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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1487

RIN 0551-AA63

#### Technical Assistance for Specialty Crops Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes the interim rule which implemented the Commodity Credit Corporation's Technical Assistance for Specialty Crops program to help open, retain, and expand markets for U.S. specialty crops.

**DATES:** This rule is effective August 18, 2003. *Applicability date:* This rule does not apply to projects approved prior to the effective date.

**FOR FURTHER INFORMATION CONTACT:** Marketing Operations Staff, Foreign Agricultural Service, Room 4932-S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250-1042, or telephone: (202) 720-4327.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This rule is issued in conformance with Executive Order 12866. It has been determined significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

##### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule would have preemptive effect with respect to any State or local laws, regulations or policies which conflict with such provisions or which otherwise impede their full implementation; does not have retroactive effect; and does not require

administrative proceedings before suit may be filed.

##### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. *See* the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

##### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation is not required by any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

##### The Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

##### Paperwork Reduction Act of 1995

In accordance with provisions of the Paperwork Reduction Act of 1995, the Foreign Agricultural Service submitted an information collection package to the Office of Management and Budget (OMB control number 0551-0038) to support an interim rule published in the **Federal Register** on September 10, 2002, (67 FR 57326-57329) which implemented the Technical Assistance for Specialty Crops program. Copies of the information collection may be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, on (202) 720-2568 or by e-mail to [Kimberly.Chisley@fas.usda.gov](mailto:Kimberly.Chisley@fas.usda.gov).

##### Government Paperwork Elimination Act

The Foreign Agricultural Service is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. Accordingly, applications for participation in the Technical

Assistance for Specialty Crops program may be submitted online, and requests for reimbursement as well as all payments to participants will be handled electronically.

##### Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

##### Background

The Commodity Credit Corporation (CCC) will periodically publicly announce that proposals may be submitted for participation in the Technical Assistance for Specialty Crops (TASC) program, which is administered by personnel of the Foreign Agricultural Service (FAS). On May 13, 2002, the President signed the Farm Security and Rural Investment Act of 2002. Section 3205 of that Act directs the Secretary of Agriculture to establish an export assistance program to address barriers that prohibit or threaten the export of U.S. specialty crops. The statute directs the Secretary to make available \$2,000,000 of CCC resources for the TASC program in each of fiscal years 2002 through 2007. The TASC program is designed to assist U.S. organizations by providing funding for projects which address sanitary, phytosanitary, and technical barriers that prohibit or threaten the export of U.S. specialty crops. For the purpose of this rule, U.S. specialty crops include all cultivated plants, or the products thereof, produced in the U.S., except wheat, feed grains, oilseeds, cotton, rice, peanuts, sugar, and tobacco.

##### Summary and Analysis of Comments

On September 10, 2002, the CCC published an interim rule in the **Federal Register** (67 FR 57326-57329) implementing the TASC program. That rule also requested that interested parties submit comments on the rule by November 12, 2002. The FAS received one comment on the interim rule.

*Comment:* To be more effective in addressing sudden and unpredictable technical barriers to trade, access to TASC program funds should not be

limited to once per year. Rather, TASC program funding should be made available as the need arises, perhaps by utilizing a quick-response mechanism.

Response: The agency agrees with this comment and has included language in § 1487.5 to provide for the establishment of a formal quick-response process. The periodic announcements indicating that the CCC will be accepting applications also will provide the details of the various application options that are available.

In addition to the language that was incorporated in § 1487.5 in response to the public comment, this final rule adds a new provision in § 1487.6(a)(8) to complement § 1487.2 and clearly indicate that the TASC program is intended to benefit the represented industry rather than a specific company or brand. This final rule also includes other minor organizational, administrative and editorial changes so as to improve the clarity and consistency of the regulations.

**Effective Date**

This rule is effective August 18, 2003 but does not apply to projects approved prior to the effective date.

**List of Subjects in 7 CFR Part 1487**

Agricultural commodities, Exports, Specialty crops.

In consideration of the foregoing, the interim rule published at 67 FR 57326-57329, September 10, 2002, adding 7 CFR part 1487 is adopted as final with the following changes:

**PART 1487—TECHNICAL ASSISTANCE FOR SPECIALTY CROPS**

1. The authority citation for 7 CFR part 1487 continues to read as follows:

Authority: Sec. 3205 of Pub. L. 107-171.

