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

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

40 CFR Ch. I

[FAA Docket No. 19448; Petition Notice No. PR-80-1]

Petitions of the Friends of the Earth for Rulemaking and Policy Changes; Aerial Application of Pesticides

AGENCIES: Federal Aviation Administration (FAA), DOT. Environmental Protection Agency (EPA).

ACTION: Publication of petition for rulemaking and petition for change in certain EPA policies and FAA regulations.

SUMMARY: This notice publishes for public comment two petitions of the Friends of the Earth dated May 30, 1979. The petition to the FAA requests the initiation of public rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations. The EPA has received a parallel petition requesting changes in EPA policies and procedures with respect to labeling and enforcement activities in the area of aerial pesticide application. The petitions are being published together and verbatim because of the inherent relationship of the actions requested and the need to receive public comments simultaneously on each petition and to ensure due consideration of each under the applicable procedures of the FAA and EPA. Although this notice sets forth the contents of both petitions as received without change, their publication does not represent any agency position on the merits of the petitions. This notice does not propose any amendment of current rules or any change in policy or procedures. After consideration of the available data and comments received in response to this notice, the FAA and EPA will consult and determine whether they should proceed to initiate rulemaking or other proceedings based on the Friends of the Earth petition. If rulemaking is appropriate, a notice of proposed rulemaking containing regulatory proposals will be issued by the proper agency.

DATES: Comments on both petitions should identify the FAA docket number and be sent to the appropriate agency. To be considered all comments must be submitted on or before April 17, 1980.

ADDRESSES: Send comments on these petitions in duplicate to: On the petition to the FAA—Federal Aviation Administration Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 19448, 800 Independence Avenue, SW., Washington, D.C. 20591.

On the petition to the EPA—(Duplicates are not mandatory), Document Control Officer, Chemical Information Division (TS-793), Environment Protection Agency, Room 447 East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For the EPA—Ms. Jean Frane, Registration Division, Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460, Telephone: (202) 426-2510.

For the FAA—Raymond Ramakis, AVS-24, Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591, Telephone: 755-8716.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petitions as they may desire. Communications should identify the docket or petition notice number and be submitted to the address for submitting comments indicated above under the caption "ADDRESSES." All communications received on or before the closing date will be considered before taking action on the petitions. All comments submitted will be available for examination in the respective docket of the FAA, or the EPA, as appropriate.

II. Agency Roles

Under current Federal regulations, the FAA's role in the area of aerial application of pesticides primarily involves its statutory authority and responsibility for aviation safety. The FAA has adopted rules to ensure that aircraft are operated safely, the pilot is competent to conduct the operation, and the aircraft carries adequate safety equipment. However, under regulations which became effective on January 1, 1966, the FAA also enforces certain requirements governing aerial application of pesticides, including: (1) Application of a product other than for an approved use; and (2) use of a pesticide product in a manner contrary to safety instructions or use limitations on the label, or in violation of any law or regulation in the United States. The FAA rules are codified in Part 137 of the Federal Aviation Regulations (14 CFR Part 137).

Prior to 1972 the Federal Insecticide, Fungicide, and Redenticide Act (FIFRA), which regulates the marketing and use of pesticides in the United States, was principally designed to protect consumers from ineffective products and misleading claims. As a result of the 1972 amendments to FIFRA, the enforcement authorities of the EPA were considerably strengthened. The EPA acquired the authority to enforce against misuse of registered pesticides, such as use of a pesticide other than in accordance with approved product labeling. Consequently, the EPA and FAA currently have overlapping responsibilities in taking enforcement action when misuse of pesticides that are aerially applied occurs.

The EPA and FAA will be examining pertinent FAA regulations to determine if they should be significantly amended. At a minimum it appears that these regulations require changes to bring the language into conformance with the nomenclature of the existing pesticides law. The FAA and EPA invite comment on the changes in FAA regulations and EPA policies suggested by the Friends of the Earth, as well as the advantages and disadvantages of the overlap in responsibilities of regulating and enforcing certain aspects of aerial application of pesticides.

III. The FAA Program

Part 137, "Agricultural Aircraft Operations," of the Federal Aviation Regulations (FAR) was adopted June 17, 1965, and became effective January 1, 1966. The rules of Part 137 are directed to the safety of agricultural aircraft

operations and the dispensing of materials during such operations. There are no established flight procedures for specific crops or to direct the use of particular application techniques, nor does the rule prescribe the kinds of chemicals or other materials to be used. However, it does prohibit the dispensing of economic poisons for a use other than that for which it is registered, contrary to any safety instructions on its label, or in violation of any federal law or regulation. Pilots engaged in agricultural aircraft operation are subject to all other applicable FAA regulations, the same as pilots engaged in other operations. due to the nature of certain agricultural operations, they are specifically excepted, or exempted from certain requirements that apply generally to other operations of aircraft.

IV The EPA Programs

The EPA is engaged in a number of activities to improve the labels for products designed for aerial application, increase public awareness of spray programs, and determine the hazard presented by ultralow volume and low volume application technology. The EPA intends to continue its efforts in this area during the public comment period on the notice and evaluation of the comments. However, the EPA invites further public input on the programs described below.

Label Improvement

All pesticides must be registered with the EPA before they can be marketed. Part of the pre-market clearance process for pesticides is approval of product labels which must include extensive and specific information, including detailed use directions and precautionary statements. Current standards require that products destined for aerial application carry statements regarding the potential for spray drift and means of minimizing spray drift such as larger droplet size and maximum wind speeds for safe application. Use directions may instruct the applicator to apply the pesticide in combination with a suitable drift control agent, to observe buffer zones around streams, ponds, other bodies of water, areas of human habitation, or crops that are susceptible to damage by the pesticide.

Recently registered products for aerial application carry these labeling statements designed to minimize spray drift to the extent possible. Older products frequently need revision to bring labeling into accord with the more recent and extensive drift precautions. The EPA has recently resumed work on the part of the *Guidelines for Registering Pesticides* which deals with label development. Publication of these labeling guidelines, coupled with a program to require label modifications in accordance with the guideline standards, should address many of the problems associated with aerial application of pesticides. The Agency is also considering other label revision programs as a means of bringing about the label improvement.

Public Notice

The EPA recognizes increasing public concern about exposure to pesticides through regional pest control programs that are sponsored by Federal, State, and local governments. The EPA is examining ways to encourage informed and early participation of citizens in the decisionmaking process for such programs. In the future, the EPA will require more advance public notice of broadscale spray programs. This requirement will be implemented through product labeling or other regulatory mechanisms yet to be decided. The EPA welcomes public comment on this aspect of its regulatory activities.

