

address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on a change to the credit-back promotional requirements prescribed under the California almond marketing order. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The almond crop year began on August 1, 1999, and this rule should be in effect as closely as possible to that time so handlers can avail themselves of the additional opportunities for receiving promotional credit; (2) these changes were unanimously recommended by the Board and interested persons had an opportunity to provide input; (3) handlers are aware of these changes which were recommended at a public meeting; and (4) a 60-day comment period is provided for in this rule and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 981.441, the introductory text of paragraph (e)(4) and paragraph (e)(4)(iv) are revised and a new paragraph (e)(4)(v) is added to read as follows:

§ 981.441 Credit for market promotion activities, including paid advertising.

* * * * *

(e) * * *

(4) Credit-Back shall be granted for those qualified activities specified

below, except that Credit-Back will not be allowed in any case for travel expenses, or for any promotional activities that result in price discounting.

* * * * *

(iv) Except as otherwise provided in paragraph (e)(4)(v) of this section, when products containing almonds are promoted, the amount allowed for Credit-Back shall reflect that portion of the product weight represented by almonds, or the handler's actual payment, whichever is less: *Provided*, That, except for mixed nut products, the amount of Credit-Back for qualified promotional activities for products containing almonds shall be granted at 66⅔ percent of proven expenditures, if the product is owned or distributed by the handler and such ownership or distributorship is stated on the package: *Provided Further*, That to receive any level of credit, the product must display the handler's name, the handler's brand, or the words "California Almonds" on the primary, face label.

(v) When products containing almonds are promoted prior to November 2, 1999, the amount allowed for Credit-Back shall reflect that portion of the product weight represented by almonds, or the handler's actual payment, whichever is less.

* * * * *

Dated: October 25, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

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BILLING CODE 3410–02–P

change regarding offsets and withholdings from payments made in the crop disaster program operated under 7 CFR Part 1477.

DATES: Effective November 1, 1999. Comments on this rule and information collection must be received by January 3, 2000, in order to be assured of consideration.

ADDRESSES: Comments should be mailed to: Diane Sharp, Director, Production, Emergencies, and Compliance Division, Farm Service Agency (FSA), United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250–0517, telephone (202) 720–7641, or send by e-mail to: rebecca_davis@wdc.fsa.usda.gov. Comments may be inspected in the Office of the Director, PECD, FSA, USDA, Room 4752 South Building, Washington, DC, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Rebecca Davis at (202) 720–7641.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule is issued in conformance with Executive Order 12866 and has been determined to be significant and therefore has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning provisions of this rule, the administrative remedies must be exhausted.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1439 and 1477

RIN 0560–AF82

1999 Livestock Indemnity Program; 1998 Single-Year and Multi-Year Crop Loss Disaster Assistance Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule sets forth the terms and conditions for the 1999 Livestock Indemnity Program, authorized by the 1999 Emergency Supplemental Appropriations Act. The program will provide monetary assistance to producers for livestock losses due to natural disasters occurring between May 2, 1998, and May 21, 1999. Also, this rule sets out a clarifying

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 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

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 UMRA.

Paperwork Reduction Act

Title: Livestock Indemnity Program
OMB Control Number: 0560-0179

Type of Request: Reinstatement and revision of a previously approved information collection.

Abstract: The information collected under OMB Control Number 0560-0179, as identified above, is all that is currently demanded by FSA to meet administrative and statutory requirements for the Livestock Indemnity Program. Information collected from livestock producers will be used by CCC to approve or determine the eligibility and amount of assistance in accordance with this subpart. The CCC considers the information collected essential to prudent eligibility and assistance determinations. Failure to make sound decisions in providing livestock indemnity program payments would result in inaccurate payments to livestock producers and losses to the Government.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: Livestock Producers

Estimated number of Respondents: 3,600

Estimated Number of Responses per Respondent: 2

Estimated Total Annual Burden on Respondents: 7,200 hours

Proposed topics for comment include:

- (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used;
- (c) ways to enhance the quality, utility, and clarity of the information collected; or
- (d) ways to minimize the burden of the

collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Diane Sharp, Director, Production, Emergencies, and Compliance Division, Farm Service Agency, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC. 20250-0517, telephone (202) 720-7641.

