Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

[Docket No. 82-339]

Sugarcane Smut; Removal of Emergency Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document on an emergency basis removes emergency regulations which were promulgated for the purpose of restricting the interstate movement of certain articles from areas in Florida because of sugarcane smut. The emergency regulations were designed for the purpose of preventing the artificial spread of sugarcane smut into noninfected sugarcane growing areas of the United States. It has now been determined that sugarcane smut is widespread throughout sugarcane growing areas in the United States and that restrictions would not be effective for the purpose of preventing the spread of sugarcane smut. Accordingly, there is no longer any basis for imposing restrictions because of sugarcane smut.

A companion document withdraws a proposal to establish a nonemergency quarantine and regulations to restrict the interstate movement of certain articles from certain areas in Florida and from any area in Hawaii because of sugarcane smut. The companion document captioned "Sugarcane Smut" is published in the proposed rule section of this issue of the **Federal Register**.

DATES: The effective date of the interim rule is November 12, 1982. Written comments must be received on or before January 11, 1983.

ADDRESSES: Written comments should be submitted to Thomas J. Lanier, Assistant Director, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 643 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 641 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: N. Santacroce, Staff Officer, Biological Assessment Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 632 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8367.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

This document removes the emergency regulations in 7 CFR 331.6 which restricted the interstate movement of certain articles from areas in Florida because of sugarcane smut. A companion document published in the proposed rule section of this issue of the **Federal Register** withdraws a proposal to establish a nonemergency quarantine and regulations to restrict the interstate movement of certain articles from certain areas in Florida and from any area in Hawaii because of such disease.

The effect of this action is to remove restrictions on the interstate movement from Glades, Hendry, Martin and Palm Beach Counties in Florida of (1) sugarcane plants, whole or in part, including true seed, and (2) used sugarcane processing and harvesting equipment. The economic impact of removing these restrictions appears to be insignificant. Most of the sugarcane grown in these four counties in Florida has been processed into different products in these counties and therefore has not been subject to the restrictions. It is not anticipated that the removal of the restrictions would cause any significant change with respect to this practice. Also, most of the sugarcane seeds produced in these four counties are used by the U.S. Department of Agriculture for experimental purposes. In addition, there is little movement from these counties of used sugarcane processing and harvesting equipment.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication of this document without prior opportunity for a public comment period because otherwise there would be unnecessary restrictions imposed on the interstate movement of certain articles. This situation requires immediate action to delete such unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest and good cause is found for making this action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any changes required will be published in the **Federal Register** as soon as possible.

Background

In a document published in the **Federal Register** on February 8, 1980 (45 FR 8630–8637), the Animal and Plant Health Inspection Service proposed, among other things, to remove emergency regulations in 7 CFR 331.6 which imposed restrictions on the interstate movement of certain articles from areas in Florida because of sugarcane smut. The document of February 8, 1980, also proposed action relating to leaf scald disease, gummosis, disease, and West Indian sugarcane root borer. This interim rule only concerns issues relating to sugarcane smut. Separate documents will be published in the **Federal Register** to address these other issues which were contained in the proposal.

The emergency regulations concerning sugarcane smut restricted the interstate movement of the following articles from Glades, Hendry, Martin, and Palm Beach Counties in Florida:

(1) Sugarcane plants, whole or in part, including true seed;

(2) Used sugarcane processing and harvesting equipment; and

(3) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by (1) and (2), when it is determined by an inspector that they present a risk of spread of sugarcane smut and the person in possession thereof has actual notice that the products, articles or means of conveyance is subject to the restrictions of the emergency regulations.

In lieu of the emergency regulations, the document of February 8, 1980, proposed to establish a quarantine and regulations to restrict the interstate movement of articles designated as regulated articles from Glades, Hendry, Martin, and Palm Beach Counties in Florida and from any area in Hawaii because of sugarcane smut. The proposed list of regulated articles consisted of the following:

(1) Sugarcane plants, whole or in part, including true seed and bagasse moving from Florida and not including pieces of cane boiled for a minimum of 30 minutes during processing into sugarcane chews;

(2) Used sugarcane processing equipment, (sugarcane mill equipment, such as equipment used for extracting and refining sugarcane juice; and experimental devices, such as devices used for extracting sugarcane juice);

(3) Used sugarcane harvesting equipment (equipment used for sugarcane field production purposes, e.g., planters, tractors, discs, cultivators, and vehicles); and

(4) Any other product, article, or means of conveyance, of any character whatsoever, not covered by items (1), (2), or (3), when it is determined by an inspector that it presents a risk of spread of a sugarcane disease and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions of this section.

