

§ 983.50 Aflatoxin regulations.

The committee shall establish, with the approval of the Secretary, such aflatoxin sampling, analysis, and inspection requirements applicable to pistachios to be shipped for domestic human consumption as will contribute to orderly marketing or be in the public interest. No handler shall ship, for human consumption, pistachios that exceed an aflatoxin level established by the committee with approval of the Secretary. All domestic shipments must be covered by an aflatoxin inspection certificate.

47. Move the undesignated center heading "REGULATIONS" to precede § 983.50.

§ 983.39 [Redesignated as § 983.51]

48. Lift suspension of § 983.39 published on December 7, 2007 (72 FR 69141) and effective on December 10, 2007, redesignate § 983.39 as § 983.51, and revise the section to read as follows:

§ 983.51 Quality regulations.

For any production year, the committee may establish, with the approval of the Secretary, such quality and inspection requirements applicable to pistachios to be shipped for domestic human consumption as will contribute to orderly marketing or be in the public interest. In such production year, no handler shall ship pistachios for domestic human consumption unless they meet the applicable requirements as evidenced by certification acceptable to the committee.

§ 983.40 [Redesignated as § 983.52]

49. Lift suspension of § 983.40 published on December 7, 2007 (72 FR 69141) and effective on December 10, 2007, redesignate § 983.40 as § 983.52, and revise the section to read as follows:

§ 983.52 Failed lots/rework procedure.

(a) *Substandard pistachios.* Each lot of substandard pistachios may be reworked to meet aflatoxin or quality requirements. The committee may establish, with the Secretary's approval, appropriate rework procedures.

(b) *Failed lot reporting.* If a lot fails to meet the aflatoxin and/or the quality requirements of this part, a failed lot notification report shall be completed and sent to the committee within 10 working days of the test failure. This form must be completed and submitted to the committee each time a lot fails either aflatoxin or quality testing. The accredited laboratories shall send the failed lot notification reports for aflatoxin tests to the committee, and the handler, under the supervision of an inspector, shall send the failed lot

notification reports for the lots that do not meet the quality requirements to the committee.

50. Add a new § 983.46, preceded by an undesignated center heading, to read as follows:

Research**§ 983.46 Research.**

The committee, with the approval of the Secretary, may establish or provide for the establishment of projects involving research designed to assist or improve the efficient production and postharvest handling of quality pistachios. The committee, with the approval of the Secretary, may also establish or provide for the establishment of projects designed to determine the effects of pistachio consumption on human health and nutrition. Pursuant to § 983.43(a), such research projects may only be established with 12 concurring votes of the voting members of the committee. The expenses of such projects shall be paid from funds collected pursuant to §§ 983.71 and 983.72.

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DEPARTMENT OF AGRICULTURE**Commodity Credit Corporation****7 CFR Part 1493**

RIN 0551-AA73

Facility Guarantee Program

AGENCY: Foreign Agricultural Service and Commodity Credit Corporation, USDA.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: This advanced notice of proposed rulemaking (ANPR) solicits comments on options to reform the USDA, Commodity Credit Corporation (CCC), Facility Guarantee Program (FGP). The purpose of the ANPR is to invite suggestions on improvements and changes to be made in the implementation and operation of the FGP, with the intent of improving the FGP's effectiveness and efficiency and lowering costs.

DATES: Comments on this notice must be received by October 5, 2009 to be assured consideration.

ADDRESSES: You may submit comments by any of the following methods:

- *E-Mail:* FGP.ANPR@fas.usda.gov.
- *Fax:* (202) 720-2495, Attention:

"FGP/ANPR Comments."

• *Mail to:* P. Mark Rowse, Director, Office of Trade Programs, Credit Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1025, Washington, DC 20250-1025.

• *Hand Delivery or Courier:* 1250 Maryland Avenue, SW., Washington, DC 20024.

All comments received will be available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: P. Mark Rowse, Director, Credit Programs Division, at the address stated above or by telephone: (202) 720-6211.

SUPPLEMENTARY INFORMATION:**Background**

The FGP is currently authorized by the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Act), as amended. Under the FGP, CCC provides payment guarantees to facilitate the financing of manufactured goods and services exported from the United States to improve or establish agriculture-related facilities in emerging markets. By supporting such facilities, the FGP is designed to enhance sales of U.S. agricultural commodities and products to emerging markets where the demand for such commodities and products may be limited due to inadequate storage, processing, handling or distribution capabilities for such products.

Under the FGP, CCC guarantees a loan established by a U.S. bank (or, less typically, by a U.S. exporter) to an importer's bank. The eligible importer's bank issues a dollar-denominated letter of credit in favor of the exporter. The eligible U.S. bank, working with the exporter, extends credit to finance the sale of equipment, goods or services for an FGP approved project.

As a Participant to the Organization for Economic Cooperation and Development's (OECD) Arrangement on Officially Supported Export Credits, the United States has agreed to adopt the terms and conditions of that Arrangement for the FGP. The Arrangement can be found on the OECD's Web site at: http://www.oecd.org/topic/0,3373,en_2649_34169_1_1_1_1_37431,00.html.

