

7 CFR Part 910

[Lemon Regulation 593]

Lemons Grown in California and Arizona; Limitation of Handling**AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

SUMMARY: Regulation 593 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 250,000 cartons during the period December 27, 1987, through January 2, 1988. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 593 (§ 910.893) is effective for the period December 27, 1987, through January 2, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2534, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended 7 CFR Part 910 regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601-674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action

will not tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on December 22, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a 12 to 0 vote, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the demand for lemons remains easier with lessened demand due to incumbent weather in the eastern states.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice, and engage in further public procedures with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 910.893 is added to read as follows:

§ 910.893 Lemon Regulation 593.

The quantity of lemons grown in California and Arizona which may be handled during the period December 27, 1987, through January 2, 1988, is established at 250,000 cartons.

Dated: December 23, 1987.

Robert C. Kenney,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.
[FR Doc. 87-29765 Filed 12-24-87; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1002 and 1004

[Docket Nos. A0-160-A62 and A0-71-A74]

Milk in the Middle Atlantic and New York-New Jersey Marketing Areas; Order Amending the Orders Withdrawn**AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule withdrawn.

SUMMARY: This action withdraws an order amending the Middle Atlantic and New York-New Jersey milk orders which was to become effective December 1, 1985. The action stems from a recent decision of the Third Circuit Court of Appeals affirming the order of the U.S. District Court for the Eastern District of Pennsylvania which enjoined the Secretary of Agriculture from implementing amendments to the above-mentioned orders.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued June 17, 1983; published June 23, 1983 (48 FR 28655).

Recommended Decision: Issued March 5, 1985; published March 11, 1985 (50 FR 9637).

Extension of time for filing exceptions: Issued April 5, 1985; published April 10, 1985 (50 FR 14110).

Final Decision: Issued August 9, 1985; published August 14, 1985 (50 FR 32716).

Final Order: Issued October 29, 1985; published November 1, 1985 (50 FR 45595).

Suspension of effective date of Final Order: Issued November 27, 1985; published December 4, 1985 (50 FR 49674).

This document is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and withdraws the order amending the orders regulating the handling of milk in the aforesaid marketing areas.

Basis for Withdrawing Final Rule

1. On October 29, 1985 (50 FR 45595) the Deputy Assistant Secretary, Marketing and Inspection Services issued an order amending the two aforesaid orders. The amending order was to become effective on December 1,

1985, and would have expanded the marketing areas of the two orders and revised each order's location adjustment provisions.

2. On November 22, 1985, the U.S. District Court for the Eastern District of Pennsylvania issued, on the basis of a civil action before it, a preliminary injunction restraining the Secretary from implementing the order amending the two orders. Shortly thereafter, the Department suspended the December 1, 1985, effective date of the order amending the two aforesaid orders that were issued on October 29, 1985 (50 FR 45595) until further notice.

3. On July 17, 1986, the U.S. District Court granted the plaintiffs' request for a permanent injunction enjoining the Secretary from implementing the order amending the two orders.

4. The Secretary appealed the U.S. District Court's ruling to the United States Court of Appeals for the Third Circuit. Thereafter, on September 21, 1987, the Third Circuit Court of Appeals affirmed the decision of the District Court which permanently enjoined the Secretary from implementing the order amending the two orders.

List of Subjects in 7 CFR Parts 1004 and 1002

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that on the basis of the Third Circuit Court of Appeals' September 21, 1987, decision, the order amending the aforesaid orders that was to be effective December 1, 1985 (50 FR 45595), is hereby withdrawn.

The authority citation for Parts 1004 and 1002 continues to read as follows:

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

Signed at Washington, DC on: December 17, 1987.

Kenneth A. Gilles,
Assistant Secretary for Marketing and
Inspection Services.

[FR Doc. 87-29592 Filed 12-24-87; 8:45 am]

BILLING CODE 3410-01-M

Rural Electrification Administration

7 CFR Part 1736

Electric Standards and Specifications

AGENCY: Rural Electrification
Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby revises 7 CFR Chapter XVII, REA Regulations, Part 1736, Electric Standards and Specifications, by revising REA Bulletin

50-70(U-1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable. This bulletin contains the REA material specifications for underground power cable. The primary changes resulting from this revision are: (1) Removing all high molecular weight polyethylene as an acceptable insulating material; (2) increasing the minimum average insulation layer thickness from 175 to 220 mils for 15 kilovolt (kV) cable and from 260 to 345 mils for 25 kV cable; (3) requiring the application of an electrically insulating outer jacket on all such cables; and (4) modifying the present requirement to test each reel of cable produced to detect excessive partial discharge.

EFFECTIVE DATE: December 28, 1987.

FOR FURTHER INFORMATION CONTACT:

Mr. James C. Dedman, Electrical Engineer, Electric Staff Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone (202) 382-9091.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.), REA is revising 7 CFR Chapter XVII, REA Regulations, Part 1736, Electric Standards and Specifications, by revising REA Bulletin 50-70(U-1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable.

This action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of \$100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and, therefore, has been determined to be "not major."

REA has concluded that promulgation of this rule will not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1978)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This regulation contains no information or recordkeeping requirements which require approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.). This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees. For the reasons set forth in

the final rule Federal Register notice related to 7 CFR Part 3015, Subpart V, in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Background

REA maintains a system of bulletins that contains construction standards and specifications for materials and equipment which are applicable to electric system facilities constructed by REA electric borrowers in accordance with the REA loan contract. These standards and specifications contain standard construction units and material and equipment items commonly used in REA electric and telephone borrowers' systems.

REA Bulletin 50-70(U-1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable, contains REA's requirements relative to the purchase of underground power cables by REA electric borrowers. The requirements in Bulletin 50-70(U-1) are minimum requirements and are based primarily on specifications of national standards setting organizations such as the Association of Edison Illuminating Companies (AEIC) and the Insulated Cable Engineers Association (ICEA). Bulletin 50-70(U-1) was last revised in 1984.

In recent years, cables purchased and installed by many REA electric borrowers have failed long before the end of the anticipated life of the cables. Since these prematurely failed cables were designed and manufactured in accordance with Bulletin 50-70(U-1) and the referenced national standards, REA has concluded that Bulletin 50-70(U-1) should be revised to exceed some requirements of the national standards.

The primary cause of underground cable failures is the formation and growth of electrochemical "trees" in the insulation layer of the cables. The tree-like voids usually form at impurities or voids in the insulation material. The growth of the trees is accelerated by moisture in the insulation layer and high voltage stress.

High molecular weight polyethylene (HMW) insulated cables have performed very poorly regarding failure due to trees. All manufacturers of underground cable have ceased production of cables insulated with HMW not containing tree-retardant additives. In 1986, REA removed HMW cables from REA Bulletin 43-5, List of Materials Acceptable for Use on Systems of REA Electrification Borrowers. REA has learned that each

manufacturer presently listed in Bulletin 43-5 for cable insulated with HMW with the tree-retardant additives (HMW-TR) recommends against its use. REA believes that the removal of all HMW insulated cable (including HMW-TR) from Bulletin 50-7(U-1) is certainly justified.

