PART 908—[AMENDED]

Therefore, § 908.605 is added to read as follows (§ 908.605 expires July 28, 1983, and will not be published in the annual code of Federal Regulations):

§ 908.605 Valencia Orange Regulation 305.

(a) During the period April 22, 1983, through July 28, 1983, no handler shall handle any Valencia oranges grown in the production area which are of a size smaller than 2.32 inches in diameter: *Provided*, that not to exceed five percent, by count, of the oranges in any container may measure smaller than 2.32 inches in diameter.

(b) As used in this section, "handler", "handle" and "production area" mean the same as defined in the marketing order. Diameter shall mean the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit.

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

Dated: April 8, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-9689 Filed 4-12-83; 8:45 am]

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Farmers Home Administration

7 CFR Part 1945

Emergency Loans; Clarification of Method of Determining Occurrence of a Natural Disaster

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Emergency (EM) loan regulations to clarify the method the Secretary of Agriculture uses to determine that a natural disaster has occurred. This action is taken in response to questions that have been raised as to whether existing regulations comply with a statutory change. The intended effect of this action is to (1) more closely track the statute, (2) more clearly reflect the practices followed in making EM loans available to victims of natural disasters, and (3) more clearly define what constitutes a natural disaster.

DATES: Interim rule effective April 13, 1983. This interim rule is subject to revision following a comment period of 30 days from the date of publication. It is applicable to all disasters which may be considered under the time periods specified herein and for which an affirmative or negative natural disaster determination has not previously been made: provided that no consideration will be given to any potential disaster occurring prior to January 1, 1982.

ADDRESSES: Submit written comments in duplicate to Carl Opstad, Chief, Directives, Management Branch, Farmers Home Administration, USDA, Room 6346-S, Washington D.C. 20250, telephone 202-382-9725. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Wilbert Campbell, Acting Chief, Loan Processing Branch, Emergency Division, Farmers Home Administration, USDA, Room 5344-S, Washington, D.C. 20250, Telephone 202-382-1652.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be nonmajor, because there is no substantial change from practices under existing rules and no annual effect on the economy of $100 million or more; or a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (Sections 1945.19(c), 1945.20(b), 1945.20(c), 1945.20(d), 1945.20(e), and 1945.25(b)) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. § 3501 *et seq.* and have been assigned OMB No. 0575-0054.

The statute, 7 U.S.C. 1961(a), as amended, states:

> The Secretary shall make and insure loans under this Subchapter only to the extent and in such amounts as provided in advance in appropriation Acts to (1) established farmers, ranchers, or persons engaged in aquaculture, who are citizens of the United States, and (2) farm cooperatives or private domestic corporations or partnerships in which a majority interest is held by members, stockholders, or partners who are citizens of the United States if the cooperative, corporation, or partnership is engaged primarily in farming, ranching, or aquaculture, where the Secretary finds that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974: *Provided*, That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are not able to obtain sufficient credit elsewhere.

The existing regulation defines a natural disaster, in § 1945.6(b)(2) in terms of a weather event alone, without reference to the consequences of such event. Section 1945.20 provides criteria under which the Secretary makes such loans available in a county in which unusual and adverse weather conditions have substantially affected agriculture. A county is substantially affected when there is a production loss of at least a 30 percent reduction in the normal year's dollar value of all cash crops produced in the county. Physical loss EM loans are available when physical farm property, if not repaired or replaced, would make it impossible for farmers to continue to operate their farms on a sound basis (§ 1945.6(f)). The Administrator may make or authorize the State Director to make EM loans available on the same basis if fewer than 10 percent of the farmers in a county are affected. There is also a provision for reconsideration after a request for designation of a county has been rejected by the Secretary. The Administrator may then make loans available if (1) 10 percent, or more, of the farmers in the county have qualifying losses, and (2) adequate credit from other sources is not available. The Secretary may also, at the Administrator's request, make an exception to the substantial loss requirement if (1) there are unusual and extenuating circumstances in that farmers producing only a single crop have disaster-related qualifying losses, (2) such farmers cannot obtain credit from other sources, and (3) such farmers constitute 10 percent or more of the farmers in the county.

The changes made by this interim rule recognize that a determination that a natural disaster has occurred includes consideration of both (1) the adverse weather event and (2) the nature and extent of losses sustained by farmers as a result of the event. When unusual and adverse weather conditions or natural phenomena result in qualifying physical property losses, the Administrator immediately makes EM loans available. In case of production losses, the Secretary's decision on whether a natural disaster has occurred is based on adverse and unusual weather conditions or natural phenomena that result in production losses of either (1) at least 30 percent of the normal year's dollar value of all crops countywide; (2) at least 30 percent of the normal year's dollar value of a single farming enterprise, countywide; or (3) significant production losses, or other extenuating circumstances, taking into consideration the nature and extent of production losses, the number of farmers with qualifying losses, whether such farmers can expect financial aid from other lenders, whether there will be undue hardship for a limited segment of farmers in the county, or due to damages to particular crops, and whether other Federal or State benefit programs will lessen any undue hardship.

On January 10, 1983, the Comptroller General issued an opinion (B-197765) and discussed the statutory changes made by Public Law No. 95-334 and its legislative history. The Comptroller General concluded that the FmHA had not changed its EM procedure to comport with the statutory changes. By proposed rule, September 8, 1982, 47 FR 39532, FmHA proposed changes in its EM regulation. The final rule was published January 11, 1983, 48 FR 1176-81. This coincided with the release of the Comptroller General's opinion and was not discussed in it.

After reviewing the Comptroller General's opinion, FmHA determined that it would be in the public interest to further amend the regulation to clarify the method by which the Secretary determines that a natural disaster has occurred. The revisions maintain key elements of the previous rule; more clearly define what constitutes a natural disaster; provide a more rapid basis for dealing with certain physical property losses; and focus such decisionmaking as is necessary in two officials, the Secretary and the FmHA Administrator, on the basis that this will also expedite natural disaster determinations.

This regulation is published as an interim rule with request for comments. FmHA will consider comments received and will issue a final rule.

Pursuant to the rule making provisions in 5 U.S.C. 553, it is found upon good cause that notice and public procedure with respect to this interim action are impracticable, unnecessary and contrary to the public interest; and good cause is found for making this interim action effective less than 30 days after publication of this document in the **Federal Register**, and to have the changes take immediate effect to avoid the application of different rules to disasters on which no decisions have yet been made. However, it has been determined to be in the public interest to receive comments for 30 days after publication of this action.

