

date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping cherries from the 1997–98 crop and need to know the final percentages as soon as possible. Further, handlers are aware of this rule, which was recommended in a public meeting. Also, a 15-day comment period was provided for in the proposed rule.

#### List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR Part 930 is amended as follows:

#### **PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN**

1. The authority citation for 7 CFR part 930 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 930.251 is added to Subpart—Supplementary Regulations to read as follows:

**Note:** This section will not appear in the annual Code of Federal Regulations.

#### **§ 930.251 Final free and restricted percentages for the 1998–99 crop year.**

The final percentages for tart cherries handled by handlers during the crop year beginning on July 1, 1998, which shall be free and restricted, respectively, are designated as follows: Free percentage, 60 percent and restricted percentage, 40 percent.

Dated: December 28, 1998.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 99–33 Filed 1–4–99; 8:45 am]

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#### **DEPARTMENT OF AGRICULTURE**

#### **Farm Service Agency**

#### **7 CFR Part 1951**

**RIN 0560–AF59**

#### **Disaster Set-Aside Program—Second Installment Set-Aside**

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Interim rule.

**SUMMARY:** The Farm Service Agency (FSA) is amending the disaster set-aside program requirement to allow farm borrowers to set aside portions of payments that could not be made as

scheduled due to a natural disaster as declared by the President or Secretary of Agriculture during 1998, or because of low commodity prices during 1998. Applications for set-aside due to 1998 low commodity prices must be received on or before August 31, 1999. Borrowers who have loans with set-aside payments as of the publication date of this regulation may set aside a second payment on the same loans if determined eligible based on criteria established by this rule. To receive consideration for a second set-aside due to a natural disaster, the borrower's request must be received within 8 months from the date of the disaster designation, in accordance with 7 CFR part 1945, subpart A. The impact of these provisions will allow the agency to serve farmers who have experienced losses due to a natural disaster or low commodity prices during 1998 in an efficient and timely manner while helping them stay in business.

**EFFECTIVE DATE:** The effective date for this rule is January 5, 1999. Comments on this rule and on the information collections must be submitted by March 8, 1999 to be assured consideration.

**ADDRESSES:** Submit written comments to Director, Farm Loan Programs, Loan Servicing and Property Management Division, United States Department of Agriculture, Farm Service Agency, STOP 0523, 1400 Independence Avenue, SW, Washington, DC 20250–0523.

**FOR FURTHER INFORMATION CONTACT:** David Spillman, Branch Chief, United States Department of Agriculture, Farm Service Agency, Farm Loan Programs, Loan Servicing and Property Management Division, 1400 Independence Avenue, SW, STOP 0523, Washington, D.C. 20250–0523; telephone (202) 720–0900; electronic mail: david\_spillman@wdc.fsa.usda.gov.

#### **SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866**

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

#### **Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–602), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. New provisions included in this rule will not impact a substantial number of small entities to a greater extent than large

entities. Thus, large entities are subject to these rules to the same extent as small entities. Therefore, a regulatory flexibility analysis was not performed.

#### **Environmental Impact Statement**

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, “Environmental Program.” The issuing agency has determined that this action does not affect the quality of human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

#### **Executive Order 12988**

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR parts 11 and 780 must be exhausted before bringing suit in court challenging action taken under this rule.

#### **Executive Order 12372**

For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs within this rule are excluded from the scope of E.O. 12372, which requires intergovernmental consultation with State and local officials.

#### **The Unfunded Mandates Reform Act of 1995**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments or the private sector of \$100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA requires FSA to prepare a written statement, including a cost benefit assessment, for proposed and final rules with “Federal mandates” that may result in such expenditures for State, local, or tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates, as defined under Title II of the 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.

**Paperwork Reduction Act of 1995**

Approval of information collections requirements associated with this regulation expired on August 31, 1998. A notice of request for extension of currently approved information collections was published on May 5, 1998. FSA has submitted a request for emergency reinstatement of the information collections. Estimates for information collections have been modified from those published on May 5, 1998, to reflect an increase in requests which will be a result of the changes made by this rule. Therefore, the agency is again seeking public comments on the information collection estimates.

**Abstract**

The FSA is authorized by the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1921 *et seq.*), or other Acts, and the regulations promulgated thereunder, to solicit the information requested on this paperwork burden. The information requested is necessary for FSA to determine eligibility for credit or other financial assistance and service borrower's loans.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 31 minutes per response.

*Respondents:* Individuals or households, businesses or other for profit and farms.

