13 paragraphs (f) (3) through (6).

Statement of Consideration

This action continues through December 1981 the current suspension of (1) the provision that at least 40 percent of the receipts of milk at a pool distributing plant be disposed of as fluid milk products on routes, and (2) the provision limiting the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The present order provides that a cooperative association may divert up to 60 percent of its total member milk received at all pool plants or diverted therefrom during the months of September through February and 70 percent in other months. Similarly, the operator of a pool plant or a proprietary bulk tank handler may divert during the months of September through February up to 60 percent of their producer receipts that are not under the control of a cooperative association, and 70 percent in other months. The current suspension, which has been in effect since July 1981, expires August 31, 1981 (46 FR 37237).

The need to continue the suspension of these provisions is based on evidence received at a public hearing held on July 15, 1981, at Boise, Idaho, and on subsequent market information. Two cooperative associations (Mountain Empire Dairymen's Association, Inc., and Dairymen's Creamery Association, Inc.) that represent a large majority of the producers associated with the market and handle most of the market's reserve milk supplies proposed that emergency amendatory action be taken to relax the pooling and diversion provisions in question. The cooperatives testified that the amendments are needed to accommodate the pooling and efficient handling of the expanded reserve milk supplies now on the market. Because of the time to complete any amendatory action, they requested that the present suspension be continued until a final decision is reached on the proposed amendments.

The evidence developed at the hearing substantiates the Department's findings in connection with the first suspension that present marketing conditions are considerably different from those existing when the provisions in question were being developed. Hearings on a new order for this market were held in December 1978 and February 1980. The new order, including the provisions in question, became fully effective on July 1, 1981. The order provisions proposed by dairy farmers and generally adopted by the Department were predicated on marketing conditions existing at the time the new order was being proposed. Since then, milk supplies available to the market have increased considerably, thereby necessitating a review of the appropriateness of the current order provisions.

As indicated in the final decision for the new order, it was estimated that producer receipts would average about 27 million pounds monthly, with 40–45 percent of the milk being used in Class I. Market information for the first month that the order was fully effective (July) reflects about 48 million pounds of pooled milk and 18 percent Class I utilization. The substantially greater volume of milk on the market than was projected initially apparently is because of two things. Cooperatives have chosen to associate more producers with the market than was contemplated earlier. Also, production in general has increased considerably. Production in the State of Idaho, for example, was 12 percent higher in 1980 than in 1979. Production in July 1981 was 14 percent above the July 1980 production.

Under these circumstances, a public hearing to review the order provisions initially adopted was considered necessary. While no decision has been reached on the proposed amendments on the basis of the hearing evidence, there is sufficient indication that some modification of the order may be appropriate. Because of this, the current suspension should be continued pending a final decision on the hearing proposals. Continuation of the suspension for four additional months will accommodate the pooling and efficient handling of reserve milk supplies for the market pending the outcome of the hearing proceeding.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

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

(c) The marketing problems that provide the basis for this suspension action were fully reviewed at a public hearing held on July 15, 1981, where all interested parties had the opportunity to be heard on this matter.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register** (September 3, 1981).

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of September through December 1981.

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

Effective date: September 3, 1981.

Signed at Washington, D.C. on August 28, 1981.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 81-25820 Filed 9-2-81; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 31 and 150

NRC's Jurisdiction Over Persons Using Byproduct, Source or Special Nuclear Materials in Certain Offshore Waters

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations (1) to clarify that it has jurisdiction vis-a-vis Agreement States over persons using byproduct, source, or special nuclear materials in certain offshore waters bounded by the U.S. Outer Continental Shelf, (2) to recognize Agreement State specific licenses in an NRC general license covering activities in these waters, and (3) to allow Agreement States to perform inspections and other functions for NRC in these waters.

EFFECTIVE DATE: October 5, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas F. Dorian, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: 301-492-8690).

SUPPLEMENTARY INFORMATION:

The Problem

Several incidents in the Gulf of Mexico involving actual or potential overexposures to radiographers have disclosed to the Commission the need to clarify its jurisdiction vis-a-vis that of coastal Agreement States [1] over offshore radiographic, well-logging, and other operations using byproduct, source, or special nuclear materials. Licensing, regulatory, and enforcement problems have arisen because it has been unclear whether a person with a specific license from an Agreement State or from NRC, operating in offshore waters, namely, in the area, beyond a coastal Agreement State's Submerged Lands Act jurisdiction (see 43 U.S.C. 1301, *et seq.*) (that is, outside State boundaries which normally extend three miles or three marine leagues from the coastline), but on or above the Outer Continental Shelf, should be licensed and regulated by the Agreement State or by the Commission.