The changes include an accelerated method for making the natural disaster determination where substantial physical property losses are involved and also modify the current delegation of authority to the Administrator of FmHA to make certain determinations.

For the above reasons, FmHA has determined this action to be an emergency.

The Catalog of Federal Domestic Assistance number for emergency loans is 10.404.

This action does not directly affect any FmHA programs or projects that are subject to A-95 clearinghouse review.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statement". It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Need for Governmental Action

FmHA has determined that the methods of making natural disaster decisions should be revised to more clearly conform with statutory language. Clarification is provided through restated criteria as to what constitutes a natural disaster and how the determination is made.

Major Alternative Actions Considered Are as Follows

Alternative No. 1. Continue with present practice of designating counties as disaster areas as the trigger to the availability of EM loans. This alternative is subject to the criticism that requests for designations by the Secretary and authorizations by FmHA do not completely comport with the changes made by the Agricultural Credit Adjustment Act of 1978 (Pub. L. 95-334) which removed a mandatory requirement that an area designation process be used to determine where EM loans should be made available.

Alternative No. 2. Amend the regulation to more closely track the statutory language that EM loans are to be made to farmers who are substantially affected by a natural disaster. This alternative includes expanding and clarifying the criteria to be used by the Secretary in defining a natural disaster. The administrator's role in this process will be to make EM physical property loans available more quickly to farmers suffering severe physical property losses caused by unusual and adverse weather conditions. EM loans will also be made available to farmers who have been substantially affected by a natural disaster where the Secretary of Agriculture determines that the unusual and adverse weather conditions have resulted in severe, specified production losses. The Secretary will make such determinations of severe, specified production losses only after receiving a request of a Governor or Indian Tribal Council.

The Agency selects Alternative No. 2.

The following Sections of Part 1945, Subpart A, are amended as follows:

1. Section 1945.2 is revised to clarify the purpose of this Subpart.

2. Section 1945.6 is revised to define an applicant, a potential disaster, normal year's dollar value, and to redefine the types of disasters. The definition of a natural disaster provides the criteria by which the Secretary determines whether a natural disaster has occurred within a county. A natural disaster is defined as unusual and adverse weather conditions or other natural phenomena that have substantially affected farmers by causing severe physical property or severe production losses within a county.

3. Section 1945.6(c)(3)(ii) is added to describe how the FmHA Administrator will determine whether unusual and adverse weather conditions have caused such severe physical property losses so as to constitute a natural disaster.

4. Section 1945.6(c)(3)(iii) is added to describe how the Secretary of Agriculture will determine whether the unusual and adverse weather conditions have caused such severe production losses as to constitute a natural disaster. A natural disaster will be determined to have occurred when there has been at least a 30 percent reduction of the normal year's dollar value of all crops countywide, or a 30 percent reduction of the normal year's dollar value of crops which constitute a single enterprise countywide, or when in the Secretary' descretion farmers have suffered severe production losses based on consideration of a number of factors involving the nature and extent of losses, hardship, and unusual and extenuating circumstances. A determination by the Secretary under these provisions that a natural disaster has occurred will also make loans available for severe physical property losses if there are farmers with qualifying losses which have not been acted on pursuant to a decision by the Administrator.

5. Section 1945.6(f) has been redesignated to paragraph (h) and revised to establish criteria for determining whether an applicant has

been substantially affected by a disaster, as defined in this section.

6. Section 1945.18 introductory paragraph has been revised to remove the reference to "natural" disasters and, instead, make reference to "potential" disasters.

7. Section 1945.19 is revised to delete references to "natural" disasters. This section is retitled "Reporting potential disasters and initial actions." Also, the word "natural" appearing before "disaster" in paragraph (c) is replaced with the word "potential."

8. Section 1945.19(c) (1) through (8) are revised. Paragraph (1) is revised to show that a State Director will report physical losses caused by a potential disaster to the FmHA Administrator who will, upon receipt of such report, make a determination that a natural disaster has occurred and make EM physical loss loans immediately available to assist one or more farmers suffering qualifying physical losses.

9. Section 1945.19(c) (6) through (8) are revised to further clarify the actions to be taken in connection with inquiries at the county, State and National Offices concerning the availability of EM loans, and application procedures.

10. In § 1945.20, the introductory paragraph is revised for clarification and refers to when EM physical loss loans are made available by the Administrator. Paragraphs (a) and (b) of this section are revised to make editorial changes and to refer in paragraph (b) to "potential" disasters, in lieu of "natural" disasters, as reported, and to set forth the criteria used by the Secretary in determining whether a natural disaster has occurred.

11. In § 1945.20, paragraphs (c) through (h) are revised and redesignated to paragraphs (c) through (f). Accordingly, paragraph (c) states the Administrator's responsibility for making EM loans available to one or more eligible farmers based on severe physical losses resulting from unusual and adverse weather conditions; paragraph (d) shows the relationship between Administrator's notification and Secretary's determination; paragraph (e) provides for the extension of termination dates for continuing disaster conditions; and paragraph (f) states the time limitations involved in all such actions.

12. Section 1945.21 is retitled "Reporting and coordination requirements" and paragraph (a), (b), and (c) are revised to remove references to "declaration/designation/authorization" and to make certain other editorial changes.

13. Section 1945.25(b)(2) is revised to insert "unusual and adverse weather condition or natural phenomenon" in lieu of the words "natural disaster".

14. Section 1945.30(b)(1) is revised to make an editorial change.

List of Subjects in 7 CFR Part 1945

Agriculture, Disaster assistance, Intergovernmental relations.

PART 1945—EMERGENCY

Accordingly, Part 1945, Subpart A of Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

Subpart A—Disaster Assistance—General

(Applies to all disasters which may be considered under the time periods specified herein and for which an affirmative or negative natural disaster determination has not previously been made; provided that no consideration will be given to any potential disaster occurring prior to January 1, 1982)

1. Section 1945.2 is revised to read as follows:

§ 1945.2 Purpose.

This Subpart explains the types of disasters which will result in eligibility of a farmer for Farmers Home Administration (FmHA) emergency (EM) loans, and, with respect to natural disasters which are the responsibility of the Secretary of Agriculture, the factors used in making a natural disaster determination; the relationship between FmHA and the Federal Emergency Management Agency (FEMA); the method for establishing and using Emergency Loan Support Teams (ELST); and Emergency Loan Assessment Teams (ELAT); the training of FmHA personnel; and disaster related public information functions. The natural disaster determinations/notifications made under this Subpart do not apply to any program other than the FmHA EM loan program. FmHA's policy is to make EM loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the applicant can execute a legal contract).

