

and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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

There are approximately 950 producers of Oregon and Washington filberts/hazelnuts under this marketing order, and approximately 21 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of Oregon and Washington filbert/hazelnut producers and handlers may be classified as small entities.

The budget of expenses for the 1994-95 marketing year was prepared by the Filbert/Hazelnut Marketing Board, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Board are producers and handlers of filberts/hazelnuts. They are familiar with the Board's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by the expected quantity of assessable filberts/hazelnuts handled. Because that rate will be applied to the actual quantity of filberts/

hazelnuts, it must be established at a rate that will provide sufficient income to pay the Board's expenses.

In a mail vote conducted the week of March 28, 1994, the Board unanimously recommended a 1993-94 budget of \$507,010, \$97,215 more than the previous year. The major budget item is \$250,000 for the Board's promotion program to maintain and expand markets for filberts/hazelnuts. This is \$30,000 more than budgeted last year for promotion. Other increases include \$2,865 for general and administrative expenses, \$1,350 for furniture, \$1,000 for a crop survey, \$20,000 for research, and \$42,000 for the emergency reserve fund.

The Board also unanimously recommended an assessment rate of \$0.007 per pound, the same as last year. This rate, when applied to anticipated shipments of 56,000,000 pounds, will yield \$392,000 in assessment income. This, along with \$28,000 from previously unassessed 1993 crop filberts, \$6,000 in interest income, and \$81,010 from the Board's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the beginning of the 1994-95 marketing year, estimated at \$453,673, will be within the maximum permitted by the order of one marketing year's expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the marketing year begins on July 1, 1994, and the marketing order

requires that the rate of assessment for the marketing year apply to all assessable filberts/hazelnuts handled during the marketing year; (3) handlers are aware of this action which was unanimously recommended by the Board in a mail vote and is similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new § 982.338 is added to read as follows:

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

§ 982.338 Expenses and assessment rate.

Expenses of \$507,010 by the Filbert/Hazelnut Marketing Board are authorized, and an assessment rate of \$0.007 per pound of assessable filberts/hazelnuts is established for the marketing year ending June 30, 1995. Unexpended funds may be carried over as a reserve.

Dated: May 5, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94-11488 Filed 5-11-94; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 998

[Docket No. FV94-998-1IFR]

Expenses, Assessment Rate, and Indemnification Reserve for Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes expenditures for administration and indemnification, establishes an assessment rate, and

authorizes continuation of an indemnification reserve under Marketing Agreement 146 (agreement) for the 1994-95 crop year. This rule also increases the administrative assessment rate for the 1993-94 crop year. Authorization of this budget enables the Peanut Administrative Committee (Committee) to incur operating expenses, collect funds to pay those expenses, and settle indemnification claims during the 1994-95 crop year. Authorization of the increase in the administrative assessment rate for the 1993-94 crop year enables the Committee to collect sufficient funds to pay expenses projected for the remainder of that year. Funds to administer this program are derived from assessments on handlers who have signed the agreement.

DATES: Section 998.407 is effective July 1, 1994, through June 30, 1995. Section 998.406 is effective July 1, 1993, through June 30, 1994. Comments received by June 13, 1994, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2523-S, Washington, DC 20090-6456, FAX 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the *Federal Register* and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, PO Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or William G. Pimental, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, PO Box 2276, Winter Haven, FL 33883-2276, telephone 813-299-4770.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement 146 (7 CFR part 998) regulating the quality of domestically produced peanuts. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

The Department is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12887, Civil Justice Reform. Under the agreement now in effect, peanut

handlers signatory to the agreement are subject to assessments. Funds to administer the peanut agreement program are derived from such assessments, and deductible type insurance for 1994-95 indemnification expenses. This rule authorizes expenditures and establishes an assessment rate for the Committee for the crop year beginning July 1, 1994, and increases the administrative assessment rate for the crop year which began July 1, 1993. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 47,000 producers of peanuts in the 16 States covered under the agreement, and approximately 76 handlers regulated under the agreement. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. A majority of the producers may be classified as small entities, and some of the handlers covered under the agreement are small entities.

Under the agreement, the assessment rate for a particular crop year applies to all assessable tonnage handled from the beginning of such year (i.e., July 1). An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The members of the Committee are handlers and producers of peanuts. They are familiar with the Committee's needs and with the costs for goods, services, and personnel for program operations and, thus, are in a position to formulate appropriate budgets. The budgets are formulated and discussed at industry-wide meetings. Thus, all directly affected persons have an opportunity to provide input in recommending the budget, assessment rate, and indemnification reserve. The handlers of peanuts who are directly affected have signed the marketing agreement

authorizing the expenses that may be incurred and the imposition of assessments.

The assessment rate recommended by the Committee for the 1994-95 crop year was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. It applies to all assessable peanuts received or acquired by handlers from July 1, 1994. Because that rate is applied to actual receipts and acquisitions, it must be established at a rate which will produce sufficient income to pay the Committee's expenses.

The Committee met on March 16, 1994, and unanimously recommended 1994-95 crop year administrative expenses of \$1,056,000 and an administrative assessment rate of \$0.60 per net ton of assessable farmers' stock peanuts received or acquired by handlers. In comparison, 1993-94 crop year budgeted administrative expenditures were \$1,020,000, and the administrative assessment rate was initially recommended and fixed at \$0.60 per ton.

