Agricultural Law Update

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Justice is the insurance which we have on our lives and property, to which may be added: and obedience is the premium which we pay for it.

— William Penn

Field sanitation standard promulgated

After many years of vacillating, OSHA has promulgated an agricultural field sanitation standard. The final rule appears at 52 Fed. Reg. 16050, 16095 (May 1, 1987) (to be codified at 29 C.F.R. § 1928.110).

The standard applies to any agricultural establishment where eleven or more employees are engaged on any given day in hand-labor operations in the field. Hand-labor operations are agricultural activities or operations performed by hand or with hand tools. Examples include hand-cultivation, hand-weeding, hand-planting and hand-harvesting of vegetables, nuts, fruits, seedlings or other crops, including mushrooms, and the hand packing of produce into containers. Hand-labor does not include such activities as logging operations, the care or feeding of livestock, or hand-labor operations in permanent structures such as canning facilities or packing houses.

In connection with hand-labor operations in the field, agricultural employees are required to provide and maintain potable drinking water and toilet and handwashing facilities.

Potable drinking water is to be provided in locations readily accessible to all employees. It shall be suitably cool and sufficient in quantity and shall be dispensed by single-use drinking cups or by fountains.

One toilet facility and one handwashing facility is to be provided for each twenty employees or fraction thereof. Toilet facilities may be fixed or portable and may be biological, chemical, flush and combustion, or sanitary privies. An adequate supply of toilet paper is required. Handwashing facilities must be in close proximity to toilet facilities. These facilities are to be located within one quarter mile walk of each hand-laborer's place of work in the field. Where the terrain is difficult, the facilities can be located at the point of closest vehicular access.

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Private cause of action under Farm Credit Amendments Act of 1985 rejected

Two recent federal district court decisions have rejected contentions that the borrowers' rights provisions of the Farm Credit Amendments Act of 1985 created an implied cause of action in favor of Farm Credit System borrowers. *Redd v. Federal Land Bank of St. Louis*, No. N86-155C (E.D. Mo. April 13, 1987); *Mendel v. Production Credit Assoc. of the Midlands*, Nos. 86-4104 and 86-4098 (D.S.D. April 3, 1987). However, addressing a related issue, the Supreme Court of North Dakota has held that a federal land bank's failure to comply with the System's forbearance regulations may afford a basis for an equitable defense to a foreclosure action, notwithstanding the absence of an implied cause of action. *Federal Land Bank of St. Louis v. Overboe*, No. 11,129 (N.D. April 16, 1987).

In *Redd*, the court relied on the House Report's discussion of the rejection of an amendment to the 1985 legislation that would have held "directors and officers of the System personally and individually liable for damages suffered when they knowingly violate... [the] Act, or any rate regulation or order issued thereunder" as indicating an absence of any intention to create a private cause of action. H.R. Rep. No. 425, 99th Cong., 1st Sess. 44, *reprinted in* 1985 U.S. Code Cong. & Ad. News 2587, 2631. It bolstered its reliance on the House Report by concluding that the Act's granting of cease and desist powers to the Farm Credit Administration reflected a Congressional intention to so limit the remedy available for violations of the Act. *Redd*, slip op. at 3-4 (citing 12 U.S.C.A. §§ 2261, 2264 2267(b), 2268(a) and (g), and 2269 (West Supp. 1986)). The court discounted the statement by Representative De La Garza on the House floor expressing his understanding that the Act created a private cause of action by finding that understanding to be inconsistent with the Act's creation of a remedy in favor of the Farm Credit Administration. *Redd*, slip op. at 4-5 (citing 131 Cong. Rec. H11518-19 (daily ed. Dec. 10, 1985)).

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The definition of agricultural employer is broad and includes owners and operators, contractors, and certain persons who have entered into production contract with owners or operators.

The standard took effect on May 30, 1987. Employers must have complied with the potable drinking water standard by May 30, 1987. June 30, 1987 is the deadline for providing handwashing and toilet facilities, providing for their maintenance, and assuring reasonable access by workers.

An extensive supplementary information section appears at 52 Fed. Reg. 16050 -16095 (1987). The supplementary information discusses the complex legal history of the standard, goes on at length about pertinent health issues, discusses the feasibility of the standard, and provides a summary of the standard itself.

A number of states have adopted their own field sanitation standards. States that have OSHA-approved occupational safety and health plans have six months to bring these standards to the level of the federal standard. In the case of states that do not have OSHA-approved plans, local field sanitation standards are preempted to the extent that they regulate farms with eleven or more employees on any given day. However, all states are free to regulate farms with fewer than eleven employees given the current congressional small farm exemption which prohibits OSHA from promulgating or enforcing standards as to such opera-

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In *Mendel*, the court drew the opposite conclusion as to Rep. De La Garza's remark. It found that the statement was sufficient to demonstrate a legislative intention to create a private remedy. Nevertheless, the court also found that the underlying purpose of the 1985 amendments was to "shore up" the finances of the System, and that allowing borrowers who were not given their rights to recover monetary damages against a System institution would be inconsistent with that purpose. On that basis, the court denied a private cause of action.

Unlike the issues in *Redd* and *Mendel*, the issue presented to the North Dakota Supreme Court in *Overboe* assumed that the Farm Credit Act did not afford borrowers a right of action. The question was whether, in the absence of a private right of action, a borrower could assert a federal land bank's failure to follow the System's forbearance regulations as a defense to a foreclosure action. Relying on a line of cases that have allowed a mortgagee's failure to follow HUD mortgage servicing regulations promulgated under the National Housing Act to be asserted as an affirmative defense notwithstanding the absence of a private cause of action under that Act, the court resolved the issue favorably to the borrower. *See,* e.g. Brown v. Lynn, 392 F.Supp. 559 (N.D. Ill. 1975).

The administrative forbearance defense permitted by the *Overboe* court permits judicial consideration of both the procedural and substantive aspects of the System institution's action. The initial inquiry is whether the institution "has established a general policy of forbearance and whether it applied that policy in arriving at its decision to seek foreclosure." If the trial court finds that the borrower's qualifications were considered by the institution in accordance with its procedures, the court's review of the merits of that consideration must be confined to whether the institution abused its discretion. To prevail, the borrower must show that the institution acted in an "arbitrary, capricious, unreasonable or unconscionable manner."