Project Eligibility

USDA does not designate specific projects but instead solicits proposals from exporters. Private sector importers, exporters and the banking sector should determine which projects are commercially viable. The FGP will support the financing of projects that

focus on improvements to the storage, processing, handling or distribution of agricultural commodities. The exporter, with information from the importer, must make a reasonable economic argument that the project will primarily benefit U.S. agricultural commodity exports.

Payment and Coverage

CCC requires a minimum 15 percent initial payment by the importer to the exporter prior to the export of the goods or services. After the initial payment is deducted from the net contract value, the FGP guarantee covers a portion of the facility base value (historically 95 percent) and a portion of the interest for a repayment term of up to 10 years, depending on the country. By financing less than 100 percent of the net contract value, CCC encourages risk-sharing by the exporter or the exporter's assignee.

Participation Criteria

The CCC must qualify FGP participants before accepting guarantee applications. An exporter must have a business office in the United States and must not be debarred or suspended, or otherwise excluded, from any U.S. government program. Financial institutions must be approved by the CCC.

The CCC evaluates the ability of each country and each approved foreign bank to service CCC-guaranteed debt. For programming purposes, a credit limit is established for each obligor country. Banks within the approved obligor country are reviewed and individual bank credit lines are established. New banks may be added or existing approved bank levels may be increased or decreased as appropriate, based on available information.

Defaults/Claims

If the foreign bank fails to make any payment as agreed under the FGP guaranteed transaction, the exporter or assignee must submit a notice of default to the CCC. A claim for loss also may be filed, and the CCC will promptly pay claims found to be in good order. For CCC audit purposes, the U.S. exporter must obtain documentation to show that the commodity arrived in the eligible country, and must maintain all transaction documents for 5 years from the date of completion of all payments.

Fees

The issuance of the guarantee is subject to a fee paid by the applicant. Fees are based on the risk grade of the obligor country, tenor of the guarantee (length of credit period), and terms for

principal payment installments, whether 6 months or annually.

Statutory Authority and Revisions

The FGP is authorized by section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended (1990 Act). Section 1542(a) of the 1990 Act, as amended, provides that CCC make available, for fiscal years 1996 through 2012, not less than \$1 billion in direct credits or export credit guarantees for exports to emerging markets. A portion of such credit guarantees must, in accordance with section 1542(b) of the 1990 Act, be made available for the export of goods and services for agricultural facilities.

Guarantees are to be made available if the Secretary of Agriculture determines that such guarantees will primarily promote the export of U.S. agricultural commodities and products thereof. Specifically, eligible projects must provide for (1) the establishment or improvement of agricultural facilities in emerging markets, or (2) the provision of services or U.S. products goods in emerging markets, by U.S. persons, to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities or products in such markets. The phrase "establishment or improvement of facilities" allows for varied types of projects ranging from the sale of equipment (e.g., refrigeration, processing, transportation) and other goods needed to alleviate impediments to increasing export sales of U.S. agricultural commodities, to providing services, such as equipment installation, testing, and training to facilitate achievement of the same purposes.

Section 1542(b) further requires CCC to give priority to projects that (1) encourage the privatization of the agricultural sector in emerging markets, (2) benefit private farms or cooperatives in emerging markets, and (3) are supported by nongovernmental persons who agree to assume a relatively larger share of the costs.

Section 1542(f) of the 1990 Act defines "emerging market" as any country that the Secretary of Agriculture determines (1) is taking steps towards a market-oriented economy through food, agriculture, or rural business sectors of the economy of the country and (2) has the potential to provide a viable and significant market for U.S. agricultural commodities or their products.

The Food, Conservation, and Energy Act of 2008 extended the authority for the FGP through fiscal year 2012, and amended section 1542(b) by providing for a "Construction Waiver" that would allow the Secretary of Agriculture to

waive the requirement for U.S. goods used in the construction of the facility if the Secretary determines that U.S. goods are not available or the use of U.S. goods is not practicable.

Regulatory History

CCC published an FGP interim rule on March 1, 1993 (58 FR 11786), in response to the 1990 Act. However, the interim rule was deleted effective November 18, 1994, when CCC revised 7 CFR 1493 and issued a final rule on the GSM-102 and GSM-103 programs, and the program was not made operational before its authority expired on September 30, 1995. Congress changed the targeting of the FGP in the Federal Agriculture Improvement and Reform Act of 1996 to countries determined by the Secretary of Agriculture to be emerging markets. On August 8, 1997, a new interim rule with request for comment was issued that provided for facility payment guarantees to be issued by the CCC. To date, no final rule has been issued for the FGP and the comments received related to the 1997 interim rule were never addressed by CCC.

Comments

CCC is soliciting the responses of interested parties to the following specific questions concerning options under consideration for the FGP. Interested parties may choose to address any or all of the questions listed or provide other comments. CCC's aim is to streamline the FGP's application process and to improve upon the program's effectiveness and efficiency. Additional program information is available on our Web site at: <http://www.fas.usda.gov/excredits/ecgp.asp>.

1. Application and Review Process

- Should CCC simplify or eliminate the preliminary review stage of the application process?
- Should CCC simplify/reduce the information required by 7 CFR 1493.240(a)(20) that is intended to ensure that the facility being financed will primarily promote the exports of U.S. agricultural commodities?
- What information should CCC require to ensure that the facility being financed will primarily promote the exports of U.S. agricultural commodities?
- Should CCC continue to require an analysis of project outputs as required by 7 CFR 1493.240(a)(21)?
- In what way could 7 CFR 1493.240(a)(21) be simplified?
- Should CCC continue to require per 7 CFR 1493.240(a)(5) that letters of interest from U.S. and foreign banks

be submitted at the time of initial application?

- What documentation should an applicant submit to CCC to establish evidence that the initial 15 percent down payment requirement has been met?

2. Coverage

- What coverage should CCC offer under the FGP (principal and interest)?
- Should CCC continue to require a risk share partner? If not, please explain why a risk share partner is unnecessary.

3. Construction Waiver

With the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture may waive the requirement for U.S. goods used in the construction of the facility if the Secretary determines that U.S. goods are not available or the use of U.S. goods is not practicable.

- What documentation should CCC require the applicant provide to support a request for a determination that U.S. goods are unavailable?
- What documentation should CCC require the applicant provide to support a request for a determination that the use of goods from the United States is not practicable?
- How does CCC incorporate delivery lead time of the goods in a determination of non-availability?
- Should pricing of goods be a determinant of practicability?
- Should practicability take into consideration the compatibility of U.S. goods with local inputs?

Consideration of Comments:

Additional comments on other program modifications to the FGP that are responsive to the principles outlined herein are encouraged. CCC will carefully consider all comments submitted by interested parties. After consideration of the comments received, CCC will consider what changes should be made to the FGP. Some of the changes described above would require solicitation and consideration of comments received from interested parties via the rulemaking process. Other changes might be adopted by changing internal policies and procedures. Comments received will help CCC to determine the extent and scope of any future rulemaking.

Signed at Washington, DC, on July 24, 2009.

Suzanne Hale,

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

Proposed New Restricted Category Special Purpose Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed policy statement.

SUMMARY: This notice announces the availability of and request comments on the proposed inclusion of three new restricted category special purpose operations under Title 14 of the Code of Federal Regulations (14 CFR) 21.25(b)(7).

DATES: Comments must be received on or before September 8, 2009.

ADDRESSES: Send all comments on the proposed new restricted categories to: Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Certification Procedures Branch, AIR-110, 950 L'Enfant Plaza, SW., Fifth Floor, Washington, DC 20024. ATTN.: Mr. Graham Long, Section Manager. You may hand deliver comments to: Federal Aviation Administration, 950 L'Enfant Plaza, SW., Fifth Floor, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Federal Aviation Administration, Aircraft Engineering Division, Aircraft Certification Service, Certification Procedures Branch (AIR 110), 950 L'Enfant Plaza, SW., Fifth Floor, Washington, DC 20024. ATTN.: Mr. Graham Long, Section Manager. Telephone: (202) 385-6319; fax: (202) 385-6475; or by e-mail: 9-AWA-AVS-AIR-110-GNL2@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed new restricted categories for special purpose operations by submitting such written data, views, or arguments, as they desire to the above address. Comments received on the proposed new restricted categories may be examined, before and after the comment closing date, at 950

L'Enfant Plaza, SW., Fifth Floor, Washington, DC 20024, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. The Director of the Aircraft Certification Service will consider all communications received on or before the closing date before issuing the final decision.

Background

We are considering three new restricted category special purpose operations under 14 CFR 21.25(b)(7). Approval of these new special purpose operations would improve the usability of restricted category aircraft in support of the public welfare and aviation safety. The three proposed special purpose operations are (a) Alaskan Fuel Hauling, (b) Upset Recovery Training, and (c) Flying Qualities Demonstrator.

(a) Alaskan Fuel Hauling would provide a means to transport fuel to isolated individuals or locations, such as villages, towns and mining operations, within the State of Alaska. Currently, in rural Alaska there are numerous remote villages, mining camps, and individuals that have no practical access except by air. During the winter months, transportation of fuel to remote locations is limited to small quantities hauled by ground on trail access vehicles or by aircraft owners carrying fuel for their own use. During the summer, where stream access is available, there is the option of hauling limited quantities of fuel by small boats. The allowance for transportation of flammable liquids, by aircraft, when other means of transportation are impractical is specified in Title 49 of the Code of Federal Regulations (49 CFR) 175.310.

(b) Upset Recovery Training would provide an avenue for the use of aircraft with modified flight controls to be used to train air carrier pilots in upset recoveries. Airborne simulation can provide aircraft dynamic responses that simulate larger, heavier transport aircraft, and result in improved safety through more-realistic upset recovery training for air carrier pilots. The use of large transport aircraft for Upset Recovery Training is costly, and would increase the risk level of training. It is also impractical to certificate these modified aircraft in compliance with the requirements of their standard category type certificate.

(c) Flight control system design and development can be more-effectively carried out using airborne simulation. The optimizations of flight control and feel characteristics can be conducted in a real-world environment at an early stage in the design and development of the aircraft. Flying qualities of unique