Administrative budget items for 1994-95 which have increased compared to those budgeted for 1993-94 (in parentheses) are: Executive salaries, \$140,146 (\$134,304), clerical salaries, \$132,500 (\$127,479), field representatives salaries, \$290,420 (\$278,778), field representatives travel, \$110,000 (\$107,000), insurance and bonds, \$8,500 (\$7,500), and furniture and equipment, \$9,500 (\$4,000). Items which have decreased compared to those budgeted for 1993-94 (in parentheses) are: Payroll taxes, \$43,000 (\$45,000), office rent and parking, \$50,000 (\$52,500), postage and mailing, \$12,000 (\$13,000), and audit fees, \$9,200 (\$9,500). All other items are budgeted at last year's amounts. The administrative budget includes \$14,234 for contingencies (\$4,439 last year).

The Committee also unanimously recommended 1994 crop indemnification claims payments of up to \$9,000,000 and an indemnification assessment of \$2.00 per net ton of farmers' stock peanuts received or acquired by handlers to continue its indemnification program. The 1993-94 crop year indemnification assessment was \$1.00 per net ton. Because of the high number of claims being processed during the 1993-94 crop year, the Committee recommended a higher assessment rate so that sufficient reserve funds will be available. The \$9,000,000 of indemnification claims coverage to be provided on 1994 crop peanuts includes \$5,000,000 in excess loss insurance to

be purchased by the Committee—the same as last year.

The cost of the indemnification insurance premium and the costs to carry out indemnification procedures (sampling and testing of 2-AB and 3-AB Subsamples, and crushing supervision, of indemnified peanuts, pursuant to § 998.200 (c), are additional indemnification costs which must be authorized and paid from available indemnification funds. Such costs are not expected to exceed \$2,000,000.

The total assessment rate is \$2.60 per ton of assessable peanuts (\$0.60 for administrative and \$2.00 for indemnification). Assessments are due on the 15th of the month following the month in which the farmers' stock peanuts are received or acquired. Application of the recommended rates to the estimated assessable tonnage of 1,760,000 will yield \$1,056,000 for program administration and \$3,520,000 for indemnification. The indemnification amount, when added to expected cash carry over from 1993-94 indemnification operations of \$12,609,100, will provide \$16,129,100, which should be adequate for the 1994 fund, and to maintain an adequate reserve.

The 1993-94 budget was published in the *Federal Register* as an interim final rule on June 11, 1993 (58 FR 32600), and finalized on August 13, 1993 (58 FR 43066). The administrative expenses and assessment rate for the 1993-94 crop year were based on an estimated assessable tonnage of 1,700,000. Due to an unexpected short crop, the assessable tonnage is estimated to be only 1,476,377. In order to have sufficient revenue to cover budgeted expenses of \$1,020,000, the Committee unanimously recommended that the 1993-94 crop year administrative assessment be increased from \$0.60 to \$0.70 per net ton of assessable farmers' stock peanuts.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers signatory to the agreement. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing agreement. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth,

will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1993-94 crop year began on July 1, 1993, and the 1994-95 crop year begins on July 1, 1994, and the marketing agreement requires that the rate of assessment for the fiscal period apply to all assessable peanuts handled during the fiscal period; (3) handlers are aware of these actions which were unanimously recommended by the Committee at a public meeting and are similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 998 is amended as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR part 998 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Note: These sections will not appear in the Annual Code of Federal Regulations.

2. A new section § 998.407 is added to read as follows:

§ 998.407 Expenses, assessment rate, and indemnification reserve.

(a) *Administrative expenses.* The budget of expenses for the Peanut Administrative Committee for the crop year beginning July 1, 1994, shall be in the amount of \$1,056,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the Committee and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the Committee not to exceed \$9,000,000 for indemnification

claims payments and claims expenses, pursuant to the terms and conditions of indemnification applicable to the 1994 crop effective July 1, 1994, are authorized. In addition, indemnification expenses, in an undetermined amount estimated not to exceed \$2,000,000, which are incurred by the Committee for excess loss insurance, sampling and testing fees for 2-AB and 3-AB Subsamples, and fees for the supervision of the crushing of indemnified peanuts are also authorized.

(c) *Rate of assessment.* Each handler shall pay to the Committee, in accordance with § 998.48 of the marketing agreement, an assessment at the rate of \$2.60 per net ton of farmers' stock peanuts received or acquired other than from those described in §§ 998.31(c) and (d). A total of \$0.60 shall be for administrative expenses and a total of \$2.00 shall be for indemnification. Assessments are due on the 15th of the month following the month in which the farmers' stock peanuts are received or acquired.

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to § 998.48 of the agreement, shall continue. That portion of the total assessment funds accrued from the \$2.00 rate not expended on indemnification claims payments on 1994 crop peanuts and related expenses shall be kept in such reserve and shall be available to pay indemnification expenses on subsequent crops.

§ 998.406 [Amended]

3. In § 998.406, paragraph (c) is amended by removing "\$1.60" and adding in its place "\$1.70" and by removing "\$0.60" and adding in its place "\$0.70."