*Estimated number of respondents:* 16,300.

*Estimated number of responses per respondent:* 3.9.

*Estimated total annual burden on respondents:* 33,399 hours.

The Agency is soliciting comments on the burden of all of the above subparts regarding: (a) Whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. These comments should be sent to Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to David

Spillman, Branch Chief, USDA, FSA, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW., Stop 0523, Washington, DC 20250-0523. Copies of the information collections may be obtained from Mr. Spillman at the above address. All comments will become a matter of public record.

**Federal Assistance Programs**

These changes affect the following FSA programs as listed in the Catalog of Federal Domestic Assistance.

10.404—Emergency Loans

10.406—Farm Operating Loans

10.407—Farm Ownership Loans

**Discussion of the Interim Rule**

The Farm Service Agency (FSA) publishes this amendment to subpart T of part 1951 without prior notice and comment because of the emergency nature of the program and the eligibility requirements involved. Publication as a proposed rule for notice and comment is impractical and contrary to the public interest as discussed below.

The Disaster Set-Aside (DSA) program was first made available to FSA Farm Loan Programs (FLP) borrowers beginning October 21, 1994, because of the heavy flooding in the Midwest and extreme drought in the South. Since that time approximately 15,000 borrowers have received DSA assistance. The overall success of the program can be attributed to the relatively small amount of paperwork required in applying for and processing DSA requests. DSA gives FLP borrowers a chance to recover from their losses without having to incur additional debt to pay creditors or liquidate essential assets. The cost to the Government is substantially less under this servicing program than any other, as no debt is written off, no appraisal costs are incurred as under subpart S of part 1951, and no liquidation costs are incurred.

Many borrowers have received a previous writedown of debt under subpart S of part 1951, thereby making them ineligible for additional debt forgiveness and farm loans, in certain cases, under § 373 of the Consolidated Farm and Rural Development Act. The expansion of the program to permit a second debt set-aside or a set-aside due to 1998 declared disasters or low commodity prices, therefore, is needed immediately to prevent irreparable financial harm to those adversely affected, an estimated 11,424, farmers. While there is justification for the rule to become effective immediately after publication, FSA will accept public comments on the rule for 60 days for

consideration when the rule is made final.

7 CFR 1951.954, generally provides that each loan can only have one set-aside installment outstanding. A borrower could receive DSA again only if the existing set-aside installment were paid in full, or canceled through restructuring under subpart S of part 1951. This rule will allow borrowers who were affected by low commodity prices in 1998, or by a natural disaster in a county declared a major disaster by the President or Secretary during 1998, to have a second installment set aside without the first set-aside installment being paid in full or canceled. Borrowers who farmed in counties contiguous to the disaster area also may be eligible for the second installment set-aside.

This rule will allow such borrowers to receive immediate financial relief from their FLP obligations in a more expedient manner than under subpart S of part 1951. When the borrower pays any portion of the set-aside installments in the future, the payment will be applied to the oldest installment set-aside.

Applications from borrowers affected by low commodity prices during 1998 must be received by August 31, 1999. Borrowers affected by a natural disaster declared by the President or Secretary during 1998 must apply within 8 months of the designation.

**List of Subjects in 7 CFR Part 1951**

Accounting, Credit, Disaster assistance, Loan programs-agriculture, Loan programs-housing and community development, Low and moderate income housing.

Accordingly, 7 CFR part 1951 is amended as follows:

**PART 1951—SERVICING AND COLLECTIONS**

1. The authority citation for part 1951 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 31 U.S.C. 3716; 42 U.S.C. 1480.

**Subpart T—Disaster Set-Aside Program**

2. Section 1951.951 is amended by revising the second sentence to read as follows:

**§ 1951.951 Purpose.**

\* \* \* The DSA program is available to Farm Loan Program (FLP) borrowers, as defined in subpart S of this part, who suffered losses as a result of a natural disaster or low commodity prices in specified years. \* \* \*

3. Section 1951.952 is amended by revising the first and second sentences to read as follows:

**§ 1951.952 General.**

DSA is a program whereby borrowers who are current or not more than one installment behind on any and all FLP loans may be permitted to move the scheduled annual installment for each eligible FLP loan to the end of the loan term. The intent of this program is to relieve some of the borrower's immediate financial stress caused by the disaster or low commodity prices that occurred in specified years and avoid foreclosure by the Government. \* \* \*

4. Section 1951.953 is amended by revising paragraph (b) to read as follows:

**§ 1951.953 Notification and request for DSA.**

\* \* \* \* \*

(b) *Deadline to apply.* All FLP borrowers liable for the debt must request a DSA within 8 months from the date the disaster was designated, in accordance with 7 CFR part 1945, subpart A. Applications for set-aside or second installment set-aside due to low commodity prices in 1998 must be received on or before August 31, 1999.

\* \* \* \* \*

5. Section 1951.954 is amended by revising paragraphs (a)(1), (a)(5), (a)(7), (b)(2), (b)(4), and (b)(5) to read as follows:

**§ 1951.954 Eligibility and loan limitation requirements.**

(a) \* \* \*

(1)(i) The borrower must have operated a farm or ranch in a county designated a disaster area as contained in 7 CFR part 1945, subpart A, or a county contiguous to such an area, and must have been a borrower and operated the farm or ranch at the time of the low commodity prices or disaster period.

(ii) If the borrower is applying for a second installment to be set aside based on a declared disaster, the borrower must have operated in a county declared a major disaster by the President or the Secretary during 1998. Borrowers who farmed in a county contiguous to a county that was declared a disaster area also may be eligible for a second installment set-aside.

(iii) All FLP borrowers may apply for an installment to be set aside based on low commodity prices during 1998. County location, or proximity to a disaster declared county is not a consideration when the DSA is justified by low commodity prices.

(iv) A borrower cannot have more than two installments set aside on any loan.

\* \* \* \* \*

(5) As a direct result of the declared disaster or the 1998 low commodity prices, sufficient income was not available to pay all family living and operating expenses, debts to other creditors, and FSA. This determination will be based on the borrower's actual production, income and expense records for the disaster or affected year and any other records required by the servicing official. Compensation received for losses shall be considered as well as increased expenses incurred because of a disaster. Consideration will also be given to insufficient income for the next production and marketing period following the affected year if the borrower establishes that production will be reduced or expenses increased as a result of the disaster or the 1998 low commodity prices.

\* \* \* \* \*

(7) The borrower's FLP loan has not been accelerated nor has the borrower's debt been restructured under subpart S of this part since the disaster or the low commodity prices occurred.

(b) \* \* \*

(2)(i) Except as provided in paragraph (b)(2)(ii), only one unpaid installment for each FLP loan may be set-aside. If there is an installment remaining set-aside from a previous disaster, the loan is not eligible for another DSA.

(ii) For disaster declarations during 1998, or low commodity prices in 1998, borrowers who already have one installment set aside from a previous disaster may set aside a second installment.

(iii) If all set-asides are paid in full, or cancelled through restructuring under subpart S of this part, the set-aside will no longer exist and the loan may be considered for DSA.

\* \* \* \* \*

(4) The amount of set-aside shall be limited to the amount the borrower was unable to pay FSA from the production and marketing period in which the disaster or low commodity prices occurred. However, if the installment due immediately after the disaster was paid, but other creditors and expenses were not, the amount set-aside will be the lesser of the amount the borrower is unable to pay other creditors and expenses, rounded up to the nearest whole installment, or the next FLP installment due.

(5) The installment that may be set-aside is limited to the first scheduled annual installment due immediately after the disaster or low commodity

prices occurred, unless that installment is paid, then the next scheduled annual installment may be set-aside.

\* \* \* \* \*

Signed in Washington, DC, on December 30, 1998.

**Dallas R. Smith,**

*Acting Under Secretary for Farm and Foreign Agricultural Services.*

[FR Doc. 99-115 Filed 1-4-99; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. 98-014-3]

### Brucellosis in Cattle; State and Area Classifications; Florida

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Florida from Class Free to Class A. We have determined that Florida no longer meets the standards for Class Free status. The interim rule was necessary to impose certain restrictions on the interstate movement of cattle from Florida.

**EFFECTIVE DATE:** The interim rule was effective on August 13, 1998.

**FOR FURTHER INFORMATION CONTACT:** Dr. R.T. Rollo, Jr., Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231, (301) 734-7709; or e-mail: reed.t.rollo@usda.gov.

#### SUPPLEMENTARY INFORMATION:

#### Background

In an interim rule effective on August 13, 1998, and published in the **Federal Register** on August 20, 1998 (63 FR 44544-44545, Docket No. 98-014-2), we amended the brucellosis regulations in 9 CFR part 78 by removing Florida from the list of Class Free States or areas in § 78.41(a) and adding it to the list of Class A States or areas in § 78.41(b).

Comments on the interim rule were required to be received on or before October 19, 1998. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim