

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (71 FR 30266, May 26, 2006) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

### PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ Accordingly, the interim final rule amending 7 CFR part 985, which was published at 71 FR 30266 on May 26, 2006, is adopted as a final rule without change.

Dated: August 31, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1437

RIN 0560 AH19

### Noninsured Crop Disaster Assistance Program—Tropical Regions

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

**ACTION:** Final rule.

**SUMMARY:** This rule changes how the Commodity Credit Corporation (CCC) handles certain claims under the Noninsured Crop Disaster Assistance Program (NAP) for "tropical" regions, including Hawaii, Puerto Rico and other specified areas. The changes will reduce the burden on the affected program participants and ease program administration in the affected areas.

**EFFECTIVE DATE:** January 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Frances Williams, Program Specialist, Noninsured Crop Disaster Assistance Program, Farm Service Agency, United States Department of Agriculture (USDA), STOP 0517, Room 3648-S, 1400 Independence Avenue, SW., Washington, DC 20250-0517. Telephone: 202-690-0700. Electronic Mail: [Frances.Williams@wdc.usda.gov](mailto:Frances.Williams@wdc.usda.gov). Persons with disabilities who require

alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

#### SUPPLEMENTARY INFORMATION:

##### Background

A proposed rule published on October 3, 2005 proposed changes for handling certain but not all claims for assistance in certain defined "tropical regions" (including Hawaii and Puerto Rico) under the Noninsured Crop Disaster Assistance Program (NAP) program administered by CCC under rules found at 7 CFR Part 1437. The comment period for the rule ended on November 2, 2005, and no comments were received. The background and need for the rule were described in the preamble to the proposed rule. The new regulations, as proposed, are adopted by final rule with minor clarifying changes. This final rule is made effective as of January 1, 2006, since, as contemplated in the proposed rule, the rule was to be effective with all covered crops planted as of that date. Provision is made in the rule itself for adjustments as may be needed between the old and new rules. It is understood, however, that the changes in 7 CFR 1437 are, in all cases, advantageous to producers. If not, any producer with a claim arising from a policy issued before the date of publication of this final rule who would have profited from the old policy may apply for relief.

In the preamble to the proposed rule it was indicated that the source of authority for extending the rule to certain tropical regions was 48 U.S.C. 1469d. However, the NAP program has been since inception extended to those regions. NAP was first provided for in crop insurance legislation that allowed for crop insurance in such regions and allowed NAP as an alternative to catastrophic crop insurance coverage where such coverage is not available. It remains the case, even though the statutory authority for NAP has changed, that NAP is to be available where conventional federal crop insurance catastrophic insurance is not available and the authority for federal crop insurance continues to include an allowance for federal crop insurance in the areas covered by this NAP rule. That noted, on review, the provisions of the rule which provide for different treatment in certain tropical areas as opposed to others have been found to be justified because of differing agricultural conditions and no change has been made in the rule in this regard.

##### Executive Order 12866

This rule is issued in conformance with Executive Order 12866, was

determined to be not significant, and was not reviewed by the Office of Management and Budget (OMB).

##### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because CCC is not required to publish a notice of proposed rulemaking for the subject matter of this rule.

##### Environmental Assessment

The environmental impacts of this rule have been considered consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and FSA regulations for compliance with NEPA, 7 CFR 799. FSA has concluded that this rule is categorically excluded from further environmental review and documentation. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement.

##### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule preempts State and other local laws that are inconsistent with it. Before any legal action may be brought regarding a determination under this rule, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

##### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. "States" for this purpose included the 50 States and other areas addressed in the rule. See the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

##### Unfunded Mandates Reform Act of 1995

The 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

The information collection burden for NAP is by OMB under 5 CFR 1320 and

assigned OMB Control Number 0560-0175. In the proposed rule (70 FR 57520, 57521) the Agency provided an estimate of the effect this rule would have on the information collection requirements of the NAP program and requested public comment on whether the collection of information is necessary for the proper performance of the functions of the agency, whether the information will have practical utility, the accuracy of the agency's burden estimate, ways to enhance the quality, utility, and clarity of the information collected, and ways to minimize the burden. No comments were received.

#### Executive Order 12612

This rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. 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. "States" for this purpose included the 50 States and other areas addressed in the rule.

#### Government Paperwork Elimination Act

FSA is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in the program are available electronically for downloading or electronic submission through the USDA eForms Web site at <http://forms.sc.usda.gov/eforms>.

#### Federal Assistance Programs

The title and number of the Federal assistance program found in the Catalog of Federal Domestic Assistance to which this final rule applies are Noninsured Assistance, 10-451.