The voltage stress (measured in volts per mil) on the insulation of underground cable is a function of the voltage present and the thickness of the insulation layer (in mils). Increasing the thickness of the insulation wall will decrease the voltage stress and, therefore, retard the growth of trees in the insulation layer. Presently, Bulletin 50-70(U-1) requires the average thickness of the insulation layer to be at least as large as 175 mils for cables used on systems rated at 15 kilovolts (kV) and 260 mils for 25 kV systems. This action increases the minimum wall thickness to 220 mils for 15 kV systems and 345 mils for 25 kV systems.

The cables used on systems of REA electric borrowers are almost always buried in direct contact with the earth. They are, therefore, in constant contact with moisture, a major contributing factor in the growth of trees. Bulletin 50-70(U-1) presently allows, but does not require, the application of an electrically insulating jacket as an outer protective covering on underground cables. The jacket provides mechanical protection which decreases the likelihood of physical damage and moisture contact with the insulation layer within. Therefore, this action revises Bulletin 50-70(U-1) to require insulating jackets on all underground power cable.

The national standards and Bulletin 50-70(U-1) require manufacturers of underground cable to test each reel of cable to detect excessive partial discharge which could damage the insulation layer. REA revises its requirement to allow an alternate procedure under which a manufacturer could demonstrate to REA's satisfaction that the manufacturer can produce cables without excessive partial discharge and that its insulation material is sufficiently resistant to damage caused by excessive partial discharge, should it occur. Testing for resistance to partial discharge will be required periodically on cable produced by the manufacturer.

Numerous other changes, which are more minor or clerical in nature, are included in this action.

Comments

On August 10, 1987, REA published a Proposed Rule notice to revise 7 CFR Chapter XVII, Part 1736 by revising Bulletin 50-70(U-1). In the Proposed

Rule notice, REA invited interested parties to file comments on or before October 9, 1987. Although some comments were received after that date, all responses received have been considered in preparing this Final Rule.

Sixty different organizations or groups commented on the Proposed Rule. They are:

1. Public Utility District No. 1 of Douglas County, Washington
2. Dalager Engineering Company
3. Cablec Corporation
4. Orville W. Zastrow, Consulting Engineer
5. Conductor Products, Inc.
6. Wisconsin Electric Cooperative Association
7. Tillamook People's Utility District
8. KBM, Inc.
9. Nodak Rural Electric Cooperative, Inc.
10. Lower Valley Power & Light, Inc.
11. Top O'Michigan Rural Electric Company (two responses)
12. CamWal Electric Cooperative, Inc.
13. Green River Electric Cooperative, Inc.
14. Pirelli Cable Corporation (two responses)
15. Hendrix Wire & Cable
16. Mille Lacs Electric Cooperative
17. Tarheel Electric Membership Association, Inc.
18. Wild Rice Electric Cooperative, Inc.
19. Slope Electric Cooperative, Inc.
20. James Valley Electric Cooperative, Inc.
21. Burke—Divide Electric Cooperative, Inc.
22. Union Carbide Corporation
23. Capital Electric Cooperative, Inc.
24. North Central Electric Cooperative, Inc.
25. Martin and Associates, Inc.
26. Verendrye Electric Cooperative, Inc.
27. Georgia Electric Membership Corporation
28. North Itasca Electric Co-op, Inc.
29. Joslyn Corporation
30. North Star Electric Cooperative, Inc.
31. Oliver—Mercer Electric Cooperative, Inc.
32. Northeast Nebraska Rural Public Power District
33. Red Lake Electric Cooperative, Inc.
34. McKenzie Electric Cooperative, Inc.
35. Meeker Cooperative Light & Power Association
36. Anoka Electric Cooperative
37. Dairyland Electric Co-op, Inc.
38. McLean Engineering Company, Inc.
39. McLean Electric Co-operative, Inc.
40. Reynolds Aluminum
41. SSR, Inc. Engineers
42. The Smoky Hill Electric Cooperative Association, Inc.
43. The Okonite Company
44. Allied Tube & Conduit
45. RTE Corporation
46. The Kerite Company
47. East Mississippi Electric Power Association
48. Cavalier Rural Electric Cooperative, Inc.
49. Itasca—Mantrap Co-op. Electrical Association
50. Cobb Electric Membership Corporation
51. Mid Carolina Electric Cooperative
52. Mor-Gran-Sou Electric Cooperative, Inc.
53. Ulteig Engineers, Inc.
54. Star Services Federation
55. Twin Valleys Public Power District
56. Palmetto Electric Cooperative, Inc.
57. Southern Engineering Company

58. Insulated Cable Engineers Association (ICEA)
59. Agralite Cooperative

For the purposes of discussion, the negative comments of these organizations have been categorized.

Conductor: Two organizations recommended inclusion of three-quarter hard aluminum temper, H16 or H26, as an acceptable material for solid aluminum conductors. The major drawback to using harder temper solid conductor has been decreased flexibility. However, since Bulletin 50-70(U-1) is being revised to require a thicker insulation layer and an outer jacket, the decrease in flexibility should be negligible at most. REA accepts the suggested change.

Two organizations recommended requiring, not just allowing, the use of material to fill the interstices (gaps) between the strands of stranded conductor. Strand fillers are designed to prevent the longitudinal migration, along the conductor, of moisture which may enter the conductor due to dig-in or natural migration from the outside. Although REA recognizes that strand fillers will prevent some damaging moisture from reaching the cable insulation layer, it is felt that its use should be recommended, not required.

Conductor Shield: A change has been made in this revision of Bulletin 50-70(U-1) to allow the use of insulating conductor shield (stress control layer) in addition to the semi-conducting shield required in the existing edition of the bulletin. Three organizations have objected to this change. The cable specifications of ICEA allow either insulating or semi-conducting conductor shields, so REA feels that this comment should not be accepted.

Bulletin 50-70(U-1), as proposed, would allow the use of an insulating or semi-conducting separator tape between the conductor and the conductor shield. Two commenters recommended allowing only semi-conducting tape, while three commenters recommended not allowing any separator tape. REA has accepted the second comment, and has removed any mention of separator tape from the bulletin. Some people feel that the separator tape allows moisture to enter the space between the tape and the conductor. Separator tapes are generally used only with large conductors (1,250 kcmil and larger). Since the bulletin covers only conductors up to 1,000 kcmil, the use of separator tapes is not justified.

Insulation: Seven organizations recommended removing tree retardant high molecular weight polyethylene (HMW-TR) as an acceptable insulation

material. Four organizations recommended removing cross-linked polyethylene (XLP) without tree retardant additives. REA has removed HMW-TR, but not XLP. Each of the three cable manufacturers presently listed as manufacturers of HMW-TR cable no longer recommends the use of HMW-TR insulation. Therefore, REA has removed it from REA Bulletin 43-5 and from Bulletin 50-70(U-1). REA feels that insufficient data exists on failures of XLP insulated cables to justify its removal. Since the thickness of the insulation is increased and the use of a jacket is required by this action, the performance of XLP cable should be quite acceptable. Also, tree retardant XLP cable has not been in use for a sufficient length of time to justify its being the only accepted polyethylene insulation material.

Insulation Thickness: Some organizations have objected to REA's increasing the minimum average thickness of the insulation layer. The objections concerned several operational difficulties:

1. Borrowers will need to carry two sets of cable accessories in store rooms and on repair trucks.
2. Repair crews may have difficulty identifying the size of insulation on failed cables.
3. Borrowers have in stock supplies of cable and accessories in accordance with the former edition of Bulletin 50-70(U-1).

Other organizations have commented that increased insulation thicknesses are not necessary if quality insulation materials and workmanship and jackets are used.

Although REA recognizes that some minor, temporary operational difficulties may result from this change, the obvious benefits resulting from decreasing the voltage stress on the cable insulation outweigh the drawbacks. Several borrowers have converted to cables with increased insulation thicknesses with no major difficulty. Borrowers will be allowed to use cables with the thinner insulation walls until existing stocks are depleted. Of course, a supply of the older cable and accessories will be retained for future repairs.

The minimum average insulation thickness included in the proposed revision of Bulletin 50-70(U-1) were 220 mils for 15 kV cable and 320 mils for 25 kV cable. Eleven organizations objected to these minimum values for two major reasons. First, some commenters have used 260 mil thick insulation on their 15 kV cable and want to continue this practice. Since 220 mils is the *minimum* average thickness, the insulation thickness of 15 kV cable may be

increased to a maximum of 260 mils. Secondly, several commenters object to the use of 320 mils, instead of the more commonly used 345 mils, for 25 kV cable. REA has accepted this comment since 345 is more commonly used and since it is the increased thickness specified by ICEA.

Insulation Shield: Four organizations commented that the listing of acceptable insulation shield materials in the proposed specification was unclear. Four semi-conducting materials were included: thermoplastic polyethylene, deformation resistant thermoplastic polyethylene, cross-linked polyethylene, and ethylene propylene rubber. Since REA has removed all high molecular weight (thermoplastic) polyethylene as acceptable insulation material, inclusion of the two types of thermoplastic polyethylene insulation shields is no longer necessary. The other two materials are actually thermosetting semi-conducting polymers, one of which is based upon cross-linked polyethylene while the other is based upon ethylene propylene rubber. The insulation shield material must be compatible with, but not necessarily the same material as, the insulation material. Therefore, in order to clarify this section, REA will require "a semi-conducting thermosetting (cross-linked polyethylene or ethylene propylene rubber) polymeric layer."

Manufacturing Process: The proposed revision added a requirement that the conductor shield, insulation, and insulation shield shall be extruded onto the conductor in one continuous manufacturing process (triple extrusion process). The triple extrusion process, a relatively recent development in cable manufacturing, is intended to make two primary improvements in cable quality. First, since the three layers are extruded in one pass through the manufacturing process, there is less opportunity for contaminants to appear between the insulation shield and insulation. Also, since the thermosetting insulation and insulation shield layers are cured at the same time, the adhesion between those two layers is increased. Poor adhesion (and voids) between the two layers can cause partial discharge (corona) which can damage insulation materials.

REA agrees that increased cleanliness and insulation shield adhesion are desirable qualities. However, we are aware that manufacturers which do not use the triple extrusion process have produced quality cable for many years by taking care to ensure cleanliness between the two extrusions and by using corona resistant insulation materials. (Note: Before being listed in REA Bulletin 43-5, each manufacturer must demonstrate that its cable passes

the partial discharge test in the AEIC cable specification.) Therefore, REA has determined that, although use of the triple extrusion manufacturing process is desirable, sufficient justification does not exist to require its use.

Concentric Neutral: Several organizations commented that the minimum number of concentric neutral wires required by Bulletin 50-70(U-1) is not sufficient when an insulating overall outer jacket is applied. REA agrees with this requirement and has adopted the requirement in the ICEA specifications. Jacketed cable operated on single-phase systems shall have a full neutral as described in the ICEA specifications and cable operated on three-phase systems shall have at least a one-third neutral as per ICEA.

Overall Outer Jacket: The previous edition of Bulletin 50-70(U-1) allowed, but did not require, the application of an electrically insulating outer jacket over the concentric neutral wires. The proposed revision of the bulletin requires the jacket. Twenty-five organizations commented that jackets should not be required for several various reasons.

Most of the commenters reported that they have experienced little or no corrosion of the concentric neutral wires. The jacket is intended to serve many purposes, only one of which is corrosion mitigation. The jacket provides significant mechanical protection to the insulation shield and the underlying insulation layer. Also, the jacket delays moisture from reaching and damaging the insulation layer.

Others commented that jacketed cable is difficult to terminate and ground. Many borrowers have successfully terminated jacketed cable for many years. REA will soon consider for listing in Bulletin 43-5 products, manufactured by several companies, which are used to ground the concentric neutral wires and reseal the jacket. Other organizations have commented that the premium cost (approximately 10-15% more than non-jacketed cable) of jacketed cable is not justified. REA believes that the several benefits of jacketed cable will increase the useful life (and decrease costs due to repairs, lost revenues, etc.) of the cable. The value of the added life outweighs the increased cost of the jacket.

Some organizations expressed concern that rodents, such as gophers, will gnaw through the jacket material. A small hole in the jacket will allow moisture to enter. This moisture can damage the insulation layer and cause severe localized corrosion of the concentric neutral wires. A borrower which can provide sufficient written

justification to REA that the underground cable on its system is subject to rodent damage may request, from its REA area office, a waiver of the requirement that a jacket must be used.

One organization expressed an opinion that an insulating jacket will make adequate grounding of the neutrals more difficult to achieve, especially on systems which experience grounding difficulties due to the nature of the soil. Inadequate grounding can cause unsafe conditions. The neutral on jacketed underground cable is electrically similar to the neutral on overhead lines. The National Electrical Safety Code requires that multiple grounded systems, like those on REA borrower systems, must be "effectively grounded." In some locations, it may be necessary to install an array of multiple ground rods, or longer rods, at each grounding point. There also may be locations where especially high earth resistivity and/or rock make the use of cables with bare concentric neutrals desirable. In such situations REA will consider requests for waiver of the jacketing requirement.

Because of the general advantages of jacketed cable, REA retains its requirement that underground cables have an insulating jacket applied over the concentric neutral wires.

Two organizations have commented that REA should require that separator tapes not be allowed between the jacket and the concentric neutral wires. REA agrees that the jacket should encapsulate the neutral wires, leaving no voids. If a separator tape is used, the space between the individual neutral wires is open, allowing any moisture which may enter the gap to easily migrate longitudinally under the jacket. Therefore, Bulletin 50-70(U-1) will not allow the use of such separator tapes.

(Note: The encapsulated neutral wires must remain in intimate contact with the underlying insulation shield.)

Tests: Some organizations have commented that the list of AEIC qualification tests included in Bulletin 50-70(U-1) should be revised to match the tests required in the AEIC specifications which have been revised recently, but not yet printed. REA has accepted this comment and will require compliance with the production sampling tests and qualifications tests in the new AEIC specifications.