2. Section 1945.6 is revised to read as follows:

§ 1945.6 Definitions.

(a) *Applicant.* The person or entity carrying on the farming operation at the time of the disaster and requesting EM loan assistance from FmHA.

(b) *County.* A local administrative subdivision of a State or a similar political subdivision of the United States.

(c) *Disasters.* EM loans will be made available to any farmer whose operation has been substantially affected by a natural disaster, as determined by the Secretary of Agriculture or the FmHA Administrator, or by a major disaster or emergency declared by the President, and who meets the requirements of Subpart D of this Part.

(1) *Major disaster.* Any disaster in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant unusual assistance above and beyond normal emergency services available from State and Federal Governments. Major disaster assistance makes all Federal disaster programs available automatically, and is intended to supplement the efforts and available resources to States, local governments and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused by disasters.

(2) *Presidential emergency.* Any disaster in any part of the United States which is of such magnitude that the President makes a declaration requiring certain Federal emergency programs to be implemented as a supplement to State and local efforts as a means of saving lives and protecting property, preserving public health and safety, and/or lessening the threat or a more servere disaster.

(3) *Natural disaster.* A disaster in any part of the United States in which unusual and adverse weather conditions or other natural phenomena have caused severe physical property losses and/or severe production losses within a county. Except where otherwise specified, the use of the term "county" or "similar political subdivision" is for administrative purposes only.

(i) Unusual and adverse weather conditions or natural phenomena include such things as:

(A) A major single natural occurrence or event such as a blizzard, cyclone, earthquake, hurricane or tornado.

(B) A single storm, or series of storms, accompanied by serere hail, excessive rain, heavy snow, ice and/or high wind.

(C) An electrical storm.

(D) A severe weather pattern over a period of time which, due to excessive rainfall, unusual lack of rainfall, or high or low temperatures, causes flooding, substantial water damage, drought or freezing; which results in the spreading and flourishing of insects or pests, or in plant or animal diseases spreading into epidemic proportions; or prevents the control of fire, however caused.

(ii) Severe *physical* property losses are those which the Administrator determines prior to a natural disaster determination by the Secretary, to be severe, and to have caused extensive damage to or destruction of, physical farm property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment, and tools; livestock; livestock products; poultry; poultry products; growing crops (see § 1945.163(b)(12) of Subpart D or Part 1945 of this Chapter); harvested crops, and supplies, which, if not repaired or replaced, would make it impossible for farmers affected by unusual and adverse weather conditions to continue operating their farms on a sound basis.

(iii) Severe *production* losses within a county are either those in which:

(A) The Secretary determines that there has been a reduction countywide of at least 30 percent of the normal year's dollar value of all crops, including hay and pasture, and the crops could not be replanted or replaced with a substitute crop; or

(B) The Secretary determined that there has been a 30 percent loss countywide in the normal year's dollar value of a single enterprise (as defined in § 1945.154(a)(15)(i) of Subpart D of Part 1945 of this Chapter); or

(C) The Secretary, exercising discretion, may determine that, although the conditions set forth in subsections (A) and (B) above have not been met, the unusual and adverse weather conditions or natural phenomena have resulted in such significant production losses, or have produced such extenuating circumstances as to warrant a finding that a natural disaster has occurred. In making this determination, the Secretary may request the Administrator to provide for his consideration such factors as: (1) The nature and extent of production losses; (2) the number of farmers who sustained qualifying production losses; (3) the number of farmers in (2) that other lenders in the county indicate they will not be in position to finance; (4) whether the losses will cause undue hardship to a certain segment of farmers in the county; (5) whether damage to particular crops has resulted in undue hardship; (6) whether other Federal and/or State benefit programs which are being made available due to the same disaster will consequently lessen undue hardship and the demand for EM loans; and (7) any other factors considered relevant. The Secretary will consider the information referred to in § 1945.6(h) of this Subpart in deciding whether a natural disaster has occurred.

(4) *Potential disaster.* Unusual and adverse weather conditions or natural phenomenon that have caused physical and/or production losses but which have not yet been examined by the Secretary or Administrator for consideration of a natural disaster determination.

(d) *Farmers.* Individuals, cooperatives, corporations or partnerships who are farmers, ranchers or aquaculture operators.

(e) *Incidence period.* The specific date or dates during which a disaster occurred.

(f) *National Office.* The Director, Emergency Division.

(g) *Normal year's dollar value.* The normal year's dollar value will be determined by establishing a normal year yield and price. Normal year yield will be the average yield of the 5 years immediately preceding the disaster year for each cash crop, including hay and pasture grown in the county. The price will be the average commodity prices for the 36 months immediately preceding the disaster year for each crop. Yields and prices used to establish the value of normal year production will be obtained from the Statistical Reporting Service (SRS). In cases where crops produced and/or prices are not available from SRS, the information will be obtained from other reliable sources. Yields used to establish the disaster year's production will be obtained from Damage Assessment Reports (DAR) which are prepared by the USDA County and State Emergency Boards. Prices used to establish the value of disaster year production will be the same as used to establish normal year values.

(h) *Substantially affected.* A farmer applicant has been substantially affected when there has been a disaster as defined in subsection (c) of this section, and the applicant has qualifying physical and/or production losses, as defined in § 1945.154 (a) (29) and (30) of Subpart D of Part 1945 of this Chapter.

(i) *Termination date.* The date specified in a disaster declaration/determination/notification which establishes the final date after which EM loan applications can no longer be accepted. For both physical and production losses, the termination date will be 6 months from the date of the disaster declaration/determination/notification.

(j) *United States or State.* Each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

3. Section 1945.18 is amended by revising the introductory paragraph to read as follows:

§ 1945.18 United States Department of Agriculture (USDA) Emergency Boards.

There is a USDA Emergency Board established by the Secretary to serve every State and every county in the United States. The Boards are responsible for reporting the occurrence of and assessing the damage caused by potential disasters as required to ensure that the Department's disaster programs are implemented where needed; to coordinate the Department's emergency disaster programs with those of other Federal Departments and Agencies; and to provide personnel, as needed and requested by FEMA, to help staff disaster assistance centers in major disaster areas.

* * * * *

4. Section 1945.19 and the title are revised to read as follows:

§ 1945.19 Reporting potential disasters and initial actions.

