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Presidential Documents

Title 3—

The President

Proclamation 6063 of November 8, 1989

Montana Centennial Day, 1989

By the President of the United States of America

A Proclamation

On November 8, 1889, Montana was admitted to the Union as the 41st State. In the century that has followed, the people of Montana have built upon their frontier heritage and made substantial contributions to our Nation's economic and social well-being.

During their famous expedition early in the 19th century, Captains Meriwether Lewis and William Clark introduced this "Big Sky Country" to the world. By wagon train and later by railroad, a rush of homesteaders seized the opportunity to cultivate this new land and enjoy its abundant natural resources. Our Nation's fourth largest State is now home to a number of important industries—such as farming, ranching, mining, and tourism—that utilize its spectacular wealth of forests, prairies, wildlife, minerals, and natural beauty. Montanans are a proud, hardworking, and community-minded people who have added strength and color to the character of America.

In recognition of these contributions, the Congress, by Senate Joint Resolution 19, has designated November 8, 1989, as "Montana Centennial Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim November 8, 1989, as Montana Centennial Day.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of November, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

G Bush

[FR Doc. 89-26783
Filed 11-9-89; 10:56 am]
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Rules and Regulations

Federal Register
Vol. 54, No. 217
Monday, November 13, 1989

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 693]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from November 10 through November 16, 1989. Consistent with program objectives, such action is needed to balance the supplies of fresh navel oranges with the demand for such oranges during the period specified. This action was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

DATES: Regulation 693 (7 CFR part 907) is effective for the period from November 10 through November 16, 1989.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Department 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 (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions 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 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.

There are approximately 123 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,065 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of Califonria-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented 85 percent of the total production in 1988-89. District 2 is located in the southern coastal area of California and represented 13 percent of 1988-89 production; District 3 is the desert area of California and Arizona, and it represented approximately 1 percent; and District 4, which represented approximately 1 percent, is northern California. The Committee's estimate of 1989-90 production is 73,350 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 70,633 cars during the 1988-89 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona navel oranges. The Committee estimates that about 68 percent of the 1989-90 crop of 73,350 cars will be utilized in fresh domestic channels (49,500 cars), with the remainder being exported fresh (10 percent) or processed (22 percent). This compares with the 1988-90 total of 45,581 cars shipped to fresh domestic markets, about 64 percent of the crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee at its November 7, 1989, meeting, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are incurred by handlers of navel oranges. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for naval oranges tend to be relatively inelastic at the grower level. Thus, even a small variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits to growers, particularly smaller growers.

At the beginning of each marketing year, the Committee submits a marketing policy to the U.S. Department of Agriculture (Department) which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989–90 season marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Schlatter. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate. A "Notice of Marketing Policy" (notice), which summarized the Committee's marketing policy, was prepared by the Department and published in the October 19, 1989, issue of the **Federal Register** (54 FR 42966). The purpose of the notice was to allow public comment on the Committee's marketing policy and the impact of any regulations on small business activities.

The notice provides a 30-day period for the receipt of comments from interested persons. That comment period will end on November 20, 1989. The Department will analyze all comments received, and the analysis will be made available to interested persons. That analysis will assist the Department in evaluating the marketing policy and considering the issuance of weekly volume regulations.

This action is consistent with the 1989–90 marketing policy adopted by the Committee. The Committee met publicly on November 7, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of nine to one with one abstention, that 1,600,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. This amount is 100,000 cartons more than estimated in the tentative shipping schedule adopted by the Committee on October 3, 1989. Of the 1,600,000 cartons, 1,536,000 are allotted for District 1, and 64,000 are allotted for District 3. Districts 2 and 4 are not regulated as they do not have a sufficient quantity of fruit available for current shipment.

During the week ending on November 2, 1989, shipments of navel oranges to fresh domestic markets, including Canada, totaled 782,000 cartons compared with 230,000 cartons shipped during the week ending on November 3, 1988. Export shipments totaled 92,000 cartons compared with 0 cartons shipped during the week ending on November 3, 1988, and processing and other uses accounted for 164,000 cartons compared with 89,000 cartons shipped during the week ending on November 3, 1988.