LV and ULV Application

In 1978 Congress amended FIFRA, directing EPA to conduct a study of pesticide application techniques. The 1978 amendments further provided that unless the EPA administrator took specific regulatory action consistent with the study, users would be free to apply pesticides at higher concentrations in a technique known as low volume and ultralow volume application, regardless of label directions. The initial advisory opinion confirmed the higher potential of LV and ULV applications to drift due to smaller droplet size. So, until a further evaluation of the degree of hazard presented by these application methods can be completed, the use dilution on product labeling must be followed (except that applicators may use higher dilutions). So, in other words, only products with explicit use directions for LV and ULV may be used in this manner consistent with the FIFRA.

While all comments are invited and will receive due consideration, to assist the FAA and EPA in their review of the Friends of the Earth petition comments are particularly welcomed on the following matters concerning the petitions:

1. The appropriate role for the FAA under a comprehensive Federal program of agricultural aircraft operations, including any specific responsibilities in the aerial application of pesticides.

2. Any changes or additions to the FAA rules governing the flight safety of agricultural aircraft operations that are consistent with FAA statutory authority to regulate aeronautical activities.

3. The utility of placing more explicit application practices and use restrictions, e.g. nozzle sizes, buffer zones, in terms of target pests and sites, on pesticide labeling.

4. Is labeling an effective means of communicating information on Integrated Pest Management (IPM) and requirements for public notification? What other methods would be appropriate?

5. What mechanism could be employed to provide the public with advance notice of broadscale spray programs? Should requirements for advance notice of spraying and obtaining written permission to spray from adjoining property owners be applied equally to broadscale spray programs and local agricultural applications?

The Friends of the Earth Petitions

Accordingly, the Federal Aviation Administration and the U.S. Environmental Protection Agency publish verbatim for public comments the following petitions of the Friends of the Earth, dated May 30, 1979.

Issued in Washington, D.C., on January 9, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs, Environmental Protection Agency.

Friends of the Earth
620 C Street, S.E., Washington, D.C. 20003
May 30, 1979.

David Brower, President

Petition to the Federal Aviation Administration

Mr. Langhone M. Bond,
Administrator, Federal Aviation Administration, FOB-10A, 800 Independence Ave. S.W., Washington, D.C.

Dear Mr. Bond: We hope that you will regard the attached petition as a friendly effort to bring a change in the F.A.A. regulations relating to agricultural aircraft spraying of economic poisons.

Basically, the petition asks that aerial applicators will be required to get written permission before they allow poison spray to drift on persons and property not in their contracts. This does not seem to be an unreasonable request. Indeed, it would be unreasonable not to require this.

We think that requiring written permission will create a great many landowner and personal agreements, which is the least expensive and least inflationary way to achieve enforcement. I am sure that your government workers will be tempted to water

down the attached suggestions. For example, instead of requiring written agreements within 1000 feet of people and property they will write in 500 feet. I would like to suggest that any changes that weaken the incentive to produce private spray agreements will sharply raise the cost of government.

We will be discussing this with Senator Bayh and Congressman Duncan, who handle your budget. As you know, the F.A.A. has always refused to help "spray victims" who have asked for protection against poison spray drift. We will also be talking with congressional budget people about the very low benefit your enforcement presently has. If F.A.A. *always* refuses to enforce its regulations, and your regional offices *always* refuse to assist spray victims, then it seems that there is a non-existent benefit-cost ratio of your present program. It raises questions whether you should have a budget? *Two examples are attached to the petition.*

It is fair to say that a great many more people are injured each year due to aircraft spraying of pesticides than are injured by crashes of passenger planes.

Reasons for the Petition

The need for new F.A.A. regulations to require written permission for spray drift of poisons applied from an airplane has become obvious in the past few years. The mass miscarriage episode at Alsea, Oregon and also several other locations due to 2,4,5–T spray drift, and the intense desire of residents of Virginia, Maine, New Jersey, Michigan and elsewhere not to be sprayed with poisons in the gypsy moth and spruce budworm programs this year are just a few examples of the intrusion upon the average American with poison spray drift. After all, there is no more profound an intrusion than poison.

We have attached to this petition a large number of examples from the past few years where aerial sprayers have allowed economic poisons to drift to other properties, with serious results.

There are between 8,000 (industry estimates) and 11,000 (F.A.A. estimate) agricultural spray planes in the United States. Management of this many planes is easily within the capacity of a single government agency. It is fair to say that the local police force of many agricultural counties handle more automobile and drivers' licenses than this.

The importance of the problems addressed by the attached petition is underlined by the large-scale delivery of pesticides by airplane, over 60 percent of poundage, and the enormous spray drift problems associated with aerial application. It is estimated by the Environmental Protection Agency, based upon actual field tests, that 40 percent of pesticides delivered by airplane lands on someone else's property—a chemical trespass or taking of property without permission or compensation.

Chemical Trespass

The present regulations of F.A.A. stress that aerial application of "economic poisons" must be achieved without "creating a hazard to persons or property on the surface."

[137.49]

It is fair to say that any poison is a hazard to a person or property if they are the object of any spray drift, because a poison is a poison. The test is only whether that poison landed on the person or property or whether it did not.

It is not necessary to argue how dangerous a poison is, whether it causes a change in the brainwaves for a year, as may a single exposure to parathion or malathion, or whether it causes miscarriages or birth defects like 2,4,5–T or the entire phenoxy group, or whether it causes retarded children due to toxic impacts on the fetus like 2,4,5–T, or whether it causes allergies, like 2,4–D and many other pesticide, or whether it damages crops like herbicides in general or damages integrated pest management programs.

The issue is only whether an "economic poison" crossed a property line or wet the skin of a person without prior permission. This is the type of issue F.A.A. should have no problem in handling in a licensing program. It is a black and white issue.

Mounting Number of Spray Victims

There is evidence of widespread violations of present regulations against creating hazard to persons or property. Attached to this letter and petition are numerous examples of hazards created by aerial application of poisons during the past few years.

It is fair to say that the Federal Aviation Administration did not enforce its regulations in any of these cases, *even when asked for assistance* by a spray victim. In many cases, the victims were unaware that the F.A.A. had jurisdictions.

The attached court case shows that the state judicial systems will assert that the only test for "chemical trespass" is whether the chemical landed on someone else's property without permission given prior spraying.