The document of February 8, 1980, provided that written comments were to be received on or before April 8, 1980. Also, in accordance with the notice given in the document of February 8, 1980, a public hearing was held on March 11, 1980, in Orlando, Florida.

Three written comments relating to sugarcane smut were received in response to the proposal. No comments relating to sugarcane smut were made at the public hearing.

Two of the comments appeared to be in favor of quarantining Florida and Hawaii and establishing regulations because of sugarcane smut. The other comment concerned heat treatments for certain articles that were proposed to be designated as regulated articles.

The emergency regulations, and the proposed quarantine and regulations were designed for the purpose of preventing the artificial spread of sugarcane smut to noninfected sugarcane growing areas in the United States. However, it has now been determined that there is no longer any basis for imposing restrictions on the movement of articles because of surgarcane smut. Almost all of the sugarcane grown in the United States is grown in Florida, Hawaii, Louisiana, Puerto Rico, and Texas. Based on departmental expertise and a survey of sugarcane growing areas, it has been determined that sugarcane smut now occurs in all of these jurisdictions and is widely spread throughout the sugarcane growing areas. Accordingly, it has further been determined that restrictions would not be effective for the purpose of preventing the spread of sugarcane smut.

Under the circumstances referred to above, this document removes the sugarcane smut emergency regulations, and a companion document withdraws the proposal to establish a nonemergency quarantine and regulations to restrict the interstate movement of certain articles from certain areas in Florida and from any area in Hawaii because of sugarcane smut. The companion document captioned "Sugarcane Smut" is published in the proposed rule section of this issue of the **Federal Register**.

List of Subjects in 7 CFR Part 331

Agricultural commodities, Plant diseases, Plants (agriculture), Quarantine, Transportation.

PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

§ 331.6 [Removed]

Accordingly, 7 CFR Part 331 is amended by removing "Subpart—Sugarcane Smut" (7 CFR 331.6).

(Secs. 105 and 106, 71 Stat. 32, 71 Stat. 33 (7 U.S.C. 150dd, 150ee), 7 CFR 2.17, 2.51, and 371.2(c))

Done at Washington, D.C. this 8th day of November 1982.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 82–31101 Filed 11–10–82; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 932

[Docket No. AO-352-A4]

Olives Grown in California; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the olive marketing agreement and order program to improve its operation and effectiveness. The amendment was favored by the required two-thirds majority of growers voting in a referendum. The amendment would permit handlers to credit expenses for brand advertising of olives against a portion of their annual assessment obligation. The amendment is based on proposals submitted by the committee which works with USDA in administering the program. These proposals were considered at a public hearing in December 1981. The referendum was conducted by the Department by mail ballot September 21–October 1, 1982.

EFFECTIVE DATE: November 12, 1982.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Acting Chief, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Room 2532–S, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing, issued November 13, 1981, published November 18, 1981 (46 FR

56620). On the basis of the hearing record, the issues were divided into two parts. With respect to material issues other than assessment crediting for handler paid advertising, the following documents were issued: Notice of Recommended Decision, issued May 7, 1982, published May 13, 1982 (47 FR 20593); Final Decision, issued June 14, 1982, published June 18, 1982 (47 FR 26394); and the Order Further Amending the Order, issued July 27, 1982, published July 30, 1982 (47 FR 32905). The Recommended Decision with respect to assessment crediting was issued July 19, 1982, published July 22, 1982 (47 FR 31696); and the Final Decision was issued September 1, 1982, and published September 8, 1982 (47 FR 39530).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code, and therefore is excluded from the requirements of Executive Order 12291 and Secretary's Memorandum 1512-1.

