the Yorba Linda City Limits and the San Bernardino County line; then northwest and north along the San Bernardino County line to its intersection with State Highway 60; then west along State Highway 60 to its intersection with State Highway 57; then north along State Highway 57 to its intersection with Interstate 10; then east on Interstate 10 to its intersection with Garey Avenue; then north along Garey Avenue to its intersection with College Way; then northeast along College Way to the point of beginning.

Done in Washington, DC, this 16th day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93-31182 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-34-P

Federal Crop Insurance Corporation

7 CFR Part 401

General Crop Insurance Regulations; Late and Prevented Planting for Various Crop Endorsements

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Crop Insurance Regulations, effective for the 1994 and succeeding crop years, by revising the late planting and prevented planting provisions of the Corn, Grain Sorghum, and Soybean Endorsements. Additionally, this rule serves to incorporate the late and prevented planting coverage into the Hybrid Sorghum Seed, Rice, Cotton, Barley, Oats, and Wheat Crop Endorsements and to incorporate the prevented planting coverage into the ELS Cotton Endorsement.

DATES: Effective Date: This rule is effective on November 30, 1993.

Comments: Written comments pursuant to this rule must be received by February 22, 1994.

ADDRESSES: Written comments should be sent to Mari Dunleavy, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. Comments received may be viewed and copied at 2101 L Street, NW., suite 502, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mari Dunleavy, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 254-8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of the Corn, Grain Sorghum, Hybrid Sorghum Seed, Rice, Cotton, ELS Cotton, Barley, Oats, Wheat, and Soybean Endorsement regulations affected by this rule under those procedures. The sunset review dates established for these regulations are as follows: Corn, April 1, 1996; Grain Sorghum, July 1, 1996; Hybrid Sorghum Seed, April 1, 1992; Rice, August 29, 1998; Cotton, May 1, 1994; ELS Cotton, June 1, 1994; Barley, October 1, 1997; Oats, October 1, 1997; Wheat, October 1, 1997; and Soybean, October 1, 1996.

Kenneth D. Ackerman, Manager, FCIC, has determined that this action is in conformance with Executive Order 12866 and is not a "significant regulatory action." Based on information compiled by the Department, it has been determined that this final rule: (1) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) would not alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (4) would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

The Manager certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons, nor will it have a significant economic effect on a substantial number of small entities. This action reduces the paperwork burden on the insured farmer, and on the reinsured company and sales and service contractor. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act and 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.

The Manager has also certified to the Office of Management and Budget (OMB) that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778.

This rule has been reviewed in accordance with Executive Order 12778. The provisions of this interim rule are retroactive to November 30, 1993, and will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J must be exhausted before judicial action may be brought.

This amendment does not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35, the Paperwork Reduction Act.

The Office of General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this rule will not have substantial direct effects on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

FCIC amends the General Crop Insurance Regulations (7 CFR Part 401) by revising the late and prevented planting provisions of the Corn Endorsement (§ 401.111), Grain Sorghum Endorsement (§ 401.113), and the Soybean Endorsement (§ 401.117), effective for the 1994 and succeeding crop years. The Hybrid Sorghum Seed (§ 401.109), Rice (§ 401.120), Cotton (§ 401.119), Barley (§ 401.103), Oats (§ 401.105), and Wheat (§ 401.101), Endorsements are revised by incorporating the late and prevented planting provisions, and the ELS Cotton (§ 401.121) Endorsement is revised by incorporating prevented planting provisions. The insured will be covered for loss if prevented from planting the insured crop due to an insurable cause of loss which is general in the area without having to purchase a separate option for this coverage.

The changes will be effective for the 1994 and succeeding crop years in all counties for corn, cotton, ELS cotton, grain sorghum, hybrid sorghum seed, rice, and soybeans; and only in counties with a December 31 contract change date for barley, oats, and wheat. The changes will be effective for all barley, oat, and wheat counties for the 1995 and succeeding crop years.

FCIC previously revised the Corn, Grain Sorghum, and Soybean Endorsements for the 1994 and subsequent crop years. Further review of these new provisions found the salvage crop and loss provision to be excessively complicated and burdensome on the insureds and the companies delivering the policies. The 1993 floods and drought revealed deficiencies in the present method of making separate coverages available to address these problems.

The current optional coverage for late and prevented planting lacks the desired degree of effectiveness due to both coverage deficiencies and the volume of paperwork required. The paperwork required includes the prevented planting application and acreage report, and an option form for late planting coverage. Adding to the administrative burden is the tracking of dates for submission of these forms. By incorporating the late and prevented planting into the standard crop insurance policy, the additional paperwork will become unnecessary and obsolete. Coverage for late planting, and prevented planting due to an insurable cause of loss will now be automatically extended to the insured.

Late and prevented planting provisions for corn, grain sorghum, and soybeans were published as a final rule in the **Federal Register** at 58 FR 3202 on January 8, 1993. These provisions were offered to policyholders for the 1994 crop year. FCIC hereby revises those provisions as follows:

1. The perils insured against have been expanded to include all perils covered under the basic policies for the insured crops. Provisions published January 8, 1993, provided coverage only against excess moisture conditions, and drought if approved in writing.

2. Salvage crop provisions will apply only when the insured crop is planted after the late planting period. If any other crop intended for harvest in the same crop year as the insured crop is planted, prevented planting coverage will not be provided for the affected acreage. Previous provisions provided that the salvage value of any alternative crop planted after the late planting period would be counted against the production guarantee of the insured crop. These provisions were overly complex, and would have been difficult to administer.

3. Provisions have been added which will allow additional acreage to qualify for prevented planting coverage if such acreage does not exceed one hundred percent (100%) of the simple average of the number of acres planted to the insured crop for previous years for which the insured has continuous records of planted acreage or for the crop years that were used to determine the insured's yield. Provisions also allow the insurer to accept acreage in excess of the stated limitations if agreed to in writing prior to the sales closing date. Previously published provisions limited the acreage covered to the greater of the number of acres planted to the insured crop the previous year or the ASCS base acreage.

4. Provisions have been added to allow prevented planting coverage during the late planting period. Previously published provisions limited prevented planting coverage to acreage which was prevented from planting by the final planting date.

In addition to corn, grain sorghum, and soybeans, late and prevented planting coverage will be provided for barley, cotton, hybrid sorghum seed, oats, rice, and wheat. Prevented planting coverage will be provided for ELS cotton; however, late planting coverage will not be available for ELS cotton because planting during the late planting period generally does not allow enough time for the crop to reach maturity.

FCIC is soliciting comments for sixty days after the publication of this rule. Written comments should be sent to the name and address listed in the "Addresses" heading of this rule. All submitted comments will be considered and any amendment made necessary by these comments will be promulgated as soon as practicable. This rule relieves a restriction, is being promulgated for the benefit of the insured, and improves coverage for all policyholders good cause is found to make the rule retroeffective to November 30, 1993. Failure to make the rule final by November 30, 1993 will delay implementation until 1995 year for some crops.

List of Subjects in 7 CFR Part 401

Crop insurance; Corn, Grain sorghum, Soybeans, cotton, ELS cotton, Barley, Oats, Wheat, Hybrid sorghum seed, and Rice

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and for the reasons set forth in the preamble the Federal Crop Insurance Corporation hereby amends the crop insurance regulations (7 CFR Part 401) effective for the 1994 and subsequent crop years as follows:

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

Authority: 7 U.S.C. 1506, 1516.

2. Subparagraph 1.c. of § 401.101 (Wheat Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.101 Wheat endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to wheat during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(i)). This notice must be given not later than three (3) days after:

(1) The latest wheat final planting date in the county if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For all spring-planted wheat acreage (and fall-planted wheat acreage only where insurance is not offered for spring-planted wheat) which is planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the wheat continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If your were prevented from planting wheat (see subparagraph 11.(i), you may elect:

(i) To plant wheat during the late planting period. The production guarantee for such acreage will be determined in accordance subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. In counties for which the Actuarial Table designates a spring final planting date, the prevented planting guarantee will be based on your approved yield for spring-planted wheat. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant wheat after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 4 (Insurance Period) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for wheat in the county.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to wheat on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for wheat reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to wheat during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under any irrigated practice will be limited to the number of wheat acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for wheat in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than wheat, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of wheat acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of wheat on one optional unit and 40 acres of wheat on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more wheat acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to wheat in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted wheat in counties for which the Actuarial Table designates a spring final planting date, or the acreage reporting date for fall-planted wheat in counties for which the Actuarial Table designates a fall final planting date only, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Adequate stand*—a sufficient population of plants to produce at least the yield used to determine the guarantee.

(b) *Days*—calendar days.

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured wheat must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining, threshing, or cutting for hay or silage on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated wheat acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Late planting period*—(applicable only to spring-planted wheat acreage and fall-planted wheat acreage only where insurance is not offered for spring-planted wheat)-the period which begins the day after the final planting date for wheat and ends twenty-five (25) days after the wheat final planting date.

(h) *Latest wheat final planting date*—

(1) The final planting date for spring-planted wheat in all counties for which the Actuarial Table designates a final planting date for spring-planted wheat only;

(2) The final planting date for fall-planted wheat in all counties for which the Actuarial Table designates a final planting date for fall-planted wheat only; or

(3) The final planting date for spring-planted wheat in all counties for which the Actuarial Table designates final planting dates for both spring-planted and fall-planted wheat.

(i) *Prevented planting*—inability to plant wheat with proper equipment by:

(1) The latest wheat final planting date in the county; or

(2) The end of the late planting period.

You must have been unable to plant wheat due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the latest wheat final planting date in the county or within the late planting period.

(j) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(k) *Timely planted*—wheat planted by the final planting date, as established by the Actuarial Table, for wheat in the county to be planted for harvest in the crop year.

3. Subparagraph 1.c of § 401.103 (Barley Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.103 Barley endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.3.(4) and 21.o of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to barley during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(i)). This notice must be given not later than three (3) days after:

(1) The latest barley final planting date in the county if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For all spring-planted barley acreage (and fall-planted barley acreage only where insurance is not offered for spring-planted barley) which is planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the barley continues after the final planting date, or you are prevented from planting barley during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting barley (see subparagraph 11.(i)), you may elect:

(i) To plant barley during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. In counties for which the Actuarial Table designates a spring final planting date, the prevented planting guarantee will be based on your approved yield for spring-planted barley. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant barley after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 4 (Insurance Period) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for barley in the county.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to barley on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for barley reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to barley during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice is limited to the number of barley acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for barley in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than barley, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purposes of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of barley acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of barley on one optional unit and 40 acres of barley on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more barley acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number,

the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to barley in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted barley in counties for which the Actuarial Table designates a spring final planting date, or the acreage reporting date for fall-planted barley in counties for which the Actuarial Table designates a fall final planting date only, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Adequate stand*—a sufficient population of plants to produce at least the yield used to determine the guarantee.

(b) *Days*—calendar days.

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured barley must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining, threshing, or cutting for hay or silage on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated barley acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Later planting period*—(applicable only to spring-planted barley acreage and fall-planted barley acreage only where insurance is not offered for spring-planted barley)—the period which begins the day after the final planting date for barley and ends twenty-five (25) days after the final planting date.

(h) *Latest barley final planting date*—

(1) The final planting date for spring-planted barley in all counties for which the Actuarial Table designates a final planting date for spring-planted barley only;

(2) The final planting date for fall-planted barley in all counties for which the Actuarial Table designates a final planting date for fall-planted barley only; or

(3) The final planting date for spring-planted barley in all counties for which the Actuarial Table designates final planting dates for both spring-planted and fall-planted barley.

(i) *Prevented planting*—inability to plant barley with proper equipment by:

(1) The latest barley final planting date in the county; or

(2) The end of the late planting period.

You must have been unable to plant barley due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the latest barley final planting date in the county or within the late planting period.

(j) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(k) *Timely planted*—barley planted by the final planting date, as established by the Actuarial Table, for barley in the county to be planted for harvest in the crop year.

4. Subparagraph 1.c. of § 401.105 (Oat Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.105 Oat endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to oats during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(i)). This notice must be given not later than three (3) days after:

(1) The latest oat final planting date in the county if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For all spring-planted oat acreage (and fall-planted oat acreage only where insurance is not offered for spring-planted oats) planted after the final planting date, but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the oats continues after the final planting date, or you are prevented from planting oats during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevent Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting oats (see subparagraph 11(i)), you may elect:

(i) To plant oats during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. In counties for which the Actuarial Table designates a spring final planting date, the prevented planting guarantee will be based on your approved yield for spring-planted oats. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant oats after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 4 (Insurance Period) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for oats in the county.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to oats on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS based acreage for oats reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to oats during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of oats acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for oats in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than oats, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of oat acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of oats on one optional unit and 40 acres of oats on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more oat acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to oats in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted oats in counties for which the Actuarial Table designates a spring final planting date, or the acreage reporting date for fall-planted oats in counties for which the Actuarial Table designates a fall final planting date only, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Adequate stand*—a sufficient population of plants to produce at least the yield used to determine the guarantee.

(b) *Days*—calendar days.

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured oats must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining, threshing, or cutting for hay or silage on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated oat acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Late planting period*—(applicable only to spring-planted oat acreage and fall-planted oat acreage only where insurance is not offered for spring-planted oats)—the period which begins the day after the final planting date for oats and ends twenty-five (25) days after the oat final planting date.

(h) *Latest oat final planting date*—

(1) The final planting date for spring-planted oats in all counties for which the Actuarial Table designates a final planting date for spring-planted oats only;

(2) The final planting date for fall-planted oats in all counties for which the Actuarial Table designates a final planting date for fall-planted oats only; or

(3) The final planting date for spring-planted oats in all counties for which the Actuarial Table designates final planting dates for both spring-planted and fall-planted oats.

(i) *Prevented planting*—inability to plant oats with proper equipment by:

(1) The latest oat final planting date in the county; or

(2) The end of the late planting period.

You must have been unable to plant oats due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the latest oat final planting date in the county or within the late planting period.

(j) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(k) *Timely planted*—oats planted by the final planting date as established by the Actuarial Table, for oats in the county to be planted for harvest in the crop year.

5. In § 401.109 (Hybrid Sorghum Seed Endorsement), section 12 is redesignated as a revised section 13 and a new section 12 is added to read as follows:

§ 401.109 Hybrid sorghum seed endorsement.

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12. Late Planting and Prevented Planting

(a) In lieu of subparagraphs (2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to the insured crop during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced amounts of insurance for such acreage. The reduced amounts of insurance will be combined with the amount of insurance for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 200 acres of the same type and variety of which 150 acres are occupied by the female plant. Fifty acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the amount of insurance for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre amount of insurance for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre amount of insurance for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre amount of insurance for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the amount of insurance for the unit. Your premium will be based on the result of multiplying the per acre amount of insurance for timely planted acreage by the 150 insured crop acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 13.(o)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date the amount of insurance for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the insured crop continues after the final planting date, or you are prevented from planting the insured crop during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Acturial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting the insured crop (see subparagraph 13.(o)), you may elect:

(i) To plant the insured crop during the late planting period. The amount of insurance for such acreage will be determined in accordance with subparagraph 12.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The amount of insurance for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the amount of insurance for timely planted acres. For example, if your amount of insurance for timely planted acreage is 200 dollars per acre, your prevented planting amount of insurance would be equivalent to 100 dollars per acre (200 dollars per acre multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant the insured crop after the late planting period. The amount of insurance for such acreage will be fifty percent (50%) of the amount of insurance for timely planted acres. For example, if your amount of insurance for timely planted acreage is 200 dollars per acre, your prevented planting amount of insurance would be equivalent to 100 dollars per acre (200 dollars per acre multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraphs 8.b. through e.