(a) *Purpose.* The purpose of reporting potential disasters is to provide a systematic procedure for rapid reporting of the occurrence and extent of damage and loss caused by such event, which may result in a natural disaster determination.

(b) *Responsibility for assessing and reporting disasters.* USDA SEBs and CEBs representing their member agencies are best qualified at the State and County levels to accomplish the assessment of agricultural production losses resulting from a potential disaster. These Boards are charged with the responsibility of reporting the occurrence of and assessing the damage caused by disasters and will perform this responsibility under policies and procedures as set forth in the EOH.

(c) *Actions to be taken.* Immediately after the occurrence of a potential disaster:

(1) The FmHA County Supervisor will report to the State Director who will report to the Administrator that there has been a potential disaster with severe physical property losses to one or more farmers. *This report must be made to the Administrator within 3 months after the disaster(s) occurs. Upon receiving the report, the Administrator will make EM loans available to any individual with a qualifying physical loss. This approval shall be limited to physical losses only.* Notices that EM loans are available will identify the county in which the unusual and adverse weather condition, or natural phenomenon, has occurred.

(2) The FmHA County Supervisor will report to the CEB chairperson, as specified in the EOH, all substantial physical property loss, damage or injury and severe production losses that have occurred in the County Office area. The County Supervisor will assist the CEB in preparing the 24 hour report required in paragraph (c)(3) of this section. If the CEB has not completed its 24 hour report within two workdays after a potential

disaster, the County Supervisor will report to the State Director on Form FmHA 1945-27, "Report of Natural Disaster." In urgent situations, the report may be made by telephone, followed by the CEB report or Form FmHA 1945-27. Either of these reports will be based on information obtained from personal knowledge and from farmers, agricultural and community leaders, and from any other personally contacted reliable source(s). The County Supervisor will convey to the CEB chairperson all information pertaining to the potential disaster and provide the chairperson with a copy of Form FmHA 1945-27, if prepared.

(3) The CEB will report the potential disaster, in accordance with the EOH, to:

(i) The SEB; and

(ii) Appropriate county government representative(s).

(4) The SEB will provide copies of the CEB report to:

(i) The USDA Washington Offices of ASCS, FmHA and the Office of Intergovernmental Affairs; and

(ii) The State Governor's Emergency Coordinator and the State Department of Agriculture.

(5) The FmHA State Director will inform the National Office of each potential disaster as soon as possible and forward to the National Office a copy of the CEB report or Form FmHA 1945-27, with any attachments, and supplemented with the State Director's comments and recommendations. The State Director must include a statement as to the number of farmers, ranchers, and aquaculture operators affected by the potential disaster. In urgent situations, the State Director will report to the National Office, Emergency Division, by telephone, and immediately thereafter send a written report to the National Office, Emergency Division. The State Director will continue to notify the SEB chairperson of any additional information received concerning the potential disaster.

(6) When inquiries are received from persons affected by a potential disaster, they will be provided the following information:

(i) By the County Offices:

(A) The kind of assistance that will be available if the President declares a major disaster of emergency, or if the Secretary determines that a natural disaster has occurred.

(B) Whether or not physical property loss EM loans are available.

(C) That applications for EM loans may be filed for future processing if such loans are made available, or may be filed at a later date after the necessary determinations have been made.

(D) Whether regular FmHA farm loan assistance is available.

(ii) State Offices, or the National Office, will furnish the same information as the County Office, or will refer the person to the appropriate County Office.

(7) When inquiries are received from a Governor, a County Governing Body or Indian Tribal Council concerning a disaster, they will be informed of the procedure for making EM loans available.

(8) The actions required in paragraph (b) of this section will be taken even if the Governor of a State has requested the President to declare a county(ies) a major disaster or Presidential emergency area.

5. Section 1945.20 is amended by revising the introductory paragraph and paragraphs (a)(1)(i), (a)(3), (a)(3)(iii), and (b), (c), (d), (e), (f), and removing paragraphs (g) and (h) to read as follows:

§ 1945.20 Making EM loans available.

EM loans will be made available to applicants having qualifying severe physical and/or production losses within a county named by FEMA as eligible for Federal assistance under a major disaster or emergency declaration by the President or under a natural disaster determination by the Secretary of Agriculture pursuant to § 1945.6 (c)(3)(iii) of this Subpart, and to applicants having qualifying severe physical property losses when, prior to action by the President or the Secretary, the FmHA Administrator has determined (pursuant to § 1945.6(c)(3)(ii) of this Subpart) that such losses have occurred as a result of a natural disaster. Any determination made by the Secretary or the Administrator pursuant to this regulation may be revised or reversed upon the receipt of new facts which establish that a change is warranted. FmHA's policy is to make loans to any otherwise qualified applicant.

(a) * * *

(1) * * *

(i) Notify the State Director and the Director of the Finance Office by telephone and confirm by electronic message. The notification will contain:

* * * * *

(3) The County Supervisor will immediately upon receiving notification that the county(ies) has been declared a disaster area:

* * * * *

(iii) Arrange and conduct meetings with local agricultural lenders and agricultural leaders within 10 working days after the disaster declaration date to explain the purpose and the assistance available under the EM loan program; and

* * * * *

(b) *Determination by the Secretary of Agriculture.* When a potential disaster has substantially affected farmers, causing qualifying severe losses, and it is requested by a Governor or Indian Tribal Council that there be a determination that a natural disaster has occurred, *the Secretary will acknowledge the request in writing and consider whether a determination should be made if the Secretary receives such request in writing within three months of the last day of the occurrence of such potential disaster.* The Governor or Indian Tribal Council should send a copy of the request to the FmHA State Director. When the Secretary finds based on the material received pursuant to this Subpart that the conditions of § 1945.6(c)(3)(iii) (A) or (B) of this Subpart have been met, it shall be announced that a natural disaster has occurred. Also, if on finding that the conditions of § 1945.6(c)(3)(iii)(C) of this Subpart so warrant, the Secretary may determine that a natural disaster has occurred.

(1) Upon receipt of the Governor's request through the Secretary's Office, the FmHA National Office will immediately take the following actions:

(i) Notify the State Director by telephone of the Governor's request.

(ii) Obtain an immediate report from the State Director on whether there have been severe physical property losses within any county.

(iii) Obtain a report from the State Director on production losses.

(2) The State Director will immediately:

(i) Notify the SEB chairperson that a Damage Assessment Report (DAR) is needed in accordance with the EOH for the requested county(ies); and

(ii) Advise the National Office on whether qualifying physical property losses have occurred.