Partial Discharge Test: The AEIC specifications and the existing edition of REA Bulletin 50-70(U-1) require manufacturers to pass a partial discharge (corona) test as a qualification test and to test each reel of cable for

excessive partial discharge before it is shipped. This test is intended to detect voids in the insulation layer or between the insulation layer and the shield layers. Corona can form in the voids, causing damage to most insulation materials. However, REA has been made aware that some cable is being manufactured with insulation material which is resistant to the effects of partial discharge. In the proposed revision of Bulletin 50-70(U-1), REA included an alternative procedure under which manufacturers which had passed the partial discharge qualification test could opt to perform the discharge resistance (U-bend) test, as described in ICEA specifications, on each manufacturing run of cable instead of performing the partial discharge test on each reel of cable. Some organizations commented that the option should not be allowed since the ICEA discharge resistance test is intended to apply to unshielded lower voltage cables only.

REA believes that, although the finished cables produced under Bulletin 50-70(U-1) are shielded, the U-Bend discharge resistance test is an acceptable test to assess the ability of an insulation material to resist the harmful effects of partial discharge. Therefore, REA has retained the optional procedure, with some clarification of the test procedures, described in the proposed revision. REA believes that most cable manufacturers will continue to test each reel of cable in accordance with the AEIC partial discharge test requirement.

Jacket Tests: Bulletin 50-70(U-1) requires a Cold Bend Test to be performed on "each length of jacketed cable shipped." Commenters have indicated that this testing frequency is unnecessary. REA agrees with this comment and has changed the testing frequency to "one test for each 50,000 feet of cable, or major fraction thereof, or at least once per jacket extruder run."

Cable Markings: Some organizations have suggested REA require the application of three red stripes running along the cable jacket, equally spaced around the jacket, to identify it as an electric power cable. REA realizes that red has been accepted as the standard color used to identify electric facilities and that some utilities, including some REA borrowers, have purchased jacketed cable with red stripes (or totally red jackets). However, REA also has been made aware that some questions exist concerning the possible adverse effects the red striping material may have on the quality of the jacket.

Therefore, REA does not believe that sufficient information is available to justify requiring red stripes on jacketed cable.

Some organizations have suggested that REA should require a durable label to be attached to each reel of cable identifying the purchaser, cable description, number of feet of cable on the reel and weight of the reel. REA believes that this suggestion is reasonable and has accepted it.

Favorable Comments: The large number of comments received as a result of the proposed revision should not be misconstrued as general dissatisfaction with the proposed revision. Of the 60 responses to the proposed revision, several expressed complete satisfaction with the proposal. These generally were cable manufacturers or REA electric borrowers which already have used, with success, cable which exceeds the present minimum requirements. Concerning the requirement of an overall outer jacket, which produced the largest number of negative comments, some cable manufacturers commented that this change will have a greater positive impact on the quality of underground cable than any other change REA could make.

Also, it should be pointed out that copies of the proposed revision and proposed rule **Federal Register** notice were sent to approximately 1,100 organizations, including each electric borrower. REA believes that the fact that only 60 organizations responded indicates that no general dissatisfaction exists with this action.

List of Subjects in 7 CFR Part 1736

Electric utilities, Engineering standards, Incorporation by reference.

In view of the above, REA hereby amends 7 CFR Part 1736.

PART 1736—ELECTRIC STANDARDS AND SPECIFICATIONS

1. The authority citation for Part 1736 continues to read as follows:

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

2. In § 1736.97, paragraph (b) is amended by revising the entry for Bulletin 50-70(U-1) to read as follows:

§ 1736.97 Incorporation by reference of electric standards and specifications.

* * * * *

(h) List of Bulletins.

Bulletin 50-70(U-1), REA Specification for 15 kV and 25 kV Primary Underground Power Cable (December 22, 1987)

Dated: December 22, 1987.

Harold V. Hunter,

Administrator.

[FR Doc. 87-29678 Filed 12-24-87; 9:13 am]

BILLING CODE 3410-15-M

Farmers Home Administration

7 CFR Part 1924

Construction and Repair; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: FmHA corrects a final rule published March 13, 1987, (52 FR 7998). The reference to Appendices C and F of HUD Handbook 4910.1, Minimum Property Standards for Housing was not changed to Appendices C through F of HUD Handbook 4910.1, Minimum Property Standards. The reference to paragraph XI of Exhibit B of Subpart A of Part 1924 was not changed to paragraph X of Exhibit B of Subpart A of Part 1924. The intent of this action is to correct these errors.

FOR FURTHER INFORMATION CONTACT: Keith Suerdick, Architect, Program Support Staff, Farmers Home Administration, USDA, Room 6309, South Agriculture Building, Washington, DC 20250. Telephone (202) 382-9619.

SUPPLEMENTARY INFORMATION: The following corrections are made to 52 FR on pages 8004 and 8005 dated March 13, 1987:

PART 1924—CONSTRUCTION AND REPAIR

§ 1924.5 [Corrected]

1. Section 1924.5(d)(1) is corrected by changing the words "Appendices C and F" to "Appendices C through F."

2. Section 1924.5(d)(3) is amended by changing the reference "paragraph XI" to "paragraph X."

Dated: December 17, 1987.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 87-29677 Filed 12-24-87; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[Order No. 1244-87]

Mariel Cuban Parole Determinations

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule establishes a separate immigration parole review process for certain detained, excludable nationals of Cuba who came to the United States during the 1980 Mariel Cuban boatlift. It permits a comprehensive and fair review of the cases of excludable Mariel boatlift participants, detained pursuant to the authority of the Immigration and Nationality Act, for parole consideration. The effect of this rule is to establish several levels of review to determine whether certain detained, excludable Mariel Cubans should be paroled, and to set forth the procedures governing such parole decisions. It establishes a new Departmental Release Review Program under the general supervision of the Associate Attorney General, which will provide eligible aliens, otherwise denied parole, with an additional review.

EFFECTIVE DATE: Final rule effective December 28, 1987.

FOR FURTHER INFORMATION CONTACT: Donald A. Couvillon, Attorney, Office of Immigration Litigation, Civil Division, telephone (202) 272-4397; or Craig Raynsford, Attorney, Office of the General Counsel, Immigration and Naturalization Service, telephone (202) 633-2895.

SUPPLEMENTARY INFORMATION:

General Background

Between the months of April and October of 1980 approximately 125,000 Cuban nationals without appropriate entry documentation arrived on the shores of the United States as a consequence of what has become known as the Mariel boatlift. Cuban government authorities inserted numerous hardened criminals and other undesirable aliens among the vast majority of peaceful, productive and law-abiding Cubans who came here as a result of the boatlift. Despite being hampered by incomplete information respecting the then newly arriving aliens, the United States attempted to identify those individuals whose release might present unacceptable risks to members of the American public and to

return these aliens to Cuba. The Government of Cuba, however, refused to accept the repatriation of those found to be excludable from the United States.

Subsequent to the boatlift, several unsuccessful attempts were made to reach an agreement between the United States and Cuba on immigration matters. Finally, on December 14, 1984, the United States and Cuba entered into a bilateral migration agreement ("migration agreement"), which provides for normalized immigration between the two countries, and includes Cuba's agreement to accept the return of certain Mariel Cubans ordered excluded by the United States. The migration agreement, however, limits the United States to returning an average of only one hundred excluded aliens to Cuba per month. In May of 1985, not long after it took effect, the migration agreement was unilaterally suspended by the Government of Cuba. On November 20, 1987, however, the United States and Cuba announced the immediate reinstatement of the migration agreement of December 14, 1984, in all of its aspects.