Dated: May 5, 1994.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 94-11489 Filed 5-11-94; 8:45 am]
BILLING CODE 3410-02-P

Farmers Home Administration

7 CFR Part 1948

RIN 0575-AB83

Intermediary Relending Program Loan Limit

AGENCIES: Farmers Home Administration and Rural Development Administration, USDA.
ACTION: Interim final rule.

SUMMARY: The Farmers Home Administration (FmHA) and Rural

Development Administration (RDA) are amending the regulations for the Intermediary Relending Program (IRP) to raise the loan limit. This action is needed to allow intermediaries that have received and successfully used the maximum amount of IRP loans allowed by the current regulations, and have need for additional funds, to be eligible to apply for such additional funds. The amendment is intended to raise the maximum outstanding IRP indebtedness of an intermediary to \$4 million, from the current limit of \$2 million.

DATES: Effective May 12, 1994.

Comments must be received on or before July 11, 1994.

ADDRESSES: Submit written comments in duplicate to the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, USDA, Ag. Box 0743, Washington, DC 20250-0743. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above office, located in room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Business and Industry Loan Specialist, Rural Development Administration, USDA, Ag. Box 3221, Washington, DC 20250-3221, Telephone (202) 720-6819.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this interim rule in conformance with Executive Order 12866, and have determined that it is a "significant regulatory action."

Program Affected

The Catalog of Federal Domestic Assistance program impacted by this action is: 10.767, Intermediary Relending Program.

Intergovernmental Review

As set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983, this program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. FmHA and RDA conduct intergovernmental consultation in the manner delineated in FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the

Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575-0130 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This interim rule does not revise or impose any new information collection or recordkeeping requirements from those approved by OMB. Please send written comments to the Office of Information Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, DC 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, FmHA, Ag. Box 0743, Washington, DC 20250.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order 12778. It is the determination of RDA and FmHA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the Executive Order.

Environmental Impact Statement

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

Background

This regulatory package is an agency initiative to make the IRP more effective at stimulating rural community economic development. The current regulation prohibits approval of any IRP loan that would result in any one intermediary having an outstanding IRP indebtedness exceeding \$2,000,000. RDA is still not encouraging initial loans of more than \$2,000,000. However, some intermediaries have received and refinanced \$2,000,000 and have demand for additional funding to meet the needs of the communities they serve. The primary reason for this action is to allow subsequent loans to those successful intermediaries that have reached the current limit.

Interim Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, FmHA/

RDA is making this action effective upon publication in the **Federal Register** without securing prior public comment. It would be contrary to the public interest to wait for public comments before implementing an increase in loan ceiling. There is an immediate need to provide funds to the public to help alleviate severe economic hardship which exists in many rural areas as the result of high unemployment and poverty level wages. Numerous intermediaries now exist that have received the maximum of \$2 million, have successfully used all of the funds to assist rural businesses, and have urgent need for additional loan funds. These intermediaries have proven their ability to play a major and successful role in stimulating the economy and developing jobs in rural areas with high unemployment and depressed economies. Increasing the IRP loan ceiling quickly will allow them to receive additional IRP funds and continue to provide urgently needed assistance to businesses in their service areas. Delaying action will deprive them of needed funding. Comments will be accepted for 60 days after publication and, if appropriate, adjustments will be made in the regulation based on the comments.

List of Subjects in 7 CFR Part 1948

Business and industry, Credit, Economic development, Rural areas.

Accordingly, part 1948, chapter XVIII, title 7 of the Code of Federal Regulations is amended as follows:

PART 1948—RURAL DEVELOPMENT

1. The authority citation for part 1948 continues to read as follows:

Authority: 7 U.S.C. 1932 note; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Intermediary Relending Program (IRP)

§ 1948.103 [Amended]

2. Section 1948.103 is amended in paragraph (c)(4) by revising the number "\$2,000,000" to read "\$4 million (\$2 million for loans approved after September 30, 1995)."

Dated: April 12, 1994.

Bob J. Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 94-11419 Filed 5-11-94; 8:45 am]

BILLING CODE 3410-07-U

Animal and Plant Health Inspection Service**9 CFR Part 94**

[Docket No. 93-149-2]

Importation of Animal Products and Byproducts From Countries Where BSE Exists; Removal of Portugal

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our regulations by removing Portugal from the list of countries where bovine spongiform encephalopathy exists. Portugal had been added to the list in December 1993 after the disease was diagnosed in cattle in that country. We are now removing Portugal from the list of countries where bovine spongiform encephalopathy exists because epidemiological investigations have revealed that the cattle in which the disease was detected had been imported into Portugal from Great Britain, and that all suspect animals were destroyed. This action will relieve certain prohibitions or restrictions on the importation of certain fresh, chilled, and frozen meat, and certain other animal products and animal byproducts derived from ruminants that have been in Portugal.

EFFECTIVE DATE: May 27, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. John W. Cougill, Staff Veterinarian, Import-Export Products Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 759, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7834.

SUPPLEMENTARY INFORMATION:**Background**

The regulations in 9 CFR parts 94 and 95 (referred to below as the regulations) govern the importation of meat, animal products, animal byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including bovine spongiform encephalopathy (BSE).

BSE is a neurological disease of bovine animals and other ruminants. The disease is not known to be contagious. The major means of spread of BSE appears to be through the use of ruminant feed containing protein and other products from ruminants infected with BSE. Therefore, BSE could become established in the United States if materials carrying the BSE agent, such as certain meat, animal products, or animal byproducts derived from ruminants in countries in which BSE

exists, were imported into the United States and fed to ruminants.

Sections 94.18 and 95.4 of the regulations prohibit or restrict the importation of certain meat, animal products, and animal byproducts derived from ruminants that have been in countries in which BSE exists, and § 96.2(b) prohibits the importation of ruminant casings from countries in which BSE exists. Those countries are listed in § 94.18 of the regulations.

In an interim rule published in the **Federal Register** on December 13, 1993 (58 FR 65103-65104, Docket No. 93-149-1) and effective on December 7, 1993, we amended the regulations by adding Portugal to the list of countries where BSE exists after the disease was detected in cattle in Portugal.

We solicited comments concerning the interim rule for a 60-day comment period ending February 11, 1994. We received three comments by that date, all of which opposed the interim rule. The comments were sent by a representative of a U.S. trade association, a U.S. manufacturer, and a representative of the Commission of the European Communities. Two of the commenters opposed the interim rule because of its effect on the importation of certain animal products from Portugal; the third commenter urged us to consider updated information regarding Portugal's epidemiological investigation of the situation.

A report from the Portuguese Ministry of Agriculture to the Office of International Epizootics and the European Economic Union stated that BSE had been detected in one cow and suspected in three other cows, all of which had been imported into Portugal from Great Britain, where BSE is known to exist. This report led to our December 1993 interim rule adding Portugal to the list of countries where BSE is known to exist.

Subsequent epidemiological investigations conducted by Portuguese veterinary officials revealed that the infected animal, an 8-year-old Holstein-Friesian cow, was born in Great Britain in 1984 and imported into Portugal from Great Britain in 1987. The affected cow and the three suspect cows were destroyed and the premises placed under quarantine and official control throughout the epidemiological investigation. There have been no reports of any additional animals in Portugal being affected with BSE.

In the course of their investigation, Portuguese veterinary officials established that no rendered products of animal origin were ever imported for animal feed. In February 1990, the Portuguese Government prohibited the

importation of live cattle and all raw materials and byproducts of animal origin from Great Britain, Northern Ireland, and the Republic of Ireland. Additionally, all livestock in Portugal, both domestic and imported, are subject to official supervision and veterinary controls established at the national level. These veterinary controls include an official registry system, animal identification, and monitoring of all animal movement. Diagnostic capabilities for BSE are available at national veterinary laboratories in Lisbon and Porto.

Therefore, based on the comments received, on the epidemiological information provided by Portuguese veterinary officials, and on the results of our continuing study of the situation described in the December 1993 interim rule, we are removing Portugal from the list of countries where BSE is known to exist.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

Prompt implementation is needed to relieve unnecessary restrictions on the importation of certain fresh, chilled, and frozen meat, and certain other animal products and animal byproducts derived from ruminants that have been in Portugal. With these restrictions lifted, U.S. importers will be able to resume their importation of the animal products and animal byproducts described above. Portuguese producers and exporters that had been denied these U.S. markets by our December 1993 interim rule will be able to resume their business with the United States.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The provisions of this rule will not have a significant economic impact. The December 1993 interim rule that placed Portugal on the list of countries in which BSE exists had the effect of restricting the importation of some animal products and prohibiting the importation of others. Natural sausage casings were the only affected commodity that had been imported from Portugal in quantities sufficient to cause any economic impact.

This rule will remove the prohibition on the importation of natural sausage

casings of ruminant origin from Portugal. About 20 small U.S. entities had been importing natural sausage casings from Portugal prior to the December 1993 interim rule. None of the companies had been totally dependent on Portugal for sausage casings, as Portugal supplied only 2.5 percent of natural sausage casings imported into the United States. This rule will have a negligible economic impact on these small entities. Additionally, price and competition in the United States will not be affected.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This 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

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 94.18, paragraph (a) is revised to read as follows:

§ 94.18 Ruminant meat and edible products from ruminants that have been in countries where bovine spongiform encephalopathy exists.

(a) Bovine spongiform encephalopathy exists in the following countries: France, Great Britain, Northern Ireland, the Republic of Ireland, Oman, and Switzerland.

Done in Washington, DC, this 5th day of May 1994.

Lonnie J. Kling.

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94-11486 Filed 5-11-94; 8:45 am]

BILLING CODE 3410-34-P

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Part 1402

Releasing Information

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation) adopts final regulations relating to the public availability of Corporation records. The final regulations implement requirements of the Freedom of Information Act relating to receipt and processing of requests for Corporation records, fees to be charged and procedures to be followed in processing requests for records, and requests for waiver or reduction in fees under the Freedom of Information Act. The final regulations will assist the public in requesting records from the Corporation. The final regulations also implement provisions of Executive Order 12600 by providing predisclosure notification procedures for confidential or financial information.

EFFECTIVE DATE: June 13, 1994.

FOR FURTHER INFORMATION CONTACT:

Ronald H. Erickson, Freedom of Information Officer, Farm Credit System Insurance Corporation, McLean, Virginia 22102-0826, (703) 883-4113, or

Jane M. Virga, Senior Attorney, Office of General Counsel, 1501 Farm Credit Drive, McLean, Virginia 22102-0826, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: On November 8, 1993, the Corporation proposed regulations setting forth procedures to be used in requesting access to and responding to requests for Corporation records. See 58 FR 59210. Essentially, the Corporation proposed regulations that provided that all

requests for access to Corporation records must be in writing, adequately describe the material sought, and be sent to the Corporation in McLean, Virginia. The proposed regulations delegated to the Freedom of Information Officer authority to make initial determinations concerning requests for access to records, and provided procedures for final Corporation decisions on administrative appeals. The proposed regulations also recited the statutory bases for exemption from disclosure and provided that any reasonably segregable portion of a record shall be produced as provided by the Freedom of Information Act, 5 U.S.C. 552 (FOIA). The proposed regulations provided a fee structure consistent with the Uniform Freedom of Information Act Fee Schedule and Guidelines published by the Office of Management and Budget on March 27, 1987 (52 FR 10012). The proposed regulations also set forth factors to be considered in determining whether to waive or reduce fees. Consistent with Executive Order 12600 published on June 23, 1987, pertaining to access to certain information submitted to an agency, the proposed regulations provided that, upon receipt of a request for possibly confidential commercial or financial information which may be protected from disclosure under FOIA exemption (b)(4), the Corporation shall notify the submitter and provide an opportunity to comment on possible disclosure. The Corporation did not receive any comments in response to the proposed regulations. The Corporation now adopts 12 CFR part 1402 as a final regulation without any revision.

List of Subjects in 12 CFR Part 1402

Archives and records, Freedom of Information Act, Information, Records, Bonds, Insurance.

For the reasons set out in the preamble, part 1402 of chapter XIV, title 12 of the Code of Federal Regulations is added to read as follows:

PART 1402—RELEASING INFORMATION

Sec.

Subpart A—[Reserved]

Subpart B—Availability of Records of the Farm Credit System Insurance Corporation

- 1402.10 Official records of the Farm Credit System Insurance Corporation.
- 1402.11 Current index.
- 1402.12 Identification of records requested.
- 1402.13 Request for records.
- 1402.14 Response to requests for records.
- 1402.15 Business information.

Subpart C—Fees for Provision of Information

- 1402.20 Definitions.
- 1402.21 Categories of requesters—fees.
- 1402.22 Fees to be charged.
- 1402.23 Waiver or reduction of fees.
- 1402.24 Advance payments—notice.
- 1402.25 Interest.
- 1402.26 Charges for unsuccessful searches or reviews.
- 1402.27 Aggregating requests.

Authority: Secs. 5.58, 5.59 of the Farm Credit Act (12 U.S.C. 2277a-7, 2277a-8); 5 U.S.C. 552; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

Subpart A—[Reserved]**Subpart B—Availability of Records of the Farm Credit System Insurance Corporation****§ 1402.10 Official records of the Farm Credit System Insurance Corporation.**

(a) The Farm Credit System Insurance Corporation shall, upon any request for records which reasonably describes them and is made in accordance with the provisions of this subpart, make the records available as promptly as practicable to any person, except exempt records, which include the following:

- (1) Records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order;
- (2) Records related solely to the internal personnel rules and practices of the Farm Credit System Insurance Corporation, including matters which are for the guidance of agency personnel;
- (3) Records which are specifically exempted from disclosure by statute;
- (4) Trade secret, commercial, proprietary, or financial information obtained from any person or organization and privileged or confidential;
- (5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the Farm Credit System Insurance Corporation or in litigation in which the United States, as a real party in interest on behalf of the Farm Credit System Insurance Corporation, is a party;
- (6) Personnel and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

- (i) Could reasonably be expected to interfere with enforcement proceedings;
- (ii) Would deprive a person of a right to a fair trial or an impartial adjudication;
- (iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;
- (iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;
- (v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or
- (vi) Could reasonably be expected to endanger the life or physical safety of any individual; and
- (8) Records of or related to examination, operation, reports of condition and performance, or reports of or related to Farm Credit System institutions and that are prepared by, on behalf of, or for the use of the Farm Credit System Insurance Corporation.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this section.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

§ 1402.11 Current Index.

The Farm Credit System Insurance Corporation will make available for public inspection and copying a current index to provide identifying information as to any matter required by 5 U.S.C. 552(a)(2)(C) to be made available or published in the **Federal Register**. Because of the anticipated infrequency of requests for material required to be indexed, it is determined that the publication of the index in the **Federal Register** is unnecessary and impracticable. However, the Farm Credit System Insurance Corporation will provide a copy of such index to a member of the public upon request therefor at a cost not in excess of the direct cost of duplication.

§ 1402.12 Identification of records requested.

A member of the public who requests records from the Farm Credit System Insurance Corporation shall provide a reasonable description of the records sought including, where possible, specific information as to dates, titles, and subject matter, so that such records may be located without undue search or inquiry. If a record is not identified by a reasonable description, the request therefor may be denied.

§ 1402.13 Request for records.