(iii) Review each DAR, as soon as it is available, and forward it to the National Office with written comments on the extent of probable qualifying production losses, and other factors which are recommended for consideration by the Secretary in making determinations under § 1945.6(c)(3) of this Subpart. He should also furnish any additional supportive information not contained in the DAR.

(iv) Upon receipt of the Administrator's request for a survey, in connection with a request by the Secretary for information concerning § 1945.6(c)(iii)(C), will expeditiously gather and compile the information requested and submit it to the Administrator with a recommendation. The survey will be conducted in a manner jointly agreed upon by the Administrator and the State Director.

(3) The National Office will then immediately use the State Director's report to analyze and verify losses reported in the DAR along with the State Director's comments and promptly forward a written report to the Secretary along with supporting information for his use in making a decision on the requested determination.

(4) The Secretary will:

(i) Review the results of the survey and determine whether a natural disaster has occurred. When the Secretary determines that a natural disaster has occurred, the Administrator will be directed to make EM loans available in the county(ies) named by the Secretary. The Administrator will advise the State Director by electronic message of the Secretary's decision. Such notice will not be given until the Secretary responds to a request from a Governor or Indian Tribal Council for a determination concerning the same or similar disaster.

(ii) When the Secretary finds that a natural disaster has occurred, the Governor or Indian Tribal Council and other concerned officials will be notified, and the following actions will be taken:

(A) The National Office will immediately pursue the same course of action as described in paragraph (a)(1) of this section, except the disaster determination number will be coded S and 3 numbers (Example S141).

(B) The State Director will immediately pursue the same course of action as described in paragraph (a)(2) of this section.

(C) The County Supervisor will immediately pursue the same course of action as described in paragraph (a)(3) of this section.

(iii) When the Secretary determines that the conditions in § 1945.6(c)(3)(iii) (A) or (B) of this Subpart have *not* been met, and decides to consider other factors in accordance with § 1945.6 (c)(3)(iii)(C) of this Subpart, the Secretary will request the Administrator to provide additional information for consideration. The Administrator, upon receipt of such a request from the Secretary, will ask the State Director to survey farmers and lending institutions in the county. The survey will focus on such factors as:

(A) The nature and extent of production losses.

(B) The number of farmers who have sustained qualifying production losses;

(C) The number of farmers in (B) that other lenders in the county indicate they will not be in position to finance;

(D) Whether the losses will cause undue hardship to a certain segment of farmers in the county;

(E) Whether damage to particular crops has resulted in undue hardship;

(F) Whether other Federal and/or State benefit programs which are being made available due to the same disaster will consequently lessen undue hardship and the demand for EM loans; and

(G) Any other factors considered relevant.

(iv) If the Secretary finds that the conditions of § 1945.6(c)(3)(iii) (A) or (B) of this Subpart have *not* been met, and decides that the conditions do not warrant a natural disaster finding under subsection (c)(3)(iii)(C) of this Subpart, the Governor or Indian Tribal Council and other concerned officials will be notified of this and the reasons for the Secretary's conclusions.

(c) *Notification by the FmHA Administrator.* When the Administrator determines that an unusual and adverse weather condition or natural phenomenon has substantially affected farmers, causing qualifying severe *physical losses,* the Administrator will make EM physical loss loans available in the county(ies) identified and notify the State Director by electronic message.

(1) The Administrator, upon notifying the State Director that EM physical loss loans are to be made available, will issue the following:

(i) The Administrator's notification number (Example: N181);

(ii) The incidence period for the natural disaster; and

(iii) The termination date for accepting applications.

(2) The State Director upon receiving written notification by electronic message from the Administrator will notify:

(i) Appropriate County Supervisor(s) to commence processing EM loan applications in appropriate county(ies);

(ii) The SEB chairperson; and

(iii) The new media with appropriate announcements.

(3) The Administrator will notify the Office of the Secretary of Agriculture of any action taken concerning *physical* property losses. The National Office will also provide the same information to the appropriate Governor or Indian Tribal Council, and to other concerned officials at their request.

(4) Upon notification from the State Director that EM loans are available in a county, the County Supervisor will pursue the course of action described in § 1945.20(a)(3) of this Subpart.

(d) *Relationship between Administrator's notification and Secretary's determination.* If both Administrator and the Secretary make natural disaster conclusions affecting the same county:

(1) When the Administrator has made physical loss loans available pursuant to § 1945.6 (c)(3)(ii), and the Secretary later makes production loss loans available pursuant to § 1945.6 (c)(3)(iii) on the basis of the same unusual and adverse weather condition or natural phenomenon, such physical and production losses will be considered to be caused by a single natural disaster. Any physical loss loans made pursuant to the Administrator's earlier notification will be included in the amount available to an applicant as prescribed in § 1945.163(d) of Subpart D of Part 1945 of this Chapter.

(2) When a series of unusual and adverse weather conditions or natural phenomena occur in a county within the same crop year, and it is not possible for the Secretary to assess the damages in order to determine whether the conditions in § 1945.6 (c)(3)(iii) have been met until the end of such series or the crop year, a determination that a natural disaster has occurred shall be treated for both physical property and production losses to be due to a single natural disaster. Any physical loss loans made pursuant to the Administrator's earlier notification will be included in the amount available to an applicant as prescribed in § 1945.163(d) of Subpart D of Part 1945 of this Chapter.

(e) *Extension of termination dates for continuing disaster conditions.* When a natural disaster continues beyond the date on which an Administrator's notification or Secretary's determination is made, and when there are continuing losses or damages caused by that disaster, the Administrator will extend the incidence period and the termination date for such specified period as the Administrator finds appropriate, but not in excess of 60 days. The following actions will be taken to obtain an extension:

(1) The County Supervisor will advise the State Director of the conditions for which an extension is requested.

(2) The State Director will make a recommendation to the Administrator on whether an extension should be granted; and

(3) The Administrator will, if the request is granted:

(i) Amend the initial notification/determination (using the same number) by establishing a new incidence period and termination date; and

(ii) Notify the State Director by electronic message.

(f) *Limitations.* When actions are authorized by the Secretary or the Administrator under paragraphs (b) or (c) of this section, such actions will ordinarily be completed within six months after the beginning date of the incidence period of a reported disaster, except when the actions required in paragraph (b)(2) cause a delay beyond the six months period, in which event the actions must be completed within nine months of the beginning date of the incidence period. The Secretary may extend this limitation up to twelve months from the beginning date of the incidence period if there were other exceptional causes for the delay.

