

Rules and Regulations

Federal Register

Vol. 60, No. 163

Wednesday, August 23, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Consolidated Farm Service Agency

7 CFR Part 792

Commodity Credit Corporation

7 CFR Part 1403

RIN 0560-AD78

Debt Settlement Policies and Procedures

AGENCIES: Consolidated Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: A proposed rule was published in the **Federal Register** on August 24, 1994, at 59 FR 43504, amending 7 CFR parts 792 and 1403, which set forth the debt settlement policies and procedures of the Consolidated Farm Service Agency (CFSA) and the Commodity Credit Corporation (CCC), respectively. This final rule adopts the provisions of the proposed rule. This final rule amends CCC's debt settlement policies and procedures to remove references to Internal Revenue Service Notices of Levy, except to exempt them from coverage, and revises the rate of interest to be charged on delinquent debts. This final rule also amends CFSA's and CCC's debt settlement policies and procedures to provide for offset of a debtor's pro rata share of payments due any entity which the debtor participates in, either directly or indirectly. This regulation protects the financial integrity of many Federal agricultural programs by ensuring the Government will be able to collect, or otherwise settle, debts owed it by any person, organization, corporation, or other legal entity.

EFFECTIVE DATE: August 23, 1995.

FOR FURTHER INFORMATION CONTACT: Carol Spencer, CFSA, USDA, P.O. Box 2415, Washington, DC 20013-2415, at 703-305-1422.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been reviewed in conformance with Executive Order 12866 and has been determined to be a significant regulatory action.

Paperwork Reduction Act

This action will not increase the Federal paperwork burden for individuals, small businesses, and others and will not have a significant impact on a substantial number of small entities.

Regulatory Flexibility Act

Neither CFSA nor CCC is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this final rule. Therefore this action is exempt from the provision of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. It is not retroactive and preempts State and local laws. Before any judicial action may be brought regarding the provisions of this rule, administrative appeal remedies set forth at 7 CFR parts 24 and 780 must be exhausted.

Executive Order 12372

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

Background

The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (31 U.S.C. 3711, *et seq.*), and the joint regulations promulgated thereunder by the Comptroller General and the Attorney General (4 CFR parts 101-105) provide minimum standards for the administrative collection of claims by the United States. The Act also provides that nothing therein shall diminish the existing authority of the head of an

agency to settle, compromise, or close claims. The CCC Charter Act, as amended (15 U.S.C. 714, *et seq.*), provides that CCC shall have the authority to make final and conclusive settlement and adjustment of any claims by or against it irrespective of the amount at issue. CCC is, therefore, not subject to the provisions of the Federal Claims Collection Act of 1966 or its implementing regulations. However, it has been CCC policy to follow the Federal Claims Collection Standards (FCCS) to the maximum practicable extent. The FCCS require each Federal agency to take aggressive action to collect debts owed it.

Discussion of Final Rule

1. Impact of Interest Rate Change on CFSA and CCC and Affected Private Interests

This rule amends 7 CFR part 1403 to change the rate of interest which CCC charges on its delinquent debts from a rate equal to that assessed under the Prompt Payment Act, to a rate equal to the higher of the Treasury Department's current value of funds rate or the rate of interest assessed under the Prompt Payment Act. CCC currently charges interest on delinquent debts at a rate equal to that charged under the Prompt Payment Act. That rate was chosen because it was generally a higher rate than the current value of funds rate required under the Debt Collection Act, and would ensure that CCC, at a minimum, would always recoup the cost of CCC borrowing. It was also believed to be equitable since it is the same rate which CCC is required to pay when its payments are late. This rule amends the rate which CCC charges on delinquent debts to the higher of the Treasury Department's current value of funds rate or the rate assessed under the Prompt Payment Act. Concerning the difference in interest rates, over the past 10 years the current value of funds rate was higher than the Prompt Payment Act rate for only one 6-month period. The economic effect of this rate change is likely to be minimal. This change, however, allows the late payment interest rate assessed by CCC to conform to the late payment interest rate assessed by CFSA, as well as, conforming to the rate required by the Federal Claims Collection Act of 1966, as amended. As both CCC and CFSA programs are administered by the same

offices, administrative costs should be reduced by having the same interest rates apply to both programs.