(2) In addition to the provisions of section 7 of the General Crop Insurance Policy (§ 401.8) and section 5 of this endorsement (Insurance Period), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Acturial Table for the insured crop.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to the insured crop on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date); or

(B) One hundred percent (100%) of the simple average of the number of acres planted to the insured crop for previous years for which you have continuous records of planted acreage;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of the insured crop acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting amount of insurance will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for the insured crop in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than the insured crop, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number acres of the insured crop timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of the insured crop on one optional unit and 40 acres of the insured crop on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more insured crop acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to the insured crop in the crop year.

(5) In accordance with the provisions of section 3. (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8) and of this endorsement, you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

13. Meaning of Terms

(a) *Adjusted average yield*—an expected yield level for a specific variety, in bushels per acre, determined by us and used to establish the value of seed production for the purpose of determining the amount of indemnity.

(b) *Amount of insurance*—the number of dollars per acre that results from subtracting the minimum payment (in bushels) provided by the seed company from the county yield contained in the Actuarial Table for the selected coverage level and multiplying the result by the selected price election. If the minimum payment provided by the seed company is stated as a dollar amount, it will be converted to a bushel equivalent by dividing the dollar amount by the selected price election.

(c) *Commercial seed*—the offspring produced by crossing two individual seeds of different genetic character. The resultant offspring is the product intended for use on a commercial basis by an agricultural producer to produce a field crop type for grain sorghum, forage sorghum, or sorghum sudan.

(d) *Days*—calendar days.

(e) *Dollar value per bushel*—the value determined by dividing the amount of insurance per acre for timely planted acreage by the result of multiplying the adjusted average yield by the coverage level percentage you elect.

(f) *Female plants*—the plants grown for the purpose of producing commercial seed and from which the commercial seed is harvested.

(g) *Final planting date*—the date contained in the Actuarial Table by which the insured crop must initially be planted in order to be insured for the full amount of insurance.

(h) *Grow-out*—the growing of a sample of the insured crop to determine progeny characteristics.

(i) *Harvest*—combining, threshing, or picking of the seed and non-seed production on any acreage.

(j) *Inadequate germination*—less than 80 percent of the seed produced from female plants germinated as determined by a warm test using clean seed.

(k) *Irrigated practice*—a method of producing a crop by which water artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated amount of insurance on the irrigated insured crop acreage.

(l) *Late planted*—acreage planted during the late planting period.

(m) *Late planting period*—the period which begins the day after the final planting date for the insured crop and ends twenty-five (25) days after the final planting date.

(n) *Male plants*—the plants grown for the purpose of pollinating female plants.

(o) *Prevented planting*—inability to plant the insured crop with proper equipment by:

(1) The final planting date in the county for the insured crop; or

(2) The end of the late planting period.

You must have been unable to plant the insured crop due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(p) *Seed company*—a company which contracts with a grower to produce or grow plants for the production of hybrid seed.

(q) *Timely planted*—the insured crop planted by the final planting date, as established by the Acturial Table, for the insured crop in the county to be planted for harvest in the crop year.

(r) *Type*—grain sorghum, forage sorghum, or sorghum sudan.

(s) *Variety*—the seed produced from a pair of genetically identifiable parents.

6. Subparagraph 1.d. of § 401.111 (Corn Endorsement) is removed and section 10 and section 11 are revised to read as follows:

§ 401.11 Corn endorsement.

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10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to corn during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph (11.(g)). This notice must be given no later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the corn continues after the final planting date, or you are prevented from planting corn during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting corn (see subparagraph 11.(g)), you may elect:

(i) To plant corn during the late planting period. The production guarantee for such acreage will be determined in accordance with section 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 70 bushels per acre, your prevented planting production guarantee would be equivalent to 35 bushels per acre (70 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant corn after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 70 bushels per acre, your prevented planting production guarantee would be equivalent to 35 bushels per acre (70 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.d.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for corn.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to corn on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for corn reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to corn during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of corn acres properly prepared to carry out an irrigation practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for corn in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than corn, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and will be reduced by the number of corn acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of corn on one optional unit and 40 acres of corn on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more corn acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to corn in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Days*—calendar days.

(b) *Final planting date*—the date contained in the Actuarial Table by which the insured corn must initially be planted in order to be insured for the full production guarantee.

(c) *Harvest*—completion of combining or picking corn for grain on any acreage.

(d) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated corn acreage.

(e) *Late planted*—acreage planted during the late planting period.

(f) *Late planting period*—the period which begins the day after the final planting date for corn and ends twenty-five (25) days after the final planting date.

(g) *Prevented planting*—inability to plant corn with proper equipment by:

(1) The final planting date for corn in the county; or

(2) The end of the late planting period.

You must have been unable to plant corn due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(h) *Production guarantee*—the number of bushels (tons if the Corn Silage Option is in effect) determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(i) *Replanting*—performing the cultural practices necessary to replace the corn seed, and replacing the seed in the insured acreage with the expectation of growing a successful crop.

(j) *Silage*—corn harvested by severing the stalk from the land and chopping the stalk and the ear for the purpose of livestock feed.

(k) *Timely planted*—corn planted by the final planting date, as established by the Actuarial Table, for corn in the county to be planted for harvest in the crop year.

7. Subparagraph 1.c. of § 401.113 (Grain Sorghum Endorsement) is removed and section 10 and section 11 are revised to read as follows:

§ 401.113 Grain sorghum endorsement.

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10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to grain sorghum during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(g)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the grain sorghum continues after the final planting date, or you are prevented from planting grain sorghum during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting grain sorghum (see subparagraph 11.(g)), you may elect:

(i) To plant grain sorghum during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant grain sorghum after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for grain sorghum.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to grain sorghum on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for grain sorghum reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to grain sorghum during the crop years that were used to determine your yield; unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of grain sorghum acres properly prepared to carry out an irrigation practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit, whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for grain sorghum in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than grain sorghum, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of grain sorghum acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of grain sorghum on one optional unit and 40 acres of grain sorghum on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more grain sorghum acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to grain sorghum in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Days*—calendar days.

(b) *Final planting date*—the date contained in the Actuarial Table by which the insured grain sorghum must initially be planted in order to be insured for the full production guarantee.

(c) *Harvest*—completion of combining or threshing grain sorghum for grain on any acreage.

(d) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated grain sorghum acreage.

(e) *Late planted*—acreage planted during the late planting period.

(f) *Late planting period*—the period which begins the day after the final planting date for grain sorghum and ends twenty-five (25) days after the final planting date.

(g) *Prevented planting*—inability to plant grain sorghum with proper equipment by:

(1) The final planting date for grain sorghum in the county; or

(2) The end of the late planting period.

You must have been unable to plant grain sorghum due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(h) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(i) *Replanting*—performing the cultural practices necessary to replace the grain sorghum seed, and replacing the seed in the insured acreage with the expectation of growing a successful crop.

(j) *Timely planted*—grain sorghum planted by the final planting date, as established by the Actuarial Table, for grain sorghum in the county to be planted for harvest in the crop year.

8. Subparagraph 1.c. of § 401.117 (Soybean Endorsement) is removed and sections 10 and 11 are revised to read as follows:

§ 401.117 Soybean endorsement.

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10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to soybeans during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by fifty percent (0.50) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(h)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the soybeans continues after the final planting date, or you are prevented from planting soybeans during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting soybeans (see subparagraph 11.(h)), you may elect:

(i) To plant soybeans during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant soybeans after the late planting period. The production guarantee for such acreage will be fifty percent (0.50) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be equivalent to 15 bushels per acre (30 bushels multiplied by 0.50). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for soybeans.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to soybeans on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date); or

(B) One hundred percent (100%) of the simple average of the number of acres planted to soybeans during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of soybean acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for soybeans in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than soybeans, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of soybean acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of soybeans on one optional unit and 40 acres of soybeans on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more soybean acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to soybeans in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Days*—calendar days.

(b) *Distinctly low quality*—(1) Exceeding 8.0 percent kernel damage (excluding heat damage); (2) Having a musty, sour, or commercially objectionable foreign odor which causes the beans to grade U.S. Sample grade; or (3) Graded as "Garlicky."

(c) *Final planting date*—the date contained in the Actuarial Table by which the insured soybeans must initially be planted in order to be insured for the full production guarantee.

(d) *Harvest*—completion of combining or threshing of soybeans on any acreage.

(e) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated soybean acreage.

(f) *Late planted*—acreage planted during the late planting period.

(g) *Late planting period*—the period which begins the day after the final planting date for soybeans and ends twenty-five (25) days after the final planting date.

(h) *Prevented planting*—inability to plant soybeans with proper equipment by:

(1) The final planting date for soybeans in the county; or

(2) The end of the late planting period.

You must have been unable to plant soybeans due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(i) *Production guarantee*—the number of bushels determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(j) *Replanting*—performing the cultural practices necessary to replace the soybean seed, and replacing the seed in the insured acreage with the expectation of growing a successful crop.

(k) *Timely planted*—soybeans planted by the final planting date, as established by the Actuarial Table, for soybeans in the county to be planted for harvest in the crop year.

9. Subparagraph 1.e. of § 401.119 (Cotton Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.119 Cotton endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to cotton during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consist of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by thirty-five percent (0.35) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(k)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the cotton continues after the final planting date, or you are prevented from planting cotton during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (including Planting After the Late Planting Period).

(1) If you were prevented from planting cotton (see subparagraph 11.(k)), you may elect:

(i) To plant cotton during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 700 pounds per acre, your prevented planting production guarantee would be equivalent to 245 pounds per acre (700 pounds multiplied by 0.35). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant cotton after the late planting period. The production guarantee for such acreage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 700 pounds per acre, your prevented planting production guarantee would be equivalent to 245 pounds per acre (700 pounds multiplied by 0.35). Production to count for such acreage will be determined in accordance with subparagraphs 7.b. and c.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8) and subparagraph 11.(b) (Meaning of Terms) of this endorsement, the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for cotton.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to cotton on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for cotton reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to cotton during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for cotton in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than cotton, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of cotton acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of cotton on one optional unit and 40 acres of cotton on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more cotton acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to cotton in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be providing for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Cotton*—only American Upland Cotton.

(b) *Crop year*—the period beginning at planting and extending through the end of the insurance period shown in section 4 and is designated by the calendar year in which the crop is normally planted.

(c) *Days*—calendar days.

(d) *Final planting date*—the date contained in the Actuarial Table by which the insured cotton must initially be planted in order to be insured for the full production guarantee.

(e) *Growth area*—a geographic area designated by the Secretary of Agriculture for the purpose of reporting cotton prices.

(f) *Harvest*—the removal of the seed cotton on each acre from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

(g) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated cotton acreage.

(h) *Late planted*—acreage during the late planting period.

(i) *Late planting period*—the period which begins the day after the final planting date for cotton and ends twenty-five (25) days after the final planting date.

(j) *Mature cotton*—cotton which can be harvested either manually or mechanically and will include both unharvested and harvested cotton.

(k) *Prevented planting*—inability to plant cotton with proper equipment by:

(1) The final planting date for cotton in the county; or

(2) The end of the late planting period.

You must have been unable to plant cotton due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(l) *Production guarantee*—the number of pounds determined by multiplying the approved yield per acre by any applicable yield conversion factor for the row pattern planted, multiplied by the coverage level percentage you elect.

(m) *Skip-row*—planting patterns consisting of alternating rows of cotton and fallow rows or rows of another crop (not spring-planted) as defined by ASCS (if non-cotton rows are occupied by another crop any yield factor normally applied for skip-row cotton will not be applicable).

(n) *Timely planted*—cotton planted by the planting date, as established by the Actuarial Table, for cotton in the county to be planted for harvest in the crop year.

10. Subparagraph 1.c. of § 401.120 (Rice Endorsement) is removed, section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.120 Rice endorsement.

* * * * *

10. Late Planting and Prevented Planting

(a) In lieu of subparagraphs 2.e.(4) and 21.o. of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage planted to rice during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced production guarantees for such acreage. The reduced guarantees will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for the late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre production guarantee for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by thirty-five percent (0.35) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 11.(h)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting.

(1) For acreage planted after the final planting date but on or before 25 days after the final planting date, the production guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (0.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of the rice continues after the final planting date, or you are prevented from planting rice during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting rice (see subparagraph 11.(h)), you may elect:

(i) To plant rice during the late planting period. The production guarantee for such acreage will be determined in accordance with subparagraph 10.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production for such acreage which is eligible for prevented planting coverage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 2000 pounds per acre, your prevented planting production guarantee would be equivalent to 700 pounds per acre (2000 pounds multiplied by 0.35). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant rice after the late planting period. The production guarantee for such acreage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 2000 pounds per acre, your prevented planting production guarantee would be equivalent to 700 pounds per acre (2000 pounds multiplied by 0.35). Production to count for such acreage will be determined in accordance with subparagraphs 7.b. and c.

(2) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for rice.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to rice on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(B) The ASCS base acreage for rice reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to rice during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) A prevented planting production guarantee will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit, whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for rice in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than rice, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iii) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of rice acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of rice on one optional unit and 40 acres of rice on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more rice acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to rice in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Days*—calendar days.

(b) *Final planting date*—the date contained in the Actuarial Table by which the insured rice must initially be planted in order to be insured for the full production guarantee.

(c) *Harvest*—the completion of combining or threshing rice for grain on any acreage.

(d) *Late planted*—acreage planted during the late planting period.

(e) *Late planting period*—the period which begins the day after the final planting date for rice and ends twenty-five (25) days after the final planting date.

(f) *Mill center*—any location in which two or more mills are engaged in milling rough rice.

(g) *Planted*—uniform placement of an adequate amount of rice seed into a prepared seedbed by one of the following methods. Any acreage into which seed is placed in any other manner will not be considered as planted under the terms of this policy:

(1) Drill seeding—uniform placement of the rice seed into the prepared seedbed by use of a grain drill that incorporates the seed to a proper soil depth.

(2) Broadcast seeding—uniform distribution of the rice seed onto the surface of a prepared seedbed, followed by either mechanical incorporation of the seed to a proper soil depth in the seedbed or flushing the seedbed with water.

(3) Broadcast seeding into a controlled flood—uniform distribution of the rice seed onto a prepared seedbed that has been intentionally covered by water. The water must be free of movement and be completely contained on the acreage by properly constructed levees and gates.

(h) *Prevented planting*—inability to plant rice with proper equipment by:

(1) The final planting date for rice in the county; or

(2) The end of the late planting period.

You must have been unable to plant rice due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(i) *Production guarantee*—the number of pounds determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(j) *Replanting*—performing the cultural practices necessary to replace the rice seed and replacing the rice seed in the insured acreage with the expectation of growing a successful crop.

(k) *Second crop rice*—regrowth of a stand of rice originating from the initially insured rice crop following harvest and which can be harvested in the same crop year.

(l) *Timely planted*—rice planted by the final planting date, as established by the Actuarial Table, for rice in the county to be planted for harvest in the crop year.

11. In § 401.121 (ELS Cotton Endorsement), section 10 is redesignated as a revised section 11, and a new section 10 is added to read as follows:

§ 401.121 ELS cotton endorsement.

* * * * *

10. *Prevented Planting (Including Planting after the Final Planting Date)*

(a) In lieu of subparagraph 2.e.(4) of the General Crop Insurance Policy (§ 401.8), insurance will be provided for acreage you were prevented from planting (see subparagraph 11.(h)). This coverage provides a reduced production guarantee for such acreage. The reduced guarantee will be combined with the production guarantee for timely planted acreage for each unit. The premium amount for eligible prevented planting acreage will be the same as that for timely planted acreage. For example, assume you insure one unit in which you have a 100 percent (100%) share. The unit consists of 100 acres, of which 50 acres were planted by the final planting date and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the production guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely; and

(2) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by thirty-five percent (0.35) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the two calculations will be the production guarantee for the unit. Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 100 acres in the unit.