2. Section 1487.1 is amended by adding the following new definitions in alphabetical order:

**§ 1487.1 What special definitions apply to the TASC program?**

\* \* \* \* \*

Eligible Organization—Any U.S. organization, including, but not limited to, U.S. government agencies, State government agencies, non-profit trade associations, universities, agricultural cooperatives, and private companies.

\* \* \* \* \*

Participant—An entity which has entered into a TASC agreement with the CCC.

\* \* \* \* \*

3. Section 1487.5 is amended as follows:

a. By revising paragraphs (a) and (b)(2)(ii);

b. By redesignating paragraphs (b)(2)(iii) through (b)(2)(vii) as paragraphs (b)(2)(iv) through (b)(2)(viii); and

c. By adding a new paragraph (b)(2)(iii).

The revision and addition read as follows:

**§ 1487.5 What is the process for submitting proposals?**

(a) General. Periodically the CCC will inform the public of the process by which interested eligible organizations may submit proposals for TASC program funding. This announcement will, among other things, include information on any deadlines for submitting proposals and the address of the office to which the proposals should be sent. The CCC also may announce the availability of a Quick Response Fund within the TASC program. Proposals submitted under any form of quick response process may be submitted at any time during the year but must meet the basic requirements of the program and any specific requirements of that particular process. Organizations interested in participating in the TASC program may submit their proposals electronically or in paper copy. Although no specific format is required, a sample format for proposals is available from the address provided in this rule.

(b) \* \* \*

(2) \* \* \*

(ii) The amount of funding requested and a justification for why federal funding is needed;

(iii) Beginning and ending dates for the proposed project;

\* \* \* \* \*

4. Section 1487.6 is amended as follows:

a. By removing paragraph (a)(7);

b. By redesignating paragraph (a)(1) as paragraph (a)(7);

c. By redesignating paragraphs (a)(2) through (a)(6) as paragraphs (a)(1) through (a)(5);

d. By redesignating paragraph (a)(8) as paragraph (a)(6);

e. By revising newly redesignated paragraph (a)(2); and

f. By adding a new paragraph (a)(8).

The revision and addition read as follows:

**§ 1487.6 How are proposals evaluated?**

(a) \* \* \*

(2) The potential trade impact of the proposed project on market retention, market access, and market expansion, including the potential for expanding commercial sales in the targeted market;

\* \* \* \* \*

(8) In cases where the CCC receives multiple proposals from different

applicants which address essentially the same barrier, the nature of the applicant organization will be taken into consideration, with a greater weight given to those organizations with the broadest base of producer representation.

\* \* \* \* \*

5. Section 1487.7 is revised to read as follows:

**§ 1487.7 How are agreements formalized?**

Following the approval of a proposal, the CCC will enter into a written agreement with the organization that submitted the proposal. This program agreement will incorporate the proposal as approved by the FAS, include a maximum dollar amount that may be reimbursed (the funding level), and identify terms and conditions under which the CCC will reimburse certain costs of the project. Program agreements also will outline any specific responsibilities of the participant, including, but not limited to, the timely and effective implementation of program activities and the submission of a written report(s), on no less than an annual basis, which evaluates the TASC project using the performance measures presented in the approved proposal.

6. Section 1487.8 is removed.

7. Section 1487.9 is redesignated as 1487.8 and revised to read as follows:

**§ 1487.8 How are payments made?**

(a) Reimbursement. (1) Following the implementation of a project for which the CCC has agreed to provide funding, a participant may submit claims for reimbursement of eligible expenses to the extent that the CCC has agreed to pay such expenses. Any changes to approved activities must be approved in writing by the FAS before any reimbursable expenses associated with the change can be incurred. A participant will be reimbursed after the CCC reviews the claim and determines that it is complete.

(2) All claims for reimbursement must be received no later than 90 calendar days following the expiration or termination date of the program agreement. For program agreements which extend beyond twelve months, all claims for reimbursement must be received no later than 90 calendar days following the next anniversary of the effective date of the agreement.

(3) Participants shall maintain complete records of all program expenditures, identified by TASC agreement number, program year, country or region, activity number and cost category. Such records shall be accompanied by original documentation

which supports the expenditure and shall be made available to the FAS upon request.

(4) Participants shall maintain all records and documents relating to TASC projects, including the original documentation which supports reimbursement claims, for a period of three calendar years following the expiration or termination date of the program agreement. Such records and documents will be subject to verification by the FAS Compliance Review Staff and shall be made available upon request to authorized officials of the U.S. Government. The FAS may deny a claim for reimbursement if the claim is not supported by acceptable documentation.

