

assessment rate, but concluded that the Committee could run out of funds with the implementation of the volume regulation program. In deriving the recommended assessment rate increase, the Committee used the actual assessable production for the crop year at 6,355,413 barrels. This amount plus adequate supplies in the reserve will be sufficient to cover budgeted expenses. Funds in the reserve (currently \$45,000) will be kept within the approximately one year's operational expenses permitted by the order (§ 929.42(a)).

This action continues the increase in the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the cranberry industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the March 30, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large cranberry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on August 8, 2000. Finally, the interim final rule was made available through the Internet by the Office of the **Federal Register**. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on October 10, 2000, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the

information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 1999–2000 fiscal period ended August 31, 2000, and all assessable cranberries acquired by handlers during that period have been assessed; (2) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (3) an interim final rule was published on this action which provided for a 60-day comment period; no comments were received.

#### List of Subjects in 7 CFR Part 929

Marketing agreements, Cranberries, Reporting and recordkeeping requirements.

#### **PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK**

Accordingly, the interim final rule amending 7 CFR Part 929 which was published at 65 FR 48349 on August 8, 2000, is adopted as a final rule without change.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 00–28142 Filed 11–1–00; 8:45 am]

**BILLING CODE 3410–02–P**

#### **DEPARTMENT OF AGRICULTURE**

#### **7 CFR Parts 1411, 1421, 1427, 1434, 1439, and 1447**

**RIN 0560–AG18**

#### **2000 Crop Agricultural Disaster and Market Assistance**

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

**ACTION:** Final rule.

**SUMMARY:** This rule implements provisions of the Agricultural Risk Protection Act of 2000 (ARPA) related to oilseeds payments, peanut marketing assistance, honey recourse loans, crop and pasture flood compensation, and the expansion of eligibility for loan

deficiency payments, for the 2000 crop year only, to include producers whose cropland is not covered by a production flexibility contract. Other provisions of the APRA will be implemented under separate rules.

**EFFECTIVE DATE:** October 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, USDA/FSA/ORAS/RRFIDB/STOP 0540, 1400 Independence Ave., SW, Washington, DC, 20250–0540, telephone (202)205–5851, or by e-mail to: [tom\\_witzig@wdc.fsa.usda.gov](mailto:tom_witzig@wdc.fsa.usda.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Notice and Comment**

Section 263 of the ARPA requires that these regulations are to be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These regulations are thus issued as final.

##### **Executive Order 12866**

This final rule has been determined to be economically significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment was completed and is summarized after the background section explaining the actions this rule will take.

##### **Federal Assistance Programs**

The titles and numbers of the Federal assistance programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are: Commodity Loan and Loan Deficiency Payments—10.051; Production Flexibility Payments for Contract Commodities—10.055; Disaster Reserve Assistance—10.452.

##### **Regulatory Flexibility Act**

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA 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**

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.

**Executive Order 12372**

The programs administered under the regulations contained in this rule are 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).

**Unfunded Mandates**

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule. There are no such mandates set out in this rule and because the USDA 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.

**Small Business Regulatory Enforcement Fairness Act of 1996**

Section 263 of the ARPA requires that the regulations necessary to implement title II of the ARPA be issued as soon as practicable after the date of enactment and without regard to the notice and comment provision of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to the notice of proposed rulemaking and public participation in rulemaking. It also requires the Secretary to use the provisions of 5 U.S.C. 808 (the Small Business Regulatory Enforcement Fairness Act (SBREFA)), which provide that a rule may take effect at such time as the agency may determine if the agency finds for good cause that public notice is impracticable, unnecessary, or contrary to the public purpose, and thus does not have to meet the requirements of § 801 of SBREFA requiring a 60-day delay for Congressional review of a major regulation before the regulation can go into effect. This final rule is considered major for the purposes of SBREFA. However, these regulations affect a large number of agricultural producers who have been significantly impacted by natural disasters and poor market conditions. Accordingly, it would be contrary to the public interest to delay the provisions of this rule because of the nature of the relief involved and such delay would be contrary to the expressed terms of the legislation. This rule is issued as a final rule and is effective immediately.

**Executive Order 13132**

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.

**Paperwork Reduction Act**

Section 263 of the ARPA requires that these regulations be promulgated and the programs administered without regard to the Paperwork Reduction Act. This means that the information to be collected from the public to implement these programs and the burden, in time and money, the collection of the information would have on the public does not have to be approved by the Office of Management and Budget or be subject to the normal requirement for a 60-day public comment period.

**Background**

This rule will implement the requirements of the Agricultural Risk Protection Act of 2000 (Pub. L. 106-224) related to oilseeds payments, peanut marketing assistance, honey recourse loans, crop and pasture flood compensation, and for the 2000 crop year only, the expansion of eligibility for loan deficiency payments to include producers whose cropland is not covered by a production flexibility contract. Generally, those rules follow, where applicable, existing rules as this will allow for ease of administration and speed in making the payments, consistent with the intent of the statute and with the lack of any indication, except as may be noted, of Congressional dissatisfaction with the existing programs. In making these corrections and changes however to existing regulations the rules will, at least in some cases, remove from the Code of Federal Regulations, the authority citation for the previous programs. This housekeeping matter is not intended to, and does not, change the operation of the previous programs to the extent that there are any lingering issues or disputes with respect to such programs.

**1. 7 CFR 1411—Oilseeds Program**

Section 202 of the ARPA provides that “[t]he Secretary shall use \$500,000,000 of funds of the Commodity Credit Corporation to make payments to producers of the 2000 crop of oilseeds that are eligible to obtain a marketing assistance loan under section 131 of the Agricultural Market Transition Act” (AMTA) (7 U.S.C. 7231). A similar program for the 1999 crop of oilseeds, established by section 804 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

Appropriations Act, 2000 (Pub. L. 106-78), was codified in 7 CFR 1411 by publication of a final rule on June 8, 2000 (65 FR 36550). This rule provides for a 2000 Oilseeds Program similar to the 1999 program. Specifically, this rule revises: (1) the definition of “Eligible oilseed” to include sesame; (2) crop years referenced in the part 1411 definitions of “County average soybean yield”, “Established producer”, “National average oilseed yield”, and “New producer” in § 1411.103; (3) crop years used in determining “eligible producers” in § 1411.201, “payment acreage” in § 1411.204, and “payment yield” in § 1411.205; (4) the program funding references in § 1411.301 from \$475 million to \$500 million; and (5) the provisions relating to the final date for submission of late-file acreage reports as set out in § 1411.303 to set, in effect, a new deadline for the new program.

The regulations for this program follow the basic procedures and rules of the preceding oilseed program as the authorizing statute for the new program is the same in all material aspects, except for one aspect, as the prior program. The one difference is that established producer payments are based on the activities occurring in three prior crop years (1997-99) rather than only two prior crop years as was the case for the preceding program. The regulations incorporate that change but also differ from those for the preceding program in that they add sesame as one of the oilseeds for which payments can be made. Sesame was excluded under the prior program because the relevant statutory provisions for the new and old programs specified that the only oilseeds which would be eligible for payments would be those which were eligible to qualify a producer for a market assistance loan under section 131 of the AMTA, 7 U.S.C. 7231. Under that part of AMTA, the Secretary is allowed to make loans on “loan commodities” and “loan commodities” are defined in section 102 of the AMTA, 7 U.S.C. 7202, to include “oilseed” and the term “oilseed” is defined in section 102 to mean “soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or if designated by the Secretary, other oilseeds.” Previously, the Secretary has designated crambe for inclusion as one of the “other” oilseeds which can generate AMTA loans and it has been determined, recently to so designate sesame as well. Accordingly, the new oilseed program covers sesame whereas the old program did not.