#### List of Subjects in 7 CFR Part 1437

Agricultural commodities, Disaster assistance, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons set forth in the preamble, 7 CFR part 1437 is amended as follows:

#### PART 1437—NONINSURED CROP DISASTER ASSISTANCE PROGRAM

■ 1. The authority citation for part 1437 is revised to read as follows:

Authority: 7 U.S.C. 7333; 15 U.S.C. 714 *et seq.*; and 48 U.S.C. 1469.

■ 2. Add Subpart F to read as follows:

#### Subpart F—Coverage in the Tropical Region

Sec.

1437.501 Applicability; definition of "tropical region" and additional definitions

1437.502 Coverage periods and fees for covered tropical crops.

1437.503 Covered losses and recordkeeping requirements for covered tropical crops.

1437.504 Notice of loss for covered tropical crops.

1437.505 Application for payment for the tropical region.

#### Subpart F—Determining Coverage in the Tropical Region

##### § 1437.501 Applicability; definition of "tropical region" and additional definitions.

(a) This subpart shall only apply to covered tropical crops in the tropical region for the 2006 and subsequent crops years, as those terms are defined in this subpart. Benefits under this part may be extended to those crops only to the extent that they are otherwise eligible for assistance under this part. Covered crops shall not apply to "value loss" crops, as defined elsewhere in this part. For those crops that are covered by this subpart, loss and payment determinations for the program covered in this part shall be determined by the rules that otherwise apply to the program subject to the modifications provided by this subpart. The rules that otherwise apply include, but are not limited to, limitations on payments that appear elsewhere in this part.

(b) For purposes of this subpart:

(1) *Tropical region* includes, as may be further limited by the Deputy Administrator: Hawaii, American Samoa, Guam, the U.S. Virgin Islands, Puerto Rico, and the former Trust Territory of the Pacific Islands (the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau).

(2) *2006 and subsequent crops* means those crops in the ground on or after January 1, 2006.

(3) *Covered tropical crops* means those crops and commodities in the tropical region governed by this subpart, those being all crops and commodities in the tropical region that are otherwise eligible for generating a benefit claim under this part, except for value-loss crops as defined elsewhere in this part.

(c) The Deputy Administrator may adjust requirements for assistance so as to provide a fair transition from previous rules for crop covered by this subpart to those provisions which are provided for in this subpart.

##### § 1437.502 Coverage periods and fees for covered tropical crops.

(a) The crop year for all covered tropical crops is the calendar year (January 1 through December 31 beginning in 2006 through subsequent years).

(b) The application closing date for all covered tropical crops is December 1 of the calendar year before the applicable crop year.

(c) For covered tropical crops, per county per crop year, a maximum service fee of \$100.00 is required of the producer for coverage of:

(1) With respect to annual and biennial crops, all plantings of the same crop planted during the crop year, as determined by CCC.

(2) With respect to perennial crops, all acreage of the crop existing during the crop year, as determined by CCC.

(d)(1) Multiple planting periods and final planting dates are not applicable for covered tropical crops. However, nothing in this section shall prohibit assigning different production expectations to different fields.

(2) The coverage period for perennial and other crops covered by this subpart begins on January 1 of the relevant crop year and ends on December 31 of that year.

##### § 1437.503 Covered losses and recordkeeping requirements for covered tropical crops.

(a) Prevented planting coverage is not available for covered tropical crops, other than in Hawaii and Puerto Rico, except as approved by the Deputy Administrator in special cases.

(b) Except in Hawaii and Puerto Rico, or as otherwise approved by the Deputy Administrator in individual cases, eligible causes of loss for covered tropical crops will only include hurricanes, typhoons, and named tropical storms.

(c) Producers who have applied for coverage on covered tropical crops must maintain for the full coverage period contemporaneous records. Contemporaneous records are those created at the time of planting and harvesting of the crop for which the application for coverage is filed. In this regard:

(1) Producers may be selected on a random or targeted basis for compliance review with this requirement and any other requirements that may apply to this program.

(2) A failure to maintain acceptable contemporaneous records throughout the crop year may be treated by CCC as grounds of ineligibility for benefits under this part.

**§ 1437.504 Notice of loss for covered tropical crops.**

(a) The provisions of § 1437.10(c) regarding late filed notice of loss do not apply to covered tropical crops.

(b) Where a notice of loss for covered tropical crops is provided according to § 1437.10, producers must provide records maintained according to § 1437.503(c) of the:

(1) Number of acres or other basis of measurement, as applicable, of the crop from which production could be achieved existing on the day the eligible natural disaster occurred or, for prolonged natural disasters, such as a drought and similar damage where applicable, existing on the day the notice of loss is filed.

(2) Amount, including zero, as applicable, of production harvested, before or after the disaster, from those crop plantings (damaged or undamaged) which were in existence on the farm at the time of the disaster including production from the covered plantings (in existence at the time of the loss event) that may occur after the loss event even when, to the extent provided for in paragraph (c) of this section, the harvest occurs after the end of the crop year. Crop acreage of the covered crop that is in existence at the time of the loss event that can be harvested after the eligible natural disaster must be harvested, or continue to be harvested, and the harvested acres and production reported to FSA according to this subpart, except that for perennial crops the requirement ends with the end of the crop year. For non-perennial crops the obligation to harvest ends with the end of the life-cycle for the plantings that were in existence at the time of the loss event. In this regard:

(i) Except as otherwise determined by FSA, such production, before or after the loss event, will be taken into account in computing eligibilities.

(ii) Production that must be reported under paragraph (b)(2)(i) of this section includes, except in the case of perennial plants, all production irrespective of whether the production occurs in the same crop year.

(iii) For perennial plants, only production in the same crop year must be reported.

(iv) All production that must be reported for covered tropical crops will, except as specified by the Deputy Administrator, be taken into account in the loss determinations made under this part. The producer is obligated to maximize that production. That is, harvesting and other production activities for the plants in the ground at the time of the disaster must be undertaken or continue to be

undertaken, to the maximum extent possible, for the full reporting period, that being the period for which production could count against a loss as indicated in this subpart.

(3) Failure to keep sufficient records to allow the computations provided for in this subpart is grounds for denial of the claim.

(c) Producers with coverage of a covered tropical crop for a crop year must, by the earlier of 90 calendar days after the crop year ends or the date a notice of loss is filed, file a certified report setting out the:

(1) Collective acres of the crop acreage planted or in the ground during the crop year.

(2) Total production harvested from the crop acreage for the full crop year in the case of a perennial plant and for the full life of the plants for other crops.

(d) With respect to the report required in paragraph (c) of this section:

(1) If a report is filed before the end of the crop year, an updated crop report must be filed within 90 calendar days from the end of the crop year to supplement the original report;

(2) If the report is for any annual or biennial crops where production continued or could have continued beyond the period covered in the reports otherwise filed under this section, an additional report of production must be filed within 30 days of the end of the last countable production for the covered crop or 30 days after the last date on which such production could have been obtained, whichever is later.

(3) A failure to file an adequate report where a report is required by this section may result in the producer being treated as having a zero yield capability for the crop year involved for purposes of constructing a crop history. Alternatively, the Deputy Administrator may assign another sanction for that failure. In addition to other sanctions as may apply, a failure to file such reports may be grounds for denial of a claim. The Deputy Administrator may adjust crop histories as determined appropriate to create, to the extent practicable, an appropriate crop history for loss computation purposes.

(4) Such reports as are provided for in this subsection must be filed for every crop year for which there is coverage, irrespective of whether a claim is filed for that year.

(e) Unless otherwise specified by the Deputy Administrator, appraisals are not required of crop acreage for covered tropical crops on Guam, Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall

Islands, the Federated States of Micronesia, and the Republic of Palau.

(f) All crop acreage for covered tropical crops for which a notice of loss is filed must not be destroyed until authorized by CCC.

**§ 1437.505 Application for payment for the tropical region.**

(a) For producers of covered tropical crops in Guam, Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, an application for payment must be filed at the same time as the filing of the notice of loss required under §§ 1437.10 and 1437.504.

(b) For producers in Puerto Rico and Hawaii, an application for payment for such crops must be filed by the later of:

(1) The date on which the notice of loss is filed in accordance with §§ 1437.10 and 1437.502(i), and

(2) The date of the completion of harvest for the specific crop acreage that existed at the time of loss for which the notice of loss was filed.

Signed in Washington, DC, August 23, 2006.

**Thomas B. Hofeller,**

*Acting Executive Vice President, Commodity Credit Corporation.*

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**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2006-24813; Airspace Docket No. 06-AAL-16]

**Modification of Legal Description of Class D and E Airspace; Fairbanks, Fort Wainwright Army Airfield, AK**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** The U.S. Army will soon be changing the name of Fort (Ft.) Wainwright Army Airfield (AAF) to Ladd AAF. This action amends the airport name accordingly for each of the Class D and Class E airspace descriptions in FAA Order 7400.9N. This action also amends an altitude omission which currently does not exist in the FAA Order 7400.9N. This action also redefines the airspace description to account for recent updates to the airfield coordinates.