times that of morphine. Beta-hydroxy-3-methylfentanyl has been produced in clandestine laboratories and identified in drug evidence submissions to forensic laboratories. It is likely that some of the more than 100 overdose deaths associated with fentanyl analog use involved beta-hydroxy-3-methylfentanyl.

Based upon the investigation and review conducted by DEA and upon the scientific and medical evaluation and recommendation of the Assistant Secretary for Health, delegate of the Secretary of the Department of Health and Human Services, received in accordance with 21 U.S.C. 811(b), the DEA Administrator, pursuant to the provisions of 21 U.S.C. 811 (a) and (b), finds that:

(1) Beta-hydroxy-3-methylfentanyl has a high potential for abuse;

(2) Beta-hydroxy-3-methylfentanyl has no currently accepted medical use in treatment in the United States, and

(3) Beta-hydroxy-3-methylfentanyl lacks accepted safety for use under medical supervision.

The above findings are consistent with the placement of beta-hydroxy-3-methylfentanyl into Schedule I of the CSA. The Administrator further finds that beta-hydroxy-3-methylfentanyl is an opiate as defined in 21 U.S.C. 802(18) since it has an addiction-forming and an addiction-sustaining liability similar to that of morphine. Consequently, beta-hydroxy-3-methylfentanyl is a narcotic since the definition of narcotic, as stated in 21 U.S.C. 802(17)(A), includes: "Opium, opiates, derivatives of opium and opiates."

All regulations applicable to Schedule I narcotic substances are effective as of January 8, 1988, with respect to beta-hydroxy-3-methylfentanyl. The current applicable regulations are as follows:

1. *Registration*. Any person who manufactures, distributes, delivers, imports or exports beta-hydroxy-3-methylfentanyl or who engages in research or conducts instructional activities with respect to this substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security*. Beta-hydroxy-3-methylfentanyl must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and packaging*. All labels and labeling for commercial containers of beta-hydroxy-3-methylfentanyl must comply with the requirements of §§ 1302.03–1302.05, 1302.07 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Quotas*. All persons required to obtain quotas for beta-hydroxy-3-methylfentanyl shall submit applications pursuant to §§ 1303.12 and 1303.22 of Title 21 of the Code of Federal Regulations.

5. *Inventory*. Every registrant required to keep records and who possesses any quantity of beta-hydroxy-3-methylfentanyl shall take an inventory pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations of all stocks of this substance on hand.

6. *Records*. All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on beta-hydroxy-3-methylfentanyl.

7. *Reports*. All registrants required to submit reports pursuant to §§ 1304.34–1304.37 of Title 21 of the Code of Federal Regulations shall do so regarding beta-hydroxy-3-methylfentanyl.

8. *Order forms*. All registrants involved in the distribution of beta-hydroxy-3-methylfentanyl must comply with the order form requirements of §§1305.01–1305.16 of Title 21 of the Code of Federal Regulations.

9. *Importation and exportation*. All importation and exportation of beta-hydroxy-3-methylfentanyl shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

10. *Criminal liability*. The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to beta-hydroxy-3-methylfentanyl not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the placement of beta-hydroxy-3-methylfentanyl into Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354).

This action involves the control of a substance with no legitimate medical use or manufacture in the United States.

In accordance with the provisions of 21 U.S.C. 811(a), this scheduling action is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)) and delegated to the Administrator of DEA by Department of Justice Regulations (28 CFR 0.100), the Administrator hereby orders that 21 CFR 1308.11 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Section 1308.11 is amended by redesignating existing paragraphs (b)(12) through (b)(54) as (b)(13) through (b)(55) and adding a new paragraph (b)(12) as follows:

§ 1308.11 Schedule I

* * * * *

(b) * * *

(12) Beta-hydroxy-3-methylfentanyl (other name: *N*-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-*N*phenylpropanamide) 9830

* * * * *

§ 1308.11 [AMENDED]

3. Section 1308.11 is further amended by removing paragraph (g)(2) and redesignating existing paragraphs (g)(3) through (g)(6) as (g)(2) through (g)(5).

Dated: January 4, 1988.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 88–279 Filed 1–7–88; 8:45 am]

BILLING CODE 4410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3313-5; KY-047]

Approval and Promulgation of Implementation Plans; Kentucky: 401 KAR 61:140, Existing By-Product Coke Manufacturing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves a revision to 401 KAR 61:140, Existing by-product coke manufacturing plants, submitted by Kentucky on September 19, 1986. This revision changes the test method for measuring total dissolved

solids (TDS) in quench water used in by-product coke manufacturing operations from ASTM Method 209B to Method 209C. EPA previously requested this change in test methods. At the present time, there is only one source in Kentucky subject to this amendment, and that source is currently in compliance with its provisions. This revision to 401 KAR 61:140 was proposed on May 6, 1987 (52 FR 16877).