2. *References to IRS Notices of Levy*

This rule also amends 7 CFR part 1403 regarding references to Internal Revenue Service (IRS) Notices of Levy. It was the past policy of CCC to treat IRS Notices of Levy the same as requests for administrative offset from other Federal agencies. This was agreed to in 1970 by CCC and IRS, and was documented in former regulations dealing with offset at 7 CFR part 13. However, due to a change in policy by IRS, changes in our previous regulations, certain court decisions, and advice from the Office of the General Counsel, it has been determined that IRS Notices of Levy can no longer be treated as offset requests, but should be honored only as required by statute, including taking priority over assignments of CFSA and CCC payments. Therefore, this final rule amends the CCC debt settlement regulations to remove all references to IRS Notices of Levy, except to specifically exempt them from coverage in 7 CFR 1403.7. This change will create little cost or benefit to CCC.

3. *Expanded Offset*

Finally, this rule amends 7 CFR parts 792 and 1403 to provide for an expanded ability to offset payments from debtors to collect delinquent debt. During 1993, CFSA and CCC collected approximately \$76 million, of which \$32 million or 42 percent of the total was through administrative offset. As such, it is the most effective debt collection tool. However, in the past debtors have avoided offset of their program payments by reorganizing their farming operations, changing the name of their operations, transferring ownership of their operations, receiving payments under more than one entity, or by changing the payee in some other manner. In order to increase CFSA's and CCC's ability to collect delinquent debts, without adversely affecting other non-debtors, the regulations are amended to provide for offset of a debtor's pro rata share of payments due any entity which the debtor participates in, either directly or indirectly.

This rule also provides for offset when CFSA or CCC determines that a debtor has established an entity, or transferred ownership of, reorganized, or changed in some other manner, his or her operations in order to avoid a debt. By allowing for this expanded ability to offset, CFSA and CCC will substantially increase their ability to collect delinquent debt in an efficient and effective manner. This will also help

ensure that those owing delinquent debts are not continuing to receive government payments, without first satisfying their debts. While it is not feasible to estimate the exact amount by which CFSA and CCC collections will increase, it is likely that these circumstances arise most often with debtors who have debts of \$50,000 or more. Therefore, increased collections could be sizeable in relation to past collections. There should be no cost to the government created by this change.

This regulation will protect the financial integrity of many Federal agricultural programs by ensuring the Government will be able to collect, or otherwise settle, debts owed it by any person, organization, corporation, or other legal entity.

A description of the amendments made by this final rule was set forth in the proposed rule at 59 FR 43504 (August 24, 1994). The proposed rule requested comments with respect to the proposed amendments. No comments were received and it has been determined that the proposal should be adopted as a final rule with modifications to reflect the reorganization of the Department of Agriculture, and for purposes of clarity.

List of Subjects

7 CFR Part 792

Claims, Income taxes.

7 CFR Part 1403

Claims, Income taxes, Loan programs—agriculture.

Accordingly, 7 CFR parts 792 and 1403 are amended as follows:

PART 792—DEBT SETTLEMENT POLICIES AND PROCEDURES

1. The authority citation for 7 CFR part 792 continues to read as follows:

Authority: 31 U.S.C. 3701, 3711, 3716–3719, 3728; 4 CFR parts 101–105; 7 CFR 3.21(b).

2. Section 792.7(l) is revised to read as follows:

§ 792.7 Collection by administrative offset.

* * * * *

(l) Any action authorized by the provisions of this section may be taken:

(1) Against a debtor's pro rata share of payments due any entity which the debtor participates in, either directly or indirectly, as determined by CFSA.

(2) When CFSA determines that the debtor has established an entity, or reorganized, transferred ownership of, or changed in some other manner, their operation, for the purpose of avoiding the payment of the claim or debt.