Creating Landowner and Personal Spray Agreements

The attached petition suggests one way to run a licensing program that will reduce costs. It suggests a licensing system based upon points, like many drivers' license programs run by State governments.

But, *the emphasis is upon creating private agreements* between landowners who wish to spray from the air, and nearby owners or residents who can give them permission to let spray land on their property and persons if they wish.

It is fair to say that without a vigorous point system that private agreements will not be forthcoming. *The way to save money* in enforcement is to interest the regulated parties in doing most of the work themselves, rather than having government do it for them.

And so, we believe that government costs will rise proportionately to the weakness of the points system you adopt. We will be talking with the staff of Senator Bayh and Congressman Duncan, who handle your budget, to discuss this aspect of the problem.

Impact of Insurance

The relatively low cost of insurance per acre for spray damage makes it financially attractive for one landowner to spray another landowner's property with poison. Only a small percentage go to court, and those that do have to spend thousands of dollars and often years to win.

This underscores the need for an F.A.A. program to encourage the prevention of chemical trespass.

Need for Absolute Buffers Strips Only To Mark the Area of Required Landowner and Personal Spray Agreements

Our suggested program greatly simplifies the technical task of the F.A.A. The Agency does not have to delve into the task of specifying under what conditions such as wind speed a buffer strip will work or fail. Rather the program becomes one of setting up buffer strips within which landowners or other parties contracting for aerial spray of poisons must get prior written permission from those who might be adversely affected by the spray.

It is really quite simple. When a pilot sprays an area for which written permission has not been arranged, he loses points on his license.

It is quite clear, however, that the customary 100 foot buffers used in the past are completely unsuitable for aerial application. We have attached two studies to the petition to show this. Some spray travels for miles from the application site.

This is not a completely open-ended program, since the Environmental Protection Agency labels still apply to any private agreements. The program is also not going to work perfectly, since a number of persons may be defrauded into signing consent agreements to be sprayed without understanding what they are getting into. But, we think that this program will provide a lot more enforcement at a lot less cost than present programs and it will not close out any person from being sprayed with chemicals who think that all chemicals are safe. It will also permit farmers to harmonize their spraying plans.

Hell on Earth

Testimony from agricultural areas suggests that living in these areas during spray season is "hell on earth." You can't breathe; planes fly over your home; anyone with allergies is in trouble; and we are seeing widespread health epidemics like the Alsea, Oregon miscarriage episode or the Orleans, California large number of dead, deformed, or miscarried babies.

Furthermore, sensitive crops cannot be grown in vast territories of the United States because of herbicide spray drift. A good example of this is the continuing loss of grape yields by jam grape farmers in Washington State.

We look forward to hearing what you plan to do with this petition within 60 days from now.

With best regards,

Erik Jansson,
Research Associate for Pesticides.
General Distribution.

The Petition

Friends of the Earth, for itself, and also as a representative for the organizations and individuals listed at the end of this petition, petition you to take the actions below to modify the regulations of F.A.A. relating to Agricultural Aircraft operations. We understand that F.A.A. is required to respond to this petition within 60 days.

Specific item by item changes to the present regulations are outlined below.

The individuals and organizations listed below all have a serious interest in alteration of the F.A.A. regulations in the manner we are suggesting. They are pesticide spray victims; or represent spray victims; or they have tried to protect themselves from aerial application of "economic poisons" as in the case of the persons listed below associated with gypsy moth or spruce budworm spray programs. (Also attached are affidavits of spray victims we have collected, most of whom were injured from aerial spray.)

Our Requests

1. We hope that you will put someone in charge at F.A.A. in improving the present response of the Agency to protecting people not in spray contracts from aerial drift of "economic poisons." So far, F.A.A. regional offices have routinely refused to assist spray victims when they ask for help.

2. We hope that you will run a survey of your files to determine how many times the F.A.A. has removed pilot licenses for spraying a person without prior permission, for severe damage to property not in the spray contract, for killing a person or his animals with aerial spray. This will give you an estimate, we feel, of the quality of the F.A.A. enforcement program. We will be happy to provide you examples of each category so that you can determine whether they showed up in your files.

3. The present regulations stress that aerial application of "economic poisons" must be achieved "without creating a hazard to persons or property on the surface." It seems clear that spraying people and property with poison without prior permission is a hazard as envisaged by your regulations. A poison is a poison.

We hope that you will provide a penalty system based upon pilot licenses when they spray people and property without prior permission. Leaving this to abstract discretion of the regional offices has not worked, nor will it ever work.

4. It is *fair to say* that the present F.A.A. enforcement program has a very low benefit for its budget, because regional offices *always* refuse to provide assistance to spray victims when they ask for help.

We will be talking with Senator Bayh and Congressman Duncan, who handle your budget, about the non-existent benefit-cost ratio of your present program. Clearly, whatever money that goes into this program is wasted, since the regional offices never enforce the regulations when it comes to spray application of "economic poisons." (See the affidavits attached.)

The Least Expensive Enforcement Program

5. We hope that you will seriously consider a vigorous pilot points system that will encourage person to person agreements to regulate spray drift. There is nothing more efficient of government expenditures than to create agreements among private parties for the enforcement of spraying, as opposed to having the government do the entire job.

The program we suggest works as follows. A pilot is required to get written permission if he sprays within 1000 feet of a person or another property not within the spray contract. If he sprays that property or person without such a written agreement, heavy point fines are levied against his license. If he does get an agreement, and spray drifts to the property in question, he can avoid penalty points. It is as simple as that.

6. We request that F.A.A., instead of exempting federal pilots from its regulations, develop a *model* applicator and monitoring program for all federal and federally financed aerial spray program in cooperation with U.S.D.A. and E.P.A. The federally employed pilots should be doing a better job than the private ones, and provide know-how and better programs for the private sector.

7. We believe that the present F.A.A. program guarantees routine spray drift to people and properties not in the contracted spray area. This combined with the refusal of the regional offices to ever enforce the law or assist spray victims constitutes "inverse condemnation." We hope that you will harmonize your regulations with the 5th and 14th Amendments of the Constitution.

8. Aerial applicators have to take tests before they go into business. They are all aware that when they let poison drift to another person or property, they are poisoning that person or property.

We hope that you will harmonize your regulations with local, state and federal laws covering assault.