EFFECTIVE DATE: This rule will become effective on February 8, 1988.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Natural Resources and Environmental Protection Cabinet, Division of Air Pollution Control, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Pamela E. Adams of the EPA Air Programs Branch at the above address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: On December 1, 1982, Kentucky promulgated revisions to its regulation for the control of emissions from existing by-product coke manufacturing plants, 401 KAR 61:140. Upon submittal of these revisions to EPA for approval, EPA stated that the revised regulation would be entirely approvable if the Kentucky Natural Resources and Environmental Protection Cabinet changed the test method for measuring total dissolved solids (TDS) in the makeup water from Method 209B to Method 209C of the *Standard Methods For the Evaluation of Water and Wastewater*, ASTM 15th Edition, 1980. On August 28, 1986, a public hearing was held in Frankfort, Kentucky to receive comments on a revised version of 401 KAR 61:140, Existing by-product coke manufacturing plants, which incorporated the new test method. This version of the regulation was submitted to EPA on September 19, 1986. EPA proposed to approve the regulation on May 6, 1987 (52 FR 16877). EPA received no comments in response to that proposal. Method 209B and Method 209C are both test methods for determining total filtrable residue. Method 209C differs from Method 209B only in that the temperature of the drying oven is maintained at 103 °C–105 °C than 180 °C. The only source affected by this amendment, Armco Inc.-Coke Plant, I.D. No. 103–0340–0027, is already in compliance with the provisions of this amendment (letter dated April 12, 1985, from D.E. Davisson, Environmental Engineer, Armco, Inc.). Requiring Method 209C for testing will cause no economic disadvantages to Kentucky.

Final Action

EPA is today finalizing approval of the revision to 401 KAR 61:140, Existing by-product coke manufacturing plants, which changes the test method for measuring TDS is quench water used in by-product coke manufacturing operations from Method 209B to Method 209C. The only difference in these two test methods is in the temperature of the drying oven.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 8, 1988. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations.

Note: Incorporation by reference of the State Implementation Plan for the State of Kentucky was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 4, 1988.

Lee M. Thomas,

Administrator.

Part 52 of Chapter I, Title 40, of the Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

Subpart S—Kentucky

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.920 is amended by adding paragraph (c)(50) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(50) A revision in Kentucky regulation 401 KAR 61:140, Existing by-product coke manufacturing plants, submitted on September 19, 1986, by the Kentucky Natural Resources and Environmental Protection Cabinet.

(i) Incorporation by reference.

(A) A revision to Division of Air Pollution regulation 401 Kentucky Administrative Regulations (KAR) 61:140, Existing by-product coke manufacturing plants, which became effective on September 4, 1986.

(B) Letter of September 19, 1986 from the Commonwealth of Kentucky to EPA.

[FR Doc. 88–309 Filed 1–7–88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 86–79]

Common Carrier Services; Customer Premises Equipment by the Bell Operating Companies and the Independent Telephone Companies

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: In the BOC CPE Order, the FCC adopted nonstructural safeguards to govern BOC provision of CPE and directed the BOCs to file plans specifying the means by which they proposed to comply with certain of these safeguards. This Order addresses these plans. Specifically, this action approves the plans filed with the FCC by Ameritech, BellSouth, Bell Atlantic, NYNEX, Southwestern Bell, and USWest for complying with the CPNI, nondiscrimination, and joint marketing regulatory requirements of the BOC CPE Order (CC Docket No. 86–79). However, each of these BOCs is required to amend its compliance plans in certain respects. This action also approves the CPNI and nondiscrimination proposals in PacTel's compliance plan, while requiring some amendments to these proposals, but rejects PacTel's joint marketing proposal.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gary Phillips, Common Carrier Bureau, (202) 632–4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Common Carrier Bureau's Order in CC Docket 86–79, adopted December 29, 1987, and released December 30, 1987. The full text of this Bureau decision is available for inspection and copying during normal business hours in FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The full text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Washington, DC 20037.