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*Livestock Indemnity Program*

This interim rule sets forth regulations that implement the livestock indemnity provisions contained in the 1999 Emergency Supplemental Appropriations Act ("1999 Act"), enacted on May 21, 1999. The 1999 Act appropriated \$3,000,000 to the Secretary of Agriculture to implement a livestock indemnity program for qualifying livestock losses occurring in the period beginning on May 2, 1998, and ending on May 21, 1999. The losses must be due to natural disasters declared by the President or Secretary of Agriculture. The 1999 Act specifies that to qualify the declaration request must have been submitted by May 21, 1999, and that, to the extent practicable, benefits must be provided in a manner similar to that used for the livestock indemnity programs carried out by the Secretary during 1997 and 1998. Also, the 1999 Act specifies that benefits under the new program will be subject, to the extent practicable, to the gross income means test and payment limitations of the 1996-crop Disaster Reserve Assistance Program (DRAP). Under the 1996 DRAP, no person could receive more than \$50,000 in payments and no person could receive any payment at all if that person's annual gross revenue exceeded \$2.5 million.

Rules for the 1999 livestock indemnity program will be codified in

7 CFR part 1439.301, *et seq.*, which was recently reorganized by a rule published on March 19, 1999, 64 FR 13497. Consistent with the operation of the 1997 and 1998 livestock indemnity programs, payment rates will vary by class of livestock involved and the payment rate will be a percentage of the assigned market price for the class. Should eligible claims exceed the available funds, the claims will, to the extent practicable, be prorated. Losses will be compensable only to the extent that they were caused by the disaster and were in excess of normal losses for the operation for the particular livestock category involved.

Crop Disaster Regulations

In addition, this rule makes slight changes to the crop loss disaster regulations that were published on April 15, 1999, at 64 FR 18553. The rules for that program are codified in 7 CFR part 1477. The changes are intended to make it clear that the agency can take withholding action based on a request by another agency and to insure that there is maximum flexibility with respect to offset and withholding issues to insure that funds are not released in a manner which would be contrary to the public interest, as determined by the Secretary. On a related issue, the rule would also add a reference to 28 U.S.C. 2301 to waive a prohibition on eligibility for federal benefits by persons with a judgment lien against their property under the crop loss disaster program (although such a payment might be applied against their outstanding debt to the government).

Effective Date of the Rule

Because the livestock indemnity program was provided for by emergency legislation and is designed to provide emergency relief to farmers, it has been determined that to delay the effective date of the rule, and hence the date on which payments could be made, pending further procedure, including any Congressional review as might otherwise be required by the Small Business Regulatory Enforcement Act, would be contrary to the public interest. Accordingly, with respect to the portion of the rule dealing with the livestock indemnity program, it has been determined that this rule should be effective on publication. This same determination had been made with respect to changes in the offset and withholding provisions of part 1477 as those changes involve claims adjustments for current debts which are owing or may be owing to the government. To the extent that there is a change in the adopted rule for part

1477 as a result of the comments, the claims could be repaid or adjusted as needed.

List of Subjects for 7 CFR Part 1439

Animal feed, Disaster assistance, Livestock, Reporting and Recordkeeping Requirements.

Accordingly, 7 CFR Chapter XIV is amended as follows:

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

1. The Authority citation for part 1439 is amended to read as follows:

Authority: 7 U.S.C 1427a; 15 U.S.C. 714b, and 714c; Sec. 1102 and 1103, Pub. L. 105-277; Pub. L. 106-31.

2. Part 1439 is amended by adding Subpart—Livestock Indemnity Program to read as follows:

Subpart—Livestock Indemnity Program

Sec.