The Comments

On October 30, 1980, NRC published a proposed rule, in the **Federal Register** (45 FR 71807) addressing the issue of jurisdiction including several concerns raised by Louisiana and Texas with respect to this issue. During the comment period, the Department of Justice was the sole commenter on the proposed rule,[2] agreeing with the proposal and suggesting several word changes to clarify the concept of "offshore waters." In essence, the Department suggested that "offshore waters" should be defined as those waters beyond Agreement States' "Submerged Lands Act jurisdiction and above the U.S. Outer Continental Shelf," rather than, as defined in the proposed rule, those waters beyond Agreement States' "territorial waters and within the area of the U.S. Outer Continental Shelf."

The Submerged Lands Act (Pub. L. 31, 43 U.S.C. 1301, *et seq.*) was promulgated in order to extend Federal jurisdiction and control to the submerged lands off the U.S. Outer Continental Shelf. It deals, in pertinent part, with the rights and claims of the States to the seabed and its resources beyond historic State boundaries. See House Report No. 215, accompanying H.R. 4198, in 1953 *U.S. Code Cong. and Admin. News*, at 1385.

The Commission has accepted the changes suggested by the Department of Justice, with some additional minor modifications discussed with it. The modifications make clear that "offshore waters" include both the land and water areas, beyond Agreement States' Submerged Lands Act jurisdiction, on or above the U.S., Outer Continental Shelf.

Shortly after the comment period ended, Louisiana and an independent consultant notified the Commission [2] that, though they agreed with the principal substantive provisions of the proposed rule (that is, that NRC has the requisite jurisdiction over persons in the defined offshore waters), nonetheless, they and many licensees were concerned about two minor procedural requirements the proposed rule would have imposed upon licensees. The Commission learned that Texas was similarly concerned. Both requirements have now been changed, as discussed later. One would have required Agreement State licensees (working in the offshore area under the proposed NRC general license) to file NRC-241 forms to allow the Commission to track their activities in order to make inspections. The other would have required them to apply for specific licenses after 180 days (measured cumulatively over a calendar year) of operating under the general license.

Examination of the Jurisdictional Issue

Three principles underlying the amendments should be made clear before a fuller examination of the jurisdictional issue. First, the Agreement States of Texas and Florida (on the Gulf of Mexico only) have Submerged Lands Act jurisdiction beyond the Federal territorial sea. The Commission intends to recognize the jurisdiction of these States to the seaward limits of their seabed resources jurisdiction. Second, the Outer Continental Shelf includes only the seabed underlying the sea beyond the limits of the Agreement States' seabed resource jurisdiction, not the superjacent water. Third, the high seas begin at the limit of the Federal territorial sea and extend to another country's territorial sea.

After examining the issue of jurisdiction, the Commission has concluded that NRC retains jurisdiction vis-a-vis coastal Agreement States over persons using byproduct, source, and special nuclear materials when these materials are used in the offshore waters previously described. NRC's jurisdiction over persons using these materials extends seaward from the limit of the States' jurisdiction, above the U.S. Outer Continental Shelf, continues past the Shelf onto the high seas, and, in most instances, stops at another country's territorial sea, as recognized by the United States. This conclusion is based on several considerations.

The Commission's jurisdiction over persons using byproduct, source, or special nuclear materials is found in sections 81 and 82 (byproduct material), 62, 63, and 64 (source material), and 53, 54, and 57 (special nuclear material) of the Atomic Energy Act, as amended. These sections grant NRC *in personam* jurisdiction, that is, jurisdiction over a person (when stating, "No person may * * *").