Requests for records shall be in writing, in an envelope clearly marked "FOIA Request," and addressed to the Freedom of Information Officer, Farm Credit System Insurance Corporation, McLean, Virginia 22102-0826. A request improperly addressed will be deemed not to have been received for purposes of the 10-day time period set forth in § 1402.14(a) until it is received, or would have been received with the exercise of due diligence by the Freedom of Information Officer. Records requested in conformance with this subpart and which are not exempt records may be received in person or by mail as specified in the request. Records to be received in person will be available for inspection or copying during business hours on a regular business day in the offices of the Farm Credit System Insurance Corporation, McLean, Virginia 22102-0826.

§ 1402.14 Response to requests for records.

(a) Within 10 days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of a request, the Freedom of Information Officer shall determine whether to comply with or to deny such request and place a notice thereof in writing in the mail addressed to the requester.

(b) Within 30 days of the receipt of a notice denying, in whole or in part, a request for records, the requester may appeal the denial. The appeal shall be in writing addressed to the Chief Financial Officer, Farm Credit System Insurance Corporation, and both the letter and envelope shall be clearly marked "FOIA Appeal." An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (c) of this section until it is received, or would have been received with the exercise of due diligence by Farm Credit System Insurance Corporation personnel.

(c) Within 20 days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of an appeal, the Farm Credit System Insurance Corporation shall act upon the appeal and place a notice of the determination thereof in writing in the mail addressed to the requester. If the determination on the appeal upholds in whole or in part the denial of the request for records, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted that person's administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(d) In unusual circumstances as specified in this paragraph the 10-day time limit prescribed in paragraph (a) of this section or the 20-day time limit prescribed in paragraph (c) of this section, or both, may be extended provided that the total of all extensions shall not exceed 10 days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be made by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be mailed. As used in this paragraph, *unusual circumstances* means, but only to the extent necessary to the proper processing of the request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Farm Credit System Insurance Corporation having substantial subject-matter interest therein.

§ 1402.15 Business information.

(a) Business information provided to the Farm Credit System Insurance Corporation by a business submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section. The requirements of this section shall not apply if:

(1) The Farm Credit System Insurance Corporation determines that the information should not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

(b) For the purpose of this section, the following definitions shall apply.

(1) *Business information* means trade secrets or other commercial or financial information.

(2) *Business submitter* means any person or entity which provides business information to the government.

(3) *Requester* means the person or entity making the Freedom of Information Act request.

(c)(1) The Freedom of Information Officer shall, to the extent permitted by law, provide a business submitter with prompt written notice of a request encompassing its business information whenever required under paragraph (d) of this section. Such notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information.

(2) Whenever the Freedom of Information Officer provides a business submitter with the notice set forth in paragraph (c)(1) of this section, the Freedom of Information Officer shall notify the requester that the request includes information that may arguably be exempt from disclosure under 5 U.S.C. 552(b)(4) and that the person or entity who submitted the information to the Farm Credit System Insurance Corporation has been given the opportunity to comment on the proposed disclosure of information.

(d)(1) The Farm Credit System Insurance Corporation shall provide a business submitter with notice of a request whenever:

(i) The business submitter has in good faith designated the information as commercially or financially sensitive information; or

(ii) The Farm Credit System Insurance Corporation has reason to believe that the disclosure of the information may result in commercial or financial injury to the business submitter.

(2) Notice of a request for business information falling within paragraph

(d)(1)(i) of this section shall be required for a period of not more than 10 years after the date of submission unless the business submitter requests and provides acceptable justification for a specific notice period of greater duration.

(3) Whenever possible, the business submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the business submitter that the information in question is in fact a trade secret or commercial or financial information that is privileged or confidential.

(e) Through the notice described in paragraph (c) of this section, the Farm Credit System Insurance Corporation shall, to the extent permitted by law, afford a business submitter a reasonable period within which it can provide the Farm Credit System Insurance Corporation with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of the exemption provided by 5 U.S.C. 552(b)(4), shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(f)(1) The Farm Credit System Insurance Corporation shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever the Farm Credit System Insurance Corporation decides to disclose business information over the objection of a business submitter, the Freedom of Information Officer shall forward to the business submitter a written notice which shall include:

(i) A statement of the reasons for which the business submitter's disclosure objections were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A specified disclosure date.

(2) The notice of intent to disclose required by this paragraph shall be sent, to the extent permitted by law, within a reasonable number of days prior to the specified date upon which disclosure is intended.

(3) The Freedom of Information Officer shall send a copy of such disclosure notice to the requester at the

same time the notice is sent to the business submitter.

(g) Whenever a requester brings suit seeking to compel disclosure of business information covered by paragraph (d) of this section, the Farm Credit System Insurance Corporation shall promptly notify the business submitter of such action.

Subpart C—Fees for Provision of Information

§ 1402.20 Definitions.

For the purpose of this subpart, the following definitions shall apply:

(a) *Commercial use request* means a request for information that is from or on behalf of an individual or entity seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or on whose behalf the request is being made. To determine whether a request is properly classified as a commercial use request, the Farm Credit System Insurance Corporation shall determine the purpose for which the documents requested will be used. If the Farm Credit System Insurance Corporation has reasonable cause to doubt the purpose specified in the request, for which a requester will use the records sought, or where the purpose is not clear from the request itself, the Farm Credit System Insurance Corporation shall seek additional clarification before assigning the request to a specified category.