The *Overboe* court indicated that appellate review of a trial court's determination of the substantive issue will be guided by the standard of whether the abuse of discretion standard of review "appears to have been misapprehended or grossly misapplied" (citing *Universal Camera Corp. v. National Labor Relations Board*, 340 U.S. 474, 491 (1951).

— *Christopher R. Kelley*

MONTANA. *Attempted Accord and Satisfaction Fails.* In the case of *Interstate Production Credit Association v. Abbot*, 726 P.2d 824 (1986), the farmer, in default, received a check for the sale of cattle which was issued jointly to the farmer and the PCA. The farmer had the back of the check printed with accord and satisfaction language before presenting it to the PCA for endorsement. The PCA receptionist stamped the check for deposit. The farmer argued that this action constituted an accord and satisfaction.

The Montana Supreme Court, noting that an accord is an agreement — a meeting of the minds —, held that the presentation of a check intending to trick the creditor into extinguishing an existing obligation did not rise to the level of a new agreement. The court noted its line of cases holding that the endorsement of a check by a creditor for the purposes of cashing it is not such a writing that would give rise to an accord under Mon. Code Ann. Sections 28-1-401 and -402.

— Donald D. MacIntyre

AG LAW CONFERENCE CALENDAR

Summer Institute in Agricultural Law.
Drake University Agricultural Law Center, Des Moines, IA.
June 22-25: workouts and bankruptcy
June 29-July 2: biotechnology and agriculture.
July 6-9: commodity futures trading.
July 13-16: agriculture and the environment.
July 20-23: lender liability.
For more information, call 515/271-2947.

Recent agricultural bankruptcy articles

The following is a compilation of recent law review literature on the subject of agricultural bankruptcies.

Allen, *Saving the Family Farm*, 7 Cal. Law. 8 (1987).

Bromley, *The Chapter 12 Family Farm Bankruptcy Law; Changing the Rules*, 60 Wis. B. Bull. 18 (1987).

Flaccus, *Taxes, Farmers, and Bankruptcy and the 1986 Tax Changes: Much Has Changed, But Much Remains the Same*, forthcoming in the July 1987 issue of the Nebraska Law Review.

Gillingham, Minnesota's Grain Elevator Legislation: Inadequate Protection for Minnesota's Grain Farmers Means Overprotection for the Country Elevator, 13 Wm. Mitchell L. Rev. 221 (1987).

Grossman, *Pre-Bankruptcy Forfeiture of Installment Land Contracts for the Sale of Farmland*, 8 J. Agric. Tax. & L. 357 (1987).

Haber, *The New Chapter 12 of the Bankruptcy Code: Special Provisions for Family Farmers*, 56 J. Kan. B. A. 8 (1987).

Hartung, *The Liability of an Individual Debtor for Taxes Incurred by the Bankruptcy Estate*, 9 J. Agric. Tax. & L. 64 (1987).

Kunkel, Walter & Lander, *The Reach of Prefiling Security Interests in Postfiling Proceeds of Agricultural Collateral, An Analysis of Bankruptcy Code* § 552, 8 J. Agric. Tax. & L. 311 (1987).

Marston-Moore, *Family Farmer Bankruptcy Act of 1986, 60 Ohio St. B. A. Rep. 276 (1987).*

Martin, Bankruptcy Judges, U.S. Trustees and Family Farmer Bankruptcy Act of 1986, 16 Colo. Law. 221 (1987).

Shepard, Farm Bankruptcy: The New Chapter 12, 48 Ala. L. Rev. 10 (1987).

Wilson, Chapter 12: Family Farm Reorganization, 8 J. Agric. Tax. & L. 299 (1987).

Flaccus, *Farmers, Taxes, and Bankruptcy*, 1986 Ark. L. Notes 1 (1986).

Hess & Wood, *Bankruptcy Law and the Farmer: Are Farmers Really Exempt from Forced Liquidation Under Chapter 11?*, 25 Washburn L.J. 264 (1986).

Krogs & Acconica, *In re Ahlers: Capitalizing on Sweat*, 42 J. Mo. B. 455 (1986).

Lander, *Is the Agricultural Security Interest Legally Healthy?*, 34 U. Kan. L. Rev. 505 (1986).

Marston-Moore, *Family Farmer Bankruptcy Act of 1986*, 22 Tenn. B. J. 13 (1986).

Martin, *Bankruptcy*, the U.C.C. and the Farmer: PIK Payments — Heads General Intangibles, Tails Proceeds Schmaling, In re, 783 F.2d 680 (7th Cir. 1986), 26 Washburn L.J. 178 (1986).

Reidinger, *Bankruptcy, Eighth Circuit Makes Allowances for Farmers*, 72 A.B.A. J. 82 (1986).

Uchtmann & Bauer, *Protection of Farmers in Grain Elevator Bankruptcies*, 6 N. Ill. U.L. Rev. 175 (1986).

— *Janet Flaccus*

Disclaimer of joint tenancies: new rule in Seventh Circuit

Kennedy v. Commissioner, 804 F.2d 1332 (7th Cir. 1986), has changed the rules regarding disclaimer of joint tenancy interests in the Seventh Circuit.

The facts in *Kennedy* involved Illinois farmland purchased by the husband in 1953 and immediately placed in joint tenancy between the husband and wife. Under applicable law, the creation of the joint tenancy was an irrevocable gift to the wife of a one-half undivided interest in the property. Although both joint tenants had a right under state law to partition the property while living, neither chose to do so. Husband died in 1978. Within nine months, wife disclaimed the undivided one-half undivided interest to pass to a daughter. The IRS, however, viewed the series of events as a taxable gift from wife to daughter.

The taxpayer argued that since her husband had a right of partition until the moment of his death, she did not acquire the one-half undivided interest until her husband's death. Thus, her disclaimer was timely, since made within nine months of husband's death, and was governed by Code Sec. 2518. The IRS argued that the disclaimer had to be made within a time period determined by the joint tenancy's creation in order to be a qualified disclaimer. *See* Treas. Reg. Sec. 25.2518-2(a)(4). *But see* Uchtmann and Zigterman, *Disclaimers of Joint Tenancy Interests Revisited*, Digest of Tax Articles (Jan. 1987).

The tax court agreed with the IRS, holding that a gift from wife to daughter had occurred. *Kennedy v. Commissioner* T.C.M. 1986-3 (January, 1986).

