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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1425

RIN 0560-AF33

Cooperative Marketing Associations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: This rule amends the Commodity Credit Corporation's (CCC's) Cooperative Marketing Association (CMA) program to reduce workload and reporting burdens and focus CCC's monitoring efforts on the CMA's participation in the commodity loan and loan deficiency payment programs. Other CMA business functions will no longer be subject to review or approval.

DATES: This rule is effective April 9, 1998. Comments concerning this rule should be received on or before May 11, 1998 to be assured consideration.

ADDRESSES: Address all comments concerning this interim rule to James Goff, Agricultural Program Specialist, Price Support Division, USDA, FSA, STOP 0512, 1400 Independence Avenue, S.W., Washington, DC 20250-0512, telephone (202) 720-5396; e-mail James_Goff@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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 various levels of government.

Executive Order 12866

This interim rule is issued in conformance with Executive Order 12866 and has been determined to be not significant and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12988

The interim rule has been reviewed in accordance with Executive Order 12988. The provisions of this interim rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. The provisions of this rule are not retroactive. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because FSA and CCC are 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.

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.

Federal Assistance Programs

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are:

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).

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.

Paperwork Reduction Act of 1995

The Information Collections for the program are covered under OMB control number 0560-0040. A Notice with request for comments on the information collection was published in the **Federal Register** on April 7, 1998, at 63 FR 16958. An information collection package will be sent to OMB for review at the end of the 60-day comment period.

Background

CCC made loans and loan deficiency payments (LDP's) available to producers through agricultural marketing cooperatives for over 60 years. USDA first extended commodity loans to cotton cooperatives in 1934. Commodities now authorized for marketing assistance loans and LDP's through approved CMA's are: barley, canola, corn, cotton, flaxseed, mustard seed, oats, rapeseed, rice, safflower, sorghum, soybeans, sunflower seed, and wheat.

Explanation of Changes

Existing regulations have not been substantially changed or updated in the last 15 years. Many of the old regulations dealt with monitoring changes in the CMA's by-laws, equity requirements, and conflict-of-interest issues of board members and key employees. Cooperatives are voluntary organizations. Producers who join cooperatives have the right to review by-laws before joining the cooperative and approve by-law changes after becoming a member. CMA loans are non-recourse commodity loans for which CCC determines the loan value. CCC allows CMA's terminated for non-compliance to forfeit the collateral without additional financial penalty. CCC is not financially at risk for any program losses because, as stated in § 1425.17(m), CMA's are responsible to CCC for all losses. In addition, CCC does not require individual producers receiving similar loans to meet any equity requirements. Conflict of interest concerns have become important to cooperatives, their insurance companies, and members. Therefore, CCC's concern with respect to by-law, equity, or conflict of interest issues is diminished and CCC believes it is in the best interest of the government to focus on marketing

assistance loans and LDP-related activity by the CMA's. CCC will now rely on the CMA's Articles of Incorporation and its marketing agreements with its members to establish that the CMA is operating as a cooperative and is allocating marketing assistance loan and LDP proceeds back to the applicable eligible producers.

Summary of Changes

The entire part 1425 has been rewritten. In addition, specific changes are as follows:

- (a) Seed cotton has been removed from the definition of an authorized commodity in § 1425.3. CMA's will no longer be authorized to obtain seed cotton loans.
 - (b) Section 1425.4 is amended by replacing required audit submissions with balance sheet submissions;
 - (c) All references to bylaw submissions and bylaw requirements are removed. This affected § 1425.4, § 1425.6, § 1425.8, § 1425.9, and § 1425.19. Section 1425.11 was removed as a result and is now reserved;
 - (d) Equity requirements in § 1425.10(c) have been removed;
 - (e) Conflict of interest statement submissions by cooperative Board members and key employees was removed from § 1425.12. Section 1425.12 is now reserved;
 - (f) Provisions to allow discrepancies between CCC and CMA records related to the eligibility status for a producer under certain situations were added to § 1425.17;
 - (g) In § 1425.14 the member volume requirement for a crop involved in loan or LDP activity has been reduced from 80 percent to 50 percent;
 - (h) The requirements in § 1425.10 (d) to adjust a CMA's net worth for pledged assets and restricted accounts have been removed;
 - (i) Section 1425.7(b) is amended so CCC may terminate a suspended CMA in less than 1 year;
 - (j) In § 1425.4(d) the requirements for CMA's to submit revised applications every 5 years is changed to require submissions when CCC questions whether the CMA is operating according to documents previously submitted; and
 - (k) Definitions have been added to § 1425.3 for cooperative, market gain, and loan pool.
- Submit comments as an:
1. ASCII file avoiding the use of special characters and any form of encryption; or
 2. WordPerfect 5.1—7.0 file on diskette.
- Identify all comments and data in electronic form by RIN 0560-AF33.

List of Subjects in 7 CFR Part 1425

Agricultural commodities
Cooperatives, Marketing agreements.

Accordingly, for the reasons stated in the preamble, 7 CFR part 1425 is revised as set forth below:

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

Sec.

- 1425.1 Applicability.
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 - 1425.20 [Reserved]
 - 1425.21 Records required.
 - 1425.22 Inspection and investigation.
 - 1425.23 Reports.
 - 1425.24 OMB control number assigned pursuant to Paperwork Reduction Act.
 - 1425.25 Appeals.
- Authority:** 7 U.S.C. 1441 and 1421, 7 U.S.C. 7231–7237; and 15 U.S.C. 714b, 714c, and 714j.

§ 1425.1 Applicability.

This part sets forth the terms and conditions an approved Cooperative Marketing Association (CMA) must meet to obtain commodity marketing assistance loans (loans) and loan deficiency payments (LDP's) from CCC on behalf of its members. A CMA meeting these terms and conditions may obtain loans and LDP's for any eligible commodity for which a loan and LDP program is in effect.

§ 1425.2 Administration.

On behalf of CCC, the Farm Service Agency will administer the provisions of this part under the general direction and supervision of the Deputy Administrator for Farm Programs. In the field, the provisions of this part will be administered by the State and county FSA committees.

§ 1425.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in parts 718 of this title and parts 1421 and 1427 of this chapter shall also be applicable, except

where those definitions conflict with the definitions in this section.

Active member is a member who has utilized the services offered by a CMA in one of the three preceding CMA fiscal years or such shorter period as may be provided in the CMA's articles of incorporation or bylaws.

Approved cooperative marketing association (CMA) is a cooperative approved by CCC to participate in loan and LDP programs for any authorized commodity.

Authorized commodity is a commodity for which a CMA is approved by CCC to obtain loans or LDP's. Commodities for which a CMA may be approved by CCC are barley, canola, corn, cotton, flaxseed, mustard seed, oats, rapeseed, rice, safflower, sorghum, soybeans, sunflower seed, and wheat.

Cooperative is a business owned and controlled by the producers who use its services and operated under generally accepted cooperative principles.

Eligible commodity is a commodity which meets the commodity's eligibility requirements set forth in chapter XIV of this title, and is produced and delivered to the CMA from a producer eligible for loan or LDP.

Loan pool is any CMA pool containing commodities used by the CMA to obtain either loans or LDP's.

Market gain is the sum of loan rate, minus the repayment rate on loans repaid with less than the loan rate, plus for LDP's, the same rate, times the quantity of commodity. Market gains cannot exceed the producer's applicable payment limitation as set out in part 1400 of this chapter.

Member is a producer who:

- (a) Has fully paid for membership stock or earned equity credits in the CMA;
- (b) Has executed a uniform marketing agreement with the CMA; and
- (c) Is entitled to all CMA membership rights.

§ 1425.4 Approval.