(5) In the event that a reimbursement claim is overpaid or is disallowed after payment already has been made, the participant shall return the overpayment amount or the disallowed amount to the CCC within 30 days after realizing the overpayment or receiving notification of the overpayment or disallowed amount.

(b) *Advances.* Participants may request advances of funds, not to exceed 85 percent of the funding approved in any given program year. All advanced funds must be either fully expended or the balance returned by check made payable to the CCC no later than the 90th calendar day following the date of disbursement of the advance to the participant. Upon the expenditure of advance funds, participants must submit reimbursement claims to offset the advance charged to them.

(c) *Interest.* Participants shall deposit and maintain advanced funds in insured, interest-bearing accounts. Interest earned on outstanding advances must be returned by check made payable to the CCC at the time the advance is either fully expended or itself returned.

Dated: July 11, 2003.

**A. Ellen Terpstra,**

*Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.*

[FR Doc. 03-18266 Filed 7-17-03; 8:45 am]

**BILLING CODE 3410-10-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 53

[Docket No. 02-048-2]

RIN 0579-AB46

#### Low Pathogenic Avian Influenza; Payment of Indemnity

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are adopting as a final rule, with several changes, an interim rule that amended our general indemnity regulations by allowing the Department to pay indemnity to contract growers and owners for poultry destroyed because of low pathogenic avian influenza associated with a disease situation in Virginia. As amended by this document, payments may also be made for poultry destroyed because of low pathogenic avian influenza associated with a disease situation in Texas. Also, subject to available funding, the Department may pay up to 75 percent of eligible total losses with contract growers being compensated at 100 percent of their losses and the remaining amount being paid to the owner of the flock. Additionally, this document makes eligible for compensation losses due to eggs and semen that were destroyed because of low pathogenic avian influenza associated with the disease situations in Virginia and Texas. These actions are necessary to provide appropriate compensation for losses incurred due to this disease.

**EFFECTIVE DATE:** July 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dr. Cheryl Hall, Staff Veterinarian, National Center for Animal Health Programs, Certification and Control Team, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737-1231; (301) 734-4924.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (the Department) administers regulations at 9 CFR part 53 (referred to below as the regulations) that provide for the payment of indemnity to owners of animals and materials that are required to be destroyed because of foot-and-mouth disease, pleuropneumonia, rinderpest, exotic Newcastle disease, highly pathogenic avian influenza,

infectious salmon anemia, or any other communicable disease of livestock or poultry that, in the opinion of the Secretary of Agriculture, constitutes an emergency and threatens the U.S. livestock or poultry population. Payment for animals destroyed is to be based on the fair market value of the animals.

##### *Payment of Indemnity*

Section 53.2 of the regulations authorizes the APHIS Administrator to cooperate with a State in the control and eradication of disease. In an interim rule published in the **Federal Register** on November 4, 2002, and made effective December 9, 2002 (67 FR 67089-67096, Docket No. 02-048-1), we amended the regulations to allow the Department to pay indemnity to contract growers and owners for poultry destroyed because of low pathogenic avian influenza (LPAI) associated with a disease situation in Virginia. We provided that, subject to available funding, the Department may pay all eligible losses of contract growers and up to 50 percent of eligible losses of owners, minus any amount paid to the contract grower of a flock. Additionally, we provided that value of poultry destroyed due to the disease may be determined after destruction and disposal of the poultry, and required, except in limited situations, a waiting period of 7 days following cleaning and disinfection before premises that contained poultry affected by the disease may be restocked.

We solicited comments concerning the interim rule for 30 days ending December 4, 2002. We received 41 comments by that date. They were from poultry and egg producers, poultry federations, a farm bureau federation, a State Department of Agriculture, Federal and State congressional officials, and other members of the public. We have carefully considered all of the comments we received. They are discussed below by topic.

##### *Recommendation That Indemnity Be Paid for a Disease Situation in Texas*

In April 2002, birds in a poultry operation in Texas were identified as being affected with the LPAI H5 virus. The disease was subsequently identified in another poultry operation in Texas. All of the affected flocks were depopulated. A number of commenters recommended that indemnity be paid to producers of poultry in Texas for losses incurred from the occurrence of LPAI in that State. Some of the commenters stated that the disease situation in Texas was not as widespread as in Virginia only because Texas producers had been voluntarily taking part in a testing