The Seventh Circuit Court of Appeals disagreed, stating:

> The gift of a joint tenancy with right of survivorship should be treated as more than one transfer in states that allow any tenant to partition the property at will. One transfer is an undivided interest, given on the date the tenancy is created. Additional transfers occur on the death of other joint tenants. This case, with two tenants, is simple. The time within which Pearl could disclaim the half of the property she received because of Frank's death started to run in 1978 and is therefore governed by the 1976 statute.

The Seventh Circuit remanded the case for further proceedings to determine whether taxpayer had accepted any interest or benefits as the terms are used in Code Sec. 2518. On March 9, 1987, the Commissioner filed a Memorandum on Remand stating that he "will not pursue the argument that the petitioner accepted any interest in, or benefit from, the property..."

Can a *donor* joint tenant also disclaim a survivorship interest under the rule announced in *Kennedy*? For example, suppose Mr. Kennedy (who provided all consideration for the farmland and who made a gift to his wife when the joint tenancy was created) had survived his wife. Would he, as surviving donor joint tenant, be able to disclaim the one-half survivorship interest anytime within nine months of his wife's death? This question was not at issue in *Kennedy*, although the logic of *Kennedy* would suggest an affirmative answer.

— *Donald L. Uchtmann*

Understanding the Current Crisis with the ASCS

*by Alice A. Devine**

The current economic crisis in agriculture has forced farmers to rely upon government price and income supports to protect themselves from financial disaster. This increased participation in governmental programs has caused the costs to soar and public attention to intensify when elaborate schemes of abuse are reported. Congress has continuously tried to balance the interests of producers with those of the public, in part through the use of payment caps. This article gives a short overview of this complex legislation.

Current Farm Legislation

The Food Security Act of 1985 sought to minimize the economic stress to agriculture by implementing various commodity programs. Pub. L. No. 99-198, 99 Stat. 1354 (1985) (to be codified at 7 U.S.C. scattered sections) [hereinafter 1985 Farm Bill]. Each commodity program uses one or a combination of three basic methods to support and stabilize producer prices and income while assuring ample supplies to consumers. The three basic methods include price supports, income supports, and supply management or control.

To further these methods, policy tools are utilized. For example, the policy tools for price supports under the 1985 Farm Bill include nonrecourse loans and government purchases. Deficiency, disaster, and incentive payments; marketing loans; and loan deficiency payments comprise the income support instruments. Finally, supplies are controlled through the use of acreage allotments and marketing quotas, acreage set-asides, acreage reductions, cropland diversion, payments-in-kind, long-term conservation reserves, farmer-owned grain reserves, and dairy diversion. Becker, *Fundamentals of Domestic Commodity Price Support Programs*, Cong. Res. Serv. No. 86-128 ENR at 1-2 (June 1986).

The Payment Limitation

In October of 1986 the Food Security Act was amended to place tighter restrictions upon the amounts of payment any one person may receive under the farm programs. The new provisions stated that for each of the 1987 through 1990 crops, the total amount of deficiency payments and land diversion payments that a person shall be entitled to receive under one or more of the annual programs established under the Agriculture Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, and rice could not exceed $50,000. The Act also provided that for each of the 1987 through 1990 crops the total amount of "other" payments made under the annual programs for wheat, feed grains, upland cotton, extra long staple cotton, rice, honey, and gains realized by producers of other commodities under marketing loans when combined with payments subject to the $50,000 limit, could not exceed an overall cap of $250,000. Continuing Appropriations, Fiscal Year 1987, Pub. L. No. 99-591, § 108, 1986 U.S. Code Cong. & Ad. News ____ (to be codified at 7 U.S.C. § 1308).

The "other" payments include payments made as compensation for (1) resource adjustment or public access for recreation; (2) any disaster payment made under one of the annual programs; (3) any gain realized by a producer under a marketing loan for wheat, feed grains, upland cotton, rice, and honey; (4) any deficiency payment received for a crop of wheat or feed grains made as a result of reduction of the loan level; (5) any loan deficiency payment received for wheat, feed grains, upland cotton, or rice crops; and (6) any inventory reduction payments received for crops of wheat, feed grains, upland cotton, or rice. Any other loan or purchase is excluded from the limitation. The Amendment also directed the Secretary of Agriculture to review the existing regulations defining "person" and to revise them to ensure fair application of limits while eliminating fraud and abuse in the programs. 7 U.S.C. § 1308.

The authority of the Secretary of Agriculture to offer price supports is carried out in most cases by the Commodity Credit Corporation (CCC). The CCC is a Federal corporation within the Department of Agriculture. It is wholly owned and operated by the U.S. government. USDA, ASCS Background Information, BI No. 2 "Commodity Credit Corporation" 1 (July 1982).

The Corporation has no operating personnel. Its activities are carried out primarily through the facilities and personnel of the Agricultural Stabilization and Conservation Service (ASCS). ASCS maintains headquarters in Washington, D.C. The agency is governed by an Administrator, an Associate Administrator, and four Deputy Administrators. Of these four, the Deputy Administrator, State and County Operations, (DASCO) works most closely with producers. The offices of DASCO develop policies and regulations for farm price support programs, production adjustment, farm storage programs, natural and defense-related emergencies, and soil and water conservation. DASCO also serves as the final agency authority in appeals by producers regarding determinations made under the farm programs.

In addition to this national system, state and county offices have been established to directly administer the programs to producers. ASCS state committees are composed of three to five members. The state committee's major function is to oversee the work of county committees. USDA, Background Information, BI No. 1, "Agency Organization" 1 (Apr. 1982).

The purpose of the county committee is to administer on a local level the various Congressional farm acts. The county committee is composed of three members who are elected by eligible producers to serve three-year staggered terms. 7 C.F.R. § 7.3 (1986). The duties of the committee include supervising the county office personnel and making initial decisions concerning the implementation of the programs. The county committee in conjunction with the County Executive Director (CED), an ASCS staff professional, assess a producer's eligibility to participate in the programs, and if approved, the amount of benefits he may receive. However, the county committee may make determinations to deny benefits and to require refunds of payments made. Hamilton, *Farmer's Rights to Appeal ASCS Decisions Denying Farm Program Benefits*, 29 S.D.L. Rev. 282 (1984). Regulations also authorize the agency to withhold or set off payment, or forward the case to the state committee for determination. 7 C.F.R. pt. 13 (1986).

