

fruit's surface. This mold, caused by fruit juice on the surface of the fruit, usually begins to show after the kiwifruit has been in storage for over a month. In order to control this problem, a time limit on the validity of inspection certificates was established. The time limit initially established in 1985 was valid until January 15 or 21 days from the date of inspection, whichever was later.

In 1985, it appeared that kiwifruit harvested in October maintained its quality through the following mid January. However, during the 1988/89 season, problems with black sooty mold once again resulted in the KAC reevaluating this position, and as a result the date was changed to December 1, to reduce the likelihood of moldy fruit entering commercial channels.

Again in 1991, the KAC changed the expiration date for initial inspection certificates from December 1 to the current expiration date of December 15. The KAC believed that the December 1 expiration date required shippers to have their fruit reinspected too soon after the initial inspection. Shippers who had their fruit inspected closer to the certificate expiration date of December 1, did not receive the benefit of 21 days between the initial inspection and reinspection. For many shippers this was a financial burden.

The current period does not allow sufficient time to determine if damage from mold may develop. Sufficient time would need to elapse between the initial inspection, which may occur between October and December, and reinspection, which occurs after December 15. This revision would change the current December 15 inspection certificate expiration date. It would provide that a certificate remains valid until December 31 or 21 days from the date of inspection, whichever is later. Thus, the 21-day limitation would be in effect for all inspected kiwifruit regardless of the date on which it was inspected. This would mean that kiwifruit inspected and packed less than 21 days prior to December 31 would not have to be reinspected until 21 days later.

The KAC estimates that, annually, approximately 25 percent of the crop is reinspected. The reinspection rate is expected to be reduced slightly by making inspection certificates valid until December 31 or 21 days from the date of inspection. Extending the inspection certificate validation from December 15 to December 31 is not expected to have adverse effects on fruit quality.

Over the last five years, the harvest of California kiwifruit has begun later and later. In years past, the kiwifruit harvest began near the beginning of October, with a few starting dates recorded in late September. In recent years, kiwifruit harvests have begun in mid-October due to natural conditions as well as increased grower consciousness about fruit maturity. Fruit that is mature tends to have higher sugar content and is of higher quality. Because of the later harvest dates, the time lapse from harvest to reinspection has decreased over the years.

This two-week change to the reinspection date is not expected to harm the industry's reputation for shipping quality California kiwifruit. Because of research done in the past five years, California growers understand the benefits of harvesting kiwifruit with a higher soluble solids content, which means harvesting at a later date. This, coupled with natural conditions that have also contributed to a delay in harvest, have reduced the number of days from harvest until reinspection.

The KAC also discussed the elimination of reinspection requirements as an alternative. There is however, strong support throughout the industry for maintaining reinspection as a means of assuring fruit quality. The KAC also discussed the use of a sliding reinspection date. This would allow fruit harvested later to be reinspected at a later date. However, it was determined that this would present enforcement problems as it would be difficult to track the harvest date of the entire California crop. The recommendation to establish the reinspection date at December 31 was a compromise agreed to unanimously by the KAC.

This proposal would adjust the time between harvest and reinspection. There would be a slight reduction in cost to the industry due to the additional amount of fruit that would not have to be reinspected.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons an opportunity to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 920 be amended as follows:

#### PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

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

2. Section 920.155 is revised to read as follows:

##### § 920.155 Inspection requirement.

Certification of any kiwifruit which is inspected and certified as meeting grade, size, quality, or maturity requirements in effect pursuant to § 920.52 or § 920.53 during each fiscal year shall be valid until December 31 of such year or 21 days from the date of inspection, whichever is later.

Dated: August 21, 1995.

**Terry C. Long,**

*Acting Deputy Director, Fruit and Vegetable Division.*

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#### Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, Consolidated Farm Service Agency

#### 7 CFR Parts 1924, 1942, 1948, and 1980

RIN 0575-AB59

#### Planning and Performing Construction and Other Development

**AGENCIES:** Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency; United States Department of Agriculture.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Housing and Community Development Service (RHCDS), Rural Business and Cooperative Development Service (RBCDS), Rural Utilities Service (RUS) and Consolidated Farm Service Agency (CFSA) propose to amend their regulations regarding construction and other development for farm, housing, community and business programs. This action provides RHCDS, RBCDS, RUS and CFSA borrowers, grant recipients and the public with rules for compliance with seismic safety requirements for new building construction using RHCDS, RBCDS, RUS and CFSA loan, grant and guaranteed funds. This action is necessary to set forth the Agencies'

policies and requirements to meet the implementation requirements of Executive Order 12699 of January 5, 1990, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction. This Executive Order addresses compliance with the building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended.