Fresh domestic shipments to date this season total 1,236,000 cartons compared with 379,000 cartons shipped by this time last season. Export shipments total 122,000 cartons compared with 0 cartons shipped by this time last season. Processing and other use shipments total 286,000 cartons compared with 139,000 cartons shipped by this time last season.

The average f.o.b. shipping point price for the week ending on November 2 was $9.53 per carton based on a reported sales volume of 548,000 cartons compared with last week's average of $9.88 per carton on 205,000 cartons. The season average f.o.b. shipping point price to date is $9.88 per carton. The average f.o.b. shipping point price for the week ending November 3, 1988, was $10.96 per carton; the season average f.o.b. shipping point price this time last season was $9.83 per carton.

The Committee reports that the market for navel oranges is stronger for most sizes although some price discounting is occurring on Choice quality fruit.

According to the National Agricultural Statistics Service, the 1988–89 season average fresh equivalent on-tree price for California-Arizona navel oranges was $3.86 per carton, 65 percent of the season average parity equivalent price of $5.98 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the point estimate of the 1989–90 season average fresh on-tree price would be $4.30 per carton. This is equivalent to 66 percent of the projected season average fresh on-tree parity equivalent price of $6.54 per carton. It is currently estimated that there is less than a one percent probability that the 1989–90 season average fresh on-tree price will exceed the projected season average fresh on-tree parity equivalent price.

Limiting the quantity of navel oranges that may be shipped during the period from November 10 through November 16, 1989, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market. By using provisions contained in the navel orange marketing order, handler shipments could exceed 1,920,000 cartons during the week.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure 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**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until November 7, 1989, and this action needs to be effective for the regulatory week which begins on November 10, 1989. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers have been apprised of the provisions of this rule and the effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Arizona, California, Marketing agreements and orders, Oranges (navel).

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

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

2. Section 907.993 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 907.993 Navel Orange Regulation 693.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 10 through November 16, 1989, is established as follows:

(a) District 1: 1,536,000 cartons;

(b) District 2: unlimited cartons;
(c) District 3: 64,000 cartons;
(d) District 4: unlimited cartons.

Dated: November 8, 1989.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 89-26698 Filed 11-9-89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Reg. 691]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 691 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 291,534 cartons during the period from November 12 through November 18, 1989. 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 691 (7 CFR part 910) is effective for the period from November 12 through November 18, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

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.

There are approximately 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The 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 (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1989-90. The Committeee met publicly on November 7, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and, by an 11-2 vote, recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that overall demand for lemons is moderate.

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 procedure 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

Arizona, California, Lemons, Marketing agreements and orders.

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 910.991 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.991 Lemon Regulation 691.

The quantity of lemons grown in California and Arizona which may be handled during the period from November 12, 1989, through November 18, 1989, is established at 291,534 cartons.

Dated: November 8, 1989.

Charles R. Brader

Director Fruit and Vegetable Division.

[FR Doc. 89-26697 Filed 11-9-89; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1823, 1902, 1942, and 1948

Association Loans and Grants—Community Facilities, Shift-in-Land-Use, Irrigation and Drainage, Area Assistance Development Planning Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is removing from the Code of Federal Regulations (CFR) its regulations regarding Association Loans for Shift-In-Land-Use Projects, Irrigation and Drainage and Other Soil and Water Conservation Measures, and Area Assistance Development Planning Grants. This action is necessary because these programs have not been funded for several years and the regulations are no longer used by the Agency. The intended effect of this action is to remove unnecessary regulations from the CFR. Along with obsoleting the forms that are exclusive to these regulations, the renumbering of certain forms is also being accomplished at this time.

EFFECTIVE DATE: November 13, 1989.

FOR FURTHER INFORMATION CONTACT: Marlene Snell, Loan Specialist, Community Facilities Division, FmHA,

USDA, Room 6314, South Agriculture Building, Washington, DC 20250, Telephone: (202) 382-8487.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This section, however, is not published for proposed rulemaking since it involves only internal Agency management, making publication for comment unnecessary.

Environmental Impact Statement

This document has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not needed.

Programs Affected

This action affects the following FmHA programs as listed in the current Catalog of Federal Domestic Assistance:

Section 10.409 Irrigation and Drainage Loans
Section 10.414 Resource Conservation and Development Loans
Section 10.419 Watershed Loans and Advances
Section 10.423 Community Facility Loans

These programs are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials (7 CFR 3015, subpart V, 48 FR 29112, June 24, 1983).

Background

Since no new funds have been appropriated for new loans or grants under these programs for several years, the Agency has removed the regulations from the CFR. All loans made under these programs, however, remain valid and will continue to be serviced under subpart E of part 1951 of this chapter. In addition although the Agency has removed subpart 1823-H, Irrigation and Drainage and Other Soil and Water Conservation Measures, several programs within FmHA remain available for Soil and Water Conservation purposes. Finally, while certain forms are being renumbered to achieve consistency within the regulations, the content of the forms themselves have not changed.

List of Subjects

7 CFR Part 1823

Credit, Grazing lands, Loan programs—Agriculture, Rural areas, Soil conservation, Water resources.

7 CFR Part 1902

Accounting, Banks, Banking, Grant programs—Housing and community development, Loan programs—Agriculture, Loan programs—Housing and community development.

7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

7 CFR Part 1948

Business and industry, Community development, Community facilities, Energy, Grant programs—Housing and community development, Housing, Planning, Rural Areas, Transportation.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

1. The authority citation for part 1823 continues to read as follows, and the authority citation for subpart N is removed.

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 25 U.S.C. 490; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Association Loans for Shift-in-Land-Use Projects

Subpart B—[Removed and reserved]

2. Subpart B, §§ 1823.51-1823.67, is removed and reserved.

Subpart H—Association Loans for Irrigation and Drainage and Other Soil and Water Conservation Measures

Subpart H—[Removed and reserved]

3. Subpart H, §§ 1823.221-1823.238, is removed and reserved.

Subpart I—Processing Loans to Associations (Except for Domestic Water and Waste Disposal)

Subpart I—[Removed and reserved]

4. Subpart I, §§ 1823.251-1823.289, is removed and reserved.

Subpart N—Loans to Indian Tribes and Tribal Corporations

§ 1823.415 [Amended]

5. Section 1823.415 is amended in the first sentence by changing the reference, "subpart I of part 1823" to "subpart A of part 1942."

§ 1823.416 [Amended]

6. Section 1823.416 is amended in the last sentence by changing the reference, "§§ 1823.271 and 1823.272" to "subpart A of part 1942 of this chapter."

Exhibit A to subpart N—[Amended]

7. Exhibit A to subpart N, Section 1 is amended by removing the reference, "Form FmHA 442-12: Financial Statement," by changing in section 1.(b) the reference, "Form FmHA 442-46" to read "Form FmHA 1942-46" and by changing in section 2 the reference, "Form FmHA 442-14" to read "Form FmHA 1942-14".

PART 1902—SUPERVISED BANK ACCOUNTS

8. The authority citation for part 1902 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Loan and Grant Disbursement

§ 1902.15 [Amended]

9. Section 1902.15(c) is amended in the first sentence by removing the reference, "Grazing Association, Irrigation and Drainage," and by removing the reference, "and part 1823, subpart I (FmHA Instruction 442.9)."

PART 1942—ASSOCIATIONS

10. The authority citation for part 1942 is revised to read as follows:

Authority: 7 U.S.C. 1989; 16 U.S.C. 1005; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Community Facility Loans

§§ 1942.1 and 1942.5 [Amended]

11. The reference, "Form FmHA 442-46" is changed to read "Form FmHA 1942-46" in the following sections:

§ 1942.1(d)(4)
§ 1942.5(a)(1)(ii), in the last sentence

§ 1942.5(c), introductory text, last sentence

§ 1942.5(c)(2) and (c)(3)

§ 1942.2 [Amended]

12. In § 1942.2(c)(3), the reference, "Form FmHA 442-39" is changed to read "Form FmHA 1942-39."

§ 1942.2 [Amended]

13. In § 1942.2(c)(3), the reference, "Form FmHA 442-40" is changed to read "Form FmHA 1942-40."

§ 1942.5 [Amended]

14. The reference, "Form FmHA 442-14" is changed to read "Form FmHA 1942-14" in the following paragraphs:

§ 1942.5(b)(1)(ii)(C)

§ 1942.5(c), introductory text

§ 1942.5(c)(3)

Subpart C—Fire and Rescue Loans

§ 1942.104 [Amended]

15. In § 1942.104(c)(3), the reference, "Form FmHA 442-46" is changed to read "Form FmHA 1942-46."

§ 1942.108 [Amended]

16. In § 1942.108(b), the reference, "Form FmHA 442-14" is changed to read "Form FmHA 1942-14."

Subpart I—Resource Conservation and Development

(RCD) Loans and Watershed (WS) Loans and Watershed Advances

§ 1942.412 [Amended]

17. In § 1942.412(a)(2)(ii), the reference, "Form FmHA 442-40" is changed to read "Form FmHA 1942-40" and the reference, "Form FmHA 442-39" is changed to read "Form FmHA 1942-39."

Part 1948—Rural Development

18. The authority citation for part 1948 is revised to read as follows:

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Area Development Assistance Planning Grants

Subpart A—[Removed and reserved]

19. Subpart A, §§ 1948.1–1948.47, is removed and reserved.

Dated: August 29, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-26323 Filed 11-9-89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-101-AD; Amdt. 39-6393]

Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to Aerospatiale Model ATR42 series airplanes, which currently prohibits use of the autopilot when operating in icing conditions. That action was prompted by an incident in which a Model ATR42 airplane operating in icing conditions (believed to have been freezing rain) experienced roll excursions and autopilot disconnect. This condition, if not corrected, could result in loss of control of the airplane. This amendment requires installation of vortex generators on the upper wing surface as a terminating action to the prohibition of use of the autopilot when operating in icing conditions.

EFFECTIVE DATE: December 15, 1989.

ADDRESSES: The applicable service information may be obtained from Aerospatiale, 216 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. McCracken, Standardization Branch, ANM-113; telephone (206) 431-1979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by revising AD 89-09-05, Amendment 39-6197 (54 FR 15730; April 19, 1989), applicable to Aerospatiale Model ATR42 series airplanes, to require installation of vortex generators on the upper wing surface as a terminating action to the prohibition of use of the autopilot when operating in icing conditions, was published in the **Federal Register** on July 18, 1989 (54 FR 30059).

Interested pesons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

The Air Line Pilots Association (ALPA) expressed qualified support for the proposed rule, agreeing with the intent of the action, but questioning the effectiveness of the vortex generator installation in addressing the unsafe condition. The FAA does not agree with the commenter's inference that the vortex generator is ineffective. The vortex generator installation has been evaluated by the manufacturer and the FAA, and the FAA has determined that this installation does improve aileron effectiveness when operating in icing conditions including freezing rain.

The commenter also noted that the FAA has initiated other rulemaking action to prevent icing related incidents from occurring on Model ATR42 airplanes, and questioned the need for vortex generators if the Anti-icing Advisory System (AAS) installation already proposed (in a separate rulemaking action) would solve the problem. The FAA does not concur with the commenter's inference that the vortex generators are not needed. The vortex generator installation is intended to improve the aileron effectiveness when operating in icing conditions, including freezing rain. The AAS has been proposed to improve flight crew awareness of the presence of icing conditions in general, and enhance recognition of impending stall conditions. The two actions, while both intending to improve safety during flight in icing conditions, address different aspects of the unsafe condition, as discussed in the respective preambles.

ALPA asked FAA to examine the effects of ice on the horizontal stabilizer, with the belief that analysis of previous incidents would indicate that control difficulties were not limited to the roll axis, but also existed around the pitch axis. The FAA acknowledges that its review of operations in icing conditions only supports findings of an unsafe condition relative to the roll axis; no data has been provided to demonstrate that the unsafe condition addressed by this action is related to control problems in the pitch axis.

The commenter questioned whether the word "prolonged," as used in AD 89-09-05 prohibiting use of the autopilot when operating in icing conditions, could be defined; if not, the commenter suggested a prohibition of flight into freezing rain. The FAA does not concur with the commenter's suggestion. The existing AD requires the addition of a page in the Limitations Section of the Airplane Flight Manual which prohibits use of the autopilot when operating in