Application of the Payment Limitation

As previously stated, the general provisions establishing payment limitations are contained in 7 U.S.C. § 1308 as amended by Pub. L. No. 99-591 (1986). In accordance with these laws, the Secretary of Agriculture has promulgated regulations governing the application of the limits. These regulations are contained in 7 C.F.R. pt. 795 (1986) as amended by 51 Fed. Reg. 8,453-8,454 (Mar. 11, 1986) and 51 Fed. Reg. 36,904 (June 16, 1986). Previous interpretations listed in 36 Fed. Reg. 16,569 (Aug. 24, 1971), 37 Fed. Reg. 3,049 (Feb. 11, 1972), 39 Fed. Reg. 1,502 (Apr. 30, 1974), and 41 Fed. Reg. 17,527 (Apr. 27, 1976) are made applicable by 7 C.F.R. § 795.22 (1986). In addition to these regulations, the ASCS has published the 5-CM Handbook entitled "Common Payment Limitation Provisions" and amendments thereto, to assist state and county committees in applying the limit. This handbook is available to producers upon request from USDA, ASCS, P.O. Box 2415, Washington, D.C. 20013.

Alice A. Devine received her B.A. from St. Mary of the Plains College, her J.D. from Washburn University, and her LL.M in Agricultural Law from the University of Arkansas. She is a member of the Kansas bar.

Defining a "Person"

The statute limits the amount of payments a "person" may receive. The term "person" includes an individual, joint stock company, corporation, association, trust, estate, or other legal entity. 7 C.F.R. § 795.3 (1986). Generally, determinations of a "person" are based upon the status of the individual or entity as of March 1, of the crop year. 7 C.F.R. § 795.12 (1986). In order to be considered a separate person for purposes of applying the limitation the individual or entity must meet the conditions of 7 C.F.R. pt. 795 including the particular requirements of 7 C.F.R. § 795.3 (1986). The entity or individual must have a separate and distinct interest in the crop or the land on which the crop is produced, exercise separate responsibility for such interest, and be responsible to pay the cost of farming related to such interest from a fund or account separate from that of any other individual or entity.

A fundamental provision of the payment limitation rules is that the producer must contribute to the cost of farming, in proportion to the producer's interest, from a fund or account separate from that of any other individual or entity. If an individual or entity finances another individual or entity on a farm in which they both have an interest, the individuals or entities shall be considered one person. USDA, "Payment Limitation Provisions for 1987", ASCS Notice CM-75, Exhibit 1 at 3 (12-2-86). See also USDA, "Questions and Answers About Payment Limitations", ASCS Notice CM-93 (3-13-87). [Hereinafter CM-75 and CM-93].

Family Members

The term "family member" includes lineal ancestors and descendants of an individual and does not include the brother or sister of an individual. Under the 1987 proposed rules, "family member" includes the individual, great-grandparent, grandparent, parent, child, grandchild, and great-grandchild of the individual and the spouses of all these individuals. 52 Fed. Reg. 9,302 (to be codified at 7 C.F.R. § 795.4) (proposed Mar. 24, 1987).

A husband and wife shall be considered as one person. 7 C.F.R. § 795.11 (1986). A minor child and his parents or guardian, or other person responsible for the child, shall be considered as one person. For payment limitation purposes, people are minors until they reach the age of 18. However, a minor may be considered separate from his parents or persons acting in a similar capacity if the minor meets the requirements of 7 C.F.R. § 795.12(a) and one of the provision of 7 C.F.R. § 795.12(a) (1), (2) or (3) (1986). See also 5-CM par. 51, 52.

The 1987 proposed definition of family members states that an individual shall not be denied a determination that such individual was a "person" solely on the basis that a family member cosigns for, or makes a loan to such individual and leases, loans, or gives to the individual equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985. 52 Fed. Reg. 9,302 (to be codified at 7 C.F.R. § 795.4). See also CM-93.

Multiple Individuals or Other Entities

When applying the payment limitation to multiple individuals or entities, the rules can become complex. Specialized rules are contained in 7 C.F.R. §§ 795.5 through 795.16 for evaluating these cases. In situations in which more than one rule appears applicable, the most restrictive is to be used. 7 C.F.R. § 795.6 (1986).

Some entities and joint operations should not be considered single persons under 7 C.F.R. § 795.7 (1986). Under this section, each individual or other legal entity who shares in the proceeds derived from farming by the joint operation may be considered a separate person if the party is actively engaged in the farming operation. A party is actively engaged in the farming operation if its contribution to the joint operation is proportional with its share in the proceeds received from the joint operation. 7 C.F.R. § 795.7 (1986). See also 5-CM, CM-75 and CM-93.

Corporation and Stockholders

Corporations and limited partnerships may be considered as one person. 7 C.F.R. § 795.8 (1986). Section 795.8 states that an individual stockholder of a corporation may be considered as a separate person to the extent that the stockholder is engaged in the production of his own crop as a separate producer and meets the tripart test of section 795.3. However, if a shareholder owns more than fifty percent of the stock of the corporation, including stock owned by a spouse or minor child and attributable to the shareholder, the stockholder shall not be considered as a separate person from the entity or individual. Where the same two or more individuals or entities own more than fifty percent of the stock in each of two or more corporations they are considered one person. 7 C.F.R. § 795.8 (1986). See also 5-CM, CM-75 and CM-93 for examples of the application of the payment limitation to corporations.

Estates and Trusts

The rules governing the application of the payment limitation to estates and trusts are found at 7 C.F.R. § 795.9 (1986). An estate or irrevocable trust may be considered a separate person from the beneficiaries if there are two or more beneficiaries and the trust or estate has farming interests that are separate and distinct under the tripart test of § 795.3. See also 5-CM, CM-75, and CM-93.

Changes in Farming Operations

Section 795.14 provides that a person may exercise his or her right under existing laws to divide, sell, transfer, rent, or lease his property if the division, sale, transfer, rental arrangement or lease is legally binding between the parties. However, any document which is fictitious or not legally binding between the parties shall be considered to be for the purpose of evading the payment limitation and shall be disregarded for purposes of applying the payment limitation. Any change in farming operations that would serve to increase the number of persons for application of the payment limitation must be bona fide and substantive. The term "substantive" has been interpreted narrowly by the agency. Examples of what constitute a substantive change may be found in 7 C.F.R. § 795.14 (1986). 5-CM, CM-75, and CM-93.