Until the tidelands and submerged lands dispute about the Outer

[1] An Agreement State is a State with which NRC has an agreement under section 274 of the Atomic Energy Act. Section 274 of the Atomic Energy Act was enacted in 1959, to recognize the States' interest in atomic energy activities, to clarify the respective responsibilities of the States and the Commission under the Act, and to provide a statutory means by which the Commission can discontinue certain of its regulatory responsibilities with respect to byproduct, source, and special nuclear materials and by which the States can assume these responsibilities. An agreement made pursuant to section 274b. carries out the basic Congressional intent that either the State or the Commission—but not both—should regulate a given atomic energy activity from the point of view of radiation protection. One of the evils that Congress sought to avoid was "dual regulation." This means that, insofar as regulation of these materials by the State and the Commission is concerned, the activities discontinued under the agreement will be regulated only by the State, and that the activities reserved by the Commission will be regulated only by the Commission.

[2] Copies of comments are available for inspection at NRC's Public Document Room at 1717 H Street, NW., Washington, D.C.

Continental Shelf arose between the Federal Government and certain States, the Atomic Energy Commission (AEC) followed a personal, as opposed to a territorial, approach to offshore jurisdiction. This allowed Agreement States, with AEC's acquiescence, to regulate their own citizens' offshore uses of materials within the purview of an agreement under section 274b. of the Atomic Energy Act (described in the footnote); in 1967, in light of the submerged lands controversy, this practice was changed in part because the Federal Government argued that things, such as oil drilling rigs, attached to the U.S. Outer Continental Shelf were subject to its exclusive jurisdiction; for the AEC, this meant that an Agreement State did not have jurisdiction to regulate possession and use of byproduct, source or special nuclear materials on such things as oil rigs in offshore waters, as previously described.

At the time of the submerged lands controversy, the AEC was negotiating a standard agreement with Louisiana pursuant to section 274b. of the Atomic Energy Act. So as not to compromise the pending litigation between the Federal Government and Louisiana, the AEC and Louisiana also entered into a Memorandum of Understanding and an agreement under section 274i. of the Act. The Memorandum of Understanding, which is still in effect between NRC and Louisiana, states, in essence, that AEC (now NRC) retains regulatory authority over the disputed area in the Gulf of Mexico and that the agreement made pursuant to section 247b. of the Act shall not prejudice the position of either the United States or Louisiana in the pending litigation. The agreement under section 274i. of the Act, which is also still in effect, invokes the authority granted to the Commission under section 274i. of the Act to enter into agreements with States "to perform inspections or other functions on a cooperative basis as the Commission deems appropriate." The agreement authorizes Louisiana to perform certain inspections and other functions for and on behalf of the Commission.

This rule would allow Louisiana and NRC to terminate the Memorandum of Understanding and to enter into a revised agreement under section 274i. of the Act.

The Supreme Court in a series of cases has settled the Federal-State dispute over the Outer Continental Shelf in the Gulf of Mexico. *United States* v. *Louisiana*, 389 U.S. 155 (1967), 394 U.S. 1 (1969) (cited as the Texas Boundary Case), 394 U.S. 11 (1969) (cited as the Louisiana Boundary Case), and 404 U.S. 388 (1971) (also cited as the Louisiana Boundary Case).

It is now clear that the Outer Continental Shelf Lands Act has placed the Outer Continental Shelf under exclusive Federal jurisdiction, extending the laws of the United States to the subsoil and seabed of the Shelf and to all artificial islands and fixed structures erected thereon (see 43 U.S.C. 1331, *et seq.*). It should be noted, however, that for some purposes State law is adopted as a surrogate for Federal law under the Act to the extent that such State law is "applicable and not inconsistent with * * * other Federal laws." 43 U.S.C. 1333(a)(2); *Rodriguez* v. *Aetna Casualty Co.*, 395 U.S. 352, 365 (1969); *Union Oil Company* v. *Oppen*, 501 F.2d 558, 561 (1974); *Oppen* v. *Aetna Insurance Co.* 485 F.2d 252, 255, (1973.) It should also be noted that the Act does not apply to the sea above the subsoil and seabed. 43 U.S.C. 1332(b).

It is thus clear as regards oil drilling rigs, for example, that NRC has jurisdiction over persons in offshore waters beyond an Agreement State's Submerged Lands Act jurisdiction using byproduct, source, or special nuclear materials on these rigs, for these rigs are attached to the Outer Continental Shelf and are considered fixed structures erected on the seabed.

It is also clear that NRC has jurisdiction over persons in offshore waters beyond an Agreement State's Submerged Lands Act jurisdiction and above the Outer Continental Shelf using byproduct, source, or special nuclear materials on free-floating objects, such as lay barges or other vessels, or in offshore diving activities. This view is based on the *in personam* jurisdiction argument described before and supported by another argument.