(b) If you were prevented from planting ELS cotton (see subparagraph 11.(h)), you may elect:

(1) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The production guarantee for such acreage which is eligible for prevented planting coverage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 600 pounds per acre, your prevented planting production guarantee would be equivalent to 210 pounds per acre (600 pounds multiplied by 0.35). This section does not prohibit the preparation and care of

the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(2) To plant ELS cotton after the final planting date. The production guarantee for such acreage will be thirty-five percent (0.35) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 600 pounds per acre, you prevented planting production guarantee would be equivalent to 210 pounds per acre (600 pounds multiplied by 0.35). Production to count for such acreage will be determined in accordance with subparagraph 7.b.

(c) In addition to the provisions of section 7 (Insurance Period) of the General Crop Insurance Policy (§ 401.8), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for ELS cotton.

(d) You must provide written notice to us if you were prevented from planting. This notice must be given not later than three (3) days after the final planting date if you have unplanted acreage that may be eligible for prevented planting coverage.

(e) The acreage to which prevented planting coverage applies will be limited as follows:

(1) Eligible acreage will not exceed the greater of:

(i) The number of acres planted to ELS cotton on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date);

(ii) The ASCS base acreage for ELS cotton reduced by any acreage reduction applicable to the farm under any program administered by the United States Department of Agriculture; or

(iii) One hundred percent (100%) of the simple average of the number of acres planted to ELS cotton during the crop years that were used to determine your yield;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(2) Acreage intended to be planted under an irrigated practice will be limited to the number of ELS cotton acres properly prepared to carry out an irrigation practice.

(3) A prevented planting production guarantee will not be provided for:

(i) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(ii) Land for which the Actuarial Table does not designate a premium rate unless you submit a written request for coverage for such acreage prior to the sales closing date for ELS cotton in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(iii) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(iv) Land on which any crop, other than ELS cotton, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(v) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(4) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of ELS cotton acres timely planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of ELS cotton on one optional unit and 40 acres of ELS cotton on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more ELS cotton acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(f) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to ELS cotton in the crop year.

(g) In accordance with the provisions of section 3 (Report of Acreage, Share, and Practice (Acreage Report)) of the General Crop Insurance Policy (§ 401.8), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(h) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

11. Meaning of Terms

(a) *Cotton*—Extra Long Staple cotton and acreage replanted to American Upland Cotton after ELS was destroyed by an insured cause.

(b) *Days*—calendar days.

(c) *ELS Cotton*—Extra Long Staple cotton (also called Pima Cotton and American-Egyptian Cotton).

(d) *Final planting date*—the date contained in the Actuarial Table by which the insured ELS cotton must initially be planted in order to be insured for the full production guarantee.

(e) *Harvest*—the removal of the seed cotton on each acre from the open cotton boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

(f) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated ELS cotton acreage.

(g) *Mature cotton*—ELS cotton which can be harvested either manually of mechanically and will include both unharvested and harvested cotton.

(h) *Prevented planting*—inability to plant ELS cotton with proper equipment by the final planting date due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date.

(i) *Production guarantee*—the number of pounds determined by multiplying the approved yield per acre by any applicable yield conversion factor for the row pattern planted, multiplied by the coverage level percentage you elect.

(j) *Replanted*—performing the cultural practices necessary to replant acreage to AUP cotton and replacing the AUP cotton seed after ELS cotton was destroyed by an insured cause in the same growing season.

(k) *Skip-row*—planting patterns consisting of alternating rows of cotton and fallow rows as defined by ASCS (if non-cotton rows are occupied by another crop any yield factor normally applied for skip-row cotton will not be applicable).

(l) *Timely planted*—ELS cotton planted by the final planting date, as established by the Actuarial Table, for ELS cotton in the county to be planted for harvest in the crop year.

Done in Washington, D.C. on December 13, 1993.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 93-31171 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 443

Hybrid Seed Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Hybrid Seed Crop Insurance Regulations by revising coverage terms to cover loss due to late and prevented planting. The intended effect of this regulation is to incorporate insurance provisions for coverage of late or prevented planting.

EFFECTIVE DATE: November 30, 1993.

ADDRESSES: Written comments on this rule must be received by February 22, 1994, to be sure of consideration. Comments should be addressed to Mari L. Dunleavy, Federal Crop Insurance Corporation, US Department of Agriculture, Washington, DC 20250. Comments received may be viewed and copied Monday through Friday, during normal business hours, at 2101 L Street NW., suite 500 Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Mari L. Dunleavy, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 254-8314.

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 October 1, 1997.

Kathleen Connelly, Acting Manager, FCIC, has determined that this action is in conformance with Executive Order 12866 and is not a "significant regulatory action." Based on information compiled by the Department, it has been determined that this final rule:

(1) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Would not alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(4) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

The Acting Manager certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons, nor will it have a significant economic effect on a substantial number of small entities. This action reduces the paperwork burden on the insured farmer, and on the reinsured company and sales and service contractor. This action is therefore, determined to be exempt from the provisions of the Regulatory Flexibility Act and 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.

The Acting Manager, FCIC, has certified to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778.

This rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule are retroactive to November 30, 1993 and will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J must be exhausted before judicial action may be brought.

This amendment does not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35, the Paperwork Reduction Act.

The Office of General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this proposed rule will not have substantial direct effects on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Background

Optional insurance coverage for late planting is currently offered for hybrid seed. However, due to the method by which the amount of insurance is reduced after the final planting date, and the excessive volume of paperwork required to administer the option, the current option lacks the desired degree of effectiveness. Coverage for prevented planting is not currently extended to hybrid seed policyholders.

By this rule, FCIC will now incorporate both, prevented planting and late planting coverage into the hybrid seed policy. The coverages will automatically be extended to all hybrid seed policyholders, without the added burden of option forms.

As this rule liberalizes the policy, and is being promulgated for the benefit of the farmer, good cause is found to make this rule final upon publication. Comments will, however, be accepted for sixty days after the publication of this rule and any amendment made necessary through those comments will be promulgated as soon as practicable.

List of Subjects in 7 CFR Part 443

Crop Insurance, Hybrid Seed.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and for the reasons set forth in the preamble, the Federal Crop Insurance Corporation amends the Hybrid Seed Crop Insurance Regulations (7 CFR part 443), effective for the 1994 and succeeding crop years, as follows:

PART 443—HYBRID SEED CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 443 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. Section 443.7 is amended in the insurance policy by removing paragraph 2.e.(4) and redesignating paragraphs 2.e(5) through 2.e.(12) as 2.e.(4) through 2.e.(11), revising paragraph 7 introductory text, redesignating paragraphs 17, 18, 19, 20, and 21 as 18, 19, 20, 21, and 22 respectively, adding new paragraph 17, and revising the newly designated paragraph 18 to read as follows:

§ 443.7 The application and policy.

* * * * *

7. Insurance Period

Insurance attaches for each type and variety when both the male plant seed and the female plant seed of that type and variety are planted in accordance with the production management practices of the seed company. Insurance terminates at the earliest of:

* * * * *

17. Late Planting and Prevented Planting

(a) Insurance will be provided for acreage planted to the insured crop during the late planting period (see subparagraph (c)), and acreage you were prevented from planting (see subparagraph (d)). These coverages provide reduced amounts of insurance for such acreage. The reduced amounts of insurance will be combined with the amount of insurance for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. For example assume you insure one unit in which you have a 100 percent share. The unit consists of 200 acres of the same type and variety, of 100 percent share. The unit consists of 200 acres of the same type and variety, of which 150 acres are occupied by the female plant. Fifty acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the amount of insurance will be computed as follows:

(1) For timely planted acreage, multiply the per acre amount of insurance for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre amount of insurance for timely planted acreage by ninety-three percent (0.93) and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre amount of insurance for timely planted acreage by forty percent (0.40) and multiply the result by the 50 acres eligible for prevented planting coverage.

The total of the three calculations will be the amount of insurance for the unit. Your premium will be based on the result of multiplying the per acre amount of insurance for timely planted acreage by the 150 acres in the unit.

(b) You must provide written notice to us if you were prevented from planting (see subparagraph 18.(w)). This notice must be given not later than three (3) days after:

(1) The final planting date if you have unplanted acreage that may be eligible for prevented planting coverage; and

(2) The date you stop planting within the late planting period on any unit that may have acreage eligible for prevented planting coverage.

(c) Late Planting

(1) For acreage planted after the final planting date, but on or before 25 days after the final planting date, the amount of insurance for each acre will be reduced for each day planted after the final planting date by:

(i) One percent (.01) for the first through the tenth day; and

(ii) Two percent (.02) for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 3 (Report of Acreage, Share, Type and Practice), you must report the dates on which the acreage is planted within the late planting period.

(3) If planting of the insured crop continues after the final planting date, or you are prevented from planting the insured crop during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Actuarial Table; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period)

(1) If you were prevented from planting the insured crop (see subparagraph 18.(w)), you may elect:

(i) To plant the insured crop during the late planting period. The amount of insurance for such acreage will be determined in accordance with subparagraph 17.(c)(1);

(ii) Not to plant this acreage to any crop that is intended for harvest in the same crop year. The amount of insurance for such acreage eligible for prevented planting coverage will be forty percent (0.40) of the amount of insurance for timely planted acres. For example, if your amount of insurance is 200 dollars per acre, your prevented planting amount of insurance would be 80 dollars per acre (200 dollars per acre multiplied by 0.40). This section does not prohibit the preparation and care of the acreage for conservation practices, such as planting a cover crop, as long as such crop is not intended for harvest; or

(iii) To plant the insured crop after the late planting period. The amount of insurance for such acreage will be forty percent (0.40) of the amount of insurance for timely planted acres. For example, if your amount of insurance for timely planted acreage is 200 dollars per acre, your prevented planting amount of insurance would be to 80 dollars per acre (200 dollars per acre multiplied by 0.40). Production to count for such acreage will be determined in accordance with subparagraph 9.e.

(2) In addition to the provisions of section 7 (Insurance Period), the beginning of the insurance period for prevented planting coverage is the sales closing date designated in the Actuarial Table for the insured crop.

(3) The acreage to which prevented planting coverage applies will be limited as follows:

(i) Eligible acreage will not exceed the greater of:

(A) The number of acres planted to the insured crop on each ASCS Farm Serial Number during the previous crop year (adjusted for any reconstitution which may have occurred prior to the sales closing date); or

(B) One hundred percent (100%) of the simple average of the number of acres planted to the insured crop for previous years for which you have continuous records of planted acreage;

unless we agree in writing, prior to the sales closing date, to approve acreage exceeding this limit.

(ii) Acreage intended to be planted under an irrigated practice will be limited to the number of the insured crop acres properly prepared to carry out an irrigated practice.

(iii) A prevented planting amount of insurance will not be provided for:

(A) Any acreage that does not constitute at least 20 acres or 20 percent (20%) of the acres in the unit whichever is less;

(B) Land for which the Actuarial Table does not designate a premium rate, unless you submit a written request for coverage for such acreage prior to the sales closing date for the insured crop in the county. Upon your timely written request, we will provide a written insurance offer for such acreage;

(C) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by the United States Department of Agriculture;

(D) Land on which any crop, other than the insured crop, has been planted and is intended for harvest, or has been harvested in the same crop year; or

(E) Land which planting history or conservation plans indicate would remain fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of acres of the insured crop timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single ASCS Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of the insured crop on one optional unit and 40 acres of the insured crop on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero). If you report more insured crop acreage under this contract than is eligible for prevented planting coverage, we will allocate the eligible acreage to insured units based on the number of prevented planting acres and share you reported for each unit.

(4) When the ASCS Farm Serial Number covers more than one unit, or a unit consists of more than one ASCS Farm Serial Number, the covered acres will be pro-rated based on the number of acres in each unit or ASCS Farm Serial Number that could have been planted to the insured crop in the crop year.

(5) In accordance with the provisions of section 3 (Report of Acreage, Share, Type and Practice), you must report any insurable acreage you were prevented from planting. This report must be submitted on or before the acreage reporting date, even though you may elect to plant the acreage after the late planting period. Any acreage you report as eligible for prevented planting coverage which we determine is not eligible will be deleted from prevented planting coverage.

(6) If the amount of premium you are required to pay (gross premium less our subsidy) for the prevented planting acreage exceeds the prevented planting liability on a unit, prevented planting coverage will not be provided for that unit (no premium will be due and no indemnity will be paid for such acreage).

18. Meaning of Terms

(a) *Actuarial table*—the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the coverage levels, premium rates, amounts of insurance, practices, insurable and uninsurable acreage, and related information regarding insurance for the crop in the county.

(b) *Amount of insurance*—the number of dollars per acre that results from subtracting the minimum payment (in bushels) provided by the seed company from the selected coverage level's county yield contained in the Actuarial Table and multiplying the result by the selected price election. If the minimum payment provided by the seed company is stated as a dollar amount, it will be converted to a bushel equivalent by dividing the dollar amount by the selected price election.

(c) *Approved yield*—an expected yield level for a specific variety, in bushels per acre, determined by us and used to establish the value of seed production for the purpose of determining the amount of indemnity.

(d) *ASCS*—the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(e) *Commercial seed*—the offspring of two individual seeds of different genetic character which is produced as a result of crossing. A portion of this resultant offspring is the product intended for the purpose or use on a commercial basis by an agricultural producer to produce a field crop type for grain or silage.

(f) *County*—(1) The County shown on the application; and

(2) Any additional land located in a local producing area bordering on the county, as shown by the Actuarial Table.

(g) *Crop year*—the period within which the crop is normally grown and is designated by the calendar year in which the crop is normally harvested.

(h) *Days*—calendar days.

(i) *Dollar value per bushel*—the value determined by dividing the amount of insurance per acre for timely planted acreage by the result of multiplying the approved yield by the coverage level percentage you elect.

(j) *Female plant*—the plants grown for the purpose of producing commercial seed.

(k) *Final planting date*—the date contained in the Actuarial Table by which the insured crop must initially be planted in order to be insured for the full amount of insurance.

(l) *Harvest*—the completion of combining, threshing, or picking of the crop on any acreage.

(m) *Inadequate germination*—less than 80 percent (80%) of the seed produced from female plants germinated as determined by a warm test using clean seed.

(n) *Insurable acreage*—the land classified as insurable by us and shown as such by the Actuarial Table.

(o) *Insured*—the person who submitted the application accepted by us.

(p) *Irrigated practice*—a method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated amount of insurance on the irrigated crop acreage.

(q) *Late planted*—acreage planted during the late planting period.

(r) *Late planting period*—the period which begins the day after the final planting date for the insured crop and ends twenty-five (25) days after the final planting date.

(s) *Loss ratio*—the ratio of indemnity to premium.

(t) *Male plant*—the plants grown for the purpose of pollinating female plants.

(u) *Non-seed production*—all seed with inadequate germination. (Designation as non-seed production under this definition may be production to count under section 9 through appraisal if the inadequate germination was due to an uninsurable cause. (See subparagraph 9.e.(2)(a)).

(v) *Person*—an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

(w) *Prevented planting*—inability to plant the insured crop with proper equipment by:

(1) the final planting date for the insured crop in the county; or

(2) the end of the late planting period.

You must have been unable to plant the insured crop due to an insured cause of loss which is general in the area (i.e., most producers in the surrounding area are unable to plant due to similar insurable causes) and which occurs between the sales closing date and the final planting date or within the late planting period.

(x) *Sample*—at least 3 pounds of shelled corn representative (field run) for each variety of seed corn grown on the unit.

(y) *Seed company*—a company which contracts with a grower to produce or grow for the production of hybrid corn seed.

(z) *Seed production*—all seed with a germination rate of at least 80 percent (80%) on a warm test using clean seed.

(aa) *Service office*—the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

(bb) *Shelled-corn*—the grain (corn) after its removal from the cob.

(cc) *Tenant*—a person who rents land from another person for a share of the crop or a share of the proceeds therefrom.

(dd) *Timely planted*—the insured crop planted by the final planting date, as established by the Actuarial Table, for the insured crop in the county to be planted for harvest in the crop year.

(ee) *Type*—the crop grown: i.e., corn.

(ff) *Unit*—all insurable acreage of the insured crop in the county on the date of planting for the crop year:

(1) In which you have a 100 percent (100%) share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported.

Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

(gg) *Variety*—the seed produced from a pair of genetically identifiable parents.

* * * * *

Done in Washington, DC on November 30, 1993.

Kathleen Connelly,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 93-30728 Filed 12-21-93; 8:45 am]

BILLING CODE 3410-08-M

Animal and Plant Health Inspection Service

9 CFR Parts 130 and 156

[Docket No. 92-042-2]

RIN 0579-AA43

User Fees—Import- and Export-Related Veterinary Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are establishing user fees for certain import-related services we provide for live animals, animal products, organisms and vectors, and germplasm. We are also amending existing hourly user fees for certain export services provided for live animals and establishing user fees for endorsing export certificates for germplasm. These user fees are authorized by section 2509(c) of the Food, Agriculture, Conservation and Trade Act of 1990, as amended. The effect of these regulations is to require certain persons to pay fees for services they receive.

EFFECTIVE DATE: January 21, 1994.

FOR FURTHER INFORMATION CONTACT: For information concerning services provided for live animals and germplasm, contact Dr. David Vogt, Senior Staff Veterinarian, National Center for Import-Export, VS, APHIS, USDA, room 767, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8172.

For information concerning services provided for animal products and byproducts, contact Dr. Kathleen Akin, Senior Staff Veterinarian, National Center for Import-Export, VS, APHIS, USDA, room 755, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7830.

For information concerning fees, contact Ms. Barbara Thompson, Chief, User Fee Branch, Budget and Accounting Division, M&B, APHIS, USDA, room 263, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-5901.

SUPPLEMENTARY INFORMATION:

Background

User Fees Authorized Under the Farm Bill

The Food, Agriculture, Conservation and Trade Act of 1990, as amended (referred to below as the Farm Bill), authorizes the Secretary of Agriculture, among other things, to prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Federal Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance. (Section 2509(c)(1) of the Farm Bill.)

Section 2509(c) also provides procedures for the Secretary to follow in the case of nonpayment of assessed fees, late payment penalties, or accrued interest. The section states that the Secretary shall suspend performance of services to persons who have failed to pay fees, late payment penalty, or accrued interest.

Section 2509(d) of the Farm Bill provides, in addition, that the Secretary may prescribe such regulations as the Secretary determines necessary to carry out the provisions of section 2509.

Previously Published Regulations

We have previously published documents in the **Federal Register** establishing, or proposing to establish, user fees for various services provided by the Animal and Plant Health Inspection Service (APHIS). APHIS user fees currently in effect are published in 7 CFR 354.3 and 354.4, and 9 CFR part 130. Currently effective user fees include fees for:

(1) Inspecting various passengers and commercial aircraft, vessels, trucks and railroad cars arriving within the customs territory of the United States;

(2) Issuing certain certificates, such as phytosanitary certificates for plants and plant products, and endorsing export certificates for animals;

(3) Providing quarantine services within the United States for imported animals;

(4) Providing certain inspection and supervision services within the United States for animals intended for export;

(5) Conducting certain veterinary inspections outside the United States; and

(6) Veterinary diagnostic services.

Proposed Rule

On July 22, 1993, we published a document in the **Federal Register** (58 FR 39163–39173, Docket No. 92–042–1) in which we proposed to amend 9 CFR Chapter I to establish user fees for certain import-related services we provide for live animals, animal products, organisms and vectors, and germplasm. In our document of July 22, 1993, we also proposed to amend existing hourly user fees for certain export services provided for live animals. In the same document we also proposed to amend 9 CFR Chapter I to establish user fees for endorsing export certificates for germplasm.

We solicited comments concerning our proposal for a 30-day comment period ending August 23, 1993. We received 26 comments by that date. They were from importers, exporters, universities, Federal Government agencies, and research facilities.

We have carefully considered all of the comments we received. They are discussed below by topic.

General Comments

Increased Costs to APHIS

With regard to savings realized by charging user fees, the intent of the Farm Bill was not to save money, but to shift the burden of paying for services from the general public to the recipient of the services. We believe our APHIS user fees accomplish this goal.

Public Versus Private Benefit

Numerous comments stated that our services are already paid for by taxes, and therefore we should not charge user fees for them. Other comments stated that we should not charge a user fee for any service that benefits the public. Some comments also implied that institutions that provide services to APHIS should not have to pay user fees for services they receive from APHIS.

Some of these comments were apparently referring to the User Fee Statute (31 U.S.C. 9701), which provides, in part, that:

"(a) It is the sense of the Congress that each service or thing of value provided by an agency * * * to a person (except a person on official business of the United States government) is to be self-sustaining to the extent possible.

(b) The head of each agency * * * may prescribe regulations establishing the charge for a service or thing of value provided by the agency."

However, the user fees we proposed are authorized by the Farm Bill, not by the User Fee Statute. Our authority under the Farm Bill, which is explained more extensively above, does not require us to consider the issue of private versus public benefits at all. The Farm Bill states simply that we may charge a user fee for certain listed services. Whether those services provide public or private benefits, or a combination of the two, is irrelevant under the Farm Bill. Therefore, we are making no changes in the proposed regulations based on these comments.

Length of Comment Period

One commenter requested that we extend the 30-day comment period. The Animal and Plant Health Inspection Service (APHIS) must institute user fees as soon as possible. Appropriated funds for APHIS are not sufficient to cover the costs of providing the services covered by our proposed user fees. It is therefore, necessary for us to collect user fees, starting as soon as possible, to ensure that these services continue to be available to the public. For this reason, a longer comment period is not feasible. We believe the comment period provided was reasonable under the circumstances. Moreover, the fact that we received 26 comments on the proposal leads us to believe that the comment period was adequate.

Use of Fees—Deficit Reduction Versus Improved APHIS Service

Many comments stated that APHIS user fees should be used to augment the APHIS budget and improve services. Some comments also stated that APHIS user fees should not be used for general Federal budget deficit reduction. Other comments demanded better and more efficient service from APHIS in return for user fees.

All user fees collected under the regulations adopted in this final rule will be collected under authority of the Farm Bill. This money will be available to APHIS to apply directly to APHIS programs, as explained above. The Farm Bill does not require Congress to reduce our appropriation. Whether to increase or decrease our funding is a decision made by Congress as part of the budget process. For fiscal year 1993, the APHIS appropriation has been reduced. We anticipate that the loss of direct funding will be made up to some extent by APHIS user fees we collect.

Many comments made suggestions as to how APHIS can improve its services. Several comments suggested fees that could be eliminated by eliminating certain inspections or permit requirements or by replacing them. Commenters stated that certain requirements are redundant or unnecessary.

We are not making any changes based on these comments. Our proposal concerned only charging user fees for services APHIS provides. Whether a particular service should be provided is therefore outside the purview of our proposal. However, we are considering all of the commenters' suggestions. APHIS services are continually adjusted to meet changing needs. We are constantly trying to improve our services and reduce costs. If we determine that a change would be beneficial, we will publish a proposed rule for public comment in the **Federal Register**. In addition, if in the future we propose to eliminate a service for which we have a user fee, we will also propose to eliminate the user fee. Likewise, if in the future we propose to add a service, we may also propose to add a user fee for the service. If we propose in the future to substantially change a service for which we charge a user fee, we will recalculate the user fee for the service to reflect those changes.

Detrimental Effects of User Fees

One commenter expressed the belief that charging user fees will slow down APHIS services. For the most part, we do not anticipate that this will happen. The billing and collection system for user fees is generally separate from providing the actual service. Therefore, in most cases, charging user fees should not effect the speed at which APHIS provides any given service.

Future Review and Revision of User Fees

One commenter expressed concern that our user fees will increase over time. We are making no changes based on this comment. We have determined, using the best data available, the current cost of each of the services for which we will charge an APHIS user fee. We realize that our cost to provide each service will probably change over time. Salaries, supplies, overhead, and all the other elements of our fees change over time. However, our costs will not necessarily increase. As explained in our proposal, the Farm Bill authorizes us to collect the full costs of the services we provide. Therefore, as stated in our proposal, we intend to monitor our fees throughout the year and review them at least annually. We will propose to adjust the fees up or down as the review warrants, and we will publish, for public comment, any proposed fee changes in the **Federal Register**.

One commenter suggested that we establish user fees for 5 years, so there would be no "dramatic" price increases. We have considered this idea. However, we do not consider it to be practical. If we continue to provide various services, we must collect enough in user fees to cover our costs. If costs rise, we must collect more money by raising our user fees. In addition, the services and programs we offer are constantly adjusted to changing circumstances, such as disease outbreaks. If we lock in our user fees for 5 years, we cannot adjust them, whether up or down, to reflect service changes.

General Hardship; Exemptions From Fees

Many comments objected in general terms to the proposed APHIS user fees. Many maintained the proposed APHIS user fees would be detrimental to small businesses, or to specific industries such as embryo transfer companies and semen exporters. Others stated that paying the fees would be a hardship, would increase their cost of doing business, would inhibit international cooperation, would hurt United States exports, or would have other detrimental effects.

Some comments proposed that we either exempt certain industries or classes of users from the proposed user fees or charge them reduced fees. Among those mentioned were nonprofit institutions such as zoos and museums, research institutions, tax-exempt organizations, and Federal and State institutions and facilities supported by tax revenues or grants from tax-exempt organizations or government agencies.

We are not making any changes in the regulations based on these comments. Because of budget constraints, we do not have the option to charge user fees that recover less than the full cost of providing a service. If we did so, we would not collect enough money to support the service. However, we have attempted to minimize the cost of our services, thereby keeping APHIS user fees at the lowest possible level. In addition, generally speaking, the costs to APHIS are the same to provide a specific service, regardless of the recipient of the service. The size or funding source of the entity receiving the service is unrelated to the cost of providing the services. Therefore, we cannot justify a discount based on the size of the business or other factors.

We realize that payment of the proposed user fees will increase the up-front cost of doing business. Various persons are currently subsidized by the taxpayers in general, in that those who benefit from APHIS services do not directly pay for the services. Requiring persons to pay a fee for the services they receive would eliminate the subsidy, general appropriations from taxes would no longer be needed, and costs to taxpayers in general would be reduced.

Rounding of Fees

One commenter objected to our proposal to round up our fees. In addition, the commenter states that it is unfair for those who do pay their user fees, to have to pay, through higher fees, for the unpaid fees of others.

We are not making any changes in the regulations based on this comment. As explained in our proposal (see 58 FR 39169), we proposed to round our user fees up to the nearest quarter as this is consistent with the methodology we used to determine other APHIS user fees. We also explained that, based on our experience with billings and collections, we believe rounding up our fees is most practical as it makes calculations easier, reduces billing and collection errors, compensates for the impossibility of calculating the exact cost of any service, and compensates APHIS for the portion of user fees that will never be paid and that we cannot collect.

APHIS will make every attempt to collect user fees due the agency. To encourage payment, the regulations provide that users who do not pay will not be able to get future services from APHIS.

However, APHIS does not receive any funds to cover user fees that remain unpaid. Unpaid user fees therefore become a cost of providing services. As a cost, they must be factored into our user fees. In this way they are unavoidably passed on to users who do pay. However, based on our experience charging APHIS user fees for other services, we anticipate that unpaid user fees will be minimal.

Relationship of User Fee to Either Time Spent Providing Service or Value of Product

We received one comment suggesting that user fees be tied to the duration of the service provided.

As explained in our proposed rule, the time spent by APHIS employees is only part of the cost that we must recover through user fees. Supplies, overhead, equipment, telephone, and numerous support costs must be included. A service may be provided faster in one instance than another. However, our proposed user fees reflect the average cost of providing particular services on a nationwide basis.

We did include hourly fees in our proposed rule for certain services. However, we proposed hourly fees only for services that vary greatly in the amount of time needed to complete them and for which we could not accurately calculate a flat fee. We set the hourly fee at a level that is sufficient to recover all possible costs for a variety of veterinary services. If we applied hourly fees to all services, some users would save money, but many would pay more, in some cases more than the cost to provide the services they received. We do not believe this would be fair. We have therefore calculated flat fees whenever possible.

It would not be practical, from the point of view of collecting fees, to customize the fee for a service each time it was rendered. Such a system would be unwieldy and expensive to administer. The additional expenses of such a system would, in turn, have to be included in the fee, raising it further. For these reasons, we are making no changes based on this comment.

Another comment suggested that user fees should be tied to the value of the product. We are not making any changes based on this comment. What service or type of service we provide is not related to the value of the items involved. Nor is the value of the items related to the time or effort required of APHIS personnel to provide the service.

User Fees Less Than Processing Costs

One comment stated that our proposed user fees are less than processing costs, when both APHIS's costs and the payor's costs are considered. This commenter may be correct in the case of certain proposed user fees. However, the Farm Bill only authorizes APHIS to recover its own costs. The Farm Bill does not authorize APHIS to consider the payor's costs when calculating fees. However, we are constantly trying to reduce costs and minimize any necessary cost increases, thus keeping our user fees as low as possible.

Paperwork Reduction Act

One comment complained that our proposed user fees violate the Paperwork Reduction Act. We are not making any changes based on this comment.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) was designed, among other things, to:

(1) Minimize the Federal paperwork burden;

(2) Minimize the cost to the Federal Government of collecting, maintaining, using, and disseminating information;

(3) Maximize the use of information collected by the Federal Government;

(4) Coordinate, integrate, and, as much as possible, make Federal information policies and practices uniform; and

(5) Ensure that the Federal Government collects, maintains, uses and disseminates information in accordance with the Privacy Act (5 U.S.C. 552a).

The Paperwork Reduction Act does not prohibit agencies of the Federal Government from imposing information and paperwork requirements. In order to ensure that agencies do not make excessive demands on the public, all information and paperwork requirements are reviewed, and must be approved, by the Office of Management and Budget. All the information and paperwork requirements contained in our proposed rule have been submitted to OMB for review. We have been very careful to ask only for the information and paperwork we believe is absolutely necessary to ensure that user fees are correctly assessed and collected.

Mandatory Versus Voluntary Use of APHIS Services

One commenter suggested that he should not have to pay a user fee for service he received because he had not asked for the service, but instead was required to obtain it. Another commenter was generally negative on the idea of user fees, suggesting that he was required to use our services. A third commenter stated that there should be no fee for any service that the government requires.

We are not making any changes in the proposal based on these comments. Our authority to collect user fees does not distinguish between mandatory and voluntary services. Further, we do not agree with the commenters' basic proposition that users do not ask for APHIS services if they are complying with a regulatory requirement.

APHIS services are provided to enhance U.S. agriculture. Some requirements concerning importation of animals and animal products are designed to help ensure that animal diseases and pests are not introduced into the United States. APHIS services concerning exportation of animals and animal products are designed either to provide services to exporters that they need in order to meet requirements of the importing country, or to help ensure that no infected animals or animal products are exported from the United States, thereby harming markets for U.S. exports.

No one is required to conduct any business or endeavor that is regulated by APHIS. However, anyone who does so must comply with APHIS requirements. In this manner, all users ask for service from APHIS.

User Fees for Courtesy Permits

One commenter stated that we should not charge user fees for "courtesy permits." These are permits we issue, at the request of importers, for importations that do not require permits. Importers usually request courtesy permits if they believe having a permit will minimize delays getting their importation into the country. We are not making any changes based on this comment. These permits are issued solely for the convenience of importers. However, it takes the same time and effort for APHIS personnel to issue a courtesy permit as to issue any other permit. We believe it would be unfair not to charge for courtesy permits, which no importer is required to obtain, when we have proposed to charge for permits that are required.