Leasing Arrangements

Under each specific commodity program provision eligibility for benefits requires the person to be a producer. For example, the regulations at 7 C.F.R. pt. 13 define a producer as one who shares in the crop, or its proceeds, or who would have shared in the crop if it had been produced. Some leasing arrangements provide that the landlord receive both a minimum payment and a share of the crop or its proceeds. Determining whether rental agreements are cash leases or share leases affects determination of eligibility under the commodity program and application of the payment limitation. Current definitions of cash lease and share lease may be found at 51 Fed. Reg. 8,544 (1986) (to be codified at 7 C.F.R. § 795.15)

Custom Farming

Custom farming is defined at 7 C.F.R. § 795.16 (1986). A person performing custom farming will be considered a separate person from the individual for whom the custom farming is performed if the provisions of 7 C.F.R. § 795.16(a) are met: (1) the compensation paid for the custom farming must be at a rate customary for the area and is in no way dependent upon the amount of the crop produced; (2) the person performing the custom farming and any other entity in which such person has more than a twenty percent interest must have no direct or indirect interest (a) in the crop on the farm by taking any risk in the production of the crop, sharing in the proceeds of the crop, granting or guaranteeing the financing of the crop, (b) in the allotment on the farm, or (c) in the farm as landowner, landlord,

(continued on next page)

mortgage holder, trustee, lienholder, guarantor, agent, manager, tenant, sharecropper, or any other similar capacity. If the person performing custom farming owns more than a twenty percent interest in the entity for which the custom farming is done, then the person shall not be considered separate unless the provisions of 7 C.F.R. § 795.16(b) are met. USDA, "1987 Payment Limitation Policy", ASCS Notice CM-96 (March 30,1987).

Scheme or Device

Payments made under any of the commodity programs will be withheld or required to be refunded if a person adopts a scheme or device to evade the payment limitation. 7 C.F.R. § 795.17 (1986).

Other Provisions

If a county or state committee is unable to make a determination as to how to apply the payment limitation, 7 C.F.R. § 795.13 (1986) directs the committee to forward the matter to a higher authority. If a lower authority makes a determination which a producer relied upon and which was later narrowed by a higher reviewing authority, the Deputy Administrator may grant relief to the producer under the regulations found at 51 Fed. Reg. 8,436, 8,454 (to be codified at 7 C.F.R. § 795.24).

A person dissatisfied with a determination may obtain reconsideration or review of the decision by proceeding pursuant to 7 C.F.R. pt. 780 (1986).

Caselaw

To propose an adequate challenge or defense to agency action relating to application of the payment limitation, it is necessary to understand pertinent previous judicial rulings. Actions by producers against the agency center around issues of jurisdiction, or the lack thereof in the courts; limitations to judicial review; and challenges to agency action. Actions by the agency against the producer may involve withholding proceedings, refund proceedings, false claims suits, and civil and criminal claims of fraud. Each of these issues will be discussed in the context of the following cases.

Plaintiffs seeking judicial review of agency action will normally look to 25 U.S.C. § 1346(a)(2) as a basis for jurisdiction in the federal district courts. However, the Tucker Act grants jurisdiction to the Claims Court as to claims against the United States for over $10,000. 18 U.S.C. § 1491. Plaintiffs asserting both legal and equitable claims against the United States may be placed in a dilemma when selecting the appropriate forum. These statutes are discussed generally in *Pope v. U.S.*, 9 Cl. Ct. 479 (1986) (Pope sought relief for denial of program benefits on contract and reliance theories).

Exhaustion

Generally, courts will require exhaustion when the question presented is one within the agency's specialization, and where the administrative remedy is as likely as the judicial remedy to provide the desired relief. But courts will not require exhaustion if it will result in irreparable injury, if the agency is without jurisdiction, or if administrative remedies are inadequate. K. Davis, Administrative Law, § 20.01 (1972).

In the context of the ASCS, the courts have followed these rules. For example, in *Rigby v. Rasmussen*, 275 F.2d 861 (10th Cir. 1960), the court denied the producers' challenge of administrative regulations formulating the standards for calculating base acreages because the producers had failed to apply for available administrative remedies. In *Morrow v. Clayton*, 326 F.2d 36 (10th Cir. 1963), the court held that under the facts of the case, the plaintiffs had no available administrative remedy and thus exhaustion was not required. In *Morrow*, plaintiff had been denied benefits after the state committee had issued a general policy determination. The court reasoned that Congress did not intend for local committees to review decisions of a higher authority, thus no administrative remedy was available.

Statutory Preclusion and Finality

Judicial review of agency action has been continuously challenged by the Government on the theory that provisions of the Agriculture Adjustment Act of 1938 preclude review. 7 U.S.C. §§ 1385, 1429. The courts have not interpreted the Act as a complete bar to judicial review.

In *Garvey v. Freeman*, 397 F.2d 600 (10th Cir. 1968), the Government argued that 7 U.S.C. § 1385 precluded judicial review of a producer's claim that the agency administrative procedures for determination of wheat base yields were distorted by officials so as to deny him a fair hearing. The Act in pertinent part provides that "the facts constituting the basis for any payment . . . when officially determined in conformity with applicable regulations . . . shall be final." The court could find no Congressional intent precluding judicial review of questions of whether the findings of fact were in conformity with the regulations. The court held that these questions of law were subject to judicial review under the Administrative Procedure Act, 5 U.S.C. § 704.

Issues of finality may arise as to findings of fact which will bind the parties. In *United States v. Kopf*, 379 F.2d 8 (8th Cir. 1967), the court held that fairness required that a final decision as to one party should also be final as to the other, absent clear statutory authority to the contrary. Thus, the ASCS was bound by a previous county committee decision made after a full evidentiary hearing. However, in *Jones v. Hughes*, 400 F.2d 585 (8th Cir. 1968), the court held that an agency was not bound by administrative action which was executive rather than adjudicative in nature. The Court in *Gross v. United States*, 505 F.2d 1291 (Ct. Cl. 1974), clarified the issue of finality when it held that factual determinations were not subject to review by the court; and, that decisions of the agency based on such factual determinations were also entitled to finality except as to questions of law or allegations and proof by the plaintiff that such determinations were arbitrary and capricious. The court held that the plaintiff has the burden of proof to allege and prove that decisions are arbitrary and capricious and that Gross had not met the burden.