6. Section 1945.21 is amended by revising the title and paragraphs (a), (a)(1), (a)(2)(i), (a)(2)(ii), (b)(1)(i), (b)(1)(ii), (b)(2), and (c)(1) to read as follows:

§ 1945.21 Reporting and coordination requirements.

(a) *By the National Office.* The Administrator or a designee will:

(1) Submit weekly reports to the following, informing them of the past week's disaster actions taken by FmHA. If no actions are taken in any particular week, negative reports will be made:

* * * * *

(2) * * *

(i) The date of the declaration/determination/notification;

(ii) The name(s) of any county(ies) in which EM loans are available;

* * * * *

(b) * * *

(1) * * *

(i) Name(s) of any county(ies) in which EM loans are available;

(ii) Date of the declaration/determination/notification;

* * * * *

(2) Notify the States ASCS Executive Director of the authority to make EM loans and promptly have a meeting to review and implement the provisions of the Memorandum of Understanding between ASCS and FmHA on Disaster Assistance, Exhibit C of Subpart D of Part 1945 of this Chapter, to arrive at a mutual understanding as to how ASCS disaster program benefits are to be handled in conjunction with the processing of FmHA EM actual loss loans so that duplication of benefits for the same losses are not received by disaster victims;

* * * * *

(c) * * *

(1) Notify the County ASCS Executive Director of the declaration/determination/notification and have a meeting to review and implement the provisions of the Memorandum of Understanding between ASCS and FmHA on Disaster Assistance, Exhibit C of Subpart D of Part 1945 of this Chapter, to arrive at a mutual understanding as to how ASCS disaster program benefits and other information in ASCS's records will be made available and used in processing EM actual loss loans. Also the County Supervisor will request that information regarding the availability of EM loans be placed in the ASCS's news letter;

* * * * *

7. Section 1945.25 is amended by revising paragraph (b)(2) to read as follows:

§ 1945.25 Relationship between FmHA and FEMA.

* * * * *

(b) * * *

(2) If the FEMA makes a request for information from FmHA on losses and damages caused by an unusual and adverse weather condition or natural phenomenon, the FEMA representative will be advised to contact the SEB Chairperson. The EOH provides that the SEB will request the CEB to prepare the DAR. State Directors and County Supervisors should cooperate with SEB and CEB Chairpersons in preparing the DARs.

* * * * *

§ 1945.30 [Amended]

8. In § 1945.30, paragraph (b)(1) is amended by removing the word "available" and ending the first sentence after the word "loans".

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: March 24, 1983.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 83-9658 Filed 4-12-83; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Inspection Service

9 CFR Parts 327 and 381

[Docket No. 82-009F]

Importation of Meat and Poultry Products; Final Provisions

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On August 19, 1982, the Food Safety and Inspection Service (FSIS) published an immediately effective emergency interim rule to decrease the likelihood that adulterated or misbranded meat and poultry products will enter into United States' commerce. The interim final concerned, among other things, stricter controls on the movement and sale of "refused entry" product and the marking of imported product by inspectors. FSIS's action was prompted by information received from the Department of Agriculture's Office of the Inspector General revealing that product that had been "refused entry" at United States' ports because it was adulterated or misbranded, in some cases, entered into United States' domestic commerce for human food purposes. FSIS solicited comments on the interim rule and has considered all comments received. FSIS has determined that the interim rule, with minor modifications, shall be made a final rule.

EFFECTIVE DATE: May 13, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Grace Clark, Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7610.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a determination that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or 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.

This final rule will produce some additional handling, storage, interest, and possible inspection costs through the elimination of stamping the product as "inspected and passed" prior to actual inspection (prestamping). It is estimated that eliminating prestamping will result in approximately a $29 million annual cost for industry. However, it is anticipated that these costs will decrease as new technological, operational, and management procedures are developed by industry and the Government to expedite the handling and inspection of imported meat. It is anticipated that these costs will not result in any significant increase in the price of meat or poultry to consumers. The additional safeguards for public health and against economic fraud should directly benefit consumers and improve the marketability of imported product, offsetting much of the estimated costs.

Effect on Small Entities

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601). The portion of the estimated costs of the rule applicable to small entities would be largely offset by improved marketability of the product and is outweighed by the legal necessity to protect consumers from adulterated or misbranded imported product. Any burden or costs to salvage operators due to the limits placed on transfer of title of refused entry product should be ameliorated by the fact that such persons can perform the same service as agents of the affected owner or consignee.

Background

On August 19, 1982, FSIS published in the **Federal Register** (47 FR 36109) an interim rule, effective immediately, establishing new procedures for handling imported product to decrease the likelihood that "refused entry" meat and poultry product will enter into United States' commerce. FSIS had received information from the Department of Agriculture's Office of the Inspector General revealing that some product that has been "refused entry" at United States' ports because it was adulterated on misbranded, had entered into United States' domestic commerce for human food purposes. This information demonstrated the need for stricter controls over "refused entry" product and raised serious concerns about the adequacy of the measures to control "refused entry" product in the United States at that time.

Among the actions taken in the interim rule were prohibitions on:

(1) The application of the "U.S. Inspected and Passed" markings on meat and poultry products prior to final import inspection (prestamping);

(2) The subdivision of lots of "refused entry" products into smaller lots for separate disposition;

(3) The movement of "refused entry" product between ports without the provision of specific data to program officers;

(4) The movement of any "refused entry product" within the United States except under seal; and

(5) The sale of "refused entry" product, except to a foreign consignee for direct and immediate exportation.

The interim rule also increased the time limit that owners or consignees have to dispose of "refused entry" product from 30 days to 45 days, while restricting the circumstances for which extension of time can be granted.

Comments on Interim Rule

FSIS received 13 comments in response to the interim rule—6 from industry associations, 4 from importers/exporters, 1 from a farm organization, 1 from a farmer, and 1 from an insurance company. Three commenters fully supported the interim rule and one commenter expressed general opposition to the importation of meats. The following is a discussion of the issues raised by the commenters and FSIS' response to each:

1. *Prohibition of the sale of "refused entry" product except to foreign consignees.*

Comment: Seven commenters voiced their opposition to the requirement prohibiting the transfer of legal titles of "refused entry" products. The bases for such opposition included:

(1) Some segments of industry handling "refused entry" products may be forced out of business;

(2) Complications would develop concerning insurance coverage of "refused entry" product;

(3) Importers are not versed in export markets;

(4) A monopoly would be created and inhibit competitive bidding; and

(5) FSIS should be concerned with the actual movement of product rather than the concept of legal title.

Response: The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) place the burden of destroying or exporting "refused entry" product on the consignee. Those statutes prohibit generally the sale of adulterated, misbranded, or uninspected products in commerce. This prohibition does not apply to "refused entry" products that are destroyed for human use or sold directly to a foreign consignee. The transfer of legal title of "refused entry" products within the United States other than in this manner constitutes the sale of adulterated or misbranded products in violation of those provisions. Sale of "refused entry" products in the United States has in numerous instances in the past impaired FSIS's ability to control these products and to assure that they are not used for human food purposes in the United States. Therefore, FSIS concludes that prohibition of the transfer of legal title of "refused entry" product, as provided for in the interim rule, should be retained in the final rule. This will not preclude other persons or firms from representing the owner or consignee as agents in exporting "refused entry" products. Firms presently handling "refused entry" product for exporters should be able to continue to do so without having legal title to the product. Similarly, insurers need not take title to "refused entry" meat or poultry product to ascertain the net loss due to such product being refused entry.

2. *The 45-day limitation for disposition of U.S. "refused entry" products.*

Comment: Two commenters stated that 45 days are not adequate for disposing of "refused entry" product and recommended that FSIS allow up to at least 60 days.

Response: FSIS believes that 45 days is a sufficient time period. Since the August 19, 1982, publication of the interim rule establishing the 45-day limitation, FSIS has received no persuasive justification for granting extensions beyond the 45 days. FSIS has determined, therefore, that it will retain the 45-day limitation. The Administrator, FSIS, will grant extensions only when extreme circumstances warrant it; *e.g.*, a dock workers' strike or an unforeseeable vessel delay.

3. *Prohibition of subdivision of U.S. "refused entry" products.*

Comment: Two commenters opposed the prohibition of subdividing the "refused entry" product for export. One of the commenters contended that such prohibition prior to export is unreasonable since the foreign markets for such product are often small ones. The other commenter believed that the prohibition would not allow unsound product to be removed from the "refused entry" lot and destroyed prior to exporting the remaining lot.

Response: In order to maintain adequate control over the disposition of a complete lot, FSIS cannot allow the subdivision of products for separate disposition. In the past, lots could be subdivided at separate times to various consignees and FSIS was unable to identify whether the entire "refused entry" lot had been shipped outside the United States or otherwise properly disposed of. Nonetheless, FSIS believes that damaged or otherwise unsound product may and should be removed from the "refused entry" lot and destroyed prior to exportation. Therefore, FSIS has clarified this final rule to permit removal of unsound product from the "refused entry" lot for destruction prior to exportation.

4. *Prestamping prohibition.*

Comment: One commenter stated that the prohibition of prestamping imported meat and poultry prior to actual inspection causes needless delays and expenses.

Response: FSIS had in the past permitted, under certain circumstances, the "U.S. Inspected and Passed" shield to be placed upon imported product prior to its receiving full inspection. The shield had to be obliterated if the product did not ultimately pass inspection. This practice, however, reduced FSIS's ability to control product and offered additional opportunity for product that was found to be adulterated or misbranded to enter into United States' commerce. Therefore, the practice of prestamping imported product was discontinued on March 29, 1982, through MPI Bulletin 82-12.[1]

As discussed previously, FSIS is aware of the additional costs to industry resulting from prohibiting the prestamping of product. However, as also previously discussed, FSIS believes that new technological, operational, and management procedures can and are being developed to expedite the handling of imported product for inspection and reduce these costs.

Miscellaneous Amendments

The final rule does not amend the last sentence of § 327.10(c) of the Federal meat inspection regulations as contained in the interim rule. That section states that affected consignments will be identified as "U.S. Refused Entry." The last sentence currently provides that consignments may be marked as well if the area supervisor deems it appropriate. The interim rule revision unintentionally implied that marking of all refused entry consignments is required in addition to or instead of normal identification, which is usually by label or placard. After reconsideration, FSIS has determined the change to that paragraph is not warranted and has deleted it from the final regulation. Consignments of "refused entry" product will continue to be identified as they are now, and marking the individual product containers in each such consignment as "U.S. Refused Entry" will still be at the discretion of the area supervisor.

Minor revisions have also been made for clarity purposes in the amendments to §§ 327.13 and 381.202.

Final Rule

After careful consideration of the comments received on the interim rule, the Administrator has determined that the interim rule should be published as permanent regulations as set forth below.

List of Subjects

9 CFR Part 327

Meat inspection, Imported products.

9 CFR Part 381

Poultry products inspection, Imported products.

PART 327—[AMENDED]

1. The authority citation for Part 327 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 327.10 of the Federal meat inspection regulations (CFR 327.10) is amended by adding a new sentence after the first sentence of paragraph (b) to read as follows:

§ 327.10 Samples; inspection of consignments; refusal of entry; marking.

* * * * *

(b) * * *. Such inspection legend shall be placed upon the containers only after completion of official import inspection and product acceptance. * * *

* * * * *

3. Section 327.13 of the Federal meat inspection regulations (9 CFR 327.13) is amended by revising paragraph (a) and the last sentence of paragraph (b) to read as follows:

§ 327.13 Foreign products offered for importation; reporting of findings to Customs; handling of articles refused entry.

(a)(1) Program inspectors shall report their findings as to any product which has been inspected in accordance with this Part, to the Director of Customs at the original port of entry where the same is offered for clearance through Customs inspection.

(2) When product has been identified as "U.S. refused entry," the inspector shall request the Director of Customs to refuse admission to such product and to direct that it be exported by the owner or consignee within the time specified in this section, unless the owner or consignee, within the specified time, causes it to be destroyed by disposing of it under the supervision of a Program employee so that the product can no longer be used as human food, or by converting it to animal food uses, if permitted by the Food and Drug Administration. The owner or consignee of the refused entry product shall not transfer legal title to such product, except to a foreign consignee for direct and immediate exportation, or to an end user, e.g., an animal food manufacturer or a renderer, for destruction for human food purposes. "Refused entry" product must be delivered to and used by the manufacturer or renderer within the 45-day time limit. Even if such title is illegally transferred, the subsequent purchaser will still be required to export the product or have it destroyed as specified in the notice under paragraph (a)(5) of this section.