- 1439.301 Applicability
- 1439.302 Administration
- 1439.303 Definitions
- 1439.304 Sign-up period
- 1439.305 Proof of loss
- 1439.306 Indemnity benefits
- 1439.307 Availability of funds
- 1439.308 Limitations on payments

§ 1439.301 Applicability

This subpart sets forth the terms and conditions applicable to the 1999 Livestock Indemnity Program. Benefits will be provided under this subpart only for losses (deaths) of livestock occurring in the period from May 2, 1998 through May 21, 1999, as a result of a natural disaster in a county included in the geographic area covered by a qualifying natural disaster declaration issued by the President of the United States or the Secretary of Agriculture of the United States. Losses in contiguous counties, or any other counties not the subject of the declaration, will not be compensable. To be a qualifying declaration, the declaration must have been issued upon a request submitted prior to May 21, 1999. Producers will be compensated by livestock category as established by CCC. The producer's loss must be the result of the declared disaster and in excess of the normal losses, established by CCC, for the producer's livestock operation.

§ 1439.302 Administration

Where circumstances preclude compliance with § 1439.304 due to circumstances beyond the applicant's control, the county or State committee may request that relief be granted by the Deputy Administrator under this section. In such cases, except for statutory deadlines and other statutory

requirements, the Deputy Administrator may, in order to more equitably accomplish the goals of this subpart, waive or modify deadlines and other program requirements if the failure to meet such deadlines or other requirements does not adversely affect operation of the program.

§ 1439.303 Definitions

The definitions set forth in this section shall be applicable for all purposes of administering this subpart. The terms defined in § 1439.3 shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart. The following terms shall have the following meanings:

Application means the Form CCC-661, Livestock Indemnity Program Application.

Livestock means beef and dairy cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food and buffalo and beefalo when maintained on the same basis and in the same manner as beef cattle maintained for commercial slaughter.

Livestock producer means one who possesses a beneficial interest in eligible livestock as defined in this subpart, has a financial risk in the eligible livestock, and is a citizen of, or legal resident alien in, the United States. A farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation owns or jointly owns eligible livestock or poultry, will be considered livestock producers. Any Native American tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act and Education Assistance Act); any Native American organization or entity chartered under the Indian Reorganization Act or chartered under the Indian Reorganization Act; any tribal organization under the Indian Self-Determination and Education Assistance Act; and any economic enterprise under the Indian Financing Act of 1974 will be considered livestock producers.

§ 1439.304 Sign-up period

A request for benefits under this subpart must be submitted to the Commodity Credit Corporation (CCC) at the Farm Service Agency county office serving the county where the livestock loss occurred. All applications and

supporting documentation must be filed in the county office prior to the close of business on October 31, 1999, or such other date as established by CCC.

§ 1439.305 Proof of loss

(a) Livestock producers must, in accordance with instructions issued by the Deputy Administrator, provide adequate proof that the:

(1) Loss of eligible livestock occurred in an eligible county in the area of Presidential designation or Secretarial declaration;

(2) That the death of the eligible livestock was reasonably related to the recognized natural disaster; and

(3) The death of the livestock occurred between May 2, 1998, and May 21, 1999, inclusive.

(b) The livestock producer shall provide any available supporting documents that will assist the county committee, or as requested by the county committee, in verifying the loss and quantity of eligible livestock that perished in the natural disaster. Examples of supporting documentation include, but are not limited to: Purchase records, veterinarian receipts, bank loan papers, rendering truck certificates, Federal Emergency Management Agency and National Guard records, auction barn receipts, and any other documents available to confirm the presence of the livestock and subsequent losses. Certifications by third parties or the producer and other such documentation as the county committee determines to be necessary in order to verify the information provided by the producer may be submitted, subject to review and approval by the county committee. Third-party verifications may be accepted only if the producer certifies in writing that there is no other documentation available. Third-party verification must be signed by the party that is verifying the information. Failure to provide documentation that is satisfactory to the county committee will result in the disapproval of the application by the county committee.

(c) Livestock producers shall certify the accuracy of the information provided. All information provided is subject to verification and spot checks by the CCC. A failure to provide information requested by the county committee or by agency officials is cause for denial of any application filed under this part.

