

Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 201

[Docket No. LS-00-05-610 Review]

Federal Seed Act Regulations; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; final review.

SUMMARY: This document summarizes the results of an Agricultural Marketing Service (AMS) review of the Federal Seed Act (FSA) Regulations, under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA).

ADDRESSES: Interested persons may obtain a copy of the review. Requests for copies should be sent to Richard C. Payne, Chief, Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, Room 209, Building 306, BARC-E., Beltsville, Maryland 20705-2325; Telephone (301) 504-9430; Fax (301) 504-8098; or E-mail Richard.Payne2@usda.gov. All requests should reference the docket number and date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Richard C. Payne, Chief, Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, USDA, Room 209, Building 306, BARC-East, Beltsville, Maryland 20725-2325; telephone: (301) 504-9237; Fax: (301) 504-8098; E-mail: Richard.Payne2@usda.gov.

SUPPLEMENTARY INFORMATION: The Federal Seed Act Regulations (7 CFR Part 201) regulate the labeling of agricultural and vegetable seed in interstate commerce. The regulations are effective under the Federal Seed Act of 1939 (FSA), as amended (7 U.S.C. 1551 *et seq.*). The regulations were last amended by a final rule published in the **Federal Register** on January 11, 2000 (64 FR 1704).

AMS published in the **Federal Register** (63 FR 8014; February 18, 1999), its plan to review certain regulations, including the FSA Regulations, under criteria contained in section 610 of the Regulatory Flexibility Act (RFA; 5 U.S.C. 601-612). Accordingly, AMS published a notice of review and request for written comments on the FSA Regulations in the March 10, 2000, issue of the **Federal Register** (65 FR 12952). No written comments were received.

The review was undertaken to determine whether the FSA Regulations should be continued without change, amended, or rescinded (consistent with the objectives of the FSA) to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the regulations; (2) the nature of complaints or comments received from the public concerning the regulations; (3) the complexity of the regulations; (4) the extent to which the regulations overlap, duplicate, or conflict with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the regulations have been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulations.

Approximately 2,800 companies ship seed in interstate commerce. AMS estimates that about ninety percent of these companies would be considered small businesses under criteria established by the Small Business Administration (13 CFR 121.601). Both large and small seed companies have to comply with the same FSA Regulations.

AMS has determined that the FSA Regulations should be continued without change. The FSA was established in 1939 to regulate agricultural and vegetable planting seed in interstate commerce. Agricultural and vegetable seeds shipped in interstate commerce and must be labeled with certain quality information. The labeling and any advertisements pertaining to the seed must be truthful. Also, the FSA prohibits the shipment of agricultural seeds containing noxious-weed seeds that are not labeled according to, or exceed the allowable rate established by state law.

The FSA Regulations are used by seed regulatory officials for the enforcement

of the FSA and by interstate shippers of seed for guidance in complying with the record keeping, testing, and labeling requirements of the FSA. The FSA and FSA Regulations promote fair competition among seed companies by encouraging interstate shippers to correctly label their seed.

The FSA and regulations are similar to State seed laws and regulations and often serve as models for States to follow when revising their seed laws and regulations. This results in State seed laws and regulations being relatively uniform.

No complaints or comments were received from the public concerning the FSA Regulations which do not appear to be excessively complex. The regulations do not conflict with or duplicate other Federal rules. They also serve to assist State seed control programs. The regulations were recently amended and these amendments included suggestions from seed companies, seed trade organizations, seed certifying agencies, another government agency, and State control programs.

The attached supplement is an AMS review of the FSA Regulations.

Dated: March 16, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

Section 610 Review of the Federal Seed Act Regulations

Introduction and Background

This review is being conducted under section 610 of the Regulatory Flexibility Act (RFA). AMS published in the **Federal Register** (63 FR 8014; February 18, 1999), its plan to review certain regulations, including the Federal Seed Act (FSA) Regulations, under criteria contained in section 610 of the RFA (RFA 5 U.S.C. 601-612). Because many AMS regulations impact small entities, AMS decided, as a matter of policy, to review certain regulations which, although they may not meet the threshold requirement under section 610 of the RFA, warrant review. The February 18 notice stated that AMS would list the regulations to be reviewed in AMS' regulatory agenda which was published in the **Federal Register** as part of the Unified Agenda. However, after further consideration, AMS decided to announce the reviews in the **Federal Register** separate from the Unified Agenda. Accordingly, the

notice and request for comments was made for the FSA Regulations in the **Federal Register** on March 10, 2000 (65 FR 12952).