Sections 274b. and 274d. of the Atomic Energy Act, under which NRC may either retain or discontinue certain parts of its regulatory authority, do not provide for discontinuance of the Commission's regulatory authority over byproduct, source, or special nuclear materials not "within a State". Thus, the Commission retains jurisdiction over persons using these materials and specifically licensed by the Commission or Agreement States when these persons are not within an Agreement State. This jurisdiction extends on the high seas seaward from the limits of the State's jurisdiction, but normally stops when it would conflict with another country's territorial sea, as recognized by the United States.

Resolution of the Problem

The General License

Since the present problem is limited to incidents in offshore waters, and because the Commission has jurisdiction in these waters, it has extended its general licensing scheme to activities of specific licensees of Agreement State in this land and water area. It has done so in two compatible ways. First, it has recognized Agreement State specific licenses in a new NRC general license (without a time limitation) covering activities in offshore waters. (It should be noted, by the way, that NRC specific licensees currently authorized to operate in offshore waters, of course, would not need to request a license amendment in order to continue to do so.) Second, it has extended a reporting requirement (it already uses on land) to monitor the activities of these licensees—except that it would not impose this requirement when an Agreement State has an agreement with the Commission under section 274i. of the Atomic Energy Act to perform inspections for it.

The Commission believes that the regulation change will remove present ambiguities and go a long way toward providing administrative simplicity. It therefore has broadened the scope of Parts 31 and 150 to provide for Commission regulatory authority in the form of general licensing over persons in offshore waters, namely, beyond Agreement States' Submerged Lands Act jurisdiction and on or above the Outer Continental Shelf.

As presently drafted, §§ 31.6 and 150.20 grant general licenses to a person with a specific license from an Agreement State to conduct the licensed activity within non-Agreement States. However § 150.20 presently authorizes a person to engage in activities in non-Agreement States under NRC's general license for no more than 180 days (calculated cumulatively) in any calendar year. Presently, at the end of this period, the general license expires and the person needs a specific license from the Commission to continue to engage in these activities in non-Agreement States. The reason for obtaining such a license is described *In the Matter of Chem-Nuclear Systems, Inc.*, 10 NRC 865 (1979), namely, that long-term field operations should be controlled through specific licensing. Operations in offshore waters, however, are short term and of a somewhat different character than those on land (for example, radiography is performed on board lay barges moving back and forth between jurisdictions, i.e., between the shore and oil rigs far from the shore).

Moreover, simplified regulation between NRC and Agreement States is desirable in this area. Therefore, in response to the comments received, under §§ 31.6 and 150.20 new general licenses have been created for the offshore area. These are modified versions of the general license for activities on land. They allow persons operating in the offshore area to do so under the general licenses without having to apply for a specific license after the 180-day period.

The NRC-241 Form

As mentioned before, Louisiana questioned the need for Agreement State licensees (working in the offshore area under the NRC general license) to file NRC-241 forms, since similar forms are already filed with respect to its own inspections. The Commission wanted to extend this requirement (presently used on land with respect to general licensees) to the offshore area to enable it to track the activities of its general licensees in order to make its own inspections. After discussions with Louisiana, the Commission has decided to continue to allow that State to perform inspections for NRC in the defined offshore area under the previously-described 274i. Agreement and to update that Agreement. Additionally, after discussions with the other coastal Agreement States, the Commission has also decided to permit all these States to perform inspections for it under similar 274i. agreements.

In light of this development, the final rule now states that the Commission requires the filing of the NRC-241 form, unless the licensee provides to the Agreement State that issued the specific license timely notification of its offshore activities and that State is listed in the rule as agreeing to perform inspections for NRC under a 274i. agreement. Louisiana is the only State now listed in the rule because it already has the requisite agreement. The rule will contain a complete list as soon as the Commission has section 247i. agreements with the other coastal Agreement States. It is presently pursuing discussions with them toward that end. Thus, the issues of offshore inspection and of the use of the reporting forms have been resolved simultaneously by allowing Agreement States to perform inspections on NRC's behalf, thereby simplifying the Commission's regulatory efforts and avoiding dual reporting for the defined offshore area.