User Fees for VS Form 16

One commenter asked if user fees are payable for all VS Form 16 documents.[1] Our answer is no. User fees are only payable for documents or services listed in the regulations. If a form number is included in the regulations, it is to clarify what service is subject to a user fee. Generally, we have not listed particular form numbers because there are many different forms and because form numbers change. We have instead indicated only the type of document or service for which we would charge a user fee. However, if the user fee applies to only a particular form, we have listed that form number.

User Fees for APHIS Errors

One commenter objected to paying a user fee for APHIS inspections that are conducted in error, for example, when no inspection is required or requested, but an APHIS inspector conducts an inspection nonetheless. We agree with the commenter that it would be unfair under such circumstances, and we do not intend to charge such user fees.

Hourly User Fees

One commenter asked us to explain what the hourly veterinary fee includes. In our proposal we listed the various types of services covered by the hourly fee. They were:

(1) Conducting inspections, including laboratory and facility inspections, required to obtain permits either to import animal products, organisms and vectors, or to maintain compliance with import permits;

(2) Obtaining samples required to be tested either to obtain import permits or to ensure compliance with import permits;

(3) Supervising the opening of in-bond shipments; and

(4) Other import or entry services not specified elsewhere in our user fee regulations.

These are tasks that vary widely in duration from one instance to another. The main cost of providing these services is the cost of employee time—direct labor time spent by the individual doing the work. Salary and benefits are included, but there are minimal support or other costs. Therefore a general hourly charge is suitable. We prefer to charge an exact fee for specific services, and we proposed exact fees for all services for which we have sufficient data to calculate what the appropriate user fee rate should be.

Reimbursable Overtime

One commenter observed that, as we explained in our proposal, under certain circumstances users would have to pay reimbursable overtime in addition to user fees. One of the conditions for reimbursable overtime is that work must be performed "outside of the normal tour of duty of the employee." The commenter asked us to explain this.

To clarify, most APHIS employees have a set tour of duty, that is, their work day starts at a certain time and

[1] VS Form 16 documents are all used in connection with the import or export of animal products, byproducts, organisms, and vectors.

ends at a certain time each day. For most APHIS employees, the work day is from 8:30 a.m. to 5 p.m., Monday through Friday, except holidays. Certain APHIS facilities, such as quarantine facilities, laboratories, and inspection stations, are open at different hours, and the employees at those facilities may have different tours of duty. The normal hours of business are usually posted at these offices. Reimbursable overtime is only payable, assuming all other requirements are met, if the employee who performs the service must do so outside of their normal tour of duty. Under the regulations that govern reimbursable overtime (see 9 CFR part 97), we do charge for the time spent traveling from the employee's duty station to the location where the service must be performed. However, we do not charge, contrary to the commenter's suggestion, for employees' "leisure time."

Missing Fees

One commenter alerted us that we did not include a user fee for endorsing VS 16–4, Export Certificate for Animal Products.

We are aware that no user fee was included in our proposal for this service. Our proposal of July 22, 1993, was not intended to be an exhaustive list of services we provide. For various reasons, we did not propose user fees in that document for every service we currently provide. If we determine in the future that a user fee is appropriate for this or any other services, we will publish a proposed fee, for public comment, in the **Federal Register**.

Specific User Fees That Need To Be Adjusted

User Fee for Endorsing Export Health Certificates

One comment stated that the proposed fee of $54.75 per certificate for endorsing export embryo certificates is too high and should be "consistent" with the user fee for endorsing export semen certificates.

We are not making any changes based on this comment. We have carefully calculated our fee, and determined that it costs APHIS more to endorse an export certificate for embryos than to endorse an export certificate for semen.

This commenter also suggested that for "up to [5] donor pairs, the fee [be the same] regardless of the number of certificates, and for each additional group of donor pairs, up to [5] pairs per group, that the charge be [a lower fee] per group of donor pairs." Other commenters questioned our proposed user fee for endorsing export certificates for semen, stating that it is too high. These commenters also questioned imposing the user fee on each certificate, when some countries require that no more than one animal be listed on a certificate. The commenters had several suggestions: Apply the user fee "per shipment" rather than per certificate; charge one fee for the first certificate for a shipment and a lower fee for other certificates for the same shipment; and establish a flat fee for each artificial insemination center, based on the volume of certificates required each year.

We are making no changes based on these comments as we have determined that the suggested changes would be impractical and difficult to implement and administer. However, we realize from the comments that changes in the fee structure for these services may be desirable. We intend to investigate other approaches, and will publish any proposed amendments for public comment in the **Federal Register**.

User Fee for Amending Import Permits

One commenter objected to the proposed fee for amending import permits, stating that there should be different fees depending on the "degrees of change required." We agree that not all amended permits require the same number of changes. However, our proposed user fee for amended permits were calculated to reflect the cost of making the average number of changes. In addition, no matter how many or how few changes are actually required, each amended permit requires the same basic processing time and effort. Therefore, regardless of the actual number of actual changes, there is no significant difference in our costs. For this reason we are making no changes based on this comment.

User Fee for Import Compliance Assistance

We received several comments concerning import compliance assistance.

One commenter objected to paying a user fee for "import compliance assistance" to release a shipment that is being held pending confirmation of stated facts regarding it (such as, that it is free of antigens and antisera).

This commenter apparently misinterpreted our proposed regulations. There would be no user fee for releasing such a shipment. The "import compliance assistance" user fee cited by the commenter would apply only when an importer, whose shipment did not meet all import requirements, required extra assistance from APHIS personnel to bring the shipment into compliance. Common situations of this type are shipments that arrive without required permits or other documentation, and shipments that arrive without proper identification.

This commenter also objected to the proposed import compliance assistance fee as "exorbitant" for a single importation or single product. We are not making any changes based on this comment. The proposed user fee is not related to the value or size of the shipment. The amount of work APHIS employees must perform to bring an importation into compliance with import requirements is not dependent on the value or size of the shipment. Our proposed user fee reflects our costs to provide this service.

Another commenter objected to paying a user fee for import compliance assistance when something was wrong with a shipment, but it was not the importer's direct fault.

Under our regulations, importers are responsible for ensuring that their importations comply with all applicable regulations. In addition, if APHIS personnel must provide extra service to make sure an importation meets all requirements, it is irrelevant who is at fault. For these reasons we are not making any changes based on this comment.

Consolidated Shipments of Germplasm

One commenter observed that our proposed rule did not address the "unique situation * * * where an export marketing organization consolidates a number of [export health] certificates from individual [artificial insemination] centers into one order for actual shipment. Since the health certificates will have already been endorsed for the originating [artificial insemination] center," the commenter recommends that no user fee be charged for consolidating the shipments for actual movement overseas.

We are not making any changes based on this comment. Any consolidated export health certificates are issued at the exporter's request and for the exporter's convenience. These certificates require the same time and effort from APHIS employees as other export health certificates. Therefore we charge the same user fee for them as for other export health certificates.

Unfair Fees

One commenter stated that if a user obtains a validated permit, is unable to use it, and therefore obtains a second validated permit for the same shipment, that it is unfair to charge a user fee for the second permit. Another commenter objected to paying a user fee for us to process permit applications for permits they do not use, stating that it would not be fair.

We are not making any changes based on these comments. We realize not all the documents we issue are used by the permittees. This is beyond our control and responsibility. However, it costs us the same to process the paperwork and issue a document that is used, as it does to process the paperwork and issue a document that is not used. If we were to charge a user fee only for documents that are used, the user fees would have to be much higher, to cover the cost of paperwork for documents that are not used. We believe this would not be fair. In addition, it would be impractical to collect the user fee at the time a document was used, as opposed to the time it was applied for or issued.

One commenter objected to a flat fee for approving establishments to receive or treat various animal products and byproducts. According to the commenter, a flat fee is unfair because it fails to take into account differences in the work required.

While developing our proposed rule, we considered other types of user fees for approving establishments. However, we decided on a flat fee as being the best approach. A flat fee allowed establishment operators to determine, in advance, their user fee costs. A flat fee does not need to be calculated for each establishment. It is therefore easier to collect, ensuring lower billing, collection, and recordkeeping costs for APHIS. We can pass these lower costs on to users through lower user fees.

Other Regulatory Changes Suggested by Commenters

Eliminate "Unapproved" Establishments

One comment suggested we change our regulations concerning importation of restricted animal products (such as certain trophies) to require that all such products, not just restricted ones, be imported only to approved establishments. According to the commenter, this would eliminate an unfair advantage, and lower expenses, enjoyed by unapproved establishments.

We are not making any changes in the proposed regulations based on this comment. Our regulations currently distinguish between approved establishments and others. Whether APHIS should make this distinction is not an issue we can address in this document, as it was not raised by our proposed rule. However, the user fees we proposed are designed to recover the costs of providing various APHIS services. APHIS currently conducts inspections of approved establishments. As long as these inspections are required, we must charge a user fee for them.

Eliminate Inspection of Feeder Lambs Entering the United States From Canada

One comment objected to a user fee for feeder lambs entering the United States from Canada. According to the commenter, inspecting these lambs is unnecessary and we should discontinue it.

We are not making any changes based on this comment. Whether APHIS should or should not inspect feeder lambs at the Canadian border is not an issue we can address in this document, as it was not raised by our proposed rule. However, the user fees we proposed are designed to recover the costs of providing various APHIS services. APHIS currently inspects feeder lambs crossing into the United States from Canada. As long as these inspections are required, we must charge a user fee for them.

Miscellaneous Comments

Venezuelan Equine Encephalitis Outbreak

One commenter called our attention to the fact that, since our proposed rule was published in July 1993, there has been an outbreak of Venezuelan equine encephalitis (VEE) in Mexico. The commenter stated that our proposed regulations do not include any user fee to cover veterinary inspections APHIS conducts in connection with the outbreak. The commenter suggested that the cost of APHIS services could be recovered under the terms of cooperative agreements signed with prospective importers.

We agree with the commenter in all respects. Because of the VEE outbreak, at the time this document is being written, horses from Mexico must be quarantined in Mexico and inspected by APHIS personnel prior to shipment to the United States. None of the user fees proposed by us on July 22, 1993, would fully recover APHIS costs in this situation. However, current § 130.8 of the regulations states that cooperative agreements, covering veterinary services we provide outside the United States, may include a provision that the importer must reimburse us for our costs. In fact, we are currently collecting user fees under this provision of the regulations with regard to horses from Mexico.

User Fees for Diagnostic Tests

One commenter wrote that they wanted to comment on the cost of diagnostic tests necessary for exporting animal germplasm. We published a proposed rule governing user fees for diagnostic tests on March 22, 1993 (Docket No. 91–021–4, 58 FR 15292–15301). We accepted comments on our proposal through April 21, 1993, and published a final rule implementing the fees on July 21, 1993 (Docket 91–021–5, 58 FR 38954–38961). User fees for diagnostic tests were effective September 1, 1993. As with all of our user fees, we intend to monitor our fees throughout the year and review them at least annually. We will propose to adjust the fees up or down as the review warrants, and we will publish, for public comment, any proposed fee changes in the **Federal Register**.

Amendments We Are Making to the Proposed Regulations

We are making several amendments to the proposed regulations. They are discussed individually below.

Pre-entry Equine Piroplasmosis Screening Fee

Our proposed rule included a specific user fee for issuance of permits to import serum samples for piroplasmosis screening. As a courtesy, we offer to screen samples of serum taken from horses intended for importation into the United States. Equines that are infected with this insect-borne equine disease are ineligible for importation. To use the service, importers send to the United States a serum sample from the equine they wish to import, and our laboratory tests the sample for equine piroplasmosis. If the sample is determined to be positive for the disease, the importer is saved the expense of shipping the animal to the United States, paying for quarantine and testing in this country, and then shipping the animal back or otherwise disposing of it. Prospective importers must obtain an import permit for the serum sample. Prior to the time we published our proposed rule, the procedures we utilized to issue import permits for these serum samples were different than the procedures we used to issue import permits for other serum imports. However, since we published our proposed rule, we have altered our procedures. As a result, the user fee we proposed for this specific service no longer accurately reflects the costs of providing the service. We are therefore withdrawing the proposed user fee (see proposed § 130.8). We intend to propose a recalculated fee for this specific service as soon as feasible.

Please note that we still offer pre-entry equine piroplasmosis screening. As in the past, prospective importers must obtain an import permit for their serum samples. Under the regulations covered by this document, the same user fee will apply to these import permits as applies to other import permits for serum. In addition, there is a user fee for laboratory testing of the samples. A user fee for testing was adopted July 21, 1993 (Docket No. 91-021-5, 58 FR 38954-38961), and became effective September 1, 1993.

Definition of "Feeder Animal"

In our proposed regulations we defined "feeder animal" as "[a]ny animal imported into the United States under 9 CFR part 92, for feeding at a quarantined feedlot." However, we made an error, in that feeder animals do not necessarily have to be fed at quarantined feedlots. They may be imported for feeding at a quarantined feedlot, but they may also be imported for feeding at other locations. Therefore, we are amending this definition to read: "Any animal imported into the United States under 9 CFR part 92 for feeding." (See § 130.1.)

User Fee for Pet Birds

In our proposed regulations we included user fees for pet birds entering the United States (see proposed § 130.8(a)). However, we failed to account for the fact that pet birds entering the United States from Canada are not subject to quarantine. Our proposed user fees assumed that all pet birds entering the United States require quarantine and multiple veterinary inspections. As this is not true with respect to pet birds entering the United States from Canada, we are changing § 130.8(a) in this final rule to clarify that these pet birds are not subject to the pet bird user fees. However, these pet birds are subject to veterinary inspection at the border. Therefore, the hourly user fee will apply to that service.

Intervening Amendments

Our proposed rule was published on July 22, 1993. At that time, the document accurately reflected the authority citation and regulations in 9 CFR part 130. However, on September 1, 1993, a final rule amending part 130 became effective (Docket No. 91-021-5, published July 21, 1993, at 58 FR 38954-38961). That final rule changed the authority citation, redesignated some of the sections, and added new sections. Our final rule reflects these changes.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12866. It has been determined that this rule is part of a series of documents that are being considered as a "significant regulatory action." This final rule is one of several rules that require certain persons to pay user fees for APHIS services they receive. We have already published final rules adopting user fees for various services we provide.

Rules covering user fees for commercial vessels, commercial trucks, commercial railroad cars, and passengers on commercial aircraft arriving in the United States from outside the country were published April 12, 1991, and effective May 13, 1991 (Docket No. 91-028, 56 FR 14837-14846). Rules covering user fees for export certification and animal quarantine services were published January 9, 1992, and effective February 9, 1992 (Docket No. 91-135, 57 FR 755-773). Rules covering user fees for veterinary diagnostics (tests and reagents) were published July 21, 1993, and effective September 1, 1993 (Docket No. 91-021-5, 58 FR 38954-38961).

It is estimated that the final user fees included in this document will save taxpayers annually between $3.4 and $4.5 million. The discounted value of taxpayer savings is estimated to total between $14.3 and $18.6 million over 5 years. Fees for processing live animal imports account for about 65 percent of the total savings. APHIS estimates that this rule will increase administrative costs by about $41,979 each year. The discounted value of additional administrative costs is expected to total about $172,000 over 5 years.

These amendments will lower the user fees for imported ratite chicks and miniature horses, and will raise the user fees for imported ratite juveniles and adults. APHIS estimates that these amended fees will reduce total charges to importers by about $53,385 annually.

The Regulatory Flexibility Act requires that APHIS specifically consider the economic impact of imposing user fees on "small" domestic entities. The number of impacted domestic firms that qualify as "small" cannot be determined from available data. However, APHIS believes that a large percentage of domestic importers of live animals, birds, poultry, and animal products can be categorized as "small" domestic importers. We anticipate that the final regulatory revisions will not have a severe economic impact on "small" domestic importers, especially since the final user fees represent only a small fraction of total operating costs faced by each "small" entity.