The 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 is designed to promote orderly marketing of California olives for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

Findings and Determinations. The findings and determinations hereinafter set forth are supplementary, and in addition to, the findings and determinations previously made in connection with the issuance of the aforesaid order and each previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings Upon the Basis of the Hearing Record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The order, as amended, and as hereby further amended, regulates the handling of olives grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) There are no differences in the production and marketing of olives grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of olives grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary and in the public interest to make all of the amendatory provisions effective upon publication in the **Federal Register.** Any delay beyond that date would interfere with effective order administration. The order provides for a marketing year which began August 1, 1982, and it is the intent that the improvements in program operations and procedures provided by the order, as amended, should be utilized from the start of the 1982-83 season. A prompt effective date would be consistent with fulfilling that requirement.

In view of the foregoing, it is hereby found and determined that good cause exists for making this amendatory order effective August 1, 1982 in the **Federal Register,** and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register** (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determination.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Olives Grown in California" upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity covered by the said order, as amended, and as hereby further amended) who, during the period September 1, 1981 through February 28, 1982, handled not less than 50 percent of the volume of such olives covered by the said order, as amended and as hereby further amended; and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period September 1, 1981 through February 28, 1982 (which has been deemed to be a representative period), have been engaged within California, in the production of olives for market, such producers also having produced for market at least two-thirds of the volume of such commodity represented in the referendum.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of olives shall be in conformity to and in compliance with the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. Section 932.39(a) is amended by revising the first sentence to read:

§ 932.39 Assessments.

(a) As each handler's pro rata share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during a fiscal year, each handler who first handles olives during the current crop year shall pay to the committee, upon demand, assessments less any amounts which may be credited pursuant to § 932.45, on all olives to be used in the production of packaged olives, including olives to be used in canned ripe olives of the "tree-ripened" type or green olives when such are regulated as packaged olives pursuant to § 932.52. * * *

* * * * *

2. Section 932.45(a) is revised to read:

§ 932.45 Production research and marketing research and development projects.

(a) The following activities of the committee are authorized under this section.

(1) The committee may, with the approval of the Secretary, establish or

provide for the establishment of production research, and marketing research and development projects designed to assist, improve or promote the marketing, distribution, and consumption or efficient production of California olives. Such projects may provide for any marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of California olives. Such projects may provide for any form of marketing promotion including paid advertising. The expenses of such research and projects shall be paid from funds collected pursuant to § 932.39 or from voluntary contributions. Voluntary contributions may be accepted by the committee only to pay the expenses of such projects: *Provided*, That the committee shall retain complete control over the use of such contributions which shall be free from any encumbrances.

(2) The committee, with the approval of the Secretary, may provide for crediting a portion of a handler's direct expenditures for paid brand advertising for olives. Such expenditures may include, but are not limited to, money spent for advertising space in magazines, newspapers, outdoor media and transit or time charges for radio and television. No handler shall receive credit in excess of such handler's pro rata share of the total monies allotted by the committee for brand advertising credit. Each advertisement must be published, broadcast or displayed during the fiscal year for which credit is requested. Before any creditable brand advertising may be undertaken pursuant to this paragraph (a)(2) of this section, the Secretary, upon recommendation by the committee, shall prescribe appropriate rules and regulations as are necessary to effectively regulate such activity.

3. Section 932.60 is amended by revising the section heading and by adding paragraph (c) to read:

§ 932.60 Reports of acquisitions, sales, uses, shipments and creditable brand advertising.

* * * * *

(c) Each handler shall file such reports of creditable brand advertising as recommended by the committee and approved by the Secretary.

4. Section 932.61 is revised to read:

§ 932.61 Records.

Each handler shall maintain such records of olives acquired, held, and disposed of by such handler as may be prescribed by the committee and needed by it to perform its functions under this subpart. Such records shall be retained for at least two years beyond the crop year in which the transaction occurred. The committee, with the approval of the Secretary, may prescribe rules and regulations to include under this section handler records that detail advertising and promotion activities which the committee may need to perform its functions under § 932.45(a).

5. Section 932.62 is revised to read:

§ 932.62 Verification of reports.

For the purpose of checking and verifying reports filed by handlers, the committee, through its duly authorized representatives, shall have access to any handler's premises during regular business hours, and shall be permitted at any such time to: (a) Inspect such premises and any olives held by such handler, and any and all records of the handler with respect to such handler's acquisition, sales, uses and shipments of olives; and (b) inspect any and all records of such handler with respect to advertising and promotion activities subject to § 932.45(a) and maintained by the handler pursuant to § 932.61. Each handler shall furnish all labor and equipment necessary to make such inspections.