Definition of "Offshore Waters"

It should be noted that the rule defines "offshore waters" as "that area of land and water, beyond Agreement States' Submerged Lands Act jurisdiction, on or above the U.S. Outer Continental Shelf" without specifying for each Agreement State the exact boundaries of these waters and the land area of the Shelf. The definition of offshore waters is designed to keep the proposed rule simple. Aside from the fact that it is not feasible to draw cartographic lines in any regulation, it is unnecessary to do so. The Supreme Court has decided the Federal-State dispute over the land areas of the Outer Continental Shelf and, as a matter of law, defined the necessary boundary lines. Further, as a practical matter, the three-mile limit is depicted generally on large-scale nautical charts of the United States published by the National Ocean Survey of the Department of Commerce.

In addition, in the cases of Texas and Louisiana cited before, the Supreme Court defined the necessary boundary lines as a matter of fact. Thus, in the case of Louisiana, for example, its jurisdiction over the seabed of the Shelf extends three nautical miles from its coastline; and, in the case of Texas, for example (and the same is true for Florida), as a technical legal matter having to do with its admission as a State of the Union, its jurisdiction over the seabed of the Shelf extends up to nine nautical miles from its coastline.

Thus, the definition in the proposed rule is intended to cover, in an understandable and simple fashion, the Commission's jurisdiction over persons operating beyond the Agreement States' normal three-mile jurisdictional limit, just described, and using byproduct, source, or special nuclear materials on things, such as oil rigs, attached to the seabed of the Outer Continental Shelf as well as the Commission's jurisdiction over persons using these materials in diving activities or on free-floating objects, such as lay barges and other vessels, in the waters above the seabed of the Shelf.

It should also be noted that the rule is focused on the Outer Continental Shelf area and not on the high seas beyond the Shelf. Thus, beyond the Outer Continental Shelf, NRC will continue, as has been the case historically, its licensing authority over certain kinds of persons, such as the Navy using nuclear material on naval vessels, while Agreement States will retain their authority over other kinds of persons, such as, for example, those using nuclear materials on State-chartered research vessels. In other words, the Commission acknowledges its present practice of regarding possession and use of nuclear materials on those high seas beyond the Shelf by certain citizens of littoral States as also subject to those States' regulatory authorities. However, in light of the previous jurisdictional statement, the Commission reserves the right to alter or amend such practice at any time.

Paperwork Reduction Act

This final rule contains no new or amended requirements for recordkeeping, reporting, plans or procedures, applications or any other type of information collection.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 31 and 150, are published as a document subject to codification.

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

1. The introductory paragraph of § 31.6 is revised and the authority citation for § 31.6 is, as follows:

§ 31.6 General license to install devices generally licensed in § 31.5.

Any person who holds a specific license issued by an Agreement State authorizing the holder to manufacture, install, or service a device described in § 31.5 within such Agreement State is hereby granted a general license to install and service such device in any non-Agreement State and a general license to install and service such device in offshore waters, as defined in § 150.3(f) of this chapter: *Provided*, That: * * *

* * * * *

(Secs. 81, 161b., 274, Pub. L. 83-703, as amended, 68 Stat. 935, 948, 73 Stat. 688 (42 U.S.C. 2111, 2201b., 2021))

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

2. The title of 10 CFR Part 150 is changed to read, "Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274".

3. Section 150.1 is revised to read:

§ 150.1 Purpose.

The regulations in this part provide certain exemptions to persons in Agreement States from the licensing requirements contained in Chapters 6, 7, and 8 of the Act and from the regulations of the Commission imposing requirements upon persons who receive, possess, use or transfer byproduct material, source, or special nuclear material in quantities not sufficient to form a critical mass; and to define activities in Agreement States and in offshore waters over which the regulatory authority of the Commission continues. The provisions of the Act, and regulations of the Commission apply to all persons in Agreement States and in offshore waters engaging in activities over which the regulatory authority of the Commission continues.

4. In § 150.3, a new paragraph (f) is added as follows and former paragraphs (f)–(k) are redesignated as paragraphs (g)–(l) respectively.

§ 150.3 Definitions.

As used in this part: * * *

* * * * *

(f) "Offshore waters" means that area of land and water, beyond Agreement States' Submerged Lands Act jurisdiction, on or above the U.S. Outer Continental Shelf.

* * * * *

5. A new heading is added after § 150.5, to read as follows:

Continued Commission Regulatory Authority in Offshore Waters

6. A new § 150.7 is added before the heading, "EXEMPTIONS IN AGREEMENT STATES," to read as follows:

§ 150.7 Persons in offshore waters not exempt.

Persons in offshore waters are not exempt from the Commission's licensing and regulatory requirements with respect to byproduct, source, and special nuclear materials.

7. Section 150.20(a) is revised to read:

§ 150.20 Recognition of Agreement State licenses.

(a) Subject to the provisions of paragraph (b) of this section, any person holding a specific license from an Agreement State where the licensee maintains an office for directing the licensed activity, and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the same activity in non-Agreement States and a general license to conduct the same activity in offshore waters: *Provided*, That the specific license does not limit the activity authorized by either general license to specified installations or locations.

* * * * *

8. The first paragraph of § 150.20(b) is revised to read:

* * * * *

(b) Notwithstanding any provision to the contrary in any specific license issued by an Agreement State to a person engaging in activities in a non-Agreement State or in offshore waters under the general licenses provided in this section, the general licenses provided in this section are subject to the provisions of §§ 30.14(d), 30.34, 30.41, and 30.51 to 30.63, inclusive, of Part 30 of this chapter; §§ 40.41, 40.51, 40.61 to 40.63 inclusive, 40.71 and 40.81 of Part 40 of this chapter; and §§ 70.32, 70.42, 70.51 to 70.56 inclusive, 70.61, 70.62, and 70.71 of Part 70 of this chapter; and to the provisions of Parts 19, 20, and 71 and Subpart B of Part 34 of this chapter. In addition, any person engaging in activities in non-Agreement States or in offshore waters under the general licenses provided in this section: * * *

* * * * *

9. Section 150.20(b)(1) is revised to read:

* * * * *

(b) * * *

(1) Except as specified in paragraph (c) of this section, shall, at least 3 days before engaging in each such activity, file 4 copies of Form NRC-241 (revised), "Report of Proposed Activities in Non-Agreement States," and 4 copies of its Agreement State specific license with the Director of the Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix D of Part 20 of this chapter for the region in which the Agreement State that issued the license is located. That Director may authorize the licensee to begin the activity upon notification by telephone of the licensee's intent to conduct the proposed activity under the general license: * * *

* * * * *

10. Section 150.20(b)(2) is revised to read:

* * * * *

(b) * * *

(2) Shall not, in any non-Agreement State or in offshore waters, transfer or dispose of radioactive material possessed or used under the general licenses provided in this section, *except* by transfer to a person (i) specifically licensed by the Commission to receive such material, or (ii) exempt from the requirements for a license for such material under § 30.14 of this chapter; * * *

* * * * *

11. Section 150.20(b)(3) is revised to read:

* * * * *

(b) * * *

(3) Shall not, under the general license concerning activities in non-Agreement States, possess or use radioactive materials, or engage in the activities authorized in paragraph (a) of this section, for more than 180 days in any calendar year, *except* that, the general license in paragraph (a) of this section concerning activities in offshore waters authorizes that person to possess or use radioactive materials, or engage in the activities authorized, for an unlimited period of time.

12. A new paragraph (c) is added to § 150.20 to read as follows:

* * * * *

(c) A person engaging in activities in offshore waters under the general license provided for that purpose in paragraph (a) of this section need not file a Form NRC-241 (revised) with the Commission under paragraph (b)(1) of this section, *Provided*, That:

(1) At least 3 days before engaging in each such activity the person notifies the Agreement State that issued the specific license about the activity, including in the notification (i) a description of the activity, (ii) the location, (iii) the dates scheduled, (iv) a list of the sealed sources, or devices containing sealed sources, which will be possessed, used, installed, serviced, or tested, and (v) a description of the type and quantity of radioactive material contained in each sealed source or device; and (2) The Agreement State that issued the specific license is listed in paragraph (d) of this section as having entered into an agreement to perform inspections and other functions for the Commission.

13. A new paragraph (d) is added to § 150.20 to read as follows:

* * * * *

(d) The following Agreement State has entered into an agreement to perform inspections and other functions for the Commission: Louisiana.

(Sections 150.1, 150.3, 150.7 and 150.20 are also issued under secs. 51, 53, 57, 62, 63, 81, 161o., 222, 223, 274, Pub. L. 83-703, as amended, Pub. L. 91-161, Pub. L. 90-190, 68 Stat. 929, 930, 932, 933, 935, 948, 83 Stat. 444, 81 Stat. 575, 73 Stat. 688 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2111, 2201o., 2272, 2273, 2021); sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Washington, D.C. this 28th day of August 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-25637 Filed 9-2-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-GL-13; Amdt. 39-4206]

Airworthiness Directives; General Electric Company CF6-45 and CF6-50 Model Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revocation of airworthiness directive (AD).

SUMMARY: Amendment 39-3594 (44 FR 60722) AD79-21-07 specified an increased torque for the bolts which attach the aft centerbody of the thrust reverser/fixed nozzle on General Electric model CF6-45 and CF6-50 series engines. It has since been determined that the loss of the aft centerbody was due to the substitution of unapproved nutplates during engine maintenance. Amendment 39-3594 is no longer necessary and is therefore being revoked.

EFFECTIVE DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Henry A. Jackson, Engine Projects Section (ANE-214E), Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7347.

SUPPLEMENTARY INFORMATION:

Prior Regulatory History

There have been five incidents in which the aft centerbody has been lost from a CF6-50 series engine. A subsequent survey of airlines uncovered a number of attachment bolts missing or loose, and a wide range of bolt torque values. It was determined that nutplates had lost their locking feature, allowing bolts to become loose and fall out. Therefore, an emergency telegraphic AD was adopted and made effective September 21, 1979, to all operators of General Electric CF6-45 and CF6-50 model turbofan engines installed in McDonnell Douglas DC-10, Boeing 747, and Airbus Industrie A-300 series aircraft.

The emergency AD instructed operators to check, and retorque to 110–130 inch pounds, the 8 bolts that attach the aft centerbody to forward centerbody of the thrust reverser/fixed nozzle. The previous torque value was 55–70 inch pounds. AD79-21-07 was issued as a final rule, amendment 39-3594, and published in the Federal Register on October 22, 1979.

Subsequent to issuance of the above AD, it has been discovered that the loss of the aft centerbodies was caused by the substitution of unapproved nutplates during engine maintenance.

Therefore, both the previous emergency telegraphic AD dated September 21, 1979, and the final rule, AD79-21-07, published as amendment 39-3594 in the Federal Register on October 22, 1979, are revoked.

Adoption of the Amendment

§ 39.13 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended by revoking amendment 39-3594 (44 FR 60722) AD79-21-07. This revocation becomes effective August 31, 1981.

(Secs. 313(a), 601, 603 Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12291, as implemented by DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). Since this regulation action relieves an undesirable maintenance requirement and imposes no additional burden on any person, the anticipated impact is so minimal that it does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts on August 21, 1981.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 81-25503 Filed 9-2-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 81-NW-54-AD; Amdt. 39-4209]

Airworthiness Directives: McDonnell Douglas Model DC-9-10, -20, -30, -40, -50 Series Airplanes (Including Military C9A, C9B, and VC9C Airplanes) Certificated in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive which requires periodic inspection of the horizontal stabilizer rear spar on certain McDonnell Douglas Model DC-9 Series Airplanes. This amendment provides operators with an optional modification which, if they choose to accomplish it, allows them to discontinue the repetitive inspections.

DATES: Effective Date September 15, 1981. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Harry J. Irwin, Aerospace Engineer, Airframe Branch, ANW-120L, Federal Aviation Administration, Northwest Region, Los Angeles Area Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: AD 80-08-09, Amendment 39-3743 (45 FR 25048, April 14, 1980) requires repetitive visual and eddy current inspection to detect fatigue cracks and prevent failure of the left and right horizontal stabilizer upper and lower rear spar caps.

After issuing Amendment 39-3743, the Chief, Los Angeles Area Aircraft Certification Office, Northwest Region, evaluated substantiating data and additional service instructions submitted by the manufacturer. It was determined that the procedures and modifications specified in McDonnell Douglas DC-9 Service Bulletin 55-31, dated February 27, 1981, to replace horizontal stabilizer upper and lower rear spar caps with fatigue resistant caps provide an acceptable alternate means of compliance and terminating action for the original AD.

Since this amendment provides an alternate means of compliance, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

§ 39.13 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended