

Rules and Regulations

Federal Register

Vol. 74, No. 90

Tuesday, May 12, 2009

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1487

RIN 0551-AA71

Technical Assistance for Specialty Crops

AGENCY: Foreign Agricultural Service (FAS) and Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations to incorporate changes into three existing Technical Assistance for Specialty Crops (TASC) provisions. First, it increases the funding cap on individual proposals from \$250,000 to \$500,000 per year. Second, it increases the maximum duration of an activity from 3 years to 5 years. Finally, it increases the number of approved projects that a TASC participant can have underway at any given time, from three to five. The rule also makes other minor administrative changes to two other provisions for clarity.

DATE: *Effective Date:* June 11, 2009.

FOR FURTHER INFORMATION CONTACT: Mark Slupek at (202) 720-1169, fax at (202) 720-9361, or by email at: podadmin@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

This final rule amends the regulations at 7 CFR part 1487 applicable to the TASC program. The Farm Security and Rural Investment Act of 2002, which was reauthorized by the Food, Conservation, and Energy Act of 2008, directs CCC to establish a program to provide mandatory funding to assist U.S. organizations with funding for projects that address sanitary, phytosanitary, and technical barriers that prohibit or threaten the export of

U.S. specialty crops. FAS, which administers the TASC program, provides grant funds as direct assistance to U.S. organizations.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866. It has been determined to be not significant for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment of this rule was not completed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule would preempt State laws to the extent such laws are inconsistent with it. This rule would not be retroactive.

Executive Order 12372

This program is not subject to Executive Order 12372, which requires 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).

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Assessment

CCC has determined that this rule does not constitute a major State or Federal action that would significantly affect the human or natural environment consistent with the National Environmental Policy Act (NEPA), 40 CFR 1502.4, major Federal actions requiring the preparation of Environmental Impact Statements, and Compliance with NEPA implementing the regulations of the Council on Environmental Quality, 40 CFR parts 1500-1508. Therefore, no environmental assessment or environmental impact statement will be prepared.

Unfunded Mandates

Although CCC is publishing this as a final rule, Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because CCC

is not required by 5 U.S.C. 553 or any other law to publish a final rulemaking for the subject of this rule. Further, this rule contains no unfunded mandates as defined in sections 202 and 205 of UMRA. Nor does this rule potentially affect small governments or contain significant Federal intergovernmental mandates.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, CCC has previously received approval from OMB with respect to the information collection required to support this program. The information collection is described below:

Title: Technical Assistance for Specialty Crops.

OMB Control Number: 0551-0038.

E-Government Act Compliance

CCC is committed to complying with the E-Government Act to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes. The forms, regulations, and other information collection activities required to be utilized by a person subject to this rule are available at <http://www.fas.usda.gov>.

List of Subjects in 7 CFR Part 1487

Agricultural commodities, Exports, Specialty crops.

Summary and Analysis of Comments

CCC published a rule in the **Federal Register** (73 FR 73617, Dec. 3, 2008) proposing three changes to the regulations which govern the operations of the TASC program. That rule requested interested parties to submit comments by January 2, 2009.

Following is a summary of the comments which specifically address the proposed rule and CCC's responses to these comments. General comments relating to the value of the program, editorial suggestions, and non-substantive comments have been omitted.

Increase the Funding Cap From \$250,000 to \$500,000 per Year

CCC received six comments on this issue. One of the six opposed the increase.

Comment: We support amending the regulations used to administer the TASC program by increasing the amount of funding per proposal in any given year. The amendment to the TASC regulations will make the program more viable and relevant in addressing potential and existing trade barriers.

Comment: CCC should reconsider the proposed funding limitation by either reducing the funding limitation of \$500,000 per project to allow for longer maximum durations, or by creating a discretionary fund to be designated specifically for projects extending beyond the maximum duration. The assessment of these types of circumstances should be based on the effectiveness of the project's activities by the measurement in reaching projected goals.

Response: Given the increase in program funding authorized by the Food, Conservation, and Energy Act of 2008, CCC believes that increasing the project funding limitation will not constrict the number or duration of approved projects. Therefore, CCC is adopting the rule as proposed.

Increase the Maximum Duration of an Activity From 3 Years to 5 Years

CCC received six comments on this issue. One of the six opposed the 5-year limitation.

Comment: The proposed rule change increasing the maximum duration of an activity from 3 years to 5 years should facilitate the efficient allocation of funding to the specialty crop industry and promote the design and implementation of projects that will benefit our industry.

Comment: The proposed 5-year limitation, although appreciated, is an unrealistic timeline when mitigating phytosanitary concerns of international trade partners. A discretionary fund should be specifically created for those projects that extend beyond the maximum duration.

Response: After 7 years of operating the TASC program, CCC believes that 3 years is not a sufficient length of time to complete certain projects. CCC believes that 5 years should be sufficient to complete all projects, and that making a provision to allow for projects to exceed 5 years in duration is unnecessary. Therefore, CCC is adopting the rule as proposed.

Increase the Number of Approved Projects From Three to Five That a TASC Participant Can Have Underway at Any Given Time

CCC received five comments on this issue, all of which favored the proposed change.

Comment: Allowing up to five approved projects for any one TASC participant at any given time should facilitate the efficient allocation of funding to the specialty crop industry and promote the design and implementation of projects that will benefit the industry.

Response: CCC will adopt the rule as proposed.

■ For the reasons set out in the preamble, 7 CFR part 1487 is amended as follows:

Title 7—Agriculture

PART 1487—TECHNICAL ASSISTANCE FOR SPECIALTY CROPS

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

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

■ 2. Revise § 1487.4 to read as follows:

§ 1487.4 Are there any limits on the scope of proposals?

(a) *Funding cap.* Proposals which request more than \$500,000 of CCC funding in a given year will not be considered.

(b) *Length of activities.* Funding will not be provided for projects that have received TASC funding for 5 years. The 5 years do not need to be consecutive.

(c) *Target countries.* Proposals may target all eligible export markets, including single countries or reasonable regional groupings of countries.

(d) *Multiple proposals.* Applicants may submit multiple proposals, but no participant may have more than five approved projects underway at any given time.

■ 3. Amend § 1487.6 by revising paragraph (b) to read as follows:

§ 1487.6 Administration.

* * * * *

(b) *Evaluation process.* FAS will review all proposals for eligibility and completeness and will evaluate each proposal against the factors described in paragraph (a) of this section. The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal, and submit the proposals and funding recommendations to appropriate officials within FAS for decision. FAS may, when appropriate to the subject matter of the proposal, request the assistance of other U.S. government experts in evaluating the merits of a proposal.

■ 4. Amend § 1487.8 by revising paragraph (a)(4) to read as follows:

§ 1487.8 How are payments made?

(a) * * *

(4) Participants shall maintain all records and documents relating to TASC projects, including the original documentation which supports reimbursement claims, for a period of 3 calendar years following the expiration or termination date of the program agreement. Such records and documents will be subject to verification by FAS and shall be made available upon request to authorized officials of the U.S. Government. FAS may deny a claim for reimbursement if the claim is not supported by acceptable documentation.

* * * * *

Signed at Washington, DC, on the 28th of April 2009.

Patricia R. Shekh,

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

[FR Doc. E9–11053 Filed 5–11–09; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 93

[Docket No. APHIS–2007–0095]

RIN 0579–AC63

Importation of Cattle From Mexico; Addition of Port at San Luis, AZ; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: We are correcting an error in the amendatory language in our final rule that added the port of San Luis, AZ, as a port through which cattle that have been infested with fever ticks or exposed to fever ticks or tick-borne diseases may be imported into the United States and that removed provisions that limit the admission of cattle that have been infested with fever ticks or exposed to fever ticks or tick-borne diseases to the State of Texas. The final rule was published in the **Federal Register** on January 2, 2009.

DATES: Effective Date: The effective date of this correction to § 93.427(b)(2) introductory text is delayed indefinitely. This delay is consistent with the delayed effective date of the amendment to § 93.427(b)(2) introductory text published in the **Federal Register** on January 2, 2009, at 74 FR 5–6. APHIS will publish a document announcing an effective date for this correction in the **Federal Register**.