9. We hope that the F.A.A. will *sharply* adjust its present requirements relating to the size of the identification numbers on aerial spray aircraft. As you are aware, during the past few years numbers have been sharply reduced so that in many areas it is impossible to identify planes without binoculars. I know that your staff notes that they have studies that show that the size and placing of numbers makes no difference in identification of planes. However, there is a limit to human vision, and this has been easily exceeded in many areas today.

10. Finally, we submit detailed suggested changes to your regulations that should achieve the objectives noted above and in the letter to you. We hope that you will consider these changes in the regulations as a way to achieve a lot more enforcement for not very much more financing.

Suggested Item by Item Changes to Part 137—Agricultural Aircraft Operations

(Changes suggested noted in large type.)

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

Subpart A—General

Sec.
137.1 Applicability.
137.3 Definition of terms.

Subpart B—Certification Rules

Sec.
137.11 Certificate required.
137.15 Application for certificate.
137.17 Amendment of certificate.
137.19 Certification requirements.
137.21 Duration of certificate.
137.23 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

Subpart C—Operating Rules

137.29 General.
137.31 Aircraft requirements.
137.33 Carrying of certificate.
137.35 Limitations on private agricultural aircraft operator.
137.37 Manner of dispensing.
137.39 Economic poison dispensing.
137.41 Personnel.
137.43 Airport traffic areas and control zones.
137.45 Nonobservance of airport traffic pattern.
137.47 Operation without position lights.
137.49 Operations over other than congested areas.
137.51 Operation over congested areas: general.
137.53 Operation over congested areas: pilots and aircraft.
137.55 Business name: commercial agricultural aircraft operator.
137.57 Availability of certificate.
137.59 Inspection authority.

Subpart D—Records and Reports

137.71 Records: commercial agricultural aircraft operator.
137.75 Change of address.
137.77 Termination of operations.

Authority: Secs. 313(a), 307(c), 601 and 607, 72 Stat. 752; 49 U.S.C. 1354(a), 1348(c), 1421, and 1427.

Source: Docket No. 1464, 30 FR 8106, June 24, 1965, unless otherwise noted.

Subpart A—General

§ 137.1 Applicability.

(a) This part prescribes rules governing—

(1) Agricultural aircraft operations within the United States; and

(2) The issue of commercial and private agricultural aircraft operator certificates for those operations.

(b) In a public emergency other than "economic poisons" * spraying, a person conducting agricultural aircraft operations under this part may, to the extent necessary, deviate from the operating rules of this part for relief and welfare activities approved by an agency of the United States or of a State or local government.

(c) Each person who, under the authority of this section, deviates from a rule of this part shall, within 10 days after the deviation send to the nearest FAA District Office a complete report of the aircraft operation involved, including a description of the operation and the reasons for it.

*See page 7. (Item number 6) Proposal for model federal applicators program. The federal government should not be exempted, but should be taking the lead in developing programs for private pilots.

§ 137.3 Definition of terms.

For the purposes of this part—

"Agricultural aircraft operation" means the operation of an aircraft for the purpose of (1) dispensing any economic poison, (2) dispensing any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control, or (3) engaging in dispensing activities directly affecting agriculture, horticulture, or forest preservation, but not including the dispensing of live insects.

"Economic poison" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Secretary of Agriculture shall declare to be a pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

(Doc. No. 1464, 30 FR 8106, June 24, 1965, as amended by Amdt. 137-3, 33 FR 9601, July 2, 1968)

Subpart B—Certification Rules

§ 137.11 Certificate required.

(a) Except as provided in paragraphs (c) and (d) of this section, no person may conduct agricultural aircraft operations without, or in violation of, an agricultural aircraft operator certificate issued under this part.

(b) Notwithstanding Part 133 of this chapter, an operator may, if he complies with this part, conduct agricultural aircraft operations with a rotorcraft with external dispensing equipment in place without a rotorcraft external-load operator certificate.

(c) A Federal, State, or local government conducting agricultural aircraft operations with public aircraft

must comply with this subpart whenever "economic poisons" are sprayed.

(d) The holder of a rotorcraft external-load operator certificate under Part 133 of this chapter conducting an agricultural aircraft operation, involving only the dispensing of water on forest fires by rotorcraft external-load means, need not comply with this subpart.

(Doc. No. 1464, 30 FR 8106, June 24, 1965, as amended by Amdt. 137-3, 33 FR 9601, July 2, 1968; Amdt. 137-6, 41 FR 35060, Aug. 19, 1976)

§ 137.15 Application for certificate.

An application for an agricultural aircraft operator certificate is made on a form and in a manner prescribed by the Administrator, and filed with the FAA District Office that has jurisdiction over the area in which the applicant's home base of operations is located.

§ 137.17 Amendment of certificate.

(a) The Administrator may amend an agricultural aircraft operator certificate—

(1) On his own initiative, under section 609 of the Federal Aviation Act of 1958 (19 U.S.C. 1429) and Part 13 of this chapter; or

(2) Upon application by the holder of that certificate.

(b) An application to amend an agricultural aircraft operator certificate is submitted on a form and in a manner prescribed by the Administrator. The applicant must file the application with the FAA District Office having jurisdiction over the area in which the applicant's home base of operations is located at least 15 days before the date that he proposes the amendment become effective, unless a shorter filing period is approved by that office.

(c) The Administrator grants a request to amend a certificate if he determines that safety in air commerce and the public interest so allow.

(d) Within 30 days after receiving a refusal to amend, the holder may petition the Administrator personally to reconsider the refusal.

(e) The F.A.A. District Office having jurisdiction over the area involved will consider all requests from persons with injury from or property damage from spray drift or mere contamination of person or property with spray drift from aerial application of "economic poisons" that an agricultural aircraft operator certificate be modified because of that injury, property damage or contamination.

(f) The F.A.A. District Office will make a determination within 15 days on request noted in (e). Within 30 days after receiving such a determination, the person requesting action may petition the Administrator for a modification of an agricultural aircraft operator certificate, if the ruling of the F.A.A. District Office was an unsatisfactory resolution of the problem pursuant to F.A.A. regulatory requirements.

§ 137.19 Certification requirements.

(a) *General.* An applicant for a private agricultural aircraft operator certificate is entitled to that certificate if he shows that he meets the requirements of paragraphs (b), (d), and (e) of this section. An applicant for a commercial agricultural aircraft operator certificate is entitled to that certificate if he shows that he meets the requirements of paragraphs (c), (d), and (e) of this section. However, if an applicant applies for an agricultural aircraft operator certificate containing a prohibition against the dispensing of economic poisons, that applicant is not required to demonstrate the knowledge required in paragraphs (e)(1)(ii) through (iv) of this section.