Summary of Order

1. In the BOC CPE Order (2 FCC Rcd 143 (1987), recon., FCC 87-389 (released Dec. 17, 1987)), the Commission relieved the Bell Operating Companies (BOCs) of the structural separation requirements governing their provision of customer premises equipment (CPE) and replaced those requirements with five nonstructural safeguards. These safeguards covered five areas: cost allocation, network information disclosure, use and availability of customer proprietary network information (CPNI), nondiscrimination in the installation and maintenance of network services, and provision of joint marketing opportunities to independent CPE vendors. The Commission required each BOC to file a compliance plan specifying the procedures by which it would satisfy the CPNI, nondiscrimination, and joint marketing requirements. It delegated authority to the Chief of the Common Carrier Bureau (the Bureau) to review these plans. On April 13, 1987, the BOCs filed their compliance plans. In the Order, the Bureau addresses these plans.

2. Under the CPNI requirements, each BOC must honor customers' requests that it restrict its CPE personnel from accessing the customers' CPNI, as well as requests that it make such CPNI available to independent CPE vendors. Each BOC must also provide annual notice to multiline business customers of the Commission's CPNI rules and make nonproprietary, aggregate CPNI available to independent CPE vendors to the extent that, and on the same terms as, it is made available to the BOC's own CPE operations.

3. In the Order, the Bureau approves the CPNI proposal of each BOC but requires each BOC to correct minor deficiencies in its proposal by filing with the Commission certain plan amendments within 14 days of publication of this summary of the Order in the **Federal Register**. Bell Atlantic, Southwestern Bell, US West, and PacTel must amend their plans to state that the procedures they describe for releasing and restricting customers' CPNI apply to all customers. NYNEX must amend its plan to state that it will notify all multiline business customers of their right to authorize release of their CPNI to independent CPE vendors, as well as of the other CPNI rights of such customers. All BOCs, except NYNEX and Bell Atlantic, must amend their plans to state that they will provide the required CPNI notice within 60 days after publication of this summary of the Order in the **Federal Register**. If Bell Atlantic does not provide the required CPNI notice by January 1, 1988, as it states in its CPNI proposal, it must also amend its plan as summarized in the preceding sentence. All BOCs, except NYNEX, must amend their plans to state that they will include with their CPNI notices response forms that customers can use to restrict CPNI and must file proposed response forms with their plan amendments. Bell Atlantic and Ameritech must state that they will make nonproprietary aggregate CPNI available to independent CPE vendors to the extent that, and on the same terms and conditions as, it is made available to their own CPE operations. Finally, all BOCs, except NYNEX, must amend their plans to indicate that customers will receive at least 30 days to respond to the CPNI notice, during which time BOC CPE operations may not access the customer's CPNI, and that customers will be informed of this response period in the CPNI notice. All BOCs must file sample CPNI notices and response forms with their plan amendments.

4. Under the nondiscrimination rules, the BOCs must retain their Centralized Operations Groups (COGs) as optional points of contact for the CPE vendor community and customers with non-BOC CPE and may not discriminate in their provision of installation and maintenance of network services in favor of their own CPE customers. In addition, they must file quarterly reports on network service installation intervals experienced by their own CPE customers and by customers of their CPE competitors. The BOCs must describe in their complaince plans their installation and maintenance procedures and their proposed reporting mechanism and report format for their installation reports. The Order notes that the BOCs have elected to file with th Commission annual affidavits attesting that they follow the maintenance procedures described in their compliance plan and have not, in fact discriminated in their provision of maintenance service.

5. In the Order, the Bureau approves the installation and maintenance procedures described by the BOCs in their compliance plans. However, it requires Ameritech, Bell Atlantic, and US West to amend their plans to describe the training they provide their installation personnel on the Commission's nondiscrimination rules. Ameritech and US West must also describe the training provided to maintenance personnel in their plan amendments. The Bureau rejects the reporting categories proposed by the BOCs in their compliance plans but approves revised categories proposed by the BOCs in recent ex parte filings. Southwestern Bell, however, must modify its ex parte proposal to include a separate WATS/800 category and a category for analog private line service. Southwestern Bell must also amend its plan to state that it will provide quarterly installation reports for all of its business customers. Finally, the Order clarifies that BOCs may not provide CPE on an unseparated basis until their reporting mechanism is operational. All of the BOCs must file with the Commission the amendments summarized in this paragraph within 14 days of publication of this summary in the **Federal Register**.