Due Process

The plaintiff in *Prosser v. Butz*, 384 F.Supp. 1002 (D. Iowa 1974), asserted that the ASCS had violated his rights to due process by denying him a hearing prior to denial of benefits. The court granted judicial review holding that statutory language making administrative action final and conclusive could not preclude judicial review where agency action infringed upon constitutional rights. The court found that under the rationale of *Goldberg v. Kelly*, 397 U.S. 254, 90 S. Ct. 1011, 25 L.Ed. 2d 287 (1970), the agency's failure to provide plaintiff any adjudicatory hearing prior to termination of benefits violated due process. The court reasoned that an entitlement to a benefit was established when plaintiff contracted with the ASCS for payments in return for agreeing to set aside land from production, and under *Goldberg* due process must be observed prior to denial of benefits.

Due process violations were asserted by the defendants in *U.S. v. Batson*, 782 F.2d 1307 (5th Cir. 1986). In *Batson*, the government instituted an action to compel cotton growers to refund payments obtained through schemes to avoid the payment limitation. Defendants claimed that the ASCS had violated their due process rights by delaying the administrative proceedings, by allowing biased officials to review the case, and by denying defendant the right to call, confront, and cross-examine witnesses. The court found no due process violations, but that the delay was caused by a concurrent criminal investigation of these same issues and that the delay actually protected defendants' Fifth Amendment rights. See also Hamilton, *The Payment Limitation on Farm Program Participation*, 3 Agric. L. Update 4 (May 1986); U.S. v. Batson, 706 F.2d 657 (5th Cir. 1983); *U.S. v. Clark*, 546 F.2d 1130 (5th Cir. 1977); and *Hilburn v. Butz*, 463 F.2d 1207 (5th Cir. 1972).

Discussion

Among the most frustrating situations for farmers and their attorneys are those in which the farmer has complied with all the program provisions to the best of his knowledge and yet, has received no payment. Further, the farmer often has received no written notice of non-compliance or other justification for agency action. At this point, the date for final changes in program

sign-up is either rapidly approaching or has passed. The farmer has committed his operation to the program requirements and is unable to reverse the commitment either because he will risk loss of benefits, or natural farming conditions prevent it. Thus, the farmer is placed in the frustrating position of waiting for an ASCS decision while the natural crop season continues.

The ASCS is authorized to withhold payments under 7 C.F.R. pt. 13 (1986). These withholding provisions are normally incorporated into the specific commodity programs. Section 13.3 states the conditions upon which withholdings shall be made.

These provisions contemplate withholding *after approval* by the county committee. If the withholding is based upon a decision made at the national level related to the payment limitation, section 795.24 may provide discretionary relief of payments for the crop year. If the producer has failed to comply but made a good faith effort to do so and has rendered substantial performance, he may seek redress from the Deputy Administrator who has discretionary authority to provide benefits in such cases under 7 C.F.R. pt. 781 (1986). If the farmer acted in good faith reliance upon the advice of an authorized representative of the Secretary, he may find relief in 7 C.F.R. pt. 790 (1986), but only up to $1,500. If a determination has been made, the provision of the program allow an administrative appeal. 7 C.F.R. pt.780 (1986).

While these provisions appear to grant some relief to the producer, they may not benefit a farmer who has not yet received a determination. The language of each of these refers to remedies available after determination. If the producer has not received any notice of an adverse decision, these provisions do not seem to apply. Again, the producer is left waiting.

Assuming the above situation exists the producer may seek relief in the Claims Court under the Tucker Act. The Claims Court would have subject matter jurisdiction in this action against the Government if the action is founded upon contract or constitutional principles and the monetary relief sought exceeds $10,000.

In response to this action the government will assert that the Claims Court lacks jurisdiction because the producer has failed to exhaust the available administrative remedies. The producer will claim that under the rationale of *Morrow*, exhaustion is not necessary. Like the facts in *Morrow*, no determination has been made in this assumed situation. Even if the producer's case was transferred to a higher reviewing authority because the county or state committee was unable to make a determination, then exhaustion would not be required because the lower reviewing bodies lack authority to review determinations of higher agency authorities.

If the agency has not acted either locally or on the higher levels to make a determination, again exhaustion may not be required. Complete inaction by the agency may constitute a violation of due process. This constitutional claim would form the basis of subject matter jurisdiction.

The producer may assert that the ASCS has violated due process by failing to provide a hearing prior to withholding benefits. Although the *Hilburn* court found that farmers in 1972 would be financially and physically able to continue farming while awaiting completion of the administrative and judicial process, this generally is not the situation today.

Participation in farm programs is no longer a choice for most producers. Programs payments are an economic necessity. The legislative history of the 1985 farm bill indicates the intent of Congress to provide farmers an economic climate in which they can survive the current farm crisis. Congress, in the 1985 farm bill sought to protect farm income while keeping within budgetary restraints.

These facts, when analogized with *Goldberg v. Kelly*, indicate the need for a hearing prior to withholding. The interest of eligible recipients in uninterrupted assistance when coupled with the federal government's interest in keeping farmers in business outweighs the competing concern about preventing any increase in fiscal outlays.

Finally, a producer may argue that the language of the 1985 Farm Bill requires the Secretary of Agriculture to make payments available to qualified producers, and that it is not in the Secretary's authority to withhold payments for indefinite periods. For example, the feed grain deficiency payment provision provides that "The Secretary shall make payments..." Given this language it may be argued that congressional intent was to provide farmers with a reliable source of assistance.

Another problem for producers is their inability to obtain accurate, clear, concise information regarding program compliance requirements. Although some agency interpretations are not required to be published, producers are still bound by the changes. The present system operates on a case by case review basis. This system is slow and tedious and does not always provide the producer with a final administrative determination. In fact, the statute of limitations for refund claims is six years. Thus, a farmer has no complete assurance of finality until the statute has tolled. The farmer may have a final determination if he seeks an evidentiary hearing regardless of the initial determination.

This system causes problems throughout the agriculture sector. Lenders who take security interests in government payments become hesitant to extend credit when delays are commonplace. Producers need prompt payments to continue farming and to meet obligations. Further, given the fact that ASCS county officers are overrun with work, to suggest that producers seek an evidentiary hearing regardless of the original determination would further clog the system and cause additional delay.

To alleviate these problems, congressional attention needs to focus upon legislation to give producers relief from agency delay. Legislation should also provide producers with a means of achieving a final determination as quickly as possible. Arkansas Representative Beryl Anthony has proposed an amendment to the 1985 Farm Bill which would authorize and direct the Secretary of Agriculture to issue regulations requiring that payment limitation determinations be made within forty-five days after approval by a county committee of the producer's application to participate in a farm program. This proposal would assist farmers in achieving rapid determinations but may place unbearable pressure on the present administrative system.