The purpose of the review is to determine whether the FSA Regulations should be continued without change, amended, or rescinded (consistent with the objectives of the FSA) to minimize the impacts on small entities. In conducting this review, AMS will consider the following factors: (1) The continued need for the regulations; (2) the nature of complaints or comments received from the public concerning the regulations; (3) the complexity of the regulations; (4) the extent to which the regulations overlap, duplicate, or conflict with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the regulations have been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulations.

The FSA Regulations (7 CFR Part 201) regulate the labeling of agricultural and vegetable seed in interstate commerce. The regulations are effective under the FSA of 1939, as amended (7 U.S.C. 1551 *et seq.*). The regulations were last amended by a final rule published in the **Federal Register** on January 11, 2000 (64 FR 1704). The Administrator, AMS, certified that those amendments would not have a significant impact on a substantial number of small entities as defined in the RFA. Approximately 2,800 companies ship seed in interstate commerce. We estimate that about ninety percent of these companies would be considered small businesses under criteria established by the Small Business Administration (13 CFR 121.601). However, all shippers including small entities, usually package and label seed to comply with both the FSA and State seed laws. The testing and labeling requirements of the State laws are similar to those of the FSA. Therefore, a single test can provide information for labeling that will comply with both State seed laws and the FSA.

The Continued Need for the Regulations

The FSA Regulations are used by seed regulatory officials for the enforcement of the FSA and by interstate shippers of seed for guidance in complying with the record keeping and labeling requirements of the FSA. Many of these interstate shippers are small businesses. There is no effect on the competitive position of these small seed companies in relation to larger seed companies since both have to comply with the same FSA Regulations.

Complaints of FSA violations received from State seed control programs increased by fourteen percent during FY 2000 compared to the average of the three previous years. The percentage of these complaints determined to be serious violations of the FSA resulting in charge sheets being issued to interstate shippers increased from an average of twenty percent in the previous three years to thirty percent in FY 2000. In addition, seed control programs have been reduced in a number of states for budgetary reasons. Seed control officials in these states have increased their reliance on FSA enforcement activities as a means to deter mislabeled seed from being shipped into their states. These developments demonstrate the need for continued enforcement of the FSA and the FSA Regulations.

The FSA Regulations are similar to State seed law regulations and often serve as a model for States to follow when revising their State seed law regulations. This results in State seed laws and regulations being relatively uniform. Without the influence of the FSA Regulations, State seed law regulations could differ dramatically. These differences could cause difficulty and added expense for seed companies because seed would have to be labeled differently, depending on the State into which the seed was being shipped.

Sections 201.67–201.78 of the FSA Regulations contain minimum standards for the production of certified seed that must be met by State seed certifying agencies. The presence of these minimum standards in the FSA Regulations results in State seed certification standards that are uniform throughout the United States.

The Nature of Complaints or Comments Received From the Public Concerning the Regulations

No complaints or comments were received from the public as the result of the notice of the Section 610 review and request for comments published in the **Federal Register** on March 10, 2000 (65 FR 12952). The FSA regulations were recently amended by a final rule published in the **Federal Register** on January 11, 2000 (64 FR 1704).

Suggestions for the proposed amendments to the FSA Regulations were received from seed companies, State seed control programs, the Association of Official Seed Certifying Agencies the **Federal Register** on January 11, 2000 (64 FR 1704).

Suggestions for the proposed amendments to the FSA Regulations were received from seed companies, State seed control programs, the

Association of Official Seed Certifying Agencies (AOSCA), and the Animal and Plant Health Inspection Service (APHIS), AMS. These suggestions were included as amendments to the FSA Regulations in a notice of proposed rulemaking published in the **Federal Register** (63 FR 55964) on October 20, 1998. Interested persons were invited to submit comments until December 21, 1998. A hearing on the proposed rule was held in Washington, DC on December 2, 1998. At that time interested parties were given an opportunity to present views concerning the proposal. No one commented at the hearing. At the request of the American Seed Trade Association (ASTA), a document extending the comment period for the proposed rule was published in the **Federal Register** on December 24, 1998. Comments were received until February 4, 1999.

The interests of small seed companies, along with those of large seed companies, are represented by ASTA, a national seed trade association and/or by regional or State seed trade associations.

Written comments about the proposed rule were received from ASTA, a State seed trade association and four State Departments of Agriculture. The comments were evaluated and where they had merit, revisions to the amendments based on these comments were made to the proposed rule. For instance, as a result of comments received, *Cuscuta* species were removed from the list of noxious weeds proposed in an amendment so conflicts with State seed laws would not occur. Also, as the result of a comment, the effective date of an amendment was delayed one year so that seed already packaged and labeled under a previous regulation could be distributed. A suggestion from two commenters was rejected because the concern expressed was already regulated by APHIS through a system of permits.