(b) *Private operator—pilot.* The applicant must hold a current U.S. private, commercial, or airline transport pilot certificate and be properly rated for the aircraft to be used.

(c) *Commercial operator—pilots.* The applicant must have available the services of at least one person who holds a current U.S. commercial or airline transport pilot certificate and who is properly rated for the aircraft to be used. The applicant himself may be the person available.

(d) *Aircraft.* The applicant must have at least one certificated and airworthy aircraft, equipped for agricultural operaion.

(e) *Knowledge and skill tests.* The applicant must show, or have the person who is designated as the chief supervisor of agricultural aircraft operations for him show, that he has satisfactory knowledge and skill, regarding agricultural aircraft operations, as described in paragraphs (e)(1) and (2) of this section. However, an applicant need not comply with this paragraph if, at the time he applies for an agricultural aircraft operator certificate, he holds a current certificate or waiver for conducting agricultural aircraft operations

Deletion

and if his record of operation either with or without the certificate of waiver has not disclosed any question regarding the safety of his flight operations or his competence in dispensing agricultural materials or chemicals.

The F.A.A. District Office will maintain records of complaints, but will also use the national record of operation and record of each other F.A.A. District Office where the applicant has flown to determine "any question" regarding the safety of his flight operations or his competence in dispensing agricultural materials or chemicals. The F.A.A. will also collect data from E.P.A. and State and local governments on the records of each applicant, once again to determine "any question" regarding the safety of his flight operations or his competence.

(1) The test of knowledge consists of the following:

(i) Steps to be taken before starting operations, including survey of the area to be worked.

(ii) Safe handling of economic poisons and the proper disposal of used containers for those poisons.

(iii) The general effects of economic poisons and agricultural chemicals on plants, animals, and persons, with emphasis on those normally used in the areas of intended operations; and the precautions to be observed in using poisons and chemicals.

(iv) Primary symptoms of poisoning of persons from economic poisons, the appropriate emergency measures to be taken, and the location of poison control centers.

(v) Performance capabilities and operating limitations of the aircraft to be used.

(vi) Safe flight and application procedures.

(vii) Human, animal and crop damages that do occur when "economic poisons" are allowed to drift onto other properties. Typical cases from the F.A.A. District Office region of such injury.

(viii) How far spray can drift with aerial applications, including long-

distant movement of "economic poisons" by evaporation.

(ix) Weather conditions that can move "economic poisons" far beyond their intended deposition area, including cold and hot air movements in the micro-region that can carry sprays onto other person's property.

(x) How sprays can contaminate waterways, and the results of this.

(xi) Impact of contamination of the pilot upon reaction time, brain waves, capabilities, and methods available to reduce such impacts. All the major pesticides used in the area should be reviewed.

(2) The test of skill consists of the following maneuvers that must be shown in any of the aircraft specified in paragraph (d) of this section, and at that aircraft's maximum certificated take-off weight, or the maximum weight established for the special purpose load, whichever is greater:

(i) Short-field and soft-field takeoffs (airplanes and gyroplanes only).

(ii) Approaches to the working area.

(iii) Flare-outs.

(iv) Swath runs.

(v) Pullups and turnarounds.

(vi) Rapid deceleration (quick stops) in helicopters only.

[Doc. No. 1464, 30 FR 8106, June 24, 1965, as amended by Amdt. 137-1, 30 FR 15143, Dec. 8, 1965]

§ 137.21 Duration of certificate.

An agricultural aircraft operator certificate is effective until it is surrendered, suspended, or revoked.

or when an operator collects enough points against his certificate that it is revoked.

The holder of an agricultural aircraft operator certificate that is suspended or revoked shall return it to the Administrator.

Each person with an operators license will lose his agricultural aircraft operator certificate when he amasses 10 current violation points. Violation points will be erased 3 years after they are assessed to the license. Pilots may avoid points if there is a written agreement between the person or agency contracting for the spraying or undertaking it and the persons or property experiencing economic poison spray drift to agree to or sanction the spray drift.

For aerial application of economic poisons without first obtaining written permission of persons and property owner within 1000 feet of the spray boundary (See 137.49); 1 point

For aerial spraying without notification of those nearby property owners and residents who have requested prior notification in writing (137.49); 1 point

For causing a person to be hospitalized by allowing spray to drift upon him, in the absence of previous written permission (1); 10 points

For spraying a schoolbus stop or community facility; 10 points

For contamination of a person's drinking water with economic poison without previous written permission; 8 points

For wetting the skin or clothes of another person with economic poison without previous written permission of that person; 8 points

For spray drift of economic poisons upon another person's home and grounds of the home without; 8 points

Note.—(1) The point system we are suggesting roughly attempts to put human injury as a first priority.

For damage to the economic animals of another person with economic poisons without previous written permission of that; 6 points

For damage to the crops of another person with economic poisons without previous written permission of that person; 5 points

For damage to the crops of an organic farm with economic poisons without previous written permission of that person; 5 points

For damage to another person's garden for eating with economic poisons without previous written permission; 5 points

For contamination of ponds, streams and other water bodies of another person with economic poisons without previous written permission; 5 points

For spray of an automobile on the public highway; 5 points

For damage to the biological control program or an integrated pest management program for a crop belonging to another person, without previous written permission, due to the drift of economic poisons; 3 points

For damage to pets of another person without previous written permission; 2 points

§ 137.23 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

If the holder of a certificate issued under this part permits any aircraft owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

[Doc. No. 12035, Amdt. 137-4, 38 FR 17493, July 2, 1973]

Subpart C—Operating Rules

§ 137.29 General.

(a) Except as provided in paragraphs (d) and (e) of this section, this subpart prescribes rules that apply to persons and aircraft used in agricultural aircraft operations conducted under this part.

(b) [Reserved]

(c) The holder of an agricultural aircraft operator certificate may deviate from the provisions of Part 91 of this chapter without a certificate of waiver, as authorized in this subpart for dispensing operations, when conducting nondispensing aerial work operations related to agriculture, horticulture, or forest preservation in accordance with the operating rules of this subpart.

(d) Sections 137.31 through 137.35, 137.41, and 137.53 through 137.59 do not apply to persons and aircraft used in agricultural aircraft operations conducted with public aircraft.

unless they are engaged in the dispensing of economic poisons.

(e) Sections 137.31 through 137.35, 137.39, 137.41, 137.51 through 137.59, and Subpart D do not apply to persons and rotorcraft used in agricultural aircraft operations conducted by a person holding a certificate under Part 133 of this chapter and involving only the dispensing of water on forest fires by rotorcraft external-load means. However, the operation shall be conducted in accordance with—

(i) The rules of Part 133 of this chapter governing rotorcraft external-load operations; and

(ii) The operating rules of this subpart contained in §§ 137.29, 137.37, and 137.43 through 137.49.

[Doc. No. 1464, 30 FR 8106, June 24, 1965, as amended by Amdt. 137-3, 33 FR 9601, July 2, 1968; Amdt. 137-6, 41 FR 35060, Aug. 19, 1976]

§ 137.31 Aircraft requirements.

No person may operate an aircraft unless that aircraft—

(a) Meets the requirements of § 137.19(d); and

(b) Is equipped with a suitable and properly installed shoulder harness for use by each pilot.

(c) For dispensing of economic poisons is equipped with sufficient protective devices to protect the pilot from short-term exposures that would endanger the plane and his health.

§ 137.33 Carrying of certificate.

(a) No person may operate an aircraft unless a facsimile of the agricultural aircraft operator certificate, under which the operation is conducted, is carried on that aircraft. The facsimile shall be presented for inspection upon the request of the Administrator or any Federal, State, or local law enforcement officer.

(b) Notwithstanding Part 91 of this chapter, the registration and airworthiness certificates issued for the aircraft need not be carried in the aircraft. However, when those certificates are not carried in the aircraft they shall be kept available for inspection at the base from which the dispensing operation is conducted.

[Doc. No. 1464, 30 FR 8106, June 24, 1965, as amended by Amdt. 137-3, 33 FR 9601, July 2, 1968]

§ 137.35 Limitations on private agricultural aircraft operator.

No person may conduct an agricultural aircraft operation under the authority of a private agricultural aircraft operator certificate—

(a) For compensation or hire;

(b) Over a congested area; or

(c) Over any property unless he is the owner or lessee of the property, or has ownership or other property interest in the crop located on that property.

§ 137.37 Manner of dispensing.

No persons may dispense, or cause to be dispensed, from an aircraft, any material or substance in a manner that creates a hazard to persons or property on the surface.

(Doc. No. 1464, 30 FR 8106, June 24, 1965, as amended by Amdt. 137-3, 33 FR 9601, July 2, 1968)

§ 137.39 Economic poison dispensing.

(a) Except as provided in paragraph (b) of this section, no person may dispense or cause to be dispensed from an aircraft, any economic poison that is registered with the U.S. Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135-135k)—

(1) For a use other than that for which it is registered;

(2) Contrary to any safety instructions or use limitations on its label; or

(3) In violation of any law or regulation of the United States.

(b) This section does not apply to any person dispensing economic poisons for experimental purposes under—

(1) The supervision of a Federal or State agency authorized by law to conduct research in the field of economic poisons; or

(2) A permit from the U.S. Department of Agriculture issued pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135-135k).

(Amdt. No. 137-2, 31 FR 6686, May 5, 1966)

§ 137.41 Personnel.

(a) *Information.* The holder of an agricultural aircraft operator certificate shall insure that each person used in the holder's agricultural aircraft operation is informed of that person's duties and responsibilities for the operation.

(b) *Supervisors.* No person may supervise an agricultural aircraft operation unless he has met the knowledge and skill requirements of § 137.19(e).

(c) *Pilot in command.* No person may act as pilot in command of an aircraft unless he holds a pilot certificate and rating prescribed by § 137.19(b) or (c), as appropriate to the type of operation conducted. In addition, he must demonstrate to the holder of the Agricultural Aircraft Operator Certificate conducting the operation that he has met the knowledge and skill requirements of § 137.19(e). If the holder of that certificate has designated a person under § 137.19(e) to supervise his agricultural aircraft operations the demonstration must be made to the person so designated. However, a demonstration of the knowledge and skill requirement is not necessary for any pilot in command who—

(1) Is, at the time of the filing of an application by an agricultural aircraft operator, working as a pilot in command for that operator; and

(2) Has a record of operation under that applicant that does not disclose any question regarding the safety of his flight operations or his competence in dispensing agricultural materials or chemicals.

The F.A.A. District Office will maintain records of complaints, but will also use the national record of operation and record of each other F.A.A. District Office where the applicant has flown to determine "any question" regarding the safety of his flight operations or his competence in dispensing agricultural materials or chemicals. The F.A.A. will also collect data from E.P.A. and State and local governments on the records of each applicant, once again to determine "any question" regarding the safety of his flight operations or his competence.

§ 137.43 Airport traffic areas and control zones.

(a) Except for flights to and from a dispensing area, no person may operate an aircraft within an airport traffic area, or within a control zone having an operative control tower, unless authorization for that operation has been obtained from the control tower concerned.

(b) No person may operate an aircraft in weather conditions below VFR minimums within a control zone not having an operative control tower unless authorization for that operation has been obtained from the appropriate ATC facility.

§ 137.45 Nonobservance of airport traffic pattern.

Notwithstanding Part 91 of this chapter, the pilot in command of an aircraft may deviate from an airport traffic pattern when authorized by the control tower concerned. At an airport without a functioning control tower, the pilot in command may deviate from the traffic pattern if—

(a) Prior coordination is made with the airport management concerned;

(b) Deviations are limited to the agricultural aircraft operation;

(c) Except in an emergency, landing and takeoffs are not made on ramps, taxiways, or other areas of the airport not intended for such use; and

(d) The aircraft at all times remains clear of, and gives way to, aircraft conforming to the traffic pattern for the airport.

§ 137.47 Operation without position lights.

Notwithstanding Part 91 of this chapter, an aircraft may be operated without position lights if prominent unlighted objects are visible for at least 1 mile and takeoffs and landings at—

(a) Airports with a functioning control tower are made only as authorized by the control tower operator; and

(b) Other airports are made only with the permission of the airport management and no other aircraft operations requiring position lights are in progress at that airport.

§ 137.49 Operations over other than congested areas.

Notwithstanding Part 91 of this chapter, during the actual dispensing operation, including approaches, departures, and turnarounds reasonably necessary for the operation, an aircraft may be operated over other than congested areas below 500 feet above the surface.

Economic poisons are in fact poisonous to humans, animals, and often to crops. Therefore, during the actual dispensing operation, an aircraft may not operate closer than 1,000 feet to persons, vessels, vehicles, residences, crops not owned by the sprayer and person contracting for the spraying, and other items covered in the point system of 137.21, *without* written permission previous to the spraying operation from the persons or owners of property listed above.

Aerial application of "economic poisons" to right-of-ways is forbidden, because chemical trespass to other person's properties is guaranteed due to the narrowness of such right-of-ways.

Before each spray application the operator of an aircraft dispensing "economic poisons" will give prior notice by telephone or other effective individual method to each property owner or resident in the area who has requested such notification from the owner of the land to be sprayed. (This will permit those allergic to chemical trespass to be away, and permit people to protect themselves and their property from chemical trespass of poisons.

§ 137.51 Operation over congested areas; General.

For the purposes of dispensing "economic poisons", an aircraft may not be operated over a congested area. Since economic poisons are in fact poisons, with many persons much more sensitive than others, aerial application of poisons is not permitted. (Other methods such as integrated pest management are available to delineate where ground control would be desirable.)

§ 137.53 Operation over congested areas; pilots and aircraft.

Delete this section.

§ 137.55 Business name; commercial agricultural aircraft operator.

No person may operate under a business name that is not shown on his commercial agricultural aircraft operator certificate.

§ 137.57 Availability of certificate.

Each holder of an agricultural aircraft operator certificate shall keep that certificate at his home base of operations and shall present it for inspection on the request of the Administrator or any Federal, State, or local law enforcement officer.

§ 137.59 Inspection authority.

Each holder of an agricultural aircraft operator certificate shall allow the Administrator at any time and place to make inspections, including on-the-job inspections, to determine compliance with applicable regulations and his agricultural aircraft operator certificate.

Subpart D—Records; and Reports

§ 137.71 Records: commercial agricultural aircraft operator.

(a) Each holder of a commercial agricultural aircraft operator certificate shall maintain and keep current, at the home base of operations designated in his application, the following records:

(1) The name and address of each person for whom agricultural aircraft services were provided;

(2) The date of the service;

(3) The name and quantity of the material dispensed for each operation conducted; and

(4) The name, address, and certificate number of each pilot used in agricultural aircraft operations and the date that pilot met the knowledge and skill requirements of § 137.19(e).

(b) The records required by this section must be kept at least 12 months and made available for inspection by the Administrator upon request.

§ 137.75 Change of address.

Each holder of an agricultural aircraft operator certificate shall notify the FAA in writing in advance of any change in the address of his home base of operations.

§ 137.77 Termination of operations.

Whenever a person holding an agricultural aircraft operator certificate ceases operations under this part, he shall surrender that certificate to the FAA District Office last having jurisdiction over his operation.

Note.—The recordkeeping and reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

With best regards,
Erik Jansson,
Research Associate for Pesticides.

This petition was signed with 73 signatures.

Friends of the Earth,
620 C Street, S.E., Washington, D.C. 20003
(202) 543-4313
May 30, 1979.
David Brower, *President.*

Petition to the Environmental Protection Agency

Mr. Doug Costle,
Administrator,
Environmental Protection Agency,
401 M Street, S.W.,
Washington, D.C. 20460.

Dear Mr. Costle: Friends of the Earth, for itself, and also as a representative for the organizations and individuals listed at the end of this petition, petition you to take the following actions to modify the pesticide label program of the Environmental Protection Agency.

We hope that you will regard this petition to be a friendly effort to bring your attention to a very serious lack in your program. But, it has been over two years now since we first wrote Mr. Ed Johnson about spray drift of pesticides, and to date the E.P.A. has not done anything to get the situation in hand.

While this is a friendly petition, it would be unfair to you not to note that we will be meeting with Senator Proxmire and Congressman Boland, who handle your budget, about the lack of existence of a benefit from your enforcement and label program. If your agency fails to enforce the label *ever*, then the money for that program is completely wasted money.

Three examples of this have come recently to our attention:

i. The Boston E.P.A. refused *when asked* to help the residents of the Maine spruce budworm spray area, outside of a weak note to the sprayers that they should not break the law. As you know, the Governor of Maine has proposed evacuating the area of pregnant women and children (sounds like Three Mile Island). There are plans to spray in 15 mile per hour winds.

Mr. Charles Fitzgerald noted that E.P.A. permits the "routine" violation of label instruction. I was caught up by that description, since I used exactly the same words in a letter to Mr. Ed Johnson and subsequent meeting, and was criticized by Mr. Johnson's staff for the statement. (See attached letter to Mr. Jellinek.)

The question that occurs to me is if the enforcement division and regional offices *always* refuse to enforce the label *when asked* why should these agencies have any budget at all? Perhaps you have an answer to this?

ii. The Philadelphia E.P.A. refused *when asked* to enforce the label restrictions on Dimilin, even when the Department of Agriculture and the States proposed using it contrary to the label.

The spraying did take place, and the aerial sprayers sprayed poison on schoolchildren, houses, restaurant, the water supply, ponds, an open field with cattle in it, outside the spray boundary, and a television crew twice, once on a public highway.

Before the second round of spraying, residents and ourselves met with enforcement at E.P.A. to ask for protection. Mr. Doug Campt, I understand, ordered that the labels not be enforced.

iii. Friends of the Earth and numerous residents across the United States have *repeatedly requested enforcement action* from regional E.P.A. offices and from the Washington E.P.A. for aerial phenoxy herbicide spraying contrary to the label. As a result of the refusal of the Agency to enforce the labels, numerous people have been severely injured. Money for enforcement to E.P.A. appears to be wasted.

What We Hope You Could Do

Basically, this petition asks that aerial and ground applicators of pesticides or "economic poisons" will be required to get written permission before they let their spray drift upon persons and property not in their spray contracts. This does not seem to be an unreasonable request.

Indeed, it is unreasonable to spray people and their property with poisons without their permission. *Pesticides are poisons* as you know. People do have a right not to be sprayed with poisons without their permission.

Specifically to carry this out, we are asking the following:

1. We are asking you to put on every pesticide or "economic poison" label registered by E.P.A. that these pesticide *or poisons* may not be allowed to drift upon persons or property without prior written permission.

Whenever these poisons are applied by airplane, the applicator must obtain written permission to allow spray to drift on persons and property not in the spray contract *at minimum* within 1000 feet of the spray area boundary.

Whenever these poisons are applied by ground rigs, the applicator must obtain written permission *at minimum* from persons and property owners within 250 feet of the spray boundary.