* * * * *

PART 1403—DEBT SETTLEMENT POLICIES AND PROCEDURES

3. The authority citation for 7 CFR part 1403 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 7 U.S.C. 1445b–2(b).

4. Section 1403.7 is amended by:

A. Removing the word "and" at the end of paragraph (a)(3),

B. Removing the period at the end of paragraph (a)(4) and inserting a semicolon in its place and adding the word "and",

C. Adding paragraph (a)(5),

D. Removing paragraph (m)(4),

E. Redesignating paragraphs (m)(5) and (m)(6) as paragraphs (m)(4) and (m)(5), respectively, and

F. Revising paragraph (q) to read as follows:

§ 1403.7 Collection by administrative offset.

(a) * * *

(3) Cases in which CCC must adjust, by increasing or decreasing, a payment which is to be paid under a contract in order to properly make other payments due by CCC;

(4) Any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by statute; and

(5) IRS Notices of Levy which shall be honored in accordance with IRS statutes and regulations.

* * * * *

(q) Any action authorized by the provisions of this section may be taken:

(1) Against a debtor's pro rata share of payments due any entity which the debtor participates in, either directly or indirectly, as determined by CCC.

(2) When CCC determines that the debtor has established an entity, or reorganized, transferred ownership of, or changed in some other manner, their operation, for the purpose of avoiding the payment of the claim or debt.

* * * * *

5. Section 1403.9(c) is revised to read as follows:

§ 1403.9 Late payment interest and administrative charges.

* * * * *

(c) The late payment interest shall be expressed as an annual rate of interest which CCC charges on delinquent debts. The late payment interest rate shall be equal to the higher of the Treasury Department's current value of funds rate or the rate of interest assessed under the Prompt Payment Act, determined as of the date specified in paragraphs (d)(1) and (d)(2) of this section.

* * * * *

Signed at Washington, DC, on August 15, 1995.

Bruce R. Weber,

Acting Administrator, Consolidated Farm Service Agency and Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95-20781 Filed 8-22-95; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-85-AD; Amendment 39-9340; AD 95-17-10]

Airworthiness Directives; Jetstream Aircraft Limited Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Jetstream Aircraft Limited (JAL) Jetstream Models 3101 and 3201 airplanes. This action requires modifying the central annunciator panel test button circuit. A report of diode failure in this circuit and subsequent inadvertent engine shutdown on one of the affected airplanes prompted this action. The actions specified by this AD are intended to prevent failure of a diode in the central annunciator panel test button circuit, which could result in inadvertent engine shutdown while in flight if the central annunciator panel test button is pressed.

DATES: Effective October 3, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 3, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; telephone (44-292) 79888; facsimile (44-292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC, 20041-6029; telephone (703) 406-1161; facsimile (703) 406-1469. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 91-CE-85-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; telephone (322) 513.3830; facsimile (322) 230.6899; or Mr. Sam Lovell, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426-6934; facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain JAL Jetstream Models 3101 and 3201 airplanes was published in the *Federal Register* on April 11, 1995 (60 FR 18376). The action proposed to require modifying the central annunciator panel test button circuit by removing diodes from the engine stop circuit and configuring a minor wiring change. Accomplishment of the proposed actions would be in accordance with Jetstream Alert Service Bulletin 80-A-JA 911045, Revision 1, dated November 1, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

The FAA estimates that 260 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per airplane to accomplish the required modification, and that the average labor rate is approximately \$60 an hour. JAL will provide parts at no cost to the owner/operator. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$31,200. This figure is based on the assumption that no affected owner/operator has incorporated the required modification.

JAL has informed the FAA that 2 modification kits have been distributed to affected airplane owners/operators. Assuming that each of these modification kits has been incorporated on an affected airplane, then the cost

impact upon U.S. operators would be reduced \$240 (2 workhours × \$60 per hour × 2 airplanes) from \$31,200 to \$30,960. The FAA also believes that numerous owners/operators of the affected airplanes have accomplished the modification using 22AWA cable and terminal tags instead of obtaining parts from the manufacturer, as is provided for in this AD. This would further reduce the cost impact of the AD upon U.S. operators of the affected airplanes. The FAA has no way of determining how many airplanes have accomplished the required modification utilizing the 22AWA cable and terminal tags alternative.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.