6. Under the joint marketing requirement, the BOCs must provide independent CPE vendors with a meaningful opportunity, through sales agency programs or other functionally equivalent means, to market their CPE jointly with Centrex and other network services. In the Order, the Bureau approves the joint marketing plans of the five BOCs that propose to continue existing sales agency programs—NYNEX, Ameritech, BellSouth, Southwestern Bell, and US West. It also approves Bell Atlantic's Vendor Support and trial sales agency program. Recognizing certain limitations of existing sales agency programs, however, the Bureau, states that it will reassess these proposals in two years to determine whether modifications to them should be required. During this two-year period, these BOCs are required to file the sales agency reports required by the Sales Agency Reconsideration Order (FCC 85-582 (released Nov. 15, 1985)), and Bell Atlantic is also required to report its activities under its Vendor Support program. The Bureau does not approve PacTel's Intermediary Marketing and Joint Marketing proposals for satisfying the joint marketing requirement. PacTel is required to establish a sales agency program or its functional equivalent in conjunction with or in lieu of these programs, and to file with the Commission an amendment to its compliance plan by February 15, 1988, that describes its revised program.

Ordering Clause

Accordingly, it is ordered that, pursuant to sections 4(i), 4(j), 201–205, 218, 220, 403, and 404 of the Communications Act, 47 U.S.C. 4(i), 4(j), 201–205, 218, 220, 403, and 404, §§ 0.91(h) and 0.291 of the Commission's Rules, 47 CFR 0.91(h) and 0.291, and the BOC CPE Order, 2 FCC Rcd 143 (1987), the Compliance Plans of NYNEX, Bell Atlantic, Southwestern Bell, Ameritech, US West, and BellSouth described above are approved, subject to the modifications set forth herein. The Compliance Plan of PacTel, as described above, is rejected to the extent set forth herein.

Federal Communications Commission.

Gerald Brock,

Chief, Common Carrier Bureau.

[FR Doc. 88-340 Filed 1-7-88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-76; RM-5686]

Radio Broadcasting Services; Sedona, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 275C for Channel 261A at Sedona, AZ, and modifies the Class A license of Station KQST(FM), accordingly, in response to a petition filed by American Aircasting Corp. Additionally, Channel 261C2 is substituted for Channel 275C2 at Flagstaff, AZ, for which seven applications are pending, to accommodate the modification of Station KQST(FM). With this action, the proceeding is terminated.

DATE: Effective January 29, 1988. The window period for filing applications on Channel 261C2 at Flagstaff, AZ has closed.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau (202) 634-6530, concerning the Sedona, AZ modification. Questions related to the pending Flagstaff, AZ applications should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 632-0394.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-76, adopted November 25, 1987, and released December 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Arizona by adding Channel 261C2, removing Channel 275C2 at Flagstaff, adding Channel 275C and removing Channel 261A at Sedona.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-342 Filed 1-7-88; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 53, No. 5
Friday, January 8, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 12; Doc. No. 4744S]

General Crop Insurance Regulations; Stonefruit Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1988 and succeeding crop years, by adding a new section, 7 CFR 401.122, to be known as the Stonefruit Endorsement. The intended effect of this rule is to provide the regulations containing the provisions of crop insurance protection on stonefruit in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than February 8, 1988, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as December 1, 1992.

Edward D. Hews, Acting Manager, FCIC, (1) has determined that his action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for invidviduals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.122, the Stonefruit Endorsement, effective for the 1988 and succeeding crop years, to provide the provisions for insuring stonefruit, including clingstone peaches and apricots.

Upon publication of 7 CFR 401.122 as a final rule, the provisions for insuring stonefruit contained therein will parallel those provisions contained in 7 CFR Part 451, the Canning and Processing Peach Crop Insurance Regulations, for the 1988 crop year. The policy contained in 7 CFR Part 451 will be terminated at the end of the 1988 crop year and later removed and reserved.

1987 crop year insureds under the Canning and Processing Peach Crop Insurance Policy may transfer coverage to the Stonefruit Endorsement, at the insured's option, before the sales closing date. Insureds under the Stonefruit Endorsement will not be allowed to transfer to the Canning and Processing Peach Policy. No new policies under 7 CFR Part 451 will be issued.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register.** Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washigton, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Stonefruit endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), proposed to be effective for the 1988 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.122 Stonefruit Endorsement, effective for the 1988 and Succeeding Crop Years, to read as follows:

§ 401.122 Stonefruit Endorsement

The provisions of the Stonefruit Crop Insurance Endorsement for the 1988 and subsequent crop years are as follows:

Federal Crop Insurance Corporation

Stonefruit Endorsement

1. Causes of loss

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Earthquake;
(3) Fire;
(4) Wildlife;
(5) Volcanic eruption;

(6) An insufficient number of chilling hours to effectively break dormancy; or

(7) Failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

Unless these causes of loss are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

b. In addition to the causes of loss not insured against under Section 1.b. of the general crop insurance policy, we will not insure against any loss of production due to:

(1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the orchard;

(2) Insect infestation;

(3) Split pits regardless of cause; or

(4) Inability to market as a direct result of quarantine, boycott, or refusal of any entity to accept or harvest production unless production has actual physical damage due to a cause specified in subsection 1.a.