(a) For a cooperative to gain CMA status to participate in a marketing assistance loan or LDP program for the 1997 through 2002 crop years, a cooperative must submit an application for approval to CCC. An application must include:

- (1) A completed Form CCC-846 indicating commodities for which it seeks approval;
- (2) A balance sheet, dated within the last year, prepared for the cooperative and accompanied by a letter from an independent Certified Public Accountant, certifying that the balance sheet was prepared in accordance with

generally accepted accounting principles;

(3) A copy of the articles of incorporation or articles of association and all marketing agreements for loan pools, together with a certification that this material is current;

(4) Resolutions made by the cooperative's board of directors stating the cooperative will abide by provisions of this part, the nondiscrimination provisions thereof, and all other related CCC policies;

(5) A detailed description of how proceeds from each loan pool will be distributed to members as provided for in § 1425.18;

(6) An executed form CCC-Cotton G, Cotton Cooperative Loan Agreement, by cooperatives applying for approval to participate in the cotton loan and LDP program; and

(7) Other information as requested by CCC concerning the organizational, operational, financial or any other aspect of the cooperative requested by CCC related to the cooperative's proposed methods of conducting CCC loan and LDP business.

(b) A CMA must submit, on an annual basis, the following information to CCC:

(1) A completed Form CCC-846-1, which shall disclose:

(i) The number of active and inactive CMA members;

(ii) The CMA's allocated equity;

(iii) The CMA's unallocated equity; and

(iv) Quantity of each loan pool commodity delivered to the CMA for marketing and the portion of such commodities received from active members during the prior year.

(2) The CMA's latest balance sheet. This balance sheet must be dated within the past year and be accompanied by a letter from an independent Certified Public Accountant certifying that the balance sheet was prepared in accordance with generally accepted accounting principles.

(c) A CMA shall furnish information to CCC within thirty calendar days relating to any:

(1) Change in its articles of incorporation and loan pool marketing agreements;

(2) Resolution affecting loan or LDP operations;

(3) Change to the CMA's name, address, phone number, or related data shown on the CCC-846-1;

(4) Change in loan pool operations with an explanation and justification; and

(5) Additional information CCC may request related to the CMA's continued approval by CCC.

(d) CCC may require a CMA to submit a new initial application instead of a

recertification application when it questions whether the CMA is operating according to documents previously submitted.

§ 1425.5 Confidentiality.

Information submitted to CCC related to trade secrets, financial or commercial operations, or the financial condition of a CMA, whether for initial approval or continued approval, shall be kept confidential by the officers, agents, and employees of CCC and the Department of Agriculture except as required to be disclosed by law.

§ 1425.6 Approved CMA's.

(a) CCC shall, in accordance with the provisions of this part, approve a CMA to obtain marketing assistance loans and LDP's.

(b) CCC may approve a CMA to participate in a marketing assistance loan and LDP program for the 1997 through 2002 crop as:

(1) Unconditionally approved; or

(2) Conditionally approved.

(c) If CCC determines a CMA is in substantial but not total compliance with the requirements of this part, CCC may make the approval conditional on CMA coming into full compliance within a reasonable period of time as specified in the notification of conditional approval.

(d) A CMA is approved to participate in a marketing assistance loan and LDP program until the CMA's approval is suspended or terminated by CCC.

§ 1425.7 Suspension and termination of approval.

(a) CCC may suspend a CMA from obtaining loans and LDP's when CCC determines the CMA has not:

(1) Operated according to the CMA's application for approval or its last recertification submission;

(2) Complied with applicable regulations;

(3) Corrected deficiencies of the CMA's operation as noted by CCC; or

(4) Violated any of its agreements with CCC.

(b) A suspension may be lifted when CCC determines the CMA has complied with all requirements for approval. When suspensions are not lifted within 1 year, or a shorter time period if so indicated in CCC's suspension notification, the CMA's approval automatically terminates.

(c) CCC may terminate a CMA's approval by giving the CMA written notice of the termination.

(d) A CMA may, when it does not have any marketing assistance loans outstanding, through written notice to CCC, voluntarily terminate its

participation in a loan and LDP program.

(e) CCC may, on demand, call all outstanding CCC loans made to a suspended or terminated CMA. When loans are called, CCC will provide at least 10 calendar days written notice to the CMA. Commodities pledged as collateral for loans must be repaid by the date specified by CCC. If redemption is not made by the date specified, title to the commodity shall vest in CCC and CCC shall have no obligation to pay the commodity's market value above the principal amount of such loans.

§ 1425.8 Ownership and control.

(a) CMA's must be owned and controlled by active members of the CMA.

(b) The CMA must provide evidence that:

(1) Active members own more than 50 percent of its allocated equity; and

(2) A majority of directors are active members of the CMA or authorized representatives of active members.

(c) An applicant cooperative or a CMA, not under the ownership or control, of its active members, may be approved by CCC if it is able to establish that, by retiring the equity of its inactive members or by obtaining new members, it can vest ownership and control in its active members, as required by this section, by a date specified by CCC.

§ 1425.9 Open membership.

(a) The CMA shall provide CCC documented proof that the CMA admits every membership applicant who is eligible under the statute regulating the CMA.

(b) Notwithstanding paragraph (a) of this section, a CMA may refuse membership to an applicant whose admission would prejudice, hinder, or otherwise obstruct the interests or purposes of the CMA.

§ 1425.10 Financial ratio requirement.

To be financially able to make advances to their members and to market their commodities, CMA's shall have a current ratio of at least 1 dollar of current assets for each 1 dollar of current liabilities (current ratio of 1:1 or better) on the balance sheet it submits to CCC with its initial application or annual recertification required in § 1425.4.

§ 1425.11-§ 1425.12 [Reserved]

§ 1425.13 Uniform marketing agreement.

(a) A CMA must enter into a uniform marketing agreement with each member who delivers a commodity to a loan pool.

(b) The identification number used by the member to report acreage on applicable farms to FSA must appear on the marketing agreement.

§ 1425.14 Member business.

(a) At least 50 percent of a crop of an authorized commodity acquired by, or delivered to, a CMA for marketing must be produced by its members for the CMA to obtain a loan or LDP for such crop. CCC may, for a period not to exceed 2 years, waive this requirement if:

(1) The CMA can establish to CCC that such authorization is necessary for the efficient operation of the CMA; and

(2) The CMA's plan, approved by CCC, will bring the CMA into compliance with the provisions of this section.

(b) Commodities purchased or acquired from CCC and processed products acquired from other processors or merchandisers shall not be considered in determining the volume of member or nonmember business.

§ 1425.15 Vested authority.

The marketing agreement between the CMA and its members shall give the CMA the authority to pledge the commodity as collateral for a loan, to place a lien on such commodity, and to market the commodity on behalf of its members even though the individual members retain the right, in effect, to determine the price at which the commodity can be marketed by the CMA.

§ 1425.16 Payment limitation.

CMA's shall monitor market gains they receive from CCC on behalf of their members and not obtain market gains for a member above the member's payment limitation determined in accordance with part 1400 of this chapter.

§ 1425.17 Eligible commodity and pooling.

(a) A CMA may establish separate loan pools as needed for quantities of a commodity.

(b) Loans and, if applicable, LDP's will be available to CMA's for any eligible commodity in a loan pool as provided in paragraph (e) of this section and the beneficial interest provisions of parts 1421 and 1427 of this chapter.

(c) A pool shall be eligible for loans and LDP's if:

(1) All of the commodity in the pool is eligible for loans or LDP's, except as provided in paragraphs (d) and (e) of this section;

(2) The commodity was delivered by members to the CMA for their benefit;

(3) The commodity was delivered and the members are eligible for loans and LDP's;

(4) Members retain the right to share in marketing proceeds from the commodity in accordance with § 1425.18; and

(5) Members agreed to accept a payment of initial advances from the CMA in accordance with § 1425.18(a).

(d) Ineligible commodities may be included in eligible pools when:

(1) The CMA inadvertently included ineligible quantities based on grade, quality, bale weight or repacking in the case of cotton, or other factors; or

(2) There are eligibility discrepancies within FSA records, the producer has certified to the CMA that the commodity is eligible for loan, and there is no market gain or LDP involved in the loan pool for the crop year.

(e) A CMA may, for a period of time as specified in Handbook 1-CMA, include a commodity that is ineligible based on FSA records when the producer has certified to the CMA the commodity is eligible. In these instances, CCC specifies a time period during which CMA's may obtain loan or LDP's on the applicable quantity while the eligibility status is resolved. If the final resolution is that the commodity was ineligible, the CMA must repay any loans outstanding with principal plus interest and any market gains obtained plus interest from the date of receiving the market gain through the repayment date.

(f) The CMA must have in inventory a quantity of commodity delivered by members of each class and grade at least equal to the quantity each class and grade pledged as loan collateral.

(g) Loans will be available to the CMA for the quantity of a farm-stored commodity that is, pursuant to such CMA marketing agreement with a member, part of the CMA's loan pool.

(h) A CMA shall have identity-preserved loan pool commodities stored in approved warehouses while the commodities are pledged as collateral for loan.

(i) Loan eligibility for commingled commodities stored on a farm or in a warehouse may be transferred to an approved warehouse.

(j) Commodities pledged as collateral for CCC loans shall be free and clear of all liens and encumbrances based on a CMA's financial agreements or the CMA shall obtain a completed form CCC-679, Lien Waiver. When liens are applicable based on CMA financial agreements, the CMA shall provide CCC the completed CCC-679. CMA's shall not take any action to cause a lien or encumbrance to

be placed on a commodity after a loan is approved.

(k) If a loan or LDP is obtained for any quantity in a loan pool, allocations of costs and expenses among separate pools for the commodity in the pool shall be made according to generally accepted accounting principles.

(l) A CMA shall not apply marketing losses from a commodity not used to obtain a loan or LDP against the marketing proceeds of a commodity used to obtain a loan or LDP.

(m) CMA's shall not carry forward losses from one loan pool and apply them against a subsequent loan pool without CCC's authorization. CCC may grant authorization when it determines that carrying forward the loss complies with CCC's loan and LDP program intent.

(n) The CMA is responsible to CCC for any loss related to commodities the CMA pledged as collateral for loan or used to obtain LDP related to:

(1) The CMA failing to comply with these regulations;

(2) Changes in quantity or quality of either warehouse or farm stored commodities; or

(3) Liens based on either the CMA's or its members' financial agreements.

§ 1425.18 Distribution of proceeds.

(a)(1) If CCC makes loans or LDP's for any quantity in a loan pool, the related proceeds shall be distributed to members participating in the pool:

(i) Based on the quantity and quality of the commodity delivered by each member;

(ii) Less any authorized charges for services performed or paid by the CMA necessary to condition the commodity or otherwise make the commodity eligible for loans or LDP's; and

(iii) Within 15 work days from the date the CMA receives loan or LDP proceeds from CCC, except when loans are redeemed within 15 work days of the date of the loan.

(2) CMA's may credit advances to its members made before loans and LDP's are obtained against the distribution of loan and LDP proceeds requirement in paragraph (a)(1)(iii) of this section.

(b)(1) Except as provided in paragraph (b)(2) of this section, loan pool proceeds shall not be combined with non-loan pool proceeds and the CMA shall distribute loan pool proceeds according to the information it provided CCC in accordance with § 1425.4(b)(7).

(2) Sales proceeds from a loan pool may be combined with sales proceeds from other pools if the proceeds from such pools are allocated among the pools according to the quantity and quality of the commodity included in the pools.

(3) Loan and LDP proceeds shall only be issued to members involved in pools used for loans or LDP's.

(4) When notified by CCC that loan and LDP distributions to a member must be reduced for a program year, farm, or crop, a CMA shall not make subsequent pool distributions and shall reimburse CCC for distributions previously issued, if applicable.

§ 1425.19 Member cooperatives.

A CMA may obtain loans or LDP's on behalf of a member cooperative when the member cooperative is itself a CMA operating in accordance with this part. Loans and LDP's are restricted based on the CMA obtaining the loan or LDP.

§ 1425.20 [Reserved]

§ 1425.21 Records required.

(a) A CMA shall maintain records for each loan or LDP commodity showing the quantity:

- (1) Received from each member and nonmember;
- (2) Eligible for loans and LDP's;
- (3) By quality factors specified in the applicable commodity regulations including class, grade, and quality, where applicable; and
- (4) Of unprocessed inventory broken down by items 1 through 3 above.

(b) Except as provided in paragraph (c) of this section, inventory shall be allocated in the following manner until all inventory in a loan pool is depleted:

- (1) For processed commodities, the pool's inventory shall be adjusted when the commodity is withdrawn from inventory for processing; and
- (2) For commodities that are not processed, the pool's inventory shall be allocated to the pool and the pool's inventories adjusted when the commodity is shipped.

(c) Records of loan and non-loan pool dispositions do not have to be maintained separately when sales proceeds from pools are allocated according to the quantity and quality of commodity in the pools.

§ 1425.22 Inspection and investigation.

(a) The books, documents, papers, and records of the CMA and subsidiaries shall be maintained for five years after the applicable crop year and shall be available to CCC for inspection and examination at all reasonable times.

(b) At any time after an application is received, CCC shall have the right to examine all books, documents, papers, and determine whether the CMA is operating or has operated in accordance with the regulations in this part, its articles of incorporation or articles association, and agreements with producers, the representations made by

the CMA in its application for approval, and, where applicable, its agreements with CCC.

§ 1425.23 Reports.

(a) CMA's shall annually provide CCC a report of all commodity deliveries involved in loans and LDP's by FSA farm number for each member.

(b) When requested by CCC, CMA's shall report market gains received on behalf of each member.

§ 1425.24 OMB control number assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR 1425) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0560-0040.

§ 1425.25 Appeals.

A CMA may obtain reconsideration and review of determinations made under this part in accordance with the appeal regulations set forth at part 780 of this title.

Signed at Washington, D.C., on March 27, 1998.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98-9017 Filed 4-8-98; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 85

[Docket No. 96-013-2]

Official Pseudorabies Tests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the pseudorabies regulations by adding the glycoprotein I Particle Concentration Fluorescence Immunoassay test to the list of official pseudorabies tests and allowing its use as an approved differential test. We are taking this action based on a finding that the sensitivity and specificity of the glycoprotein I Particle Concentration Fluorescence Immunoassay test are equivalent to those of official tests for the diagnosis of pseudorabies. This rule allows the glycoprotein I Particle Concentration Fluorescence Immunoassay test to be used as an official pseudorabies test to qualify certain pseudorabies vaccinated swine

for interstate movement to destinations other than slaughter or a quarantined herd or quarantined feedlot. Adding the glycoprotein I Particle Concentration Fluorescence Immunoassay test to the list of official pseudorabies tests also allows its use for the testing of nonvaccinated swine.

EFFECTIVE DATE: April 9, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold C. Taft, Senior Staff Veterinarian, Swine Health Staff, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231, (301) 734-4916; or e-mail: ataft@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Pseudorabies is a contagious, infectious, and communicable disease of livestock, primarily swine, and other animals. The disease, also known as Aujeszky's disease, mad itch, and infectious bulbar paralysis, is caused by a herpes virus. The Animal and Plant Health Inspection Service's (APHIS) regulations in 9 CFR part 85 (referred to below as the regulations) govern the interstate movement of swine and other livestock (cattle, sheep, and goats) in order to help prevent the spread of pseudorabies.

On December 15, 1997, we published in the **Federal Register** (62 FR 65630-65631, Docket No. 96-013-1) a proposal to amend the pseudorabies regulations by adding the glycoprotein I (gpI) Particle Concentration Fluorescence Immunoassay (PCFIA) test to the list of official pseudorabies tests and allow its use as an approved differential test. We proposed this action based on a finding that the sensitivity and specificity of the gpI PCFIA test are equivalent to those of official tests for the diagnosis of pseudorabies.

We solicited comments concerning our proposal for 60 days ending February 13, 1998. We did not receive any comments. Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule will provide an alternative official pseudorabies test to be used as an approved differential test. It will allow the gpI PCFIA test to be used as an official pseudorabies test to qualify certain pseudorabies vaccinated swine for interstate movement to destinations