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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

[Docket No. 00-083-1]

Subpoenas Issued Under the Plant Protection Act and Title V of the Agricultural Risk Protection Act of 2000

AGENCY: Office of the Secretary, USDA.
ACTION: Final rule.

SUMMARY: We are amending the administrative regulations of the Office of the Secretary of Agriculture to reflect the provisions of the Plant Protection Act and Title V of the Agricultural Risk Protection Act of 2000 regarding subpoenas. Under the Plant Protection Act, the Secretary of Agriculture can subpoena witnesses and documents relating to the administration or enforcement of the Plant Protection Act or any matter being investigated in connection with the Plant Protection Act. Under Title V of the Agricultural Risk Protection Act of 2000, the Secretary of Agriculture can subpoena witnesses and documents relating to the enforcement of that title or the investigation of persons harming or interfering with animals used in official U.S. Department of Agriculture inspections. The final rule is necessary to establish regulations governing issuance of subpoenas under these authorities.

EFFECTIVE DATE: July 16, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Meredith Jones, Regulatory Coordination Specialist, Regulatory Coordination, APHIS Plant Health Programs, PPQ, APHIS, 4700 River Road Unit 141, Riverdale, MD 20737-1236; (301) 734-7467.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS), through its Plant Protection and Quarantine program (PPQ), regulates plants and plant products and other commodities to prevent the importation or spread of diseases and pests. When it appears that PPQ regulations have been violated, APHIS conducts an investigation. Until the Plant Protection Act (PPA, 7 U.S.C. 7701-7772) became law, APHIS did not have authority to subpoena documents and other records for use in PPQ investigation cases. This sometimes hampered the Agency's ability to enforce its PPQ regulations.

Section 423 of the PPA (7 U.S.C. 7733) gives the Secretary of Agriculture (Secretary, USDA) authority to issue subpoenas for testimony and for documents and other records relating to administration or enforcement of the PPA. This authority has been delegated from the Secretary to the Under Secretary of Marketing and Regulatory Programs, and from the Under Secretary of Marketing and Regulatory Programs to the Administrator, APHIS (7 CFR 2.22 and 2.80). In addition, Title V of the Agricultural Risk Protection Act of 2000 authorizes the Secretary to subpoena witnesses and documents relating to the investigation or enforcement of section 501 of that title. Section 501 authorizes the Secretary to assess a civil penalty not to exceed \$10,000 against any person who causes harm to, or interferes with, an animal used for official inspections by USDA.

The PPA and Title V of the Agricultural Risk Protection Act of 2000 require that we publish procedures for issuing subpoenas. According to § 422(e) of the PPA (7 U.S.C. 7733) and § 502(e) of Title V of the Agricultural Risk Protection Act of 2000, the procedures must "include a requirement that subpoenas be reviewed for legal sufficiency and signed by the Secretary. If the authority to sign a subpoena is delegated, the agency receiving the delegation shall seek review for legal sufficiency outside that agency."

In order to comply with these requirements, we are amending 7 CFR 1.29 and 1.131. Section 1.29 governs the issuance of subpoenas relating to investigations under statutes administered by the Secretary. We are adding a new paragraph (3) to state that the Office of the General Counsel,

USDA, will review for legal sufficiency subpoenas issued under the PPA and Title V of the Agricultural Risk Protection Act of 2000. Section 1.131 comes under subpart H of part. 1. Subpart H contains rules of practice for formal adjudicatory proceedings instituted by the Secretary under various statutes. We are amending § 1.131 to add the PPA and Title V of the Agricultural Risk Protection Act of 2000 to the list of covered statutes.

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive Orders 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

Paperwork Reductions Act

This rule contains no information collections and recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 2501 *et seq.*).

List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Blind, Claims, Concessions, Cooperatives, Equal access to justice, Federal buildings and facilities, Freedom of information, Lawyers, Privacy.

Accordingly, we are amending 7 CFR part 1 as follows:

PART 1—ADMINISTRATIVE REGULATIONS

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

Authority: 5 U.S.C. 301, unless otherwise noted.

Subpart B—Departmental Proceedings

2. In § 1.29, a new paragraph (a)(3) is added to read as follows:

§ 1.29 Subpoenas relating to investigations under statutes administered by the Secretary of Agriculture.

(a) * * *

(3) In the case of a subpoena issued under the Plant Protection Act (7 U.S.C. 7701–7772) or Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e–2279f), the subpoena will be reviewed for legal sufficiency by the Office of the General Counsel, USDA.

* * * * *

Subpart H—Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

3. The authority citation for Subpart H is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 61, 87e, 149, 150gg, 162, 163, 164, 228, 268, 4990, 608c(14), 1592, 1624(b), 2151, 2279e, 2621, 2714, 2908, 3812, 4610, 4815, 4910, 6009, 6107, 6207, 6307, 6411, 6808, 7107, 7734; 15 U.S.C. 1828; 16 U.S.C. 620d, 1540(f), 3373; 21 U.S.C. 104, 111, 117, 120, 122, 127, 134e, 134f, 135a, 154, 463(b), 621, 1043; 43 U.S.C. 1740; 7 CFR 2.35, 2.41.

§ 1.131 [Amended]

4. In § 1.131, paragraph (a) is amended by adding, in alphabetical order, “Plant Protection Act, section 424 (7 U.S.C. 7734),” and “Title V of the Agricultural Risk Protection Act of 2000, section 501(a) (7 U.S.C. 2279e).”

Dated: July 9, 2001.

Ann M. Veneman,

Secretary of Agriculture.

[FR Doc. 01–17652 Filed 7–13–01; 8:45 am]

BILLING CODE 3410–34–M

FARM CREDIT ADMINISTRATION

12 CFR Part 613

RIN 3052–AB90

Eligibility and Scope of Financing; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA or Agency), through the FCA Board (Board), issued a direct final rule with opportunity for comment under part 613 on May 24, 2001 (66 FR 28641) implementing the decision that the United States Court of Appeals for the District of Columbia issued on January 19, 1999. The opportunity for comment expired on June 25, 2001. The FCA received no comments and therefore, the final rule becomes effective without change. 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 July 12, 2001.

EFFECTIVE DATE: The regulation amending 12 CFR part 613 published on May 24, 2001 (66 FR 28641) is effective July 12, 2001.

FOR FURTHER INFORMATION CONTACT:

Robert Donnelly, Senior Accountant, Office of Policy and Analysis, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444, or Richard A. Katz, Senior Attorney, 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: July 10, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–17694 Filed 7–13–01; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 2001–ASW–11]

Establishment of Class E Airspace; Clinton, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment establishes Class E airspace at Clinton, AR. The development of two area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAP's), to Holley Mountain Airpark, Clinton, AR, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Holley Mountain Airpark, Clinton, AR.

DATES: Effective 0901 UTC, November 1, 2001. Comments must be received on or before August 30, 2001.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 2001–ASW–11, Fort Worth, TX 76193–0520. The official

docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 establishes the Class E airspace at Clinton, AR. The development of two RNAV (GPS) SIAP's to Holley Mountain Airpark, Clinton, AR, has made this rule necessary. This action is intended to provide adequate controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations to Holley Mountain Airpark, Clinton, AR.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR § 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document will be published in the **Federal Register**. This document may withdraw the direct final