Our final Regulatory Impact Analysis is available for inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect the document are encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

Executive Order 12372

This program activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12606

We have analyzed this final rule in accordance with Executive Order 12606, and have determined that it has no potential impact on family well-being. We have determined that this rule: Will not affect the stability of the family, and particularly, the marital commitment; will not affect the authority and rights of parents in the education, nurture, and supervision of their children; will not help or hinder the family to perform its functions; would not substitute governmental activity for family functions; and will not have any significant effect on family earnings. We have also determined that the benefits of this action justify any impact it may have on the family budget, and that this activity cannot be carried out by a lower level of government or by the family itself. This rule sends no message, intended or otherwise, to the public concerning the status of the family or to young people concerning the relationship between their behavior, their personal responsibility, and the norms of our society.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB) under OMB control numbers 0579–0015, 0579–0055, and 0579–0094.

Lists of Subjects

9 CFR Part 130

Animals, Birds, Diagnostic reagents, Exports, Imports, Poultry, Quarantine, Reporting and recordkeeping requirements, Tests.

9 CFR Part 156

Exports, Livestock, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR parts 130 and 156 are amended as follows:

PART 130—USER FEES

1. The authority citation for part 130 is revised to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 130.1, the definition of "Animal Import Center" is revised, and the following definitions are added, in alphabetical order, to read as follows:

§ 130.1 Definitions.

* * * * *

Animal Import Center. Quarantine facilities operated by APHIS in Newburgh, New York; Miami, Florida; and Honolulu, Hawaii.[1] The Harry S Truman Animal Import Center (HSTAIC) on Fleming Key, Florida, is not an "animal import center" within this definition.

* * * * *

Approved establishment. An establishment approved by the Animal and Plant Health Inspection Service for the receipt and handling of restricted import animal products or byproducts under 9 CFR chapter I, subchapter D.

* * * * *

Breeding animal. Any animal imported into the United States for breeding purposes.

* * * * *

Feeder animal. Any animal imported into the United States under 9 CFR part 92 for feeding.

* * * * *

Germplasm. Semen, embryos, or ova.

Grade animal. Any unregistered animal.

[1] The addresses of Animal Import Centers may be obtained from the Deputy Administrator, Veterinary Services, APHIS, USDA, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

In-bond animal. Any animal imported into the United States under a United States Customs Service bond, as described in 19 CFR part 113.

Load. All the animals or birds carried on one vehicle.

Miniature horse. Any horse which at maturity measures 34 inches high or less from the ground to the base of the last hair of the mane at the withers.

* * * * *

Pet bird. Birds which are imported for the personal pleasure of their individual owners and are not intended for resale.

* * * * *

Registered animal. Any animal recorded in the book of record of an animal registry association which issues certificates concerning the pedigree of animals.

Slaughter animal. Any animal moving directly to slaughter.

* * * * *

3. In § 130.2, the table in paragraph (a) is amended by revising the category headings for "Birds" and "Equines"; by adding a category for "Ratites" before the category for "Poultry"; and by adding a category for "Miniature horses" before the category for "Zoo animals" to read as follows:

§ 130.2 User fees for individual animals and birds quarantined in APHIS Animal Import Centers.

(a) * * *

Animal or bird	Daily fee
Birds (including zoo birds, but excluding ratites):	
* * * * *	
Ratites:	
Chicks (less than 3 months of age)	5.50
Juveniles (3 months through 10 months of age)	7.75
Adults (11 months of age and older)	15.50
* * * * *	
Equines (including zoo equines, but excluding miniature horses):	
* * * * *	
Miniature horses	39.00
* * * * *	

4. Section 130.3 is amended as follows:

a. The section heading and paragraph (a) is revised to read as set forth below.

b. Paragraph (c) is redesignated as paragraph (c)(1) and new paragraphs (c)(2) and (c)(3) are added to read as set forth below.

c. At the end of the section, a statement containing the OMB control number is added to read as set forth below.

§ 130.3 User fees for exclusive use of space at APHIS Animal Import Centers.

(a)(1) An importer may, at his or her option, exclusively occupy space at APHIS Animal Import Centers as specified below. The person for whom the service is provided and the person requesting the service are jointly and severally liable for the user fee which will be charged for the space as follows:

Animal import center	Space available	Monthly fee
Miami, FL:		
South Wing.	6,952 sq. ft. (6,45.9 sq. m.)	$25,233
North Wing.	6,545 sq. ft. (608.1 sq. m.)	24,476
Newburgh, NY.	5,904 sq. ft. (548.5 sq. m.)	39,450

(2) Any importer who occupies space for more than 30 days must pay 1/30th of the 30-day fee for each additional day or part of a day. The person for whom the service is provided and the person requesting the service are jointly and severally liable for any additional charges.

(3) Unless the importer cancels the reservation for exclusive use of space in time to receive a refund of the reservation fee in accordance with 9 CFR 92.103, 92.204, 92.304, 92.404, or 92.504, as appropriate, the 30-day user fee will be effective as of the first day for which the importer has reserved the space, regardless of whether the user occupies the space on that date or not.

* * * * *

(c)(1) * * *

(2) If the number of animals and birds requested by the importer can be housed in the space requested, as determined by APHIS personnel at the Animal Import Center, but two animal health technicians cannot fulfill the routine husbandry needs of the number of animals or birds proposed by the importer, then the importer must pay for additional services on an hourly basis, or reduce the number of animals or birds to be quarantined to a number which APHIS personnel at the Animal Import Center determine can be handled by two animal health technicians.

(3) If the importer chooses to pay for additional services on an hourly basis, the user fees are:

(i) $50.00 per hour; and

(ii) $12.50 per quarter-hour.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0094)

5. In § 130.5, paragraph (b) is revised to read as follows:

§ 130.5 User fees for services at privately operated temporary import-quarantine facilities.

* * * * *

(b) The user fees are:

(1) $50.00 per hour; and

(2) $12.50 per quarter-hour;

(3) with a minimum user fee of $16.00 for any service provided on an hourly basis.

§§ 130.20–130.23 [Redesignated from §§ 130.6–130.9]

6. Sections 130.6 through 130.9 are redesignated as §§ 130.20 through 130.23, and new §§ 130.6 through 130.9 are added to read as follows:

§ 130.6 User fees for import or entry services for live animals at land border ports along the United States-Mexico border.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of the following user fees, with a minimum fee of $16.00, for live animals imported into or entering the United States through a land border port along the United States-Mexico border:

Type of live animal	User fee (per head)
Feeder animals	$1.50
Slaughter animals	2.50
Horses, other than slaughter	28.25
In-bond or in transit animals	2.25
Any ruminants not covered above	5.75

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in 9 CFR part 97, must be paid for each service, in addition to the user fee listed in this section.

(Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094)

§ 130.7 User fees for import or entry services for live animals at all other ports of entry.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of the following user fees, with a minimum fee of $16.00, for live animals imported into or entering the United States through any port of entry other than a land border port along the border between the United States and Mexico:

Type of live animal	User fee
Animals being imported into the United States:	
Horses, other than slaughter and in transit horses.	$18.25 per head.
Breeding animals, except horses:	
Grade animals:	
Swine	0.50 per head.
Sheep and goats	0.50 per head.
All others	2.25 per head.
Registered animals, all types.	3.75 per head.
Feeder animals:	
Cattle (not including calves)	1.00 per head.
Swine	0.25 per head.
Sheep and calves	0.25 per head.
Slaughter animals, all types	16.00 per load.
Poultry (including eggs), imported for any purpose.	30.25 per load.
Animals transiting[1] the United States:	
Cattle	0.75 per head.
Swine	0.25 per head.
Sheep and goats	0.25 per head.
Horses and all other animals.	3.00 per head.

[1] The user fee in this section will be charged for services provided to animals transiting the United States at the port of entry. The hourly user fee will be charged for services provided at the port where animals leave the United States.

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for 9 CFR part 97, must be paid for each service, in addition to the user fee listed in this section. (Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094)

§ 130.8 User fees for other services.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for the following services:

Service	User fee
Inspection for approval of slaughter establishment:	
Initial approval	$236.75 for all inspections required during year.
Renewal	205.00 for all inspections required during year.
Pet birds, except pet birds entering the United States from Canada:	
Which have been out of United States more than 60 days	163.25 per lot.
Which have been out of United States 60 days or less	68.50 per lot.
Germplasm:	
Being imported:	
Semen	38.00 per permit.
Embryo	38.00 per permit.
Being exported:	
Semen	33.50 per certificate.
Embryo (up to 5 donor pairs)	54.75 per certificate.
Embryo (each additional group of donor pairs, up to 5 pairs per group)	24.75 per group of donor pairs.
Processing VS form 16–3, "Application for Permit to Import Controlled Material/Import or Transport Organisms or Vectors" and any applicable VS form 16–7, "Additional Information for Cell Cultures and Their Products":	
Original application:	
For permit to import fetal bovine serum when facility inspection is required	207.25 per application.
For all other permits	26.50 per application.
Amended application	11.00 per amended application.
Application renewal	14.50 per application.
Fetal Bovine Serum sample verification	660.75 per verification.
Import compliance assistance	22.75 per release.

Service	User fee
Release from export agricultural hold	22.75 per release.
Inspection of approved establishments, warehouses, and facilities under 9 CFR parts 94 through 96:	
Approval (Compliance Agreement)	252.50 for first year of 3-year approval.
Renewed approval	146.00 per year for second and third years of 3-year approval.

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each service, in addition to the user fee listed in this section. (Approved by the Office of Management and Budget under control numbers 0579–0015, 0579–0055, and 0579–0094)

§ 130.9 User fees for miscellaneous import or entry services.

(a) The person for whom the service is provided and the person requesting the service are jointly and severally liable for payment of user fees for any import or entry services listed below, of $50.00 per hour, or $12.50 per quarter hour, with a minimum fee of $16.00:

(1) Conducting inspections, including laboratory and facility inspections, required to obtain permits either to import animal products, organisms and vectors, or to maintain compliance with import permits;

(2) Obtaining samples required to be tested either to obtain import permits or to ensure compliance with import permits;

(3) Supervising the opening of in-bond shipments; and

(4) Other import or entry services not specified elsewhere in this part.

(b) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each service, in addition to the user fee listed in paragraph (a) of this section.

(Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094)

7. In redesignated § 130.20, a new paragraph (d) is added to read as follows:

§ 130.20 User fees for endorsing export health certificates.

* * * * *

(d) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each service, in addition to the user fee listed in this section.

(Approved by the Office of Management and Budget under control number 0579–0055)

8. Redesignated § 130.21 is amended as follows:

a. The section heading is revised to read as set forth below.

b. In paragraph (a)(1), the words "and the animals in it" are added after the words "isolation facility".

c. At the end of paragraph (a)(2), the word "and" is removed.

d. At the end of paragraph (a)(3), the period is removed and a semicolon is added in its place.

e. New paragraphs (a)(4) and (a)(5) are added to read as set forth below.

f. Paragraph (b) is revised to read as set forth below.

g. A new paragraph (c) is added to read as set forth below.

§ 130.21 User fees for inspection and supervision services provided within the United States for export animals, birds, and animal products and byproducts.

(a) * * *

(4) Inspect means of conveyance used to export animals or birds; and

(5) Conduct inspections under authority of 9 CFR part 156.

(b) The user fees are:

(1) $50.00 per hour; and

(2) $12.50 per quarter-hour;

(3) with a minimum user fee of $16.00 for any service provided on an hourly basis.

(c) If a service must be conducted on a Sunday or holiday or at any other time outside the normal tour of duty of the employee, then reimbursable overtime, as provided for in part 97 of this chapter, must be paid for each service, in addition to the user fee listed in this section.

(Approved by the Office of Management and Budget under control numbers 0579–0055 and 0579–0094)

9. Section 130.50 is amended as follows:

a. Paragraph (a)(3) is revised to read as set forth below.

b. Paragraph (a)(5) is amended by removing "and" at the end of the paragraph;

c. Paragraph (a)(6) is amended by removing the period at the end of the paragraph and adding a semicolon in its place.

d. New paragraphs (a)(7) through (a)(9) are added to read as set forth below.

§ 130.50 Payment of user fees.

(a) * * *

(3) User fees for supervision and inspection services specified in § 130.21 must be paid when billed, or, if covered by a compliance agreement signed in accordance with 9 CFR part 156, must be paid when specified in the agreement;

* * * * *

(7) User fees for live animals presented for importation at a port of entry must be paid either when presented or when billed;

(8) User fees for inspection and permit services listed in § 130.8 must accompany the request for service;

(9) User fees assessed at an hourly rate under § 130.9 must be paid when the service is provided or within the time specified in the bill.

* * * * *

PART 156—INSPECTION AND CERTIFICATION OF ANIMAL BYPRODUCTS

10. The authority citation for part 156 is revised to read as follows:

Authority: 7 U.S.C. 1622 and 1624; 21 U.S.C. 136a; 7 CFR 2.17, 2.51, and 371.2(d).

11. Section 156.7 is amended as follows:

a. The heading is revised to read:

§ 156.7 Fees and charges, including user fees under 9 CFR part 130.

b. Once in the first sentence, once in the second sentence, and twice in the third sentence, the phrase ", and user fees under 9 CFR part 130," is added after "fees and charges".

Done in Washington, DC, this 16th day of December 1993.

Patricia Jensen,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 93–31184 Filed 12–21–93; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 19, 20, 30, 31, 32, 34, 35, 36, 39, 40, 50, 61, 70, and 72

RIN 3150–AA38

Standards for Protection Against Radiation; Removal of Expired Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; removal of expired material.

SUMMARY: This final rule makes a number of minor conforming amendments to the NRC's standards for protection against radiation. The final rule is necessary to remove the text of the superseded standards and to conform references in the text of the NRC's regulations to the Commission's decision to require mandatory implementation of the revised standards on January 1, 1994.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Donald A. Cool, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3785.

SUPPLEMENTARY INFORMATION: On May 21, 1991 (56 FR 23360), the Nuclear Regulatory Commission (NRC) published its revised standards for protection against radiation (10 CFR 20.1001–20.2401 and the associated appendices). The revised standards for protection against radiation incorporated scientific information and reflected changes in the basic philosophy of radiation protection that had occurred since the promulgation of the original regulations. The revisions conformed the Commission's regulations to the Presidential Radiation Protection Guidance to Federal Agencies for Occupational Exposure and to recommendations of national and international radiation protection organizations. The revised standards for protection against radiation became effective on June 20, 1991. However, NRC licensees were permitted to defer the mandatory implementation of these regulations until January 1, 1993.

On August 26, 1992 (57 FR 38588), the NRC published a final rule that extended the date by which NRC licensees are required to implement the revised standards for protection against radiation from January 1, 1993, until January 1, 1994. That document also made several conforming amendments to the text of the revised standards for protection against radiation that were necessary to reflect the new mandatory implementation date.

This document is necessary to remove the provisions of the standards for protection against radiation that are no longer in effect. This document also eliminates the cross-references to these provisions that appear throughout 10 CFR Chapter I.

Because these amendments implement changes which were the subject of earlier rulemaking actions for which public comment was solicited (May 21, 1991; 56 FR 23360 and August 26, 1992; 57 FR 38588) and make minor conforming changes to existing regulations to reflect revised citations, the NRC has determined that good cause exists to dispense with the notice and comment provisions of the Administrative Procedure Act (APA) pursuant to 5 U.S.C. 553(b)(B). For the same reasons, the NRC has determined that good cause exists to waive the 30-day deferred effective date provisions of the APA (5 U.S.C. 553(d)).

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0136, –0044, –0014, –0017, –0016, –0001, –0007, –0010, –0158, –0130, –0020, –0011, –0135, –0009, and –0132.