2. Insured Crop and Acreage

a. The crop insured will be any of the following stonefruit types you elect in writing prior to the sales closing date and grown for fresh market fruit or processing (whichever is applicable) for which we provide a guarantee and premium rate:

Type I—Apricots—Fresh
Type II—Apricots—Processing
Type III—Nectarines—Fresh
Type IV—Peaches, Cling—Processing
Type V—Peaches, Freestone—Processing
Type VI—Peaches, Freestone—Fresh

b. You may insure any fresh market Stonefruit to Type I Apricots or Type VI Freestone Peaches as processing Type II Apricots or Type V Freestone Peaches respectively by converting fresh market lugs, harvested or appraised, to equivalent processing tons using the weight equivalents provided in paragraph 12.d.

c. In lieu of the provisions of paragraph 2. e. of the general crop insurance policy, we do not insure any stonefruit acreage:

(1) Which is not irrigated;

(2) On which the trees have not reached the fifth growing season after being set out;

(3) Which has not produced at least 200 lugs fresh market production per acre (at least 2.2 tons per acre for processing types);

(4) For which acceptable production records for the type elected for at least the previous crop year are not provided;

(5) Which we inspect and consider not acceptable;

(6) Which is interplanted with another crop;

(7) On which is grown a type or variety: not established as adapted to the area; excluded by the actuarial table; or not regulated by the California Tree Fruit agreement or a related crop advisory board for the State (for applicable types);

(8) From which the fruit is harvested directly by the public; or

(9) If the orchard practices carried out are not in accordance with the orchard practices for which the premium rates have been established.

3. Report of acreage, share, type and practice (acreage report)

The acreage report must be filed on or before January 31. You must report the crop type in addition to the information required by the general crop insurance policy for the acreage report.

4. Production reporting and production guarantees

a. In addition to the production report required in section 4 of the general crop insurance policy, you must report:

(1) The number of bearing trees;

(2) The number of trees planted per acre;

(3) Known tree damage or use of production practices which have or may reduce the yield from previous levels; and

(4) If the number of bearing trees (fifth growing season and older) is reduced more than 10% from the preceding calendar year. (The production guarantee will be reduced 1 percent (through adjustment to your average yield) for each 1 percent reduction in excess of 10 percent).

b. You may select only one coverage level and price election per type for the crop year.

c. The processing price elections will be applied to any applicable type (except type III—Nectarines) where an election:

(1) Has not been made by the insured; or

(2) Is not available in accordance with the provisions of the actuarial table.

5. Annual premium

The annual premium is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches.

6. Insurance period

In lieu of the provisions in section 7 of the general crop insurance policy, coverage begins for each crop year on February 1; except that for the first crop year coverage begins on March 1 following our inspection and acceptance. Insurance ends on each acre at the earliest of:

a. Total destruction of the insured crop by type;

b. Harvest;

c. The date harvest would normally start for the type;

d. Final adjustment of a loss; or

e. In all counties, the calendar date immediately following February 1 as follows:

(1) All apricots—July 31

(2) All nectarines and peaches—September 30

7. Units

Stonefruit acreage of each type, grown on non-contiguous land, that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided into more than one unit if you agree to pay an additional premium as provided for by the actuarial table and if for each proposed unit you maintain written, verifiable records of acreage and harvested production for at least the previous crop year.

If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between units will cause the production from those units to be combined for the purpose of calculating an indemnity.

8. Notice of damage or loss

In lieu of the notices required in subsections 8.a (2), (3), and (4) of the general crop insurance policy, in case of damage or probable loss you must give us written notice within 72 hours of the date of damage and indicate the cause of damage and whether a claim for indemnity is probable. Notwithstanding the previous sentence, if damage occurs within 72 hours of or during harvest, immediate notice stating the cause of damage and probability of a claim must be given to us. If notice is given under this paragraph, we must be notified of the time of harvest at least 72 hours before harvest begins.