The Complexity of the Regulations

The FSA Regulations are similar in complexity to State seed law regulations and appear to be easily understood by interstate shippers of seed. Only on rare instances are we asked to clarify a section of the regulations by an interstate shipper. In these cases, the regulation in question is discussed with the interstate shipper and the intent and content of the particular section is explained.

Presentations about FSA and FSA Regulation policies that pertain to emerging seed issues are made at regional and national seed testing, regulatory and industry association

meetings. In addition, developing seed related issues are also addressed from the perspective of the FSA and FSA Regulations in the "Items of Interest in Seed Control," published quarterly. This publication is available to both State seed control programs and seed companies.

The Extent to Which the Regulations Overlap, Duplicate, or Conflict With Other Federal Rules and to the Extent Feasible With State and Local Government Rules

We are unaware of any FSA Regulations that duplicate or are in conflict with other Federal rules. Sections of the FSA Regulations serve to complement those of several other Federal agencies such as the Food and Drug Administration (FDA), the Environmental Protection Agency (EPA), and APHIS.

For instance, the FDA regards any interstate shipment of seed that could be used for food as adulterated if it has been treated with a chemical considered a poison, unless the seed has been colored to prevent its subsequent inadvertent use as human food or feed for animals (21 CFR 2.25). The EPA requires in 40 CFR 153.55, that pesticides used in treating seed must contain an EPA-approved dye to impart an unnatural color to the seed. Section 201.31a of the FSA Regulations prescribes how treated seed must be labeled when shipped in interstate commerce. The regulations of all three agencies work together to ensure that treated seed is stained and correctly labeled when shipped in interstate commerce.

APHIS enforces the Plant Protection Act (PPA) by prohibiting the importation and interstate movement of seeds containing noxious weeds listed at 7 CFR part 360. Potential imports and interstate movements of seed of these species are regulated by APHIS by permit. Section 201.16 of the FSA Regulations designates seeds of species listed in 7 CFR part 360, except for *Cuscuta* species, as noxious and prohibits the interstate shipment of agricultural and vegetable seeds containing them. This section of the FSA Regulations provides a mechanism to control any of these destructive noxious weeds should they become established.

The FSA and its regulations serve to complement State seed laws and regulations. State seed control programs take action against mislabeled seed sold in their States by issuing stop sale orders against the seed. The seed can not be sold until it is correctly relabeled. States are usually unable to take

regulatory action against the interstate supplier of seed for a number of reasons. The FSA Regulations allow AMS to assist States by taking regulatory action against the interstate shippers of the seed. This cooperative regulatory effort with the States is reflected in Federal/State cooperative agreements between AMS and the Departments of Agriculture in each State.

The Length of Time Since the Regulations Have Been Evaluated or the Degree to Which Technology, Economic Conditions, or Other Factors Have Changed in the Area Affected by the Regulations

The FSA Regulations were recently amended. The final rule was published in the **Federal Register** on January 11, 2000. The amendments to the FSA became effective, February 10, 2000, except for the section making seeds of species listed in the FNWA noxious which becomes effective January 11, 2001.

Some of the amendments updated the seed testing regulations to incorporate the latest in seed testing knowledge so they are the same as the Association of Official Seed Analysts Rules for Testing Seeds, followed by most States for seed law enforcement. This action prevents potential conflicts with State regulations.

Other amendments updated the certified seed regulations in the FSA to make them consistent with State seed certification regulations. These amendments reflect current seed certification practices, and provide minimum certification standards for new crops, such as chemically assisted hybrid cotton.

[FR Doc. 01-7084 Filed 3-21-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-NE-49-AD]

RIN 2120-AA64

Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration (FAA) proposes to adopt a new airworthiness directive (AD) that

is applicable to certain models of Pratt & Whitney (PW) PW4000 series turbofan engines. This proposal would require operators to perform initial and repetitive inspections for cracking of high pressure compressor (HPC) front drum rotors based on cycle usage. This proposal would also require the removal from service of any cracked HPC front drum rotors. This proposal is prompted by reports that seven HPC drum rotors have been found cracked on the spacer surface between the 6th and 7th stage disks. The actions specified by the proposed AD are intended to detect premature cracking of the HPC drum rotor that could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by May 21, 2001.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-NE-49-AD, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main Street, East Hartford, CT 06108. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington MA 01803-5299; telephone: 781-238-7130, fax: 781-238-7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.