The unprecedented arrival of the 125,000 Cuban nationals on our shores in 1980, and Cuba's initial refusal to accept repatriation of those ordered excluded under our immigration laws, created a situation of a magnitude that has never before existed in the immigration history of the United States. In response to this situation, and at a time prior to late 1984 when the repatriation of a Mariel excludable was not practicable, the Attorney General created a parole program for detained Mariel Cubans, namely, the Attorney General's Status Review Plan. That Status Review Plan was intended to balance the need to protect the American public from potentially dangerous aliens with the humanitarian problems created by Cuba's unjustified refusal to accept repatriation and the associated prospects for long-term confinement that faced excludable but unreturnable Mariel Cubans. With the original signing of the migration agreement in 1984, the Attorney General's Status Review Plan was terminated and actual deportations to Cuba were commenced. After the termination of the Status Review Plan, parole for Mariel Cubans was available only under the general regulatory authority of the District Directors of the Immigration and Naturalization Service (hereinafter referred to as the "Service").

As indicated earlier, in May of 1985, implementation of the migration agreement was unilaterally suspended by the Government of Cuba.

Accordingly, the renewed inability to repatriate detained, excludable Cubans caused a significant increase in the number of such criminals within the custody of the Service. Recognizing the need for another comprehensive parole review procedure, the Commissioner of the Immigration and Naturalization Service approved the establishment of a new Cuban Review Plan on May 25, 1987. The Cuban Review Plan has provided for a nationwide review of the cases of Mariel Cuban criminals in the custody of the Service for parole consideration, and has enabled many of those individuals approved for parole to be relocated to either halfway house placements or approved family units. Where upon review it was determined that an individual was not acceptable for parole, another opportunity for review has existed on an annual basis. Over the years, under the various parole mechanisms adopted to address the unique circumstances presented by the Mariel Cubans, eventually all but approximately 100 to 150 of these individuals were paroled into our society. Many paroled aliens, however, have committed crimes in the United States and have had their immigration parole revoked. Currently, there are approximately 7,600 Mariel boatlift participants who either are detained under the authority of our immigration laws or are serving criminal sentences in Federal, State, and local prisons.

The reinstatement of the migration agreement, and the disturbances at the Oakdale, Louisiana and Atlanta, Georgia institutions, have again focused the attention of the nation on the issues associated with the deportation or release on parole of detained Mariel excludables. In this light, it has been determined that, in addition to the current Cuban Review Plan administered by the Service, a Departmental Release Review Program will be established. These procedures in combination will ensure a thorough and fair parole review for each eligible detainee. Administered by the Associate Attorney General, the Departmental Program will review only those cases where parole has been denied by the Cuban Review Plan within the Service. In addition, a separate review mechanism is being established to look at the cases of those detainees who are likely candidates for deportation. An informational notice describing that program is being published separately. A detainee who is selected and approved for repatriation will not be entitled to a determination respecting release on parole under the procedures being established here.

Discussion of Specific Provisions

This regulation makes changes to 8 CFR Part 212 by incorporating distinct procedures for the parole review process in relation to Mariel Cubans.

In section 212(d)(5) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(d)(5), Congress vested in the Attorney General broad discretion to parole into the United States an alien seeking admission, under any conditions as he may prescribe, for emergent reasons or for reasons deemed strictly in the public interest. Sections 212.12 and 212.13 of this new rule establish procedures for the exercise of the Attorney General's discretion to parole which will be applicable to the unusual circumstances presented by the Mariel Cubans. Section 212.12 incorporates with some modifications an on-going procedure within the Service which will result in periodic reviews of detained Mariel Cubans for possible parole. Section 212.13, on the other hand, establishes a new Departmental Release Review Program which will undertake a one-time, single level of further review by Departmental Panels composed of certain designated officials of the Department of Justice. Under both sections, the ultimate determination whether to grant or deny parole will be made in the exercise of the Attorney General's discretion under the Act. The Departmental Panel's determination to either grant or deny parole will result from an independent evaluation of each case. In keeping with its regular responsibilities under our immigration laws, the Service will retain the responsibility for the overall implementation of the parole program, including revocation of parole for violation of its conditions, execution of orders of exclusion or commencement of proceedings, or adjustments to meet unforeseen or changed circumstances.

New § 212.12. The scope of the Service's Cuban Review Plan is described in § 212.12(a). As stated therein, the new procedures apply to any Mariel Cuban, as defined, in the custody of the Service or who is detained anywhere in the United States pursuant to the authority of the Act. The Mariel boatlift took place approximately between April and October of 1980. The regulatory definition for a Mariel Cuban covers a time period for arrival in the United States from April 15, 1980, to October 20, 1980. This ensures as complete coverage as possible of boatlift participants, recognizing that there may have been departures from Cuba prior to the April 20, 1980, opening of the Port of Mariel as an embarkation point by Cuban authorities, and that aliens

continued to arrive in the United States well after the September 26, 1980, closing of Mariel harbor by Cuban authorities. The Service's Plan does not apply to a Mariel Cuban who is still serving a sentence imposed pursuant to a criminal conviction, regardless of whether the Service has placed a detainer on the alien, until and unless his parole is revoked *after* he completes his criminal sentence and actually is taken into Service custody. Notwithstanding the establishment of these parole procedures, an excludable Mariel Cuban may be deported from the United States and repatriated to Cuba without first receiving a parole review under this rule.

In § 212.12(b) there is a delegation of the Attorney General's authority to the Commissioner and the Associate Commissioner for Enforcement (Associate Commissioner) who will possess the full discretion vested in the Attorney General pursuant to section 212(d)(5) of the Act. For effective day-to-day operation, the Associate Commissioner may in turn delegate in writing his powers to persons under his supervision. Under § 212.12(c), the Associate Commissioner will appoint a Director of the Cuban Review Plan who will administer the Cuban Review Plan. In § 212.12(d)(1), the rule provides that the Director shall designate Cuban Review Panels whose function is to make parole recommendations to the Associate Commissioner.

Set forth in § 212.12(d) are the criteria for the Panel's review and the factors, such as likelihood to engage in future acts of violence or likelihood to engage in future criminal activity, which the Panel should weigh in considering whether to recommend further detention or release on parole in each individual case. This parole recommendation process is also to take into account the roots an alien may have here in the United States by looking at such things as his family ties, and the danger that the alien will abscond, such as from any sponsorship program designed to assist his integration into society. The traditional considerations in most parole determinations (see 8 CFR 212.5) are appropriate here for obvious reasons. The procedures for Panel review include a review of the detainee's file, and possibly an interview of the detainee by the Panel. In addition, the detainee may submit to the Panel any information which he believes demonstrates that he should be released on parole. Finally, § 212.12(d)(4)(iii) provides that the Panel will forward to the Associate Commissioner a written

recommendation either for or against parole.