(b) *Direct costs* means those expenditures the Farm Credit System Insurance Corporation actually incurs in searching for and reproducing documents to respond to a request for information. In the case of a commercial use request, the term also means those expenditures the Farm Credit System Insurance Corporation actually incurs in reviewing documents to respond to the request. The direct cost shall include the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating reproduction equipment. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(c) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education that operates a program or programs of scholarly research.

(d) *Noncommercial scientific institution* refers to an institution that is not operated on a commercial, trade, or profit basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(e) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when the periodicals can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunication services), such alternative media would be included in this category.

"Freelance" journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization even though they are not actually employed by the organization. A publication contract would be the clearest proof that a journalist is working for a news organization, but the Farm Credit System Insurance Corporation may look to a requester's past publication record to determine whether a journalist is working for a news organization.

(f) *Reproduce and reproduction* mean the process of making a copy of a document necessary to respond to a request for information. Such copies take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided shall be in a form that is reasonably usable by requesters.

(g) *Review* means the process of examining documents located in response to a request for information to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure (e.g., doing all that is necessary to prepare the documents for release). The term review does not include the time spent resolving general legal or policy issues regarding the application of exemptions. The Farm Credit System Insurance Corporation shall only charge fees for

reviewing documents in response to a commercial use request.

(h) *Search* includes all time spent looking for material that is responsive to a request for information, including page-by-page or line-by-line identification of material within documents. Searching for material shall be done in the most efficient and least expensive manner so as to minimize the costs of the Farm Credit System Insurance Corporation and the requester. For example, a line-by-line search for responsive material should not be performed when merely reproducing an entire document would be the less expensive and the faster method of complying with a request for information. Searches may be done manually or by computer using existing programming. A "search" for material that is responsive to a request should be distinguished from a "review" of material to determine whether the material is exempt from disclosure.

§ 1402.21 Categories of requesters—fees.

There are four categories of requesters: Commercial use requesters; educational and noncommercial scientific institutions; representatives of the news media; and all other requesters.

(a) The Farm Credit System Insurance Corporation shall charge fees for records requested by or on behalf of educational institutions and noncommercial scientific institutions in an amount which equals the cost of reproducing the documents responsive to the request, excluding the costs of reproducing the first 100 pages. For a request to be included in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought in furtherance of scholarly research (if the request is from an educational institution) or scientific research (if the request is from a noncommercial scientific institution).

(b) The Farm Credit System Insurance Corporation shall charge fees for records requested by representatives of the news media in an amount which equals the cost of reproducing the documents responsive to the request, excluding the costs of reproducing the first 100 pages. For a request to be included in this category, the requester must qualify as a representative of the news media and the request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use.

(c) The Farm Credit System Insurance Corporation shall charge fees for records requested by persons or entities making a commercial use request in an amount that equals the full direct costs for searching for, reviewing for release, and reproducing the records sought. Commercial use requesters are not entitled to 2 hours of free search time nor 100 free pages of reproduction of documents. In accordance with § 1402.26, commercial use requesters may be charged the costs of searching for and reviewing records even if there is ultimately no disclosure of records.

(d) The Farm Credit System Insurance Corporation shall charge fees for records requested by persons or entities that are not classified in any of the categories listed in paragraphs (a), (b), or (c) of this section in an amount that equals the full reasonable direct cost of searching for and reproducing records that are responsive to the request, excluding the first 2 hours of search time and the cost of reproducing the first 100 pages of records. In accordance with § 1402.26, requesters in this category may be charged the cost of searching for records even if there is ultimately no disclosure of records, excluding the first 2 hours of search time.

(e) For purposes of the exceptions contained in this section on assessment of fees, the word *pages* refers to paper copies of "8½ x 11" or "11 x 14." Thus, requesters are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or a computer disk containing the equivalent of 100 pages of computer printout meets the terms of the exception.

(f) For purposes of paragraph (d) of this section, the term *search time* has as its basis, manual search. To apply this term to searches made by computer, the Farm Credit System Insurance Corporation will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent of that rate. When the cost of search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of 2 hours of the salary of the person performing the search, i.e., the operator, the Farm Credit System Insurance Corporation will begin assessing charges for computer search.

§ 1402.22 Fees to be charged.

(a) Generally, the fees charged for requests for records shall cover the full allowable direct costs of searching for, reproducing, and reviewing documents that are responsive to a request for information.

(b) Manual searches for records will be charged at the salary rate(s) (i.e., basic pay plus 16 percent of that rate) of the employee(s) making the search.

(c) Computer searches for records will be charged at the actual direct cost of providing the service. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for records and the operator/programmer salary apportionable to the search. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon the prevailing levels of costs to the Farm Credit System Insurance Corporation for the type and amount of such supplies of materials that are used. Nothing in this paragraph shall be construed to entitle any person or entity, as a right, to any services in connection with computerized records, other than services to which such person or entity may be entitled under the provisions of this subpart.

(d) Only requesters who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review; i.e., the review undertaken the first time the Farm Credit System Insurance Corporation analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review is assessable.

(e) Records will be reproduced at a rate of \$.15 per page. For copies prepared by computer, such as tapes or printouts, the requester shall be charged the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction, the actual direct costs of producing the document(s) shall be charged.