The label might read as follows:
For Display on All Pesticide Labels

Warning

This pesticide must not be allowed to drift onto people or property without prior written permission by that person or property owner.

For aerial application, *at minimum* written permission must be obtained from all persons living or owning property within 1000 feet of the spray project boundary.

For ground rig operation other than fine droplet misting the applicator must obtain *at minimum* written permission from all persons living within or owning property within 250 feet of the spray project boundary—1000 feet for misting.

2. We are asking you to recognize that *people hae a right not to be sprayed with any poison without their permission* regardless of how toxic the experts think this poisin to be at any given time.

As you know, pesticides are in fact poisons, and there is an extreme range of sensitivity to pesticides just as there is to chemicals like penicillin. And, new knowledge is always being developed on pesticides that sharply alter opinions about toxicity, and your records presently shed minimum light upon the toxicity of these poisons.

3. As can be seen, Friends of the Earth is also petitioning the Federal Aviation Administration to penalize pilots who spray people and property with poisons without previous written permission.

We hope that you can harmonize with the F.A.A. program, to recognize the right of people not to be sprayed with poisons and not to have their property sprayed with poisons without their permission.

We request that you make all pesticides applied by airplane to be restricted pesticides for that application, and we request that E.P.A. develop with F.A.A. and U.S.D.A. a model applicator training and monitoring program for all federally sponsored spray programs. This would cover both federally employed pilots and pilots contracted for with federal money

4. We petition you to forbid the sale of any pesticide of such volatility that drift can *never* be controlled by any applicator.

Two years ago, we asked Mr. Ed Johnson to do something about the volatile 2,4-D that was stunting such a large percentage of the grape production of Washington State and driving farmers out of business. It is fair to say that Mr. Johnson refused to help. For days at a time farmers in that area can smell 2,4-D in the air, and grape damage follows within a week.

5. For all the talk about integrated pest management and joint memorandums with U.S.D.A., the E.P.A. has never come up with any program beyond research to forward the progress of IPM. We petition you to include IPM material on all pesticide labels.

For Display on All Pesticide Labels:

Integrated Pest Management

An integrated pest management program for your crop may be available from your local university or from the Extension Service of U.S.D.A. (phone 202-)

6. It seems quite clear, as noted, that the enforcement division of E.P.A. and the regional offices are dead set against enforcing the labels. I can think of no example in the past year where E.P.A. responded to requests for help with an upcoming spray program.

It seems quite clear that it is highly unlikely that E.P.A. will ever have a credible enforcement program, and secondly, it is certain that most of the state programs will fail to achieve adequate enforcement. They are already failing.

We request that E.P.A. put much more emphasis upon compelling pesticide applicators to get written permission before they undertake their spray program. As can be seen, the program we have proposed for F.A.A. aerial applicators is designed to steer pilots with incentives into person to person written agreements. *This is the cheapest way to enforce the law.*

We secondly request that E.P.A. create a Citizen Enforcement and Monitoring Package with Xerox cards and instructions for location to catch spray drift, and where to process them.

Third, we request that E.P.A. create an appeals structure within the Agency. It is clear that some of the staff is hostile to enforcement of labels on the pesticides. Citizens should have a way, as in most other departments, to get a second opinion from higher authority.

7. We urge you to make your labeling and enforcement program harmonious with the requirements of the 5th and 14th Amendments. To establish a program as you have, that does not forbid the spraying of people or their property with poisons without their permission, and then to combine this with a national and state enforcement program that *always* refuses to enforce the label restrictions prior, during, or after spraying amounts to "inverse condemnation" in our opinion. The registration of high volatile pesticides that can never be controlled by the applicator also represents an automatic condemnation of other person's property and health.

It is also a great intrusion into the civil liberties of Americans. This is not in the American way. It is unreasonable.

Friends of the Earth has an active research program into the law of your labeling program.

8. As you know, pilots and sprayers using restricted pesticides are required to take courses on pesticide use. It is fair to say that when they spray other people and property not in their spray contracts, they do it with full knowledge that they are poisoning these people.

We urge you to make your labeling and enforcement programs harmonious with local, state and federal criminal codes covering assault.

Cost-Effectiveness of Requiring Written Permission

As you can see from the attached petition to F.A.A., a solid program requiring written permission from people and property owners before they are sprayed with poisons will create a large number of private agreements among people.

This is the least expensive enforcement program the Environmental Protection Agency could have. I am sure that your employees will be tempted to try to water down the requests in this petition. For example, instead of 1000 feet for a minimum area requiring written permission for aerial spraying, your employees will be tempted to write in 500 feet.

I would like to suggest the idea that reducing the severity of the distances and otherwise watering down this petition would greatly increase the cost of government enforcement. It is fair to say that the fewer private agreements that are developed, the more the government will have to spend for enforcement.

We will be talking with Senator Proxmire and Congressman Boland not only about the non-existence of benefits from your present enforcement program—since E.P.A. always refuses to respond to requests for enforcement—but also about the cheapness of private agreements in creating enforcement, and the need for a strong E.P.A. program to encourage private agreements.

We look forward to hearing what you plan to do with this petition within 60 days from now.

With best regards,
Erik Jansson,
Research Associate for Pesticides.

This petition was signed with 73 signatures.

[FR Doc 80-1270 Filed 1-16-80; 8:45 am]
BILLING CODE 6560-01-M
BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61 and 121

[Docket No. 19758; Notice No. 79-18A]

Plan To Permit Additional Flightcrew Training In Advanced Flight Training Simulators; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends the period for submission of public comments relating to Notice 79-18 until February 15, 1980. This action is in response to a petition indicating that persons who may be affected by the proposed regulations need additional time in which to prepare and submit their comments.

DATES: Comments on Notice 79-18 must be received on or before February 15, 1980.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 19758; 800 Independence Avenue, S.W., Washington, D.C. 20591; or be delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 19758. Comments may be inspected at Room 916 between 8:30 and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond E. Ramakis, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: In Notice 79-18, published in the Federal Register on November 13, 1979, (44 FR 65550) the FAA proposed to allow expanded training, checking, and certification of flight crewmembers in advanced flight training simulators. This action encouraged operators to upgrade their simulators and perform a higher percentage of training in simulators so that the total scope of flightcrew training would be enhanced. The results of this action include substantially improved safety, fuel conservation, and a reduction of airport congestion. In addition, this action proposed a regulatory alternative which could result in significant cost savings for air carriers. In that notice the FAA asked for comments from members of the public who desired to participate in the