9. Claim for indemnity

In addition to Section 9 of the general crop insurance policy:

a. The indemnity will be determined separately for each unit of types I, III, and VI by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of fresh stonefruit by type to be counted (see section 9.b. or c.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by the insured share.

b. The total production (standard lug equivalents) (see section 12.d.) to be counted for a unit will include all production harvested, by type and all appraised production. For fresh apricots (Type I), such production must meet the California Department of Food and Agriculture minimum standards. For fresh nectarines (Type III) and fresh freestone peaches (Type VI), such production must meet U.S. #1 standards as modified by the latest California Tree Fruit Agreement Publication.

(1) Production of fresh stonefruit damaged by insurable causes within the insurance period, that could be marketed for any use as other than fresh packed stonefruit, will be determined by multiplying the number of tons that could be marketed by the value per ton of fruit or $50.00 per ton, whichever is greater, and dividing that result by the higher price election available for the type. This result will be the number of standard lug equivalents to be considered as production to count.

(2) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(b) Not less than the applicable guarantee for any acreage which is abandoned, destroyed by you without our prior written consent, or not inspected by us prior to the completion of harvest;

(c) Any unharvested production where good stonefruit cultural practices were discontinued following an appraisal; and

(d) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is:

(a) Not harvested before the harvest of stonefruit becomes general in the county and is reappraised by us;

(b) Further damaged by an insured cause and is reappraised by us; or

(c) Harvested.

(4) The amount of production of any unharvested type may be determined on the basis of orchard appraisals conducted after the end of the insurance period or discontinuance of harvest. We may appraise and consider as production to count, any insured fruit remaining on acreage not clean harvested.

(5) We may delay final appraisal until the extent of damage can be determined.

c. The total production in tons to be counted for a processing unit will include all production harvested and all appraised production:

(1) For processing apricots (Type II), such production must meet California Department of Food and Agriculture minimum standards;

(2) For processing clingstone peaches (Type IV), such production must be graded by the California State Inspection Service as #2 or better;

(3) For processing freestone peaches (Type V), such production must meet California Department of Food and Agriculture minimum standards and will include all production harvested and appraised which is acceptable to the processor;

(4) Appraised production to be counted for Types II, IV, and V will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good stonefruit production practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or destroyed by you without our consent; and

(c) Any unharvested production.

(5) Any appraisal for processing fruit types will be conducted based on procedure stated in subsection 9.b.(2), (3), and (4).

d. In the absence of acceptable records to determine the disposition of harvested stonefruit, we may elect to determine such disposition and the amount of such production to be counted for the unit.

e. You must authorize us in writing to examine and obtain any records pertaining to production and marketing of the insured fruit under this contract from the broker, shipper, canner, advisory board, marketing order or any other source we deem necessary.

10. The Cancellation and Termination Dates

The cancellation and termination dates are January 31.

11. Contract Changes

The date by which contract changes will be available in your service office is October 31 preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

12. Meaning of Terms

For the purpose of Stonefruit crop insurance:

a. "Appraisal" means an estimate of the potential production determined by our representative using our prescribed procedures.

b. "Crop Year" means the period beginning with the date insurance attaches and extending through the normal harvest time and will be designated by the calendar year in which the insured type is normally harvested.

c. "Harvest" means the picking of mature fruit from the trees by hand or machine.

d. "Lug" means a container of fresh fruit of the weights shown below. All fresh production to count of varying lug sizes will be converted to standard lug equivalents on the basis of the following average net pounds of packed fruit:

	Pounds/Lug
Type:	
I Apricots	24
III Nectarines	25
VI Freestone Peaches	22

e. "Ton" means a volume of apricots or processing peaches of type II, IV, or V marketable through processing channels and equaling 2000 pounds.

Done in Washington, DC, on December 30, 1987.

Edward D. Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 88-288 Filed 1-7-88; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 401

[Amdt. No. 26; Doc. No. 4980S]

General Crop Insurance Regulations; Texas Citrus Tree Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1989 and succeeding crop years, by adding a new section, 7 CFR 401.134, be known as the Texas Citrus Tree Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on citrus trees in Texas in an endorsement to the general crop insurance policy which contains the standard terms and conditions common to most crops.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than February 8, 1988, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as November 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires integovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.134, the Texas Citrus Tree Endorsement, effective for the 1989 and succeeding crop years, to provide the provisions for insuring citrus trees in Texas.

Upon publication of 7 CFR 401.134 as a final rule, the provisions for insuring citrus trees contained in 7 CFR 401.134 will supersede those provisions contained in 7 CFR Part 440, the ELS