Regulatory Analysis

This final rule is administrative in that it removes superseded provisions from the text of an existing regulation. These amendments will not have a significant impact. Therefore, the NRC has not prepared a separate regulatory analysis for this final rule. The final regulatory analysis for the May 21, 1991, final rule examined the costs and benefits of the alternatives considered by the Commission in developing the revised standards for protection against radiation and is available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington DC.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provision that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 2

Administrative practice and procedures, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 19

Criminal penalties, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Sex discrimination.

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 31

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 34

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 36

Byproduct material, Criminal penalties, Nuclear materials, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 39

Byproduct material, Criminal penalties, Nuclear material, Oil and gas exploration—well logging, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation, protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 61

Criminal penalties, Low-level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear material, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 2, 19, 20, 30, 31, 32, 34, 35, 36, 39, 40, 50, 61, 70, and 72.

PART 2–RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Supplement IV of Appendix C to part 2 is amended by removing the center heading "Section 20.1–20.601", removing and reserving paragraphs A through E and Footnote 18, and revising the introductory paragraph to read as follows:

Appendix C to Part 2—General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

SUPPLEMENT IV—HEALTH PHYSICS (10 CFR PART 20)

This supplement provides examples of violations in each of the five severity levels as guidance in determining the appropriate severity level for violations in the area of health physics, 10 CFR part 20 [17]

* * * * *

PART 19—NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS: INSPECTION AND INVESTIGATIONS

3. The authority citation for part 19 continues to read as follows:

Authority: Secs. 53, 63, 81, 103, 104, 161, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2093, 2111, 2133, 2134, 2201, 2236, 2282); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).

4. In § 19.13, paragraphs (b), (c), (d), and (e) are revised to read as follows:

§ 19.13 Notifications and reports to individuals.

* * * * *

(b) Each licensee shall advise each worker annually of the worker's dose as shown in records maintained by the licensee pursuant to the provisions of § 20.2106 of 10 CFR part 20.

(c) At the request of a worker formerly engaged in licensed activities controlled by the licensee, each licensee shall furnish to the worker a report of the worker's exposure to radiation or radioactive material for each year the worker was required to be monitored under the provisions of § 20.1502. This report must be furnished within 30 days from the time the request is made or within 30 days after the exposure of the individual has been determined by the licensee, whichever is later. This report must cover the period of time that the worker's activities involved exposure to radiation from radioactive material licensed by the Commission and must include the dates and locations of licensed activities in which the worker participated during this period.

(d) When a licensee is required pursuant to §§ 20.2202, 20.2203, 20.2204, or 20.2206 of this chapter to report to the Commission any exposure of an individual to radiation or radioactive material the licensee shall also provide the individual a report on his or her exposure data included therein. This report must be transmitted at a time not later than the transmittal to the Commission.

(e) At the request of a worker who is terminating employment with the licensee that involved exposure to radiation or radioactive materials, during the current calendar quarter or

[17] Personnel overexposures and associated violations incurred during a life-saving or other emergency response effort will be treated on a case-by-case basis.

the current year, each licensee shall provide at termination to each worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose must be provided together with a clear indication that this is an estimate.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

5. The authority citation for part 20 is revised to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (2 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

§§ 20.1–20.601 [Removed]

6. Sections 20.1 through 20.601 are removed.

Appendix A to §§ 20.1–20.601 [Removed]

7. Appendix A to §§ 20.1–20.601 is removed.

Appendix B to 20.1–20.601 [Removed]

8. Appendix B to §§ 20.1–20.601 is removed.

Appendix C to §§ 20.1–20.601 [Redesignated as Appendix B to 10 CFR part 30]

9. Appendix C to §§ 20.1–20.601 is redesignated as Appendix B to 10 CFR Part 30.

Appendix D to §§ 20.1–20.601 [Removed]

10. Appendix D to §§ 20.1–20.601 is removed.

Undesignated Center Heading [Removed]

11. The center heading that appears prior to subpart A is removed.

§ 20.1008 [Removed]

12. Section 20.1008 is removed.

Appendix A to §§ 20.1001–20.2401 [Redesignated as Appendix A to part 20]

13. Appendix A to §§ 20.1001–20.2401 is redesignated as Appendix A to part 20.

Appendix B to §§ 20.1001–20.2401 [Redesignated as Appendix B to part 20]

14. Appendix B to §§ 20.1001–20.2401 is redesignated as Appendix B to part 20.

Appendix C to §§ 20.1001–20.2401 [Redesignated Appendix C to part 20 and Amended]

15. Appendix C to §§ 20.1001–20.2401 is redesignated as Appendix C to part 20

16. In Appendix C to part 20, the Quantity for Neptunium-237 that reads "1.001" is revised to read "0.001."

Appendix D to §§ 20.1001–20.2401 [Redesignated as Appendix D to part 20]

17. Appendix D to §§ 20.1001–20.2401 is redesignated as Appendix D to part 20.

Appendix E to §§ 20.1001–20.2401 [Redesignated as Appendix E to part 20]

18. Appendix E to §§ 20.1001–20.2401 is redesignated as Appendix E to part 20.

Appendix F to §§ 20.1001–20.2401 [Redesignated as Appendix F to part 20]

19. Appendix F to §§ 20.1001–20.2401 is redesignated as Appendix F to part 20.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

20. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

21. In § 30.35, paragraph (a) is amended by revising the two references to "appendix C to §§ 20.1–20.601 of 10 CFR part 20" to read as "appendix B to part 30"; paragraph (d) is amended by revising the three references to "appendix C to §§ 20.1–20.601 of 10 CFR part 20" to read "appendix B to part 30"; the note at the end of the section is removed; and paragraphs (g)(3) (i) and (iv) are revised to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

* * * * *

(g) * * *

(3) * * *

(i) All areas designated and formerly designated restricted areas as defined in 10 CFR 20.1003 (For requirements prior to January 1, 1994, see 10 CFR 20.3 as contained in the CFR edition revised as of January 1, 1993.);

* * * * *

(iv) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR 20.2002.

* * * * *

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

22. The authority citation for part 31 continues to read as follows:

Authority: Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 31.6 also issued under sec. 274, 73 Stat. 688 (42 U.S.C. 2021).

§ 31.5 [Amended]

23. In § 31.5(c)(10), remove the phrase "§§ 20.402 and 20.403 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 31.7 [Amended]

24. In § 31.7(b), remove the phrase "§§ 20.402 and 20.403 or, for licensees implementing the provisions of §§ 20.1001–20–2401,".

§ 31.10 [Amended]

25. In § 31.10(b)(1), remove the phrase "§ 20.301 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

26. In § 31.10(b)(3), remove the phrase "§§ 20.301, 20.402, and 20.403 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 31.11 [Amended]

27. In § 31.11(c)(5), remove the phrase "§ 20.301 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

28. In § 31.11(f), remove the phrase "§§ 20.301, 20.402, and 20.403 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

29. The authority citation for part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

30. In § 32.51, paragraphs (a)(2)(ii) and (c) are revised to read as follows:

§ 32.51 Byproduct material contained in devices for use under § 31.5; requirements for license to manufacture, or initially transfer.

(a) * * *

(2) * * *

(ii) Under ordinary conditions of handling, storage, and use of the device, the byproduct material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in 1 year a dose in excess of 10 percent of the annual limits specified in § 20.1201(a) of this chapter; and

* * * * *

(c) In the event the applicant desires that the general licensee under § 31.5 of this chapter, or under equivalent regulations of an Agreement State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the applicant shall include in the application written instructions to be followed by the general licensee, estimated calendar quarter doses associated with such activity or activities, and the bases for these estimates. The submitted information must demonstrate that performance of this activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the annual limits specified in § 20.1201(a) of this chapter.

§ 32.61 [Amended]

31. In § 32.61(d), remove the phrase "§ 20.203(a) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 32.71 [Amended]

32. In § 32.71(c)(2), remove the phrase "§ 20.203(a)(1) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

33. In § 32.71(e), remove the phrase "§ 20.301 or for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

34. The authority citation for part 34 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.32 also issued under sec. 206, 88 Stat. 1246 (42 U.S.C. 5846).

§ 34.29 [Amended]

35. In § 34.29(a), remove the phrase "§ 20.203(c) (2)(ii), (2)(iii), or (4) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 34.41 [Amended]

36. In § 34.41, remove the phrase "§ 20.203(c)(2) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 34.42 [Amended]

37. In § 34.42, remove the phrases "§ 20.204(c) or, for licensees implementing the provision of" and "§ 20.203 (b) and (c)(1) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

38. The authority citation for part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 35.92 [Amended]

39. In § 35.92(a), remove the phrase "§ 20.301 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 35.205 [Amended]

40. In § 35.205, paragraph (a) is amended by revising the reference to "§§ 20.103 and 20.106" to read "§ 20.1301" and paragraph (c) is amended by revising the reference to "appendix B to Part 20" to read "§ 20.1301."

§ 35.315 [Amended]

41. In § 35.315(a)(8), remove the phrase "§ 20.401(c)(1) of this chapter or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 35.415 [Amended]

42. In § 35.415(a)(1), remove the phrase "§ 20.105(b) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 35.641 [Amended]

43. In § 35.641(a)(2)(i), remove the phrase "§ 20.101 or, for licensees implementing the provisions of - §§ 20.1001–20.2401,".

44. In § 35.641(a)(2)(ii), remove the phrase "§ 20.105(b) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

45. In § 35.641(b)(2), remove the phrase "§ 20.501 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 35.643 [Amended]

46. In the introductory text of § 35.643(a), remove the phrase "§ 20.105(b) or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

47. In § 35.643, paragraphs (a) (1) and (b), remove the phrases "§ 20.105(a) or, for licensees implementing the provisions of §§ 20.1001–20.2401," and "§ 20.105(b) of this chapter or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 36—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

48. The authority for part 36 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

§ 36.59 [Amended]

49. In § 36.59(c), remove the phrase "§§ 20.1001 to 20.2401 of."

PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

50. The authority citation for part 39 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 69, 81, 82, 161, 182, 183, 186, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

§ 39.15 [Amended]

51. In § 39.15(a)(5)(iii)(B), remove the phrase "§ 20.203 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 39.31 [Amended]

52. In § 39.31(a)(1), remove the phrase "§ 20.203 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

53. In § 39.31(a)(2), remove the phrase "§ 20.203 or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

§ 39.77 [Amended]

54. In § 39.77(b), remove the phrase "§§ 20.402, 20.403, 20.405 and 30.50 or, for licensees implementing the provisions of §§ 20.1001–20.2201,".

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

55. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022). Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

56. In § 40.34, paragraph (a)(2) is revised to read as follows:

§ 40.34 Special requirements for issuance of specific licenses.

(a) * * *

(2) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in 1 year a radiation dose in excess of 10 percent of the annual limits specified in § 20.2101(a) of this chapter; and

* * * * *

§ 40.36 [Amended]

57. In § 40.36(f)(3)(i), remove the reference "20.3(a)(14) or," and in § 40.36(f)(3)(iv), remove the reference "Part 20.302 or."

Appendix A to Part 40 [Amended]

58. In the first paragraph of the introduction to Appendix A, remove the phrase "§ 20.1(c), or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

59. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.120 is also issued under section 306 of the NWPA of 1982, 42 U.S.C. 1C226. Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

§ 50.34 [Amended]

60. In § 50.34(f)(2)(viii), remove the words "5 rems to the whole body or 75 rems to the extremities or, for licensees implementing the provisions of §§ 20.1001–20.2401 of this chapter,".

61. In § 50.36a, in the introductory text of paragraph (a), remove the phrase "§ 20.106 or, for licensees implementing the provisions of §§ 20.1001–20.2401," and revise paragraph (b) to read as follows:

§ 50.36a Technical specifications on effluents from nuclear power reactors.

* * * * *

(b) In establishing and implementing the operating procedures described in paragraph (a) of this section, the licensee shall be guided by the following considerations: Experience with the design, construction, and operation of nuclear power reactors indicates that compliance with the technical specifications described in this section will keep average annual releases of radioactive material in effluents and their resultant committed effective dose equivalents at small percentages of the dose limits specified in § 20.1301 and in the operating license. At the same time, the licensee is permitted the flexibility of operation, compatible with considerations of health and safety, to assure that the public is provided a dependable source of power even under unusual operating conditions which may temporarily result in releases higher than such small percentages, but still within the dose values specified in § 20.1301 of this chapter and in the operating license. It is expected that in using this operational flexibility under unusual operating conditions, the licensee will exert its best efforts to keep levels of radioactive material in effluents as low as is reasonably achievable. The guides set out in appendix I provide numerical guidance on limiting conditions for operation for light-water cooled nuclear power reactors to meet the requirement that radioactive materials in effluents released to unrestricted areas be kept as low as is reasonably achievable.

62. In § 50.72 in paragraph (a), Footnote 1 is amended by removing the phrase "§§ 20.205, 20.403 or, for licensees implementing the provisions of §§ 20.1001–20.2401," and paragraphs (b)(2)(iv) (A) and (B) are revised to read as follows:

§ 50.72 Immediate notification requirements for operating nuclear power reactors.

* * * * *

(b) * * *

(2) * * *

(iv)(A) Any airborne radioactive release that, when averaged over a time period of 1 hour, results in concentrations in an unrestricted area that exceed 20 times the applicable concentration specified in appendix B to part 20, table 2, column 1.

(B) Any liquid effluent release that, when averaged over a time of 1 hour, exceeds 20 times the applicable concentration specified in appendix B to part 20, table 2, column 2, at the point of entry into the receiving waters (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases. (Immediate notifications made under this paragraph also satisfy the requirements of § 20.2202 of this chapter.)

* * * * *

63. In § 50.73, paragraphs (a)(2)(viii) and (a)(2)(ix) are revised to read as follows:

§ 50.73 Licensees event report system.

(a) * * *

(2) * * *

(viii)(A) Any airborne radioactive release that, when averaged over a time period of 1 hour, resulted in airborne radionuclide concentrations in an unrestricted area that exceeded 20 times the applicable concentration limits specified in appendix B to part 20, table 2, column 1.

(B) Any liquid effluent release that, when averaged over a time period of 1 hour, exceeds 20 times the applicable concentrations specified in appendix B to part 20, table 2, column 2, at the point of entry into the receiving waters (i.e., unrestricted area) for all radionuclides except tritium and dissolved noble gases.

(ix) Reports submitted to the Commission in accordance with paragraph (a)(2)(viii) of this section also meet the effluent release reporting requirements of § 20.2203(a)(3) of this chapter.

* * * * *

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

64. The authority citation for part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851).

§ 61.52 [Amended]

65. In § 61.52(a)(6), remove the phrase "§ 20.105, or, for licensees implementing the provisions of §§ 20.1001–20.2401,".

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

66. The authority citation for part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

§ 70.25 [Amended]

67. In § 70.25, paragraph (a) is amended by revising the two references to "appendix C to §§ 20.1–601 of 10 CFR Part 20" to read as "appendix B to Part 30"; paragraph (d) is amended by revising the two references to "appendix C to §§ 20.1–20.601 of 10 CFR Part 20" to read "appendix B to Part 30"; the note at the end of the section is removed; and paragraphs (g)(3)(i) and (iv) are revised to read as follows:

* * * * *

(g) * * *
(3) * * *

(i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.1003 (For requirements prior to January 1, 1994, see 10 CFR 20.3 as contained in the CFR edition revised as of January 1, 1993.);

* * * * *

(iv) All areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR 20.2002.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

68. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

69. In § 72.30, paragraph (d)(3)(i) is revised to read as follows:

§ 72.30 Financial assurance and recordkeeping for decommissioning.