Upon receipt of the Panel's recommendation, the Associate Commissioner shall determine whether to grant parole consistent with the delegation of discretionary authority. In this regard, it is important to note that the Associate Commissioner is not bound by the Panel or Director's findings pursuant to § 212.12(d)(2) or constrained by the factors which the Panel should consider and weigh as set forth in § 212.12(d)(3). Rather, the Associate Commissioner retains the full statutory authority in § 212(d)(5) of the Act. While the Panel's recommendation is designed to serve as an important guide to the exercise of discretion, the Associate Commissioner must also take into consideration changes in foreign and domestic affairs, the availability of fiscal as well as other resources, public policy and humanitarian concerns, and other factors which could weigh for or against the decision in an individual case. The Associate Commissioner must be free to assess all of the circumstances in arriving at his final determination to grant parole to a detained Mariel Cuban for emergent reasons or for reasons deemed strictly in the public interest.

In § 212.12(e), there is an admonition that a detainee approved for parole must maintain proper behavior while awaiting suitable sponsorship or placement, or his parole may be revoked. The Associate Commissioner must be free to withdraw his grant of parole to a detainee who exhibits behavior inconsistent with the determination to release him into the American community. Moreover, while it is well settled in the criminal context that a grant of discretionary parole can be revoked without additional procedural steps prior to release, this paragraph puts the detainee on notice.

The requirements of suitable sponsorships and placements are outlined in § 212.12(f), which also reiterates that no detainee will be released absent a suitable sponsorship or placement and that the parolee must abide by the parole conditions specified by the Service in relation to his sponsorship or placement.

The timing of the parole review process is set forth in § 212.12(g). It outlines three separate categories: (1) The process for a new detainee or detainee whose parole has recently been revoked will start ordinarily with the scheduling of a file review within approximately three months; (2) a detainee who has continued in custody and has been denied parole will receive a yearly review; and (3) a detainee may

receive a discretionary review scheduled by the Cuban Review Plan Director. These goals for the timing of parole reviews are, of course, contingent upon the availability of adequate resources, which the Department is undertaking to obtain. As noted above, the Review Plan established by § 212.12 does not apply to detained Cubans who are still serving sentences imposed pursuant to criminal convictions.

Revocation of parole is covered by § 212.12(h). The Associate Commissioner will be responsible for the overall supervision of Mariel Cuban parole revocations. Local Service district directors will retain the power to revoke parole in emergency situations, but are expected to obtain prior clearance from the Associate Commissioner in routine cases. The grounds for parole revocation are listed in § 212.12(h). In the past, the district directors have revoked parole most often after the Mariel Cuban has been convicted of a serious misdemeanor or felony. Parole revocation has also occurred if an individual appears to present a danger to the community, displays serious mental health problems, is involved in repeated arrests or disturbances, or violates specific terms of parole. The new parole revocation guidelines contemplate a continuance of the same practices under day-to-day conditions. The guidelines also allow, however, for flexibility in meeting unusual or changing circumstances. These have been evident in foreign and domestic relations and changes in enforcement priorities. Now that Cuba has agreed to accept the return of the excludable Mariel Cubans, the guidelines also provide for revocation of parole as appropriate to enforce an order of exclusion or to commence proceedings.

New § 212.13. The scope of the Departmental Release Review Program, under the general supervision of the Associate Attorney General, is set forth in § 212.13(a). The Associate Attorney General is given the authority to establish additional day-to-day operating procedures as he deems necessary. The purpose of the Program, as set forth in § 212.13(b), is to provide a single parole review of eligible Mariel Cubans who have been denied parole after exhaustion of the procedures in § 212.12. A Mariel Cuban who is currently serving a sentence imposed after a criminal conviction is not eligible for review under the Departmental Program at this time; instead, the Program is limited to those Mariel Cubans in Service custody on the date of promulgation of this regulation. A decision will be made at a later date

respecting any expansion of this Program. Likewise, nothing in § 212.13 is intended to preclude the repatriation of any Mariel Cuban regardless of whether he has received a parole review.

The rule specifically states, in § 212.13(b), that each eligible detainee shall be entitled to only one review before a Departmental Panel regardless of whether he is subsequently denied parole pursuant to § 212.12 or any successor plan. The composition of the panels is set forth in § 212.13(c), while § 212.13(d) contains a delegation of the Attorney General's discretionary authority, pursuant to section 212(d)(5) of the Act, 8 U.S.C. 1182(d)(5), to grant parole for emergent reasons or for reasons deemed strictly in the public interest.

The procedures for notifying a detainee that his case will be submitted to a Departmental Panel are contained in § 212.13(e). Under this paragraph, the detainee will be notified that he may submit a written statement to the Panel setting forth any factors he deems relevant. Although not required by the Act, the detainee will also be advised that he may, at no expense to the government, have a representative or counsel assist in the preparation of the statement. This is consistent with the provisions of section 292 of the Act, 8 U.S.C. 1362, which accord any alien the privilege of representation, at no expense to the government, in exclusion proceedings. Under no circumstances is it contemplated that counsel will be appointed for a detainee. The review is to be a record review, not an adversarial evidentiary hearing, such as that usually available in respect to a finding of excludability. Under § 212.13(f), the Departmental Panel may, in its sole discretion, designate one of its members to interview the detainee and report in writing to the full Panel.

Pursuant to § 212.13(g), the decision of the Departmental Panel will be based on a review of the record created during the procedure outlined in § 212.12, the written submission of the detainee, if any, and any interview deemed appropriate by the Panel. Except as provided in § 212.13(i), the decisions of the Panel will be final and subject to no further review. Under § 212.13(i), a Panel has discretionary authority to withdraw a grant of parole when, prior to release, the conduct of the detainee or other changes in circumstances warrant. It is important that the Panel have the flexibility to respond when, for example, a detainee who has been granted parole subsequently engages in conduct which undermines the Panel's decision, when such conduct occurs after submission of

the case to the panel and thus is not a part of the record, or when foreign affairs or domestic conditions indicate that the parole determination is no longer in the public interest.

Specified in § 212.13(h) are the same caveats regarding release to suitable sponsorships or placements as contained in § 212.12(f). Likewise, § 212.13(h) provides that the paroled detainee must abide by the parole conditions specified by the Service. Under § 212.13(j), parole granted by a Departmental Panel may be revoked pursuant to § 212.12. Thus, the Departmental Panel is not vested with a role in the revocation of parole. The Departmental Review Program's specific and limited function is to provide a one-time review of eligible Mariel Cubans for possible parole. Neither the Review Program nor the Departmental Panels which implement the Program are intended to provide oversight into day-to-day parole decisions or placements, the execution of orders of exclusion, or any of the many matters encompassed in the general enforcement of our immigration laws. These matters are properly entrusted to the Service. Accordingly, the Service retains sole delegation of authority under § 212.12 to establish the conditions of parole and to revoke parole.