An alternative may be to require the agency to issue rulings comparable to the Letter Rulings issued by the Internal Revenue Service. Under such a system a producer could submit proposed changes in operations to the agency for approval prior to implementation. The agency advisory opinion or "letter ruling" could be published to allow dissemination of the information to other producers and to county and state personnel. This would provide an ongoing source of information for the public. While rulings could not bind the agency in future cases, they would encourage uniformity and certainty in agency interpretations. With this procedure producers and their advisors could better plan future farming operations.

To remedy the current information void, Congress could pass legislation authorizing and directing the Secretary of Agriculture to hold county-wide informational and technical assistance meetings for producers. The meetings could be conducted by agency professionals who know and understand the current regulations and their implications. This proposal, together with those set forth above, if implemented, would give greater assurance that producers will receive the assistance that Congress intended.

Author's note: The author reports the following case pertinent to the above discussion. Esch v. Lyng, U.S. District Court, Dist. of Columbia, Civ. No. 87-0885 filed June 5, 1987. U.S. District Court issued a temporary injunction and took jurisdiction over the question of person determination based upon the plaintiff's claims of agency actions that were arbitrary, capricious, an abuse of discretion and violations of the Constitution. An analysis of the case will appear in a future issue.

Letter from James B. Dean, President of the American Agricultural Law Association

June 1, 1987

Dear Members and Supporters:

In 1980 a number of men and women met at the Law School of the University of Minnesota with a vision that agricultural law was a discipline which could be segregated from other fields of law and which required drawing upon other disciplines, such as economics, psychology, sociology, banking, and accounting, for a full understanding and application. From this vision emerged the American Agricultural Law Association, which has endeavored to define and develop the field of "agricultural law" in all of its facets through interdisciplinary study and communication. From the original group of organizers, the membership of the Association has grown to 750 in 1987. The activities of the Association have grown as well.

One of the more visible activities of the Association has been the publication of an agricultural law newsletter, currently the *Agricultural Law Update*. From its beginning under the direction of Norman Thorson through the University of Nebraska to its current monthly appearances under its editor Linda Grim McCormick through and with the excellent support of Century Communications, Inc., the Association's newsletter has sought to provide timely information on developments in agricultural law. Through its Publications Committee, which oversees the newsletter, the Association has also explored other publication possibilities to disseminate information. It has also published a biennial membership directory and through various law reviews the proceedings of its annual meeting and educational conferences.

The annual meeting and educational conference held annually in October in various cities around the country has provided opportunities for members and others interested in agricultural law to meet together, share ideas, problems and experiences while hearing presentations from experts in various areas involving agricultural law. The annual conference is developed and guided by the president-elect who takes office as president at the annual conference.

In the minds of many persons these two activities are the essence of the Association. In some ways this may have been a correct interpretation because, with the exception of the newsletter, the Association's activities are conducted entirely by the voluntary efforts of its members and are carried on with a limited budget, the majority of which is dedicated to the production of the newsletter. The Association is reaching a size where some form of paid executive director should be considered with a charge to provide the necessary staff assistance for the development of other programs currently under study or in the initial stages of implementation.

In 1986 the Association organized a delegation to attend a joint conference between representatives from Europe and the United States on agricultural law issues. Through its International Liaison Committee, the Association is seeking to continue the contacts made in 1986 and to expand its relations into South America, Asia and other parts of the world.

Recognizing that several committees and activities exist in the American Bar Association which are designed to develop and study agricultural law, the Association has established an ABA Liaison Committee. This Committee is charged with seeking to develop mutually supportive relationships between the Association and the American Bar Association.

It is apparent to many persons that finding proper professional assistance in the field of agricultural law is difficult at best. The Association has been contacted on numerous occasions by persons seeking referrals for professional help. Cognizant of the problems of specialization and certification, the Association did not seek to meet the challenge of developing referral methods as rapidly as it might have. There has now been established a Lawyer Referral Committee charged with exploring and implementing the development of a referral system within or sponsored by the Association.

The Association is aware that it must plan for its future and continually explore ways to serve its members in the field of agricultural law. Its Long Range Planning Committee has been asked to develop a picture of the Association five years into the future and suggestions for reaching that point. In 1986 this Committee suggested that the Association should seek to provide expert input into the considerations given to matters affecting agriculture by legislative bodies. As a result a Legislative Support Committee has been established to explore this challenge and develop ways to serve legislative bodies.

A Practitioners Committee has also been established to explore ways and means by which the Association can provide greater support to practitioners of agricultural law. An informal group of state administrators interested in agricultural law has been developed within the Association through which these persons can identify each other and explore means to share information on common problems.

The Association sponsors an annual student writing competition and an award for an outstanding person in the field of agricultural law.

Although there are many additional directions which could and will be explored as the Association develops in the future, a number of accomplishments have been made since the days in 1980 when the group met in Minneapolis. The fact that all of the efforts have been predominantly through voluntary efforts is testimony to the dedication of those persons who have spent hours and dollars in the efforts made to the development of agricultural law as a discipline and the willingness of many persons to share of their time and talents with others. One can understand that a sense of pride is held by a number of persons who have been actively involved in the American Agricultural Law Association, but there are many frontiers yet to be explored and pursued. Fortunately the members of the Association are not the type who are willing to rest on their laurels. The future should be bright and exciting for the Association and its membership.

It is hoped that many of the members will seek to become involved in the Association's activities by contacting officers, directors and committee chairpersons. The names of the latter are contained in the Association news box in this issue.

Cordially,

James B. Dean, President

FIELD SANITATION STANDARDS

CONTINUED FROM PAGE 2

tions.

It should be noted that the promulgation of the OSHA field sanitation standard came after the D.C. Circuit, on February 6, 1987, directed the Secretary of Labor to issue the standard. *Farmworker Justice Fund, Inc. v. Brock*, 811 F.2d 613 (D.C. Cir. 1987) (Williams dissenting in part). The court recounts the 14-year battle waged by agricultural workers to compel OSHA to promulgate a field sanitation standard and to therefore "bring to an end this disgraceful chapter of legal neglect."

— *Donald B. Pedersen*

No Notice Sale of Debtor's Cattle Violates Constitutional Rights

In *Arcoran v. Peters*, 811 F.2d 392 (8th Cir. 1987), the Eighth Circuit found that Arcoren, a cattle producer, had a clearly established due process right to notice and hearing before his cattle were repossessed by FmHA officials. As a result, the debtor was entitled, under *Bivens v. Six Unknown Agents*, 403 U.S. 388 (1971), to sue the officials directly even though no Congressional legislation authorized such an action.