(f) The Farm Credit System Insurance Corporation will recover the full costs of providing services such as those enumerated below when it elects to provide them:

- (1) Certifying that records are true copies; or
 - (2) Sending records by special methods such as express mail.
- (g) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances

shall be made payable to the order of the Farm Credit System Insurance Corporation.

(h) A receipt for fees paid will be given upon request.

§ 1402.23 Waiver or reduction of fees.

(a) The Farm Credit System Insurance Corporation may grant a waiver or reduction of fees if the Farm Credit System Insurance Corporation determines that the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government, and the disclosure of the information is not primarily in the commercial interest of the requester.

(b) The Farm Credit System Insurance Corporation will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. The elements to be considered in determining the "cost of collecting a fee" are the administrative costs of receiving and recording a requester's remittance and processing the fee.

§ 1402.24 Advance payments—notice.

(a) Where it is anticipated that the fees chargeable will amount to more than \$25 and the requester has not indicated in advance a willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof that can be readily estimated.

(b) If the anticipated fees exceed \$250 and if the requester has a history of promptly paying fees charged in connection with information requests, the Farm Credit System Insurance Corporation may obtain satisfactory assurances that the requester will fully pay the fees anticipated.

(c) If the anticipated fees exceed \$250 and if the requester has no history of paying fees charged in connection with information requests, the Farm Credit System Insurance Corporation may require an advance payment of fees in an amount up to the full amount anticipated.

(d) If the requester has previously failed to pay a fee charged within 30 days of the date of a billing for fees charged in connection with information requests, the Farm Credit System Insurance Corporation may require the requester to pay the fees owed, plus interest, or demonstrate that the full amount owed has been paid, and require the requester to make an advance payment of the full amount of the fees anticipated before processing a

new request or a pending request from that requester.

(e) The notice of the amount of an anticipated fee or a request for an advance deposit shall include an offer to the requester to confer with identified Farm Credit System Insurance Corporation personnel to attempt to reformulate the request in a manner which will meet the needs of the requester at a lower cost.

§ 1402.25 Interest.

The Farm Credit System Insurance Corporation may begin charging interest on unpaid fees, starting on the 31st day following the day on which the bill for such fees was sent. Interest will not accrue if payment of the fees has been received by the Farm Credit System Insurance Corporation, even if said payment has not been processed. Interest will accrue at the rate prescribed in section 3717 of title 31, United States Code, and will accrue from the day on which the bill for such fees was sent.

§ 1402.26 Charges for unsuccessful searches or reviews.

The Farm Credit System Insurance Corporation may assess charges for time spent searching for records on behalf of requesters in the categories provided for in § 1402.21 (c) and (d), even if there are no records that are responsive to the request or there is ultimately no disclosure of records. The Farm Credit System Insurance Corporation may assess charges for time spent reviewing records for requesters in the category provided for in § 1402.21(c) even if the records located are determined to be exempt from disclosure.

§ 1402.27 Aggregating requests.

A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Farm Credit System Insurance Corporation reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Farm Credit System Insurance Corporation may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

Dated: May 3, 1994.

Nan P. Mitchem,

Acting Secretary to the Board, Farm Credit System Insurance Corporation.

[FR Doc. 94-11443 Filed 5-11-94; 8:45 am]

BILLING CODE 6710-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 92C-0292]

Listing of Color Additives Subject to Certification; FD&C Red No. 40; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of March 19, 1994, of the final rule that appeared in the Federal Register of February 16, 1994 (59 FR 7635; corrected February 22, 1994 (59 FR 8507)), and amended the color additive regulations to provide for the safe use of FD&C Red No. 40 and FD&C Red No. 40 Aluminum Lake for coloring drugs and cosmetics intended for use in the area of the eye.

DATES: Effective date confirmed: March 19, 1994.

FOR FURTHER INFORMATION CONTACT:

Robert L. Martin, Center for Food Safety and Applied Nutrition (HFS-217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204-0001, 202-254-9519.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 16, 1994 (59 FR 7635; corrected February 22, 1994 (59 FR 8507)), FDA amended 21 CFR 74.1340 and 21 CFR 74.2340 to provide for the use of FD&C Red No. 40 and FD&C Red No. 40 Aluminum Lake for coloring drugs and cosmetics intended for use in the area of the eye.

FDA gave interested persons until March 18, 1994, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA concludes that the final rule published in the Federal Register of February 16, 1994, should be confirmed as corrected on February 22, 1994.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 401,

402, 403, 409, 501, 502, 505, 601, 602, 701, 721 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the February 16, 1994, final rule. Accordingly, the amendments promulgated thereby became effective March 19, 1994.

Dated: May 4, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94-11593 Filed 5-11-94; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 565

Panamanian Transactions Regulations; Resolution of Claims from Blocked Government of Panama Assets

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Office of Foreign Assets Control is amending the Panamanian Transactions Regulations to include a statement of licensing policy indicating that specific licenses may be issued authorizing the release of blocked Government of Panama funds at the request of that government to satisfy settlements, final judgments and arbitral awards with respect to claims of U.S. persons arising prior to April 5, 1990. The Office of Foreign Assets Control will also accept license applications with respect to such claims from U.S. persons seeking judicial orders of attachment against blocked Government of Panama assets in satisfaction of final judgments entered against the Government of Panama provided such applications are submitted no later than June 15, 1994.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT:

Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the