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

Signed at Washington, D.C., on November 8, 1982 to become effective November 12, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-31102 Filed 11-10-82; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Docket No. R-0436]

Reg. K; International Banking Operations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has amended its Regulation K to change the procedures for establishing a U.S. branch of an Edge corporation and to shorten the notification period in § 211.5(c)(2) of its Regulation K from 60 to 45 days.

In addition, the Board has amended Regulation K governing the U.S. operations of foreign banking organization to delete an exception from a reporting requirement concerning information on U.S. investments not readily available to the reporting organization. The Board also approved a technical change in the language of the regulation to conform it to the corresponding statutory provision in the Bank Holding Company Act.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: James S. Keller (202/452-2523), Division of Banking Supervision and Regulation, or Nancy P. Jacklin (202/452-3428) or Kathleen O'Day (202/452-3786), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: *Edge Corporation Branches.* Under § 211.4(c)(1) of Regulation K (12 CFR 211.4(c)(1)), Edge corporations are authorized to establish domestic branches. Although the Board had previously delegated to the Reserve Banks the authority to approve the establishment of an Edge corporation branch where the branch represented the conversion of an existing Edge corporation, all other Edge branch applications required prior approval by the Board. The Board has now determined that Edge corporation proposals to establish U.S. branches should be processed under a 45-day prior notification procedure.

When the Board amended Regulation K to permit Edge corporations to branch domestically, the Board provided for the publication in the **Federal Register** of notices of applications for domestic branches and allowed a period for public comment on the proposals. In acting on an application to establish a branch, the Board considers the financial condition and history of the Edge corporation, the general character of its management, the convenience and needs of the community to be served with respect to international banking and financing services, and the effects of the establishment of the branch on competition. To date, the Board has approved applications involving about 75 branches; no application for a domestic branch of an Edge corporation has been denied. In addition, no public comment has been received with respect to a branch application.

Under the new procedure, before submitting the proposal to the Reserve Bank and Edge corporation must publish notice of the proposal in a newspaper of general circulation in the geographic area of its proposed U.S. branch and in such areas that the branch proposes to serve. The notice must allow a 30-day comment period and provide that any comments on the proposal be sent to the appropriate Federal Reserve Bank, the address of which should be included. If the Reserve Bank receives no adverse comments in response to that notice and finds the proposal is consistent with the financial, managerial, convenience and needs, and competitive factors to be considered, and the proposal raises no significant policy issues on which the Board has not previously expressed its view, the Edge corporation may establish the branch 45 days after the Reserve Bank has received the notification.

Prior Notification for Investments. Under the investment procedures of Regulation K, a U.S. investor (member bank, bank holding company, Edge or Agreement corporation) may make certain investments pursuant to the prior notification procedures set forth in that section. Generally, such investments are of the type that could be made pursuant to general consent except that the absolute dollar amount of the investment or its size relative to the capital and surplus of the investor disqualifies it for those procedures; such investments may not, however, exceed 10 percent of the investor's capital and surplus.

Currently, the notification period in § 211.5(c)(2) is 60 days. Based on its experience in processing these notifications the Board has shortened the notification period to 45 days.

Reporting Requirement. Subpart B of the Board's Regulation K (12 CFR 211.21 *et seq.)* governs the activities and investments in the United States of foreign banking organizations. Section 211.23(h)(1) of Regulation K requires that any foreign banking organization must inform the Board quarterly of any new investments made or activities commenced in the United States under the authority of Regulation K. Sections 211.23(h) (2) and (3) of Regulation K allow a foreign banking organization, in certain situations, to omit from the reports information in the possession of other investors regarding a foreign nonbank company in which the foreign banking organization has an interest. These provisions essentially cover those situations where a foreign banking organization has a passive investment in a foreign nonbank company and may not have reasonably available to it information on the activities of the company.

In such a case, the organization must report to the Board such information as it can reasonably acquire, together with the sources thereof, and state either that unreasonable effort or expense would be involved in obtaining further information or that the company whose shares were acquired is not controlled by the organization. The organization also must state the result of a request for the information. However § 211.23(h)(3) provides that such a request need not be made of any foreign government if, in the opinion of the organization, such request would be harmful to existing relationships.

It does not appear that the exception to the reporting requirement found in § 211.23(h)(3) has been utilized by any foreign banking organization since its adoption by the Board in 1971. In light of the fact that the provision appears unnecessary and in order to prevent uncertainty as to the reporting obligations of foreign banking organizations, the Board has determined to delete this provision from the regulation. Foreign banking organizations will still be required under § 211.23(h)(2) to report to the Board their efforts to obtain required information not in their possession.

Definition of "Subsidiary." The Board has also amended § 211.23(a)(3) of Regulation K (12 CFR 211.23(a)(3)) to conform the definition of "subsidiary" to the statutory language in the Bank Holding Company Act. Section 211.23 governs the U.S. nonbanking activities permitted to a foreign banking organization under the Bank Holding Company Act. The regulation currently defines "subsidiary" as an organization "more than 25 percent of the voting stock of which is held * * * by a foreign banking organization." The amendment to the regulation makes clear that a "subsidiary" is any organization *25 percent or more* of the voting shares of which is held by the foreign banking organization.

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 601 *et seq.*), the Board of Governors of the Federal Reserve System certifies that the amendments adopted will not have significant economic impact on a substantial number of small entities that will be subject to the regulation.

The provisions of 5 U.S.C. 553 relating to notice, public participation, and deferred effective date are not followed in connection with the adoption of these amendments because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirement of that section.

List of Subjects in 12 CFR Part 211

Banks, banking, Federal Reserve System, Foreign banking, Investments, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and pursuant to its authority under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 *et seq.*) and under the Bank Holding Company Act (12 U.S.C. 1841 *et seq.*), the Board amends 12 CFR Part 211 as follows:

PART 211—[AMENDED]

1. By revising § 211.4(c)(1) to read as follows:

§ 211.4 Edge and Agreement Corporations.

* * * * *

(c) *Branches.* (1) An Edge Corporation may establish branches in the United States 45 days after the Edge Corporation has given notice to its Reserve Bank, which is to include a copy of the notice of the proposal published in a newspaper of general circulation in the communities to be served by the branch, unless the Edge Corporation is notified to the contrary within that time. The newspaper notice shall be placed in the classified advertising legal notices section of the newspaper and may appear no more than 90 calendar days prior to submission of notice of the proposal to the Reserve Bank. The newspaper notice must provide an opportunity for the public to give written comment on the proposal to the appropriate Federal Reserve Bank for at least 30 days after the date of publication. The factors considered in acting upon a proposal to establish a branch are those enumerated in § 211.4(a)(1).

* * * * *

2. By revising the first sentence of § 211.5(c)(2) to read as follows:

§ 211.5 Investments in other organizations.

* * * * *

(c) * * *

(2) *Prior Notification.* An investment in a subsidiary or joint venture that does not qualify under the general consent procedure may be made after the investor has given 45 days' prior written notice to the Board if the total amount to be invested does not exceed 10 percent of the investor's capital and surplus. * * *

* * * * *

§ 211.23 [Amended]

3. Section 211.23 is amended by removing paragraph (h)(3).

4. Section 211.23(a)(3) is revised to read as follows:

(a) * * *

(3) "Subsidiary" means any organization 25 percent or more of whose voting shares is directly or indirectly owned, controlled or held with power to vote by a foreign banking organization, or which is otherwise

controlled or capable of being controlled by a foreign banking organization.

* * * * *

Board of Governors of the Federal Reserve System, November 8, 1982.

William W. Wiles,

Secretary of the Board.

[FR Doc. 82-30999 Filed 11-10-82; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 261

[Docket No. R-0435]

Rules Regarding Availability of Information

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has amended its Rules Regarding Availability of Information to establish procedures regarding access by bank regulatory authorities to certain confidential reports submitted by foreign banking organizations. The Board also amended these rules to provide that such reports will not be released to the public.

The Board recognizes that other bank supervisory authorities may have a legitimate need for access to this information in order to carry out their supervisory responsibilities concerning a foreign banking organization and has determined to amend its Rules to insure that such legitimate supervisory needs are accommodated while maintaining the confidentiality of the information requested by Form F.R. 2068 (Confidential Report of Operations of Foreign Banking Organizations) to the fullest extent possible.

EFFECTIVE DATE: November 8, 1982.

FOR FURTHER INFORMATION CONTACT: Nancy Jacklin, Assistant General Counsel (202/452-3428), or Kathleen O'Day, Senior Attorney (202/452-3786), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: In 1980, the Board imposed reporting requirements on foreign banking organizations which were implemented in 1981. These reports are the Annual Report of Foreign Banking Organizations, Form F.R. Y-7, and the Confidential Report of Operations of Foreign Banking Organizations, Form F.R. 2068. These reports are required to enable the Board to carry out its responsibilities under the Bank Holding Company Act of 1956, as amended, and the International Banking Act of 1978.

Information contained in these reports will be made available only in accordance with the Board's Rules Regarding Availability of Information. The financial information required by Form F.R. 2068 is of a particularly sensitive character, and is not customarily made available to the public by the reporting companies or by any other source. The Board regards the Form F.R. 2068 as an examination, operating or condition report within the meaning of 5 U.S.C. 552 (b)(8), which exempts such reports from the disclosure requirements of the Freedom of Information Act. In light of the confidential nature of the information, it has been the Board's policy to deny requests by the public for information from the reports. In addition, internal security procedures have been established governing access to the reports. These policies have worked well in maintaining the confidentiality of the reports and the Board believes that it is appropriate to incorporate them into the Board's Rules Regarding Availability of Information.

The amendment approved by the Board authorizes the Director of the Board's Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, to permit appropriate personnel of a bank supervisory authority to inspect the Confidential Report of Operations, Form F.R. 2068, on Federal Reserve premises under the same security procedures as apply to System personnel. Copies of these procedures are available from the Board's Freedom of Information Office (202/452-3684).

The Board's Rules are also amended to reflect the Board's decision that the information required by Form F.R. 2068 should not be made available to the public in any circumstances. As is the case with other confidential information in the Board's possession, release of this information by a Board employee may constitute a basis for dismissal of the employee or other disciplinary action.

The provisions of section 553 of Title 5, United States Code, relating to notice, public participation and deferred effective date are not followed in connection with the adoption of these amendments because the changes involved are procedural in nature and do not constitute a substantive rule subject to the requirements of such section.

List of Subjects in 12 CFR Part 261

Federal Reserve System, Freedom of Information.

For the reasons set out in the preamble, Part 261 of Title 12 of the Code of Federal Regulations is amended as follows:

PART 261—[AMENDED]

1. 12 CFR 261.6 is amended by redesignating paragraph (b) as (b)(1), and by adding new paragraphs (b) (2) and (d) as follows:

§ 261.6 Exemptions from disclosure.

* * * * *

(b)(2) Notwithstanding any other provision of this Regulation, any Confidential Report of Operations (Form F.R. 2068) of a foreign banking organization may, upon written request to and approval by the Director of the Division of Banking Supervision and Regulation (or his delegee), and with the concurrence of the General Counsel (or his delegee), be made available for inspection to another bank supervisory authority having general supervision of any United States branch, agency, subsidiary bank or commercial lending company of the foreign banking organization, only for use where necessary in the performance of the official duties of such authority. These reports shall be made available for inspection by authorized persons only on Federal Reserve premises under the same procedures as apply to personnel of the Federal Reserve System. All reports made available under this paragraph shall remain the property of the Board; and no person, agency, or authority who obtains access to any such report, or any officer, director, or employee thereof, shall publish, publicize, or otherwise disclose any information contained in the report to any person.

* * * * *

(d) *Foreign Banking Organization Confidential Report of Operations.* It is the Board's policy that the confidentiality of a foreign banking organization's Confidential Report of Operations (Form F.R. 2068) should be maintained at all times. Except as provided in paragraph (b)(2) of this section, information submitted to the Board as part of any Confidential Report of Operations is not available for public inspection by any person other than an officer, employee, or agent of the Board or of a Federal Reserve Bank properly entitled to such information in the performance of such person's official duties. Any employee that violates this section by releasing such a Report to any unauthorized person may be subject to disciplinary action under 12 CFR 264.735-5 (Rules of Employee Responsibilities and Conduct).