Justification for Final Rule

The promulgation of this rule setting forth the Cuban Review Plan and establishing the Departmental Release Review Program is effective immediately and not subject to notice and comment rulemaking because the Department of Justice "for good cause finds * * * that notice and public procedures thereon are impracticable, unnecessary, or contrary to the public interest" in accordance with 5 U.S.C. 553(b)(3). The immediate initiation of a special parole program for detained Mariel Cubans is necessary to assure that all parole determinations are promptly and fairly reviewed. Recently, well-publicized, volatile, and life-threatening disturbances took place at the Atlanta, Georgia and Oakdale, Louisiana institutions in which Mariel excludables were detained. In nine days of occupation, one detainee lost his life, both sites suffered extensive property damage amounting to tens of millions of dollars, detainees had fashioned weapons, and the prospect loomed for sharply escalating hostilities, threatening the health and safety, among others, of officials and citizens held hostage throughout the ordeal. The two incidents underscore the need for a system of parole determinations that ensures that the Cuban detainees will

have confidence that they are receiving a just and fair review. By swiftly responding to the recent tensions, the risk is minimized that the public will again be exposed to imminent and direct physical harm. In addition, the Atlanta detainees released their hostages and terminated the disturbance at that facility with the express expectation that parole reviews for certain detainees would be completed by June 30, 1988. Given the short timetable to conduct this anticipated review of a large number of detainees, it would be contrary to the public interest to delay implementation of this parole program. Therefore, it is necessary to invoke the "good cause" exception to the notice of proposed rulemaking requirements of 5 U.S.C. 553(b) and the "good cause" exception to the 30 day delayed effective date requirement of 5 U.S.C. 553(d), and to implement the rule immediately.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of section 1(b) of E.O. 12291.

This rule contains information collection requirements; however, they are exempt from the requirements of the Paperwork Reduction Act in accordance with 5 CFR 1320.3(c).

List of Subjects in 8 CFR Part 212

Aliens, Parole, Detention, Exclusion, Cubans.

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

PART 212—DOCUMENTARY REQUIREMENTS; NONIMMIGRANT WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for Part 212 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1225, 1226, 1228, 1252; 8 CFR Part 2.

2. In § 212.5, a new paragraph (f) is added to read as follows:

§ 212.5 Parole of aliens into the United States.

(f) *Parole for certain Cuban nationals.* Notwithstanding any other provision respecting parole, the determination whether to release on parole, or to revoke the parole of, a native of Cuba who last came to the United States between April 15, 1980, and October 20, 1980, shall be governed by the terms of §§ 212.12 and 212.13.

3. Part 212 is amended by adding §§ 212.12 and 212.13 to read as follows:

§ 212.12 Parole determinations and revocations respecting Mariel Cubans.

(a) *Scope.* This section applies to any native of Cuba who last came to the United States between April 15, 1980, and October 20, 1980 (hereinafter referred to as "Mariel Cuban") and who is being detained by the Immigration and Naturalization Service (hereinafter referred to as the "Service") pending his or her exclusion hearing, or pending his or her return to Cuba or to another country. It covers Mariel Cubans who have never been paroled as well as those Mariel Cubans whose previous parole has been revoked by the Service. It also applies to any Mariel Cuban, detained under the authority of the Immigration and Nationality Act in any facility, who has not been approved for release or who is currently awaiting movement to a Service or Bureau Of Prisons (BOP) facility. In addition, it covers the revocation of parole for those Mariel Cubans who have been released on parole at any time.

(b) *Parole authority and decision.* Except as provided in § 212.13, the authority to grant parole under section 212(d)(5) of the Act to a detained Mariel Cuban shall be exercised by the Commissioner, acting through the Associate Commissioner for Enforcement, as follows:

(1) *Parole decisions.* The Associate Commissioner for Enforcement may, in the exercise of discretion, grant parole to a detained Mariel Cuban for emergent reasons or for reasons deemed strictly in the public interest. A decision to retain in custody shall briefly set forth the reasons for the continued detention. A decision to release on parole may contain such special conditions as are considered appropriate. A copy of any decision to parole or to detain, with an attached copy translated into Spanish, shall be provided to the detainee. Parole documentation for Mariel Cubans shall be issued by the district director having jurisdiction over the alien, in accordance with the parole determination made by the Associate Commissioner for Enforcement.

(2) *Additional delegation of authority.* All references to the Commissioner and Associate Commissioner for Enforcement in this section shall be deemed to include any person or persons (including a committee) designated in writing by the Commissioner or Associate Commissioner for Enforcement to exercise powers under this section.

(c) *Review Plan Director.* The Associate Commissioner for Enforcement shall appoint a Director of the Cuban Review Plan. The Director shall have authority to establish and maintain appropriate files respecting each Mariel Cuban to be reviewed for possible parole, to determine the order in which the cases shall be reviewed, and to coordinate activities associated with these reviews.

(d) *Recommendations to the Associate Commissioner for Enforcement.* Parole recommendations for detained Mariel Cubans shall be developed in accordance with the following procedures.

(1) *Review Panels.* The Director shall designate a panel or panels to make parole recommendations to the Associate Commissioner for Enforcement. A Cuban Review Panel shall, except as otherwise provided, consist of two persons. Members of a Review Panel shall be selected from the professional staff of the Service. All recommendations by a two-member Panel shall be unanimous. If the vote of a two-member Panel is split, it shall adjourn its deliberations concerning that particular detainee until a third Panel member is added. A recommendation by a three-member Panel shall be by majority vote. The third member of any Panel shall be the Director of the Cuban Review Plan or his designee.

(2) *Criteria for Review.* Before making any recommendation that a detainee be granted parole, a majority of the Cuban Review Panel members, or the Director in case of a record review, must conclude that:

- (i) The detainee is presently a nonviolent person;
- (ii) The detainee is likely to remain nonviolent;
- (iii) The detainee is not likely to pose a threat to the community following his release; and
- (iv) The detainee is not likely to violate the conditions of his parole.

(3) *Factors for consideration.* The following factors should be weighed in considering whether to recommend further detention or release on parole of a detainee:

- (i) The nature and number of disciplinary infractions or incident reports received while in custody;
- (ii) The detainee's past history of criminal behavior;
- (iii) Any psychiatric and psychological reports pertaining to the detainee's mental health;
- (iv) Institutional progress relating to

participation in work, educational and vocational programs;

(v) His ties to the United States, such as the number of close relatives residing lawfully here;

(vi) The likelihood that he may abscond, such as from any sponsorship program; and

(vii) Any other information which is probative of whether the detainee is likely to adjust to life in a community, is likely to engage in future acts of violence, is likely to engage in future criminal activity, or is likely to violate the conditions of his parole.

(4) *Procedure for review.* The following procedures will govern the review process:

(i) *Record review.* Initially, the Director or a Panel shall review the detainee's file. Upon completion of this record review, the Director or the Panel shall issue a written recommendation that the detainee be released on parole or scheduled for a personal interview.

(ii) *Personal interview.* If a recommendation to grant parole after only a record review is not accepted or if the detainee is not recommended for release, a Panel shall personally interview the detainee. The scheduling of such interviews shall be at the discretion of the Director. The detainee may be accompanied during the interview by a person of his choice, who is able to attend at the time of the scheduled interview, to assist in answering any questions. The detainee may submit to the Panel any information, either orally or in writing, which he believes presents a basis for release on parole.

(iii) *Panel recommendation.* Following completion of the interview and its deliberations, the Panel shall issue a written recommendation that the detainee be released on parole or remain in custody pending deportation or pending further observation and subsequent review. This written recommendation shall include a brief statement of the factors which the Panel deems material to its recommendation. The recommendation and appropriate file material shall be forwarded to the Associate Commissioner for Enforcement, to be considered in the exercise of discretion pursuant to § 212.12(b).

(e) *Withdrawal of parole approval.* If a detainee approved for parole fails to maintain proper behavior while he is awaiting suitable sponsorship or placement, his parole approval may be revoked by the Associate Commissioner for Enforcement.

(f) *Sponsorship.* No detainee may be

released on parole until suitable sponsorship or placement has been found for the detainee. The paroled detainee must abide by the parole conditions specified by the Service in relation to his sponsorship or placement. The following sponsorships and placements are suitable:

(1) Placement by the Public Health Service in an approved halfway house or mental health project;

(2) Placement by the Community Relations Service in an approved halfway house or community project; and

(3) Placement with a close relative such as a parent, spouse, child, or sibling who is a lawful permanent resident or a citizen of the United States.

(g) *Timing of reviews.* The timing of review shall be in accordance with the following guidelines.

(1) *Parole revocation cases.* The Director shall schedule the review process in the case of a new or returning detainee whose previous immigration parole has been revoked. The review process will commence with a scheduling of a file review, which will ordinarily be expected to occur within approximately three months after parole is revoked.

(2) *Continued detention cases.* A subsequent review shall be commenced for any detainee within one year of a refusal to grant parole under either § 212.12(b) or § 212.13, whichever is later, unless a shorter interval is specified by the Director.

(3) *Discretionary reviews.* The Cuban Review Plan Director, in his discretion, may schedule a review of a detainee at any time when the Director deems such a review to be warranted.

(h) *Revocation of parole.* The Associate Commissioner for Enforcement shall have authority, in the exercise of discretion, to revoke parole in respect to Mariel Cubans. A district director may also revoke parole when, in the district director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Associate Commissioner. Parole may be revoked in the exercise of discretion when, in the opinion of the revoking official:

(1) The purposes of parole have been served;

(2) The Mariel Cuban violates any condition of parole;

(3) It is appropriate to enforce an order of exclusion or to commence proceedings against a Mariel Cuban; or

(4) The period of parole has expired without being renewed.

§ 212.13 Departmental parole determinations respecting certain Mariel Cubans.

(a) *Scope.* This section, establishing a Departmental Release Review Program, applies to all excludable Mariel Cubans who on the effective date of this regulation are detained by virtue of the Attorney General's authority under the Immigration and Nationality Act and whose parole has been denied after the exhaustion of the procedures set forth in § 212.12. This Departmental Release Review Program shall be under the general supervision of the Associate Attorney General, who shall administer the Program and establish such additional procedures as may be required.

(b) *Single review.* Each detainee described in paragraph (a) above shall be entitled to only one review before a Departmental Panel. Should a detainee denied parole under this section subsequently receive further review pursuant to § 212.12 or any successor parole review plan of the Service, such detainee shall not be entitled to a second review before a Departmental Panel.

(c) *Departmental panels.* The Associate Attorney General shall establish panels which will be comprised of three persons from within the Department of Justice, one of whom must be an attorney, and one of whom must be a representative of the Community Relations Service. The Immigration and Naturalization Service shall not be represented on the panels. These panels shall consider the cases of those Mariel Cubans whose parole has previously been denied pursuant to the provisions set forth in § 212.12.

(d) *Parole authority.* Each Departmental Panel shall be vested with the full discretion of the Attorney General under section 212(d)(5) of the Act to grant parole for emergent reasons or for reasons deemed strictly in the public interest.

(e) *Notification and submission.* Prior to the submission by the Service of a case to a Departmental Panel, the detainee shall receive notification from the Service that he is about to receive Departmental Panel consideration. Such notification shall inform the detainee that he may submit a written statement to a Departmental Panel, within 30 days from the date of service of the notification, setting forth any factors he deems relevant to the parole consideration and he may, at no expense to the government, have his representative or counsel assist in the preparation of this written statement.

(f) *Interviews.* A Departmental Panel may designate one of its members to interview the detainee and report in writing to the full Panel whenever in its sole discretion it deems such action appropriate.

(g) *Panel decisions.* The written decision of a Departmental Panel will be based on a review of the record created during the review by the Service pursuant to § 212.12, the written submission, if any, from the detainee, and the information obtained from any Panel interview of the detainee. Except as provided in paragraph (i) of this section, all written decisions of a Departmental Panel will be final and subject to no further review.

(h) *Sponsorship.* No detainee may be released on parole until suitable sponsorship or placement has been found for the detainee. The paroled detainee must abide by the parole conditions specified by the Service in relation to his sponsorship or placement. The following sponsorships and placements are suitable:

(1) Placement by the Public Health Service in an approved halfway house or mental health project;

(2) Placement by the Community Relations Service in an approved halfway house or community project; and

(3) Placement with a close relative such as a parent, spouse, child, or sibling who is a lawful permanent resident or a citizen of the United States.

(i) *Withdrawal of parole approval.* A Departmental Panel may, in its discretion, withdraw its approval for parole of any detainee prior to release when, in its opinion, the conduct of the detainee, or any other circumstance, indicates that parole would no longer be appropriate.

(j) *Parole revocations.* Parole granted under this section may be revoked pursuant to § 212.12.

4. The Table of Contents to 8 CFR Part 212 is amended by adding before the "Authority" citation the following new headings:

Sec.

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212.12 Parole determinations and revocations respecting Mariel Cubans.

212.13 Departmental parole determinations respecting certain Mariel Cubans.

Dated: December 21, 1987.

Edwin Meese III,

Attorney General.

[FR Doc. 87-29568 Filed 12-24-87; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 220

Regulation T

[Docket No. R-0611]

Credit by Brokers and Dealers (Regulation T); Exercise of Employee Stock Options

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: The Board is adopting an amendment to Regulation T that will permit broker-dealers to aid in the exercise of company stock options owned by employees of the company, its subsidiaries, or affiliates. In lieu of the securities to be received upon exercise, the amendment will allow broker-dealers to accept a fully-endorsed employee stock option and instructions to the issuer to deliver the securities to the broker-dealer.

EFFECTIVE DATE: January 25, 1988.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer, or Scott Holz, Attorney, Division of Banking Supervision and Regulation, (202) 452-2781. For the hearing impaired only, Telecommunications Service for the Deaf, Earnestine Hill or Dorothea Thompson, (202) 452-3544.

SUPPLEMENTARY INFORMATION: The proposal to amend Regulation T was published in the *Federal Register* on August 26, 1987 (52 FR 32138). Twenty comments were received; all but two supported the amendment as proposed.

Many of the commenters asked for clarification of how the Board envisions the mechanics of these transactions. The following paragraphs respond to the comments.

The amendment will allow the broker-dealer to accept a fully-endorsed employee stock option with instructions signed by the customer instructing the issuer to deliver the securities to the broker-dealer. The customer is to designate the account into which the securities should be deposited, i.e. the margin account or the cash account. The rule does not preclude allowing the broker-dealer to advance funds to the issuer in cases where the employee has given the exercise notice to the issuer and not the broker-dealer, as long as the broker-dealer has a copy of the exercise notice and delivery instructions and has verified that the issuer will deliver the securities promptly to the broker-dealer.

If the customer wishes to immediately sell the stock to be received upon