FmHA had a security interest in Arcoren's crops, livestock, and farm equipment. Except for late loan payments in 1979, the farmer's financial relationship with the lender was good.

In 1980, responding to unverified third party allegations that Arcoren was neglecting the livestock which were security for the FmHA loan, subordinate FmHA officials repossessed the cattle and sold them the next day. The proceeds were applied to Arcoren's outstanding FmHA debt.

Arcoren, who was current on his loan obligations to FmHA, was not aware of the sale until he received a bill of sale in the mail. Four weeks later, Arcoren's mail contained notice of acceleration of his outstanding FmHA debt, which stated that Arcoren would have the "opportunity to have a meeting before this forclosure takes place." *Arcoren v. Farmers Home Administration*, 770 F.2d 137, 138 (1985). After unsuccessfully pursuing administrative appeal through three of four levels, Arcoren filed suit in district court.

The district court dismissed the action and the debtor appealed. The Eighth Circuit, 770 F.2d 137, disagreed with the court and sent the case back. On remand, the district court found that the FmHA officials were protected by qualified immunity because their actions did not violate clearly established law. Arcoren appealed.

The Eighth Circuit was faced with deciding whether Arcoren, at the time of the repossession and subsequent sale, had a "clearly established constitutional due process right to preseizure notice and hearing." 811 F.2d at 394.

The court began by conceding that there are situations where repossession may be effected by the creditor without prior notice to the debtor, situations involving "plain, objectively determinable event(s) of default not giving rise to genuine controversies or depending on subjective appraisal of a complicated fact-situation." 811 F.2d at 396. In the court's view, the decision to repossess Arcoren's cattle involved the exercise of discretion and judgment. Thus, Arcoren was entitled to notice and hearing before the FmHA took action. In order to maintain a *Bivens* action, however, the right to notice and hearing had to be clearly established at the time of the violation.

The court reviewed § 122 of the Agricultural Credit Act of 1978 in addressing this issue. According to 7 U.S.C. § 1981a, FmHA may defer payments of principal, pursuant to certain criteria, after a discretionary evaluation. The Eighth Circuit's holding in *Allison v. Block*, 723 F.2d 631 (8th Cir. 1983) required FmHA to notify affected parties of the existence of 1981a. Because the Agricultural Credit Act became law in 1978 and the holding in *Allison* logically followed from the legislation, Arcoren's due process right to notice and hearing was clearly established at the time of the repossession. Thus FmHA's argument that there was no clearly established right to notice and hearing until *Allison*, which was decided after the cattle sale, was rejected.

The Court reversed the decision of the district court and remanded the action so Arcoren would have a chance to present his case.

— Michael B. Thompson

Federal Register in Brief

The following is a selection of matters published in the *Federal Register* in the last few weeks, organized by agency.

A. APHIS

1. Rangeland Grasshopper Cooperative Management Program; Final EIS. 52 Fed. Reg. 12950.

2. Availability of Environmental Assessment and Finding of No Significant Impact for Field Testing of a Recombinant Derived Live Pseudorabies Vaccine. 52 Fed. Reg. 16424.

3. Animal Welfare; Definition of Terms and Regulations; Comment period extended to Jul. 1, 1987. 52 Fed. Reg. 19359.

4. Standards for Accredited Veterinarians. Withdrawal of proposed rule concerning conflicts of interest. 52 Fed.. Reg. 19359.

B. FCA

1. Regulatory Accounting Practices; Temporary Regulations; Final Rule. Effective date: Dec. 24, 1986. 52 Fed. Reg. 13426.

2. Capital Corporation; Funding; Proposed Rule. 52 Fed. Reg. 13694.

3. Loan Policies and Operations; Borrower Rights. Effective date: May 20, 1987. 52 Fed. Reg. 19129.

4. Capital Corporation Organization. Effective date: May 20, 1987. 52 Fed. Reg. 19129.

C. INS

1. Adjustment of Status for SAWs; Final Rule. Effective date: Jun. 1, 1987. 52 Fed. Reg. 16195.

2. IRCA; Implementation; Aliens; Adjustment of Status; Final Rule. Effective date: May 1, 1987. 52 Fed. Reg. 16205.

3. Control of Employment of Aliens; Final Rule. Effective date: Jun. 1, 1987. 52 Fed. Reg. 16216.

D. OSHA; Field Sanitation; Final Rule. Effective date: May 30, 1987. See accompanying article by Don Pedersen. 52 Fed. Reg. 16050.

E. ASCS

1. Dairy Indemnity Payment Programs; Final Rule. Effective May 13, 1987. Shortened duration of program to Jan 31, 1988. 52 Fed. Reg. 17934.

2. Feed Grain,, Rice, Upland and Extra Long Staple Cotton and Wheat; Discretionary Special Disaster Payments for the 1987-1990 Crops; Proposed Rule. Comments due Jul. 14, 1987. 52 Fed. Reg. 18565.

F. DOL

1. Employment and Training Administration; Labor Certification Process for the Temporary Employment of Aliens in Agriculture, Proposed Rule. 52 Fed. Reg. 16770.

2. Wage and Hour Division; Employment Standards Administration; Migrant and Seasonal Agricultural Worker Protection Act; Notice of Proposed Rulemaking. Comments due Jun. 5, 1987. 52 Fed. Reg. 16859.

G. CCC

1. Export Credit Guarantee Program (GSM-102) and Intermediate Export Credit Guarantee Program (GSM-103); Coverage of Freight Costs and Marine War Risk Insurance; Final Rule. Effective date: May 11, 1987. 52 Fed. Reg. 17549.

2. Commodity Certificates; Acceptance after Expiration Date; Notice. 52 Fed. Reg. 17996.

H. FmHA

Implementation of Salary Offset; Interim Rule. Comments due by Jun. 17, 1987. 52 Fed. Reg. 18543.

I. BLM

Bureau of Grazing Administration; Proposed Rulemaking. Comments due Jul. 20, 1987. 52 Fed. Reg. 19032.

J. FCIC

Food Security Act of 1985; Implementation; Benefits Denial; Final Rule. Effective date May 21, 1987. 52 Fed. Reg. 19126.

— Linda Grim McCormick

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