**DATES:** Comments must be submitted October 24, 1995.

**ADDRESSES:** Submit written comments in duplicate to the Office of the Chief, Regulations Analysis and Control Branch, Rural Economic and Community Development, U.S. Department of Agriculture, AG Box 0743, Washington, DC 20250-0743. All written comments will be available for public inspection during regular working hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Samuel J. Hodges III, Architect, Program Support Staff, Rural Housing and Community Development Service, U.S. Department of Agriculture, AG Box 0761, Washington, DC 20250-0761, Telephone: (202) 720-9653.

**SUPPLEMENTARY INFORMATION:**

**Classification**

This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

**Paperwork Reduction Act**

The information collected and recordkeeping requirements contained in these regulations have been approved by OMB under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0575-0042, 0575-0015, 0575-0130, and 0575-0024, in accordance with the Paperwork Reduction Act of 1980. This proposed rule does not impose any new information collection or recordkeeping requirement from those approved by OMB.

**Environmental Impact Statement**

This action has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." RHCDS has determined that the proposed 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 (Pub. L. 91-190), an environmental impact statement is not required.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-602) the undersigned have determined and certified by signatures of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program. Therefore, a regulatory flexibility analysis was not prepared.

**Civil Justice Reform**

The proposed action has been reviewed under Executive Order 12778 and meets the applicable standards provided in section 2(a) and (2)(b)(2) of that Executive Order. Provisions within this part that are inconsistent with State law are controlling. All administrative remedies must be exhausted prior to filing suit.

**Intergovernmental Review**

This action affects the following RHCDS, RBCDS, RUS and CFSA programs as listed in the Catalog of Federal Domestic Assistance:

- 10.405 Farm Labor Housing Loans and Grants
- 10.410 Low Income Housing Loans
- 10.415 Rural Rental Housing Loans
- 10.420 Rural Self-Help Housing Technical Assistance
- 10.433 Housing Preservation Grants
- 10.766 Community Facilities Loans
- 10.767 Intermediary Relending Program
- 10.768 Business and Industrial Loans
- 10.770 Water and Waste Disposal Loans and Grants

All of the above programs, except 10.410 Low Income Housing Loans, are subject to the provisions of Executive Order 12372 that requires zintergovernmental consultation with State and local officials.

**Background**

General: The RHCDS, RBCDS, RUS, and CFSA make grants, loans, and loan guarantees for the planning and performing of construction and other development work in rural areas. The RHCDS, RBCDS, RUS, and CFSA require borrowers and grant recipients to meet applicable requirements mandated by Federal statutes, regulations, and executive orders to obtain Agency financing. One such requirement is compliance with Executive Order 12699, "Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction", which implements the building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. 7701 et seq.

Therefore, the RHCDS, RBCDS, RUS, and CFSA propose to amend their regulations regarding construction and other development for farmer, housing, community facilities and business programs to address the requirements of Executive Order 12699. This action clarifies the seismic requirements applicable to RHCDS, RBCDS, RUS, and CFSA borrowers and grant recipients; informs architects, engineers and contractors retained by such borrowers and grant recipients of the seismic safety requirements applicable to new building construction projects; and facilitates understanding of and compliance with the requirements.

Seismic Introduction: The Earthquake Hazards Reduction Act of 1977 (the Act) as amended was enacted to reduce risks to life and property from future earthquakes in the United States through establishment and maintenance of an effective earthquake hazards reduction program. This Act also directs the President "to establish and maintain an effective earthquake hazards reduction program" (the National Earthquake Hazards Reduction Program or NEHRP). The Federal Emergency Management Agency (FEMA) is the designated agency with primary responsibilities to plan and coordinate the NEHRP. The objectives of the NEHRP include the development of technologically and economically feasible design and construction methods to make structures earthquake resistant; the development and promotion of improved understanding and capability with respect to seismic risk; the education of the public as to earthquake phenomena; and other areas of seismic research.

Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, requires that measures to assure seismic safety be imposed on federally assisted new building construction. The Executive Order requires each federal agency assisting in the financing through Federal grants or loans, or guaranteeing the financing through loan or mortgage insurance programs of newly constructed buildings to initiate a plan to assure appropriate consideration of seismic safety.

To support the implementation of Executive Order 12699, the Interagency Committee on Seismic Safety in Construction (ICSSC), composed of members representing Federal agencies involved with construction or responsible for governmental assistance for construction, recommends the use of seismic codes and standards which are substantially equivalent to the "NEHRP

Recommended Provisions for the Development of Seismic Regulations for New Buildings." This guideline that represents the state-of-the-art in seismic design, has been widely reviewed, and is currently incorporated into national standards and codes which can be adopted by state and local building codes.

**Seismic Design:** Unlike hurricanes, earthquakes cannot be predicted; they strike without warning with great destructive forces. Most casualties occur when ground shaking causes buildings and other structures to collapse and objects to fall upon people. For these reasons, buildings and other structures need to be designed to resist earthquake forces.

Structural performance in earthquakes indicates that severe damage to and collapse of buildings almost always are the consequence of inadequate design or construction. The successful performance of buildings designed and constructed in accordance with seismic standards shows that effects of severe earthquakes can be resisted economically.

In order to reduce hazards from earthquakes, buildings should be designed according to appropriate seismic standards and codes. Executive Order 12699 requires the use of and conformance to seismic standards and codes for all new Federally assisted buildings. The Federal government has established the NEHRP to reduce the hazard due to earthquakes and the ICSSC to assist Federal agencies with earthquake hazard reduction implementation measures. The ICSSC has identified standards and model building codes that meet the requirements of the Executive Order and recommends their use. Therefore, the RHCDS, RBCDS, RUS and CFSA propose to require construction financed by their programs to comply with these model building codes.

Copies of any unpublished exhibits are available by request to the Agency at the address set forth above.

#### List of Subjects

##### 7 CFR Part 1924

Agriculture, Construction and repair, Construction management, Energy conservation, Housing, Loan program—Agriculture, Low and moderate income housing.

##### 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

##### 7 CFR Part 1948

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

##### 7 CFR Part 1980

Loan programs—Agriculture, Loan programs—Business and industry—Rural development assistance, Loan programs—Housing and Community development, Loan programs—Community programs—Rural development assistance.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is proposed to be amended as follows:

#### PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for part 1924 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C 1989; 42 U.S.C 1480.

##### Subpart A—Planning and Performing Construction and Other Development

2. Section 1924.5 is amended by adding paragraph (d)(4) to read as follows:

##### § 1924.5 Planning development work.

\* \* \* \* \*

(d) \* \* \*

(4) New building construction and additions shall be designed and constructed in accordance with the earthquake (seismic) requirements of the applicable RHCDS development standard (building code). The analysis and design of structural systems and components shall be in accordance with applicable requirements of an acceptable model building code.

(i) Agricultural buildings that are not intended for human habitation are exempt from these earthquake (seismic) requirements.

(ii) Single family detached one and two family dwellings shall be constructed in accordance with the requirements of Exhibit N of FmHA Instruction 1924-A (available in any Rural Economic and Community Development office).

(iii) Single family housing new construction located in seismic map areas, as determined by the 1991 edition of the National Earthquake Hazard Reduction Program (NEHRP) Maps, having an effective peak velocity-related acceleration ( $A_v$ ) value equal to or greater than 0.15 (see Exhibit N of Instruction 1924-A) shall be designed and constructed in accordance with the seismic requirements of one of the model building codes listed below.

(A) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(B) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code;

(C) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(iv) Acknowledgment of compliance with the applicable seismic safety requirements for new construction will be contained in the certification of final plans and specification on the appropriate RHCDS Form.

#### PART 1942—ASSOCIATIONS

3. The authority citation for part 1942 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

##### Subpart A—Community Facility Loans

4. Section 1942.18 is amended by adding paragraph (d)(17) to read as follows:

##### § 1942.18 Community facilities—planning, bidding, contracting, constructing.

\* \* \* \* \*

(d) \* \* \*

(17) *Seismic safety.*

(i) All new building construction shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes.