* * * * *

(d) * * *

(3) * * *

(i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.1003; and

* * * * *

Dated at Rockville, Maryland, this 10th day of December 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93–31189 Filed 12–21–93; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AB24

Receivership Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors (Board) of the Federal Deposit Insurance Corporation (FDIC) is issuing a regulation required by section 141 of the FDIC Improvement Act of 1991 (FDICIA) on the least-cost resolution of failed and failing depository institutions insured by the FDIC. The intended effect of this rule is to comply with the statutory requirement of prescribing regulations on the prohibition against increasing losses to the insurance funds by protecting uninsured depositors and non-depositor creditors of insured depository institutions.

EFFECTIVE DATE: January 21, 1994.

FOR FURTHER INFORMATION CONTACT: Gail Patelunas, Assistant Director, Division of Resolutions (202/898–6779), Sean Forbush, Resolution Specialist, Division of Resolutions (202/898–8506), David Gearin, Senior Counsel, Legal Division (202/898–3621), Ruth R. Amberg, Senior Counsel, Legal Division (202/898–3736) or Joseph A. DiNuzzo, Counsel, Legal Division (202/898–7349), Federal Deposit Insurance Corporation, Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Board hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It will not impose burdens on depository institutions of any size and will not have the type of economic impact addressed by the Act. Accordingly, the Act's requirements regarding an initial and final regulatory flexibility analysis (*Id.* at 603 & 604) are not applicable here.

Background

Section 141 of FDICIA (Pub. L. 102–242, 105 Stat. 2236 (1991)) amended section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) to, among other things, require that the assistance provided by the FDIC under section 13(c) of the FDI Act be "necessary" to meet the FDIC's obligation to provide insurance coverage for insured deposits in a failed or failing institution and that the resolution be the "least costly" to the deposit insurance fund of "all possible methods" of meeting that obligation. This least-cost resolution requirement, set forth in section 13(c)(4)(A) of the FDI Act, became effective immediately upon the enactment of FDICIA on December 19, 1991.[1]

Section 141 also amended section 13(c) of the FDI Act to prohibit the FDIC from taking any direct or indirect action after December 31, 1994 (or such earlier time as the FDIC determines to be appropriate), with regard to any insured depository institution, that would have the effect of increasing losses to either the Bank Insurance Fund or the Savings Association Insurance Fund by protecting depositors for more than the insured portion of their deposits or creditors other than depositors. 12 U.S.C. 1823(c)(4)(E) (section 13(c)(4)(E)).[2]

Section 13(c)(4)(E) requires that the FDIC prescribe regulations to implement the requirement no later than January 1, 1994, and that the regulations become effective no later than January 1, 1995. A proposed rule to comply with the regulation-issuance requirement of section 13(c)(4)(E) was published in the **Federal Register** on October 25, 1993 (58 FR 55027). A discussion of the comments received on the proposed rule is provided below.

FDICIA's least-cost resolution requirements arose from a congressional effort to stem insurance fund losses and to instill depositor discipline in the banking industry. Prior to the passage of FDICIA, the FDIC could pursue any resolution alternative as long as it was less costly than liquidating the institution. Thus, when faced with several proposals that satisfied the cost test, the FDIC could have selected, for policy reasons (such as minimizing community disruption), a more expensive proposal than the least cost resolution. In many cases effected prior to the enactment of FDICIA, the resolutions involved an acquiring institution's assumption of both insured and uninsured deposits and resulted in no losses for uninsured depositors. Of the 124 banks closed in 1991, approximately 16 percent of the failures involved a loss for uninsured depositors.

Since the enactment of FDICIA, the FDIC has adhered to the least-cost requirements of FDICIA. In resolving institutions, the FDIC typically solicits bids for both total deposits and insured deposits only, evaluating all bids received and selecting the least costly. Therefore, in cases where the uninsured deposits are passed to the assuming institution, it is because that particular resolution represented the least costly of all possible resolution alternatives.

During 1992, the FDIC resolved 120 bank failures and provided open bank assistance to two institutions in danger of failing. Uninsured depositors were made whole in 50 percent of the 1992 failures. For the first eight months of 1993, only 4 of the 34 bank failures have resulted in uninsured depositors being made whole.

The Final Rule

The final rule adds a new section to Part 360 of the FDIC's regulations stating the prohibition in section 13(c)(4)(E) of the FDI Act on taking any action under section 13(c) of the FDI Act that would have the effect of increasing losses to any insurance fund by protecting uninsured depositors or non-depositor creditors of a failed or failing depository institution. In addition, the final rule references the systemic risk exception to the prohibition.

The final rule also includes the provision of section 13(c)(4)(E) of the FDI Act which makes clear that the prohibition shall not be construed as prohibiting the FDIC from engaging in purchase and assumption transactions under which uninsured deposits may be acquired so long as the loss to the insurance fund on those uninsured deposits is less than if the institution had been liquidated and the insured deposits were paid. Since section 13(c)(4)(A) and its least-cost rule of comparison will continue in effect after the implementation of section 13(c)(4)(E), the question may arise how these two provisions interrelate.

The FDIC believes that by complying with the more general least-cost requirements of section 13(c)(4)(A) of the FDI Act, it also has complied fully with the prohibition of section 13(c)(4)(E). Under the latter provision, the FDIC is prohibited from protecting uninsured deposits and creditors other than depositors only if doing so "would have the effect of increasing losses to any insurance fund". In the FDIC's view, the more general least cost requirements of section 13(c)(4)(A) already prohibit the FDIC from protecting creditors other than insured depositors if it would have the effect of increasing, rather than decreasing, losses to the applicable deposit insurance fund. Consequently, it is the FDIC's view that section 13(c)(4)(E) is subsumed in the more general least cost provisions of section 13(c)(4)(A) and has no independent operative effect.

Because the FDIC currently complies with the least cost requirements of section 13(c) (as imposed by section 141 of FDICIA), the Board is making the final rule effective thirty days after its publication in the **Federal Register**.[3] As noted above, section 13(c)(4)(E) requires that the final rule be prescribed no later than January 1, 1994. The effective date satisfies the requirement in section 13(c)(4)(E) that the FDIC regulations on that provision take effect no later than January 1, 1995.

Comments on the Proposed Rule

As noted above, the proposed rule was published in the **Federal Register** on October 25, 1993. The FDIC received five comments on the proposal. Two of the comments (one from a bank and one from an industry trade group) expressed full support for the proposed rule, one noting that "losses to the insurance funds should not be increased by protecting uninsured depositors and non-depositor creditors of insured depository institutions".

A comment from a savings association questioned whether the implementation of section 141 of FDICIA will "save taxpayers' money". The comment noted that the "lack of confidence created by the law will cause additional losses to

[1] The FDICIA amendments to the FDI Act created a "systemic risk" exception to the cost-test requirements of sections 13(c)(4) (A) and (E) of the FDI Act which may be invoked only if the Secretary of the Treasury, acting in consultation with the President and on the recommendation of two-thirds of the members of the Board and the Board of Governors of the Federal Reserve System, determines that the transaction is necessary to avoid "serious adverse effects on economic conditions or financial stability". Costs of such a transaction are to be recovered through special assessments on insured institutions on a broad deposit base which includes foreign deposits. 12 U.S.C. 1823(c)(4)(G). This provision has not been invoked to date.

[2] See also section 11 of the recently enacted Resolution Trust Corporation Completion Act which makes clear that the deposit insurance funds may not be used to benefit shareholders of failing insured depository institutions.

[3] A thirty-day delayed effective date complies with the general rulemaking requirements of the Administrative Procedure Act. 5 U.S.C. 553(d).

the insurance funds from the failure of more insured institutions" and suggested that the FDIC consider the macroeconomic effect of the proposed rule as well as the root causes of insurance fund losses. The Board notes that experience to date does not suggest that additional failures have been caused by implementing the least-cost requirements. Moreover, as noted above, the FDIC is required by statute to issue the final rule to implement the least-cost resolution requirements of section 141.

Another commenter, which is in the business of providing services to insured depository institutions, expressed concern that the final rule could be construed to supersede the recently enacted national depositor preference statute (Pub. L. 103–66, 107 Stat. 312 (August 10, 1993)) or other related law. As noted in the preamble to the proposed rule, the national depositor preference statute does not affect the operation of the final rule. The depositor preference statute and implementing regulations (58 FR 43069, August 13, 1993) establish certain priorities for distributing amounts realized from the liquidation or other resolution of FDIC-insured institutions. The final rule does not apply to the administration and distribution of receivership assets, which are governed by the depositor preference statute and regulations and other applicable law. As the commenter suggested, the final rule has been modified to indicate more explicitly that it relates to corporate actions affecting only the deposit insurance funds, and does not apply to receivership actions.

A comment from an industry trade group urged that the FDIC develop a standardized process for resolving failing banks that does not cover losses uninsured depositors would otherwise absorb in a bank or thrift failure. It suggested that, in the bidding process, the FDIC require bidders to explicitly price their offers to assume the uninsured deposits. As noted above, since the enactment of FDICIA, the FDIC routinely offers bidders the option of assuming all deposits or only the insured deposits, but does not require a bidder to bid both ways.[4] Whether a bidder is interested in bidding on both insured deposits and all deposits largely depends on the attractiveness of the deposit structure at each failing bank. Thus, a bidder may not want to bid both ways because it may not be interested in both options. Requiring that bids be submitted on each basis, therefore, may discourage otherwise interested bidders.

The comment suggested, as an alternative approach, that the FDIC only accept bids for insured deposits and, if the acquirer wanted the uninsured portion, the acquirer would agree to reimburse the FDIC fully for the losses that this portion of deposits would otherwise absorb. The Board believes that such an approach would not be cost-effective. The amount of work involved for this process would be substantial because a full claim process would be necessary in each failure and the amount to be recouped would not be determined for some years.

Finally, this commenter also recommended that the FDIC adopt a mechanism such as the final settlement payment which Congress authorized in FDICIA, or other procedure, to ensure consistent treatment of uninsured depositors in resolutions. The FDICIA final settlement payment mechanism entails the application of a formula reflecting an average of the FDIC's receivership recovery experience. The Board notes that such an approach raises complex issues because other provisions of the FDI Act appear to contemplate distributions being made from the assets of a particular receivership estate.

The final rule incorporates no substantive changes to the proposed rule.

[4] Certain circumstances preclude the ability to provide options for assuming the uninsured portion of deposits, such as time constraints that do not permit an estimation of the losses imbedded in the failing bank's asset base.

List of Subjects in 12 CFR Part 360

Savings and loan associations.

The Board of Directors of the Federal Deposit Insurance Corporation hereby amends part 360 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

1. The heading of Part 360 is revised to read as set forth above.

2. The authority citation for Part 360 is revised to read as follows:

Authority: Sec. 401(h), Pub. L. 101–73, 103 Stat. 357; 12 U.S.C. 1821(d)(11), 1823(c)(4).

§§ 360.1 through 360.3 [Redesignated as §§ 360.2 through 360.4]

3. Sections 360.1, 360.2 and 360.3 are redesignated as §§ 360.2, 360.3 and 360.4, respectively, and a new § 360.1 is added to read as follows:

§ 360.1 Least-cost resolution.

(a) *General rule.* Except as provided in section 13(c)(4)(G) of the FDI Act (12 U.S.C. 1823 (c)(4)(G)), the FDIC shall not take any action, directly or indirectly, under sections 13(c), 13(d), 13(f), 13(h) or 13(k) of the FDI Act (12 U.S.C. 1823 (c), (d), (f), (h) or (k)) with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting:

(1) Depositors for more than the insured portion of their deposits (determined without regard to whether such institution is liquidated); or

(2) Creditors other than depositors.

(b) *Purchase and assumption transactions.* Subject to the requirement of section 13(c)(4)(A) of the FDI Act (12 U.S.C. 13(c)(4)(A)), paragraph (a) of this section shall not be construed as prohibiting the FDIC from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution, for which the FDIC has been appointed conservator or receiver, to acquire uninsured deposit liabilities of such institution as long as the applicable insurance fund does not incur any loss with respect to such uninsured deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

By order of the Board of Directors.

Dated at Washington, DC, this 14th day of December, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–31197 Filed 12–21–93; 8:45 am]

BILLING CODE 6714–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 613, 614, 620, 621, and 627

RIN 3052–AB32

Organization; Eligibility and Scope of Financing; Loan Policies and Operations; Disclosure to Shareholders; Accounting and Reporting Requirements; Title V Conservators and Receivers; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under parts 611, 613, 614, 620, 621, and 627 on September 20, 1993 (58 FR 48780). The final regulation amends 12 CFR parts 611, 613, 614, 620, 621, and 627 to update existing accounting and reporting requirements, promote consistency with industry practices pertaining to problem loan accounting and reporting issues, and to

ensure that the regulatory requirements and standards of 12 CFR part 621 are consistent with those of generally accepted accounting practices. Technical and conforming changes are made at 12 CFR parts 611, 613, 614, 620, and 627. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is December 31, 1993.

EFFECTIVE DATE: The regulation amending 12 CFR parts 611, 613, 614, 620, 621, and 627, published on September 20, 1993 (58 FR 48780) is effective December 31, 1993.

FOR FURTHER INFORMATION CONTACT:
Linda C. Sherman, Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444,
or
William L. Larsen, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

Authority: 12 U.S.C. 2252(a) (9) and (10).

Dated: December 16, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–31280 Filed 12–21–93; 8:45 am]

BILLING CODE 6705–01–P

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12 CFR Part 614

RIN 3052–AB35

Loan Policies and Operations; Lending Limits; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under part 614 on July 28, 1993 (58 FR 40311). The final regulation amends 12 CFR part 614 to prescribe a limit on extensions of credit to a single borrower of 25 percent of capital for all Farm Credit System direct lender institutions, except banks for cooperatives. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is January 1, 1994.

EFFECTIVE DATE: The regulation amending 12 CFR part 614, published on July 28, 1993 (58 FR 40311) is effective January 1, 1994.

FOR FURTHER INFORMATION CONTACT:
Dennis K. Carpenter, Senior Policy Analyst, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444.

Authority: 12 U.S.C. 2252(a) (9) and (10).

Dated: December 16, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–31281 Filed 12–21–93; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–65–AD; Amendment 39–8758; AD 93–24–09]

Airworthiness Directives; British Aerospace (Commercial Aircraft) Limited Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain British Aerospace Model ATP airplanes, that currently requires deactivation of the automatic alternative three-phase power supply to each transformer rectifier unit (TRU), an operational test to ensure that the auto-changeover system is inoperative, and inclusion of an associated temporary revision in the Airplane Flight Manual (AFM). This amendment requires installation of a terminating modification and revision of the AFM to include an associated temporary revision. This amendment is prompted by the availability of an improved contactor assembly for the TRU power supply changeover system. The actions specified by this AD are intended to prevent the loss of all primary electric power sources during automatic switching to alternative three-phase power for the TRU's.

DATES: Effective January 21, 1994.

The incorporation by reference of British Aerospace Service Bulletin ATP–24–49–10247A, Revision 1, dated October 23, 1992, and Temporary Revision No. T/26, Issue 1, dated May 22, 1992, as listed in the regulations, is approved by the Director of the Federal Register as January 21, 1994.

The incorporation by reference of certain other publications listed in the regulations was approved previously by the Director of the Federal Register as of January 24, 1992 (57 FR 784, January 9, 1992).

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., Librarian for Service Bulletins, P.O. Box 16029, Dulles International Airport, Washington, DC. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:
William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 92–01–01, Amendment 39–8124 (57 FR 784, January 9, 1992), which is applicable to certain British Aerospace Model ATP airplanes, was published in the **Federal Register** on August 11, 1993 (58 FR 42699). The action proposed to supersede AD 92–01–01 to require replacing the currently installed contactor in the transformer rectifier unit (TRU) power supply changeover system with an improved contactor. The action also proposed to require revising the Airplane Flight Manual (AFM) to include an associated temporary revision. Once the improved contactor assembly has been installed and the AFM has been revised to include the associated temporary revision, the automatic alternative three-phase power supply system for each TRU is re-activated.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 9 airplanes of U.S. registry will be affected by this AD, that it will take approximately 67 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour.