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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 783

Commodity Credit Corporation

7 CFR Part 1478

RIN 0560-AF17

Tree Assistance Program

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to adopt as final, with change, the interim rule published in the **Federal Register** on September 29, 1997 (62 FR 50850). This final rule sets forth the regulations necessary for implementing the 1997 Tree Assistance Program (TAP). The Act Making Emergency Supplemental Appropriations for Recovery from Natural Disasters for the fiscal year ending September 30, 1997 (the Act), authorized TAP assistance to small orchardists to replace or rehabilitate trees and vineyards damaged by natural disasters. Due to limited funds appropriated for this program, the losses for which reimbursement is sought are limited to natural disasters that occurred between October 1, 1996, and September 30, 1997. Cost-share assistance may not exceed 100 percent of the eligible replacement or rehabilitation costs and may be based on average costs or the actual costs for the replanting practices, as determined by the Deputy Administrator for Farm Programs.

EFFECTIVE DATE: Final rule effective January 26, 1998.

FOR FURTHER INFORMATION CONTACT: David M. Nix, Production, Emergencies, and Compliance Division (PECD), Farm Service Agency (FSA), USDA, 1400 Independence Avenue, SW., STOP

0517, Washington, DC 20012-0517, telephone (202) 690-4091, e-mail address: dnix@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because the Farm Service Agency (FSA) 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

An Environmental Evaluation with respect to the Tree Assistance Program has been completed. It has been determined that this action is not expected to have a significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

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).

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State law to the extent that such laws are inconsistent with the provisions of this rule. The provisions of this rule are retroactive to October 1, 1996. Before any judicial action may be brought regarding the provisions of this rule, the administrative remedies must be exhausted.

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.

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. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA regulations.

Discussion of Changes

No comments were received in response to the interim rule issued on September 29, 1997. However, during the administration of this program, FSA discovered a need for clarification regarding duplication of benefits which will be set forth in this final rule.

Clarification provides if an owner is eligible to receive payments under this part, catastrophic risk protection crop insurance program (7 CFR part 402), and non-insured crop disaster assistance program (7 CFR part 1437) for the same tree or vine loss, the eligible owner must choose whether to receive the other program benefits or payments under this part.

List of Subjects in 7 CFR Parts 783 and 1478

Disaster assistance, Grant programs—agriculture.

Accordingly, the interim rule set forth at 7 CFR part 783 which was published September 29, 1997, is adopted as a final rule with the following change:

PART 783—1997 TREE ASSISTANCE PROGRAM

1. The authority citation for part 783 continues to read as follows:

Authority: Pub. L. 105-18, 111 Stat. 158.

2. Section 783.8 paragraph (c) is revised to read as follows:

§ 783.8 Application process.

* * * * *

(c) If an owner is eligible to receive payments under this part and the catastrophic risk protection crop insurance program (7 CFR part 402), or

the noninsured crop disaster assistance program (7 CFR part 1437) for the same tree or vine loss, the eligible owner must choose whether to receive the other program benefits or payments under this part. The eligible owner cannot receive both. However, if the other program benefits are not available until after the eligible owner has received benefits under this part, the eligible owner may obtain the other program benefits if the eligible owner refunds the total amount of the payment received prior to receiving the other program benefits. If the eligible owner purchased additional coverage insurance, as defined in 7 CFR 400.651, or is eligible for emergency loans, the eligible owner will be eligible for assistance under such program, and this part as long as the amount received for the loss under the additional coverage or the emergency loan together with the amount received from the other programs does not exceed the amount of the actual loss of the eligible owner.

Signed at Washington, D.C., on January 20, 1998.

Bruce R. Weber,

Acting Administrator, Farm Service Agency and Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 98-1916 Filed 1-26-98; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 207, 208, and 299

[INS No. 1639-93]

RIN 1115-AD59

Procedures for Filing a Derivative Petition (Form I-730) for a Spouse and Unmarried Children of a Refugee/Asylee

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the Immigration and Naturalization Service (Service) regulations by providing specific guidelines on the procedures which must be followed by a refugee or asylee to bring his/her spouse and unmarried, minor child(ren) (derivatives) into the United States. This rule responds to the family reunification needs of refugees by establishing an equitable and consistent derivative policy for refugees which parallels the current derivative procedures for asylees. This rule also amends asylum regulations by removing from the definition of qualifying relationship

child(ren) born to, or legally adopted by, the principal alien and spouse after approval of the principal alien's asylum application.

DATES: This rule is effective February 26, 1998.

FOR FURTHER INFORMATION CONTACT: Suzy Nguyen or Ramonia Law-Hill, Senior Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514-5014.

SUPPLEMENTARY INFORMATION: On July 9, 1996, the Service published a proposed rule in the **Federal Register** at 61 FR 35984, providing procedures that must be followed by a refugee or asylee to bring his or her spouse and unmarried, minor child(ren) (derivatives) into the United States.

The proposed rule was designed to respond more fully to the family reunification needs of refugees, while establishing specific guidelines on the derivative policy for both refugees and asylees. First, the proposed rule allowed the Service to use the refugee's date of admission into the United States to determine accompanying or following-to-join eligibility for his/her spouse and unmarried, minor child(ren). A refugee would be able to file a Form I-730, Refugee/Asylee Relative Petition, for his/her spouse and/or each individual child if the relationship predates the refugee's date of admission to the United States, rather than the date of interview or tentative approval date of the application. This eligibility would extend to a child who is *in utero* on the date of the refugee's admission to the United States but is born after the refugee's admission as a refugee.

Second, the proposed rule imposed a 1-year time limit from the date of the principal refugee's admission to the United States within which he or she must file a Form I-730 for his/her spouse and/or each individual child, unless the Service determined that the filing period should be extended for humanitarian reasons. Similarly, the principal asylee would be required to file a Form I-730 for each qualifying family member within 1 year of the date on which he or she was granted asylum status, unless the Service determines that the filing period should be extended for humanitarian reasons.

Third, the proposed rule required that only an alien who was admitted to the United States as a principal refugee would be eligible to file the Form I-730 for accompanying or following-to-join benefits for his/her spouse and/or unmarried, minor child(ren). Those individuals who derived their refugee

status from the principal refugee would not be eligible to file a Form I-730.

Fourth, the proposed rule would amend the asylum regulations by requiring that, for purposes of filing a Form I-730, the asylee's relationship to a child must have existed at the time of approval of the asylum application.

Finally, the proposed rule added certain documentary and evidentiary requirements for filing a Form I-730, such as requiring that a separate Form I-730 be filed for each individual qualifying family member and that a photograph of the derivative be included. These proposed regulations served to clarify the Service's accompanying and following-to-join policy for Service officers and the general public by standardizing refugee and asylee derivative procedures.

The Immigration and Naturalization Service allowed a 60-day public comment period which ended on September 9, 1996. The Service received 19 comments on the proposed rule. The following is a discussion of those comments and the Service's response.

Discussion of Comments

Using the Principal Refugee's Date of Admission To Determine Derivative Eligibility

The Service proposed that the principal refugee's date of admission into the United States be used to determine accompanying or following-to-join eligibility for his/her derivatives. Current regulations require that the refugee's relationship to the spouse or child exist prior to the tentative approval date of the principal's application for refugee status. Furthermore, according to the proposed rule, if the refugee proves that he/she is the parent of a child who was born after the refugee's admission to the United States, but who was *in utero* on the date of refugee's admission as a refugee, the child shall be eligible to accompany or follow-to-join the refugee.

Fourteen commenters praised and supported the Service's decision to use the principal refugee's date of admission rather than date of tentative approval. In addition, three commenters supported the Service's proposed rule pertaining to children *in utero*. Only one commenter was in opposition, claiming that the change would invite exploitation and fraud.

The Service has carefully considered the one commenter's concern regarding the possibility of fraud. The Service feels that the proposed rule contains certain evidentiary and documentary requirements (such as requiring a recent photograph of the spouse or child and