(A) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(B) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(C) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(ii) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications shall be evidence of compliance with the seismic requirements of the appropriate building code.

#### PART 1948—RURAL DEVELOPMENT

5. The authority citation for part 1948 is revised to read as follows:

**Authority:** 7 U.S.C. 1989.

##### Subpart C—Intermediary Relending Program (IRP)

6. Section 1948.117 is amended by adding paragraph (d) to read as follows:

##### § 1948.117 Other regulatory requirements.

\* \* \* \* \*

(d) *Seismic safety of new building construction.*

(1) The Intermediary Relending Program is subject to the provisions of

Executive Order 12699 that requires each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings to assure appropriate consideration of seismic safety.

(2) All new buildings shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes.

(i) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(ii) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(iii) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(3) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications shall be evidence of compliance with the seismic requirements of the appropriate building code.

#### PART 1980—GENERAL

7. The authority citation for part 1980 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989, 4201 note; 42 U.S.C. 1480.

#### Subpart A—General

8. Section 1980.48 is added to read as follows:

##### § 1980.48 Seismic safety of new building construction.

(a) The guaranteed loan programs are subject to the provisions of Executive Order 12699 which requires each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings to assure appropriate consideration of seismic safety.

(b) All new buildings shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes:

(1) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(2) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(3) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(c) The date, signature, and seal of a registered architect or engineer and the

identification and date of the model building code on the plans and specifications shall be evidence of compliance with the seismic requirements of the appropriate building code.

Dated: June 28, 1995.

**Michael V. Dunn,**

*Acting Under Secretary for Rural Economic and Community Development.*

Dated: June 30, 1995.

**Gene Moos,**

*Under Secretary for Farm and Foreign Agricultural Services.*

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 436

[Docket No. EE-RM-95-501]

#### Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Cost Analyses

**AGENCY:** Office of Energy Efficiency and Renewable Energy, DOE.

**ACTION:** Notice of proposed rulemaking and public hearing and request for public comment.

**SUMMARY:** The Department of Energy (DOE) proposes to amend its Federal Energy Management Program regulations to include provisions for applying the life cycle costing methodology when evaluating and comparing the cost effectiveness of water conservation measures in Federal buildings.

**DATES:** Written comments (six copies) must be received on or before October 24, 1995 in order to ensure their consideration. A public hearing will be held on October 12, beginning at 9:30 a.m., e.d.t. at the address indicated below. Requests to speak at the hearing must be received by 4:30 p.m., e.d.t. on or before October 10. The length of each oral presentation is limited to 10 minutes.

**ADDRESSES:** Written comments (six copies) and requests to speak at the public hearing, are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Docket No. EE-RM-95-501, EE-92, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586-3012. FAX comments will not be accepted. The public hearing will be held at the U.S. Department of Energy, Forrestal

Building, Room 1E-245, 1000 Independence Avenue, SW., Washington, DC 20585. Copies of the transcript of the public hearing and public comments received may be obtained from the DOE Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6020, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** K. Dean DeVine, P.E., Federal Energy Management Program, Office of Energy Efficiency and Renewable Energy, Mail Station EE-92, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6784.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The Department of Energy (DOE) today proposes amendments to some of the provisions in 10 CFR part 436 which are applicable to programs for the management of energy consumption by Federal agencies. The amendments are directed principally toward updating the life cycle cost methodology and procedures in subpart A in light of changes in law requiring the use of life cycle costing methodology when installing water conservation measures.

Section 152 of the Energy Policy Act of 1992 (Pub.L. 102-486) amended the legislatively mandated policies with regard to federal energy management originally set forth in section 542 of the National Energy Conservation Policy Act (Act). 42 U.S.C. 8252. This amendment to section 542 expands the purpose of the federal energy management program to include the conservation and the efficient use of water, in addition to non-renewable energy, by the Federal Government.

Section 543 of the Act (42 U.S.C. 8253(a)) "Energy Management Goals" was also amended by Section 152 of the Energy Policy Act by adding an energy management requirement for Federal agencies that "Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544". To implement this statutory provision, it is necessary to amend the life cycle cost regulations as set forth in part 436 of the Code of Federal Regulations, pursuant to section