(3) No lot of product which has been refused entry may be subdivided during disposition pursuant to paragraph (a)(2) of this section, except that removal and destruction of any damaged or otherwise unsound product from a lot destined for reexportation is permitted under supervision of USDA prior to exportation. Additionally, such refused entry lot may not be shipped for export from any port other than that through which the product came into the United States, without the expressed consent of the Administrator based on full information concerning the product's disposition, including the name of the vessel and the date of export. For the purposes of this paragraph, the term "lot" shall refer to that product indentified on MP Form 410 in the original request for inspection for importation pursuant to § 327.5.

(4) Product which has been refused entry solely because of misbranding, in lieu of exportation or destruction pursuant to paragraph (a)(2) of this section, may be brought into compliance with the requirements of this Part, under supervision of an authorized representative of the Administrator.

(5) The owner or consignee shall have 45 days after notice is given by FSIS to the Director of Customs at the original port of entry to take the action required in paragraph (a)(2) of this section for "refused entry" product. Extension beyond the 45-day period may be granted by the Administrator when extreme circumstances warrant it; e.g., a dock workers' strike or an unforeseeable vessel delay.

(6) If the owner or consignee fails to take the required action within the time specified under paragraph (a)(5) of this section, the Department will take such action as may be necessary to effectuate its order to have the product destroyed for human food purposes. The Department shall seek court costs and fees, storage, and proper expense in the appropriate legal forum.

(b) * * *. All such product shall be returned in cars, trucks, or other means of conveyance, or in corded containers sealed with the official import meat seal of the Department.

* * * * *

[1] Copies of MPI Bulletin 82-12 are available from the Regulations Office, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

PART 381—[AMENDED]

4. The authority citation for Part 381 reads as follows:

Authority: Section 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and subsection 21(b) of the Federal Water Pollution Control Act, as amended by Pub. L. 91–224 and by other laws (33 U.S.C. 1254).

5. Section 381.202 of the poultry products inspection regulations (9 CFR 381.202) is amended by revising paragraph (a) to read as follows:

§ 381.202 Poultry products offered for entry; reporting of findings to Customs; handling of articles refused entry.

(a)(1) Program inspectors shall report their findings as to any product which has been inspected in accordance with this Part, to the Director of Customs at the original port of entry.

(2) When product has been identified as "U.S. refused entry," the inspector shall request the Director of Customs to refuse admission to such product and to direct that it be exported by the owner or consignee within the time specified in this section, unless the owner or consignee, within the specified time, causes it to be destroyed by disposing of it under the supervision of a Program employee so that the product can no longer be used as human food, or by converting it to animal food uses, if permitted by the Food and Drug Administration. The owner or consignee of the refused entry product shall not transfer legal title to such product, except to a foreign consignee for direct and immediate exportation, or an end user, e.g., an animal food manufacturer or a renderer, for destruction for human food purposes. "Refused entry" product must be delivered to and used by the manufacturer or renderer within the 45-day time limit. Even if such title is illegally transferred, the subsequent purchaser will still be required to export the product or have it destroyed as specified in the notice under paragraph (a)(4) of this section.

(3) No lot of product which has been refused entry may be subdivided during disposition pursuant to paragraph (a)(2) of this section, except that removal and destruction of any damaged or otherwise unsound product from a lot destined for reexportation is permitted under supervision of USDA prior to exportation. Additionally, such refused entry lot may not be shipped for export from any port other than that through which the product came into the United States without the expressed consent of the Administrator, based on full information concerning the product's disposition, including the name of the vessel and the date of export. For the purposes of this paragraph, the term "lot" shall refer to that product identified on MP Form 410 in the original request for inspection for importation pursuant to § 381.198.

(4) The owner or consignee shall have 45 days after notice is given by FSIS to the Director of Customs at the original port of entry to take the action required in paragraph (a)(2) of this section for "refused entry" product. Extension beyond the 45-day period may be granted by the Administrator when extreme circumstances warrant it; e.g., a dock workers' strike or an unforeseeable vessel delay.

(5) If the owner or consignee fails to take the required action within the time specified under paragraph (a)(4) of this section, the Department will take such actions as may be necessary to effectuate its order to have the product destroyed for human food purposes. The Department shall seek court costs and fees, storage, and proper expenses in the appropriate forum.

* * * * *

6. Section 381.204 of the poultry products inspection regulations (9 CFR 381.204) is amended by adding a new sentence after the first sentence to read as follows:

§ 381.204 Marking of poultry products offered for entry.

* * *. Such inspection legend shall be placed upon such products only after completion of official import inspection and product acceptance. * * *.

Done at Washington, D.C., on: March 30, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-9705 Filed 4-12-83; 8:45 am]

BILLING CODE 3410-DM-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Introducing Brokers and Associated Persons of Introducing Brokers; Notice and Procedures for "No-Action" Position

AGENCY: Commodity Futures Trading Commission.

ACTION: Rule related notice; procedures for obtaining no-action position for introducing brokers and associated persons of introducing brokers.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is publishing a letter it has transmitted to all registered futures commission merchants ("FCMs"). In that letter, the Commission advised those FCMs that in light of recent amendments to the registration requirements administered by the Commission under the Commodity Exchange Act, each FCM and agent of an FCM must determine whether those agents are to continue in business as introducing brokers on and after the May 11, 1983 effective date of the statutory amendments. That letter establishes procedures by which such an agent may obtain a "no-action" position from the Commission until it is registered under the Act as an introducing broker and by which associated persons ("APs") of an FCM who are presently employed by an agent may "transfer" their registrations to the agent which is applying for registration as an introducing broker. The Commission is publishing that letter in the Federal Register to provide affected persons additional notice of those procedures and to advise other interested members of the public of the requirements being established by the Commission.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Assistant Chief Counsel, or Robert P. Shiner, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Telephone: (202) 254–8955 or 254–9703, respectively.

SUPPLEMENTARY INFORMATION: The Futures Trading Act of 1982 has amended the Commodity Exchange Act to eliminate the formerly unregistered statutory category of "agents" of futures commission merchants and to require such an "agent" to register with the Commission either as an introducing broker or, in the case of an individual, as an AP of a futures commission merchant. The Futures Trading Act of 1982 also extends the requirements that govern the registration of associated persons so that individuals who were formerly associated with a futures commission merchant through an agent must now either become associated with an introducing broker or remain associated with the "sponsoring" futures commission merchant. *See* Futures Trading Act of 1982, Pub. L. No. 97–444, §§ 201, 207, 212, 96 Stat. 2297, 2302, 2303–04.

The Commission has recently proposed rules which, when adopted, would govern the registration of introducing brokers and their associated