§ 1439.306 Indemnity benefits

(a) Livestock indemnity payments for losses of eligible livestock as determined by CCC are authorized to be made to livestock producers who file an application for the specific livestock

category in accordance with instructions issued by the Deputy Administrator, if the:

(1) Livestock producer submits an approved proof of loss in accordance with § 1439.305; and

(2) County or State committee determines that because of an eligible disaster condition the livestock producer had a loss in the specific livestock category in excess of the normal mortality rate established by CCC, based on the number of animals in the livestock category that were in the producer's inventory at the time of the disaster.

(b) If the number of losses in the animal category exceeds the normal mortality rate established by CCC for such category, the loss of livestock that shall be used in making a payment shall be the number of animal losses in the animal category that exceed the normal mortality threshold established by CCC.

(c) Payments shall be calculated by multiplying the national payment rate for the livestock category as determined by CCC, by the number of qualifying animals determined under (b) of this section. Adjustments, if necessary, shall apply in accordance with § 1439.307.

(d) Payments which are earned by a person under the livestock indemnity program may be assigned in accordance with the provisions of part 1404 of this chapter.

§ 1439.307 Availability of funds

In the event that the total amount of eligible claims submitted under this subpart exceeds the \$3,000,000 appropriation, then each payment shall be reduced by a uniform national percentage. Such payment reductions shall be applied after the imposition of applicable payment limitation provisions.

§ 1439.308 Limitations on payments

No person, as determined in accordance with part 1400 of this chapter, may receive benefits under this subpart in excess of \$50,000 for any year and no person may receive payments under this subpart for losses for the producer has received or will receive compensation under any other program provided for in this part. Payments under this part for other losses shall not, however, reduce the amount payable under this part. As provided for in § 1439.11, no person shall be eligible to receive any payment under this subpart if such person's annual gross revenue exceeds \$2.5 million.

PART 1477—1998 SINGLE-YEAR AND MULTI-YEAR CROP LOSS DISASTER ASSISTANCE PROGRAM

3. The authority citation for part 1477 continues to read as follows:

Authority: Sec. 1101 and 1102 of Pub. L. 105-277, 112 Stat. 2681; 15 U.S.C 714b and 714c.

§ 1477.109 [Amended]

4. Section 1477.109 is amended by:

- Removing the phrase "in accordance with § 1403.8" in paragraph (a) and adding the phrase "using the standard set forth in § 1403.8(b) (1)-(7)" in its place,
- Removing the phrase "will be made" in paragraph (k) and adding the phrase "may be made" in its place,
- Removing the second sentence of paragraph (k) and,
- By adding a new paragraph (m) to read as follows:

* * * * *

(m) For the purposes of 28 U.S.C. 3201(e), the restriction on receipt of funds or benefits under this program is waived; however, this waiver shall not preclude withholding or offsetting where it is deemed by the Deputy Administrator to be appropriate.

Signed at Washington, DC, on October 20, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99-28369 Filed 10-29-99; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 99-008-1]

Tuberculosis in Cattle and Bison; State Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the bovine tuberculosis regulations to allow zones within a State to be assigned different risk statuses and to clarify the conditions for assigning a particular risk status for bovine tuberculosis. We are also amending the regulations to increase the amount of testing that must be done before certain cattle and bison may be moved interstate. These changes are necessary to help prevent the spread of tuberculosis and to further the

progress of the domestic bovine tuberculosis eradication program.

DATES: This interim rule is effective October 20, 1999. We invite you to comment on this docket. We will consider all comments that we receive by January 3, 2000.

The incorporation by reference listed in this rule is approved by the Director of the Federal Register as of October 20, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 99-008-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Please state that your comment refers to Docket No. 99-008-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Van Tiem, Senior Staff Veterinarian, VS, APHIS, USDA, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-7716.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is a contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. It affects cattle, bison, deer, elk, goats, and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts, causes weight loss and general debilitation, and can be fatal.

At the beginning of this century, bovine tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for bovine tuberculosis in livestock.

Federal regulations implementing this program are contained in 9 CFR part 77, "Tuberculosis" (referred to below as the regulations), and in the "Uniform