## 2. 7 CFR 1421 and 1427—2000 Crop Eligibility for Loan Deficiency Payments

Rules governing loan deficiency payments (LDP's) are codified in 7 CFR part 1421 for commodities other than cotton and in subpart A of 7 CFR part 1427 for cotton. These regulations are modified in this rule to implement section 206 of the ARPA, which amended provisions of the AMTA related to LDP's under the marketing assistance loan program for agricultural producers. Prior to the new law, under the provisions of AMTA, except in the case of oilseeds, only producers growing contract commodities on farms covered by a production flexibility contract (PFC) were eligible to receive LDP's. Section 206(a) of the ARPA amends the AMTA to allow producers of contract commodities not eligible for a marketing assistance loan (that is contract commodities produced on farms not covered by a PFC) to receive LDP's, but for the 2000 crop year only. Further however, section 206 specifies, under the heading "Transition" that a payment to a producer newly-eligible for a payment under the new provisions for non-PFC farms that harvested a commodity on or before the date that is 30 days after the promulgation of new rules implementing the new law shall be determined as of the date the producer lost beneficial interest in the commodity, as determined by the Secretary. Section 206 then specifies, however, that otherwise, a producer shall be eligible for a payment only if the producer has a "beneficial interest" in the commodity, as determined by the Secretary. Normally, under existing rules, the farmer must have control of the commodity at the time that the payment is requested but that which appears to be addressed by the statute is that farmers on non-PFC farms may have already marketed part of this year's crop at a time at which they could not have made a request for a loan deficiency payment since it was only the change of law provided for in section 206 that permitted such a payment. Accordingly, so that the rules will be in accordance with the intent of the statute without going so far as to provide what would appear to be, otherwise, unintended benefits not possessed by other payees, this rule modifies parts 1421 and 1427 so as to allow payments to be made for eligible commodities non-PFC farms without having to meet the normal control requirements. However, this is limited. It only applies so long as, in conformity with the statute, the crops were harvested by that date which is 30 days after the publication of this rule. For

such commodities, the payment will be made as of the date at which the farmer lost control or "beneficial interest" of the commodity. For crops marketed after that date, the farmer must, just like with producers on PFC farms, have control of the crop at the time that the payment is requested. It should be noted, however, that these amendments will still, in all cases, as does the statute, limit payments to those persons who are considered to be the "producers" of the commodity. Thus, the status of contract growers is not changed. Such growers continue to be ineligible for payments. Instead, the amendments reflect a change with respect to the handling of non-PFC farms only and allow for a transition for those farms to accommodate the change circumstances for this crop year. These changes are similar to changes that were implemented for the 1999 crop year under separate legislative authority. Those 1999-crop rules were published in a February 16, 2000, rule (65 FR 7942) as corrected on March 15, 2000 (65 FR 13865).

## 3. 7 CFR 1434—Honey Recourse Loan Program

Section 204(c) of the ARPA provides that "[t]he Secretary shall use funds of the Commodity Credit Corporation to make available recourse loans to producers of the 2000 crop of honey on fair and reasonable terms and conditions, as determined by the Secretary." Section 1122 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act of 1999 established a similar program for the 1998 crop of honey to assist producers in marketing their honey during a period of low prices. Regulations implementing the 1998 program were codified in 7 CFR 1434 by a final rule published on March 8, 1999 (64 FR 10293). Subsequently, the program was made available for the 1999 crop of honey by section 801 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000. The final rule implementing the 1999 program by amending 7 CFR 1434 was issued on February 16, 2000 (65 FR 7942). The 2000 program will be operated in the same manner as the 1999 program and this rule amends 7 CFR 1434 by revising the dates referenced within the regulation.

## 4. 7 CFR 1439—2000 Flood Compensation Program

Section 257 of the ARPA authorizes the Secretary to use not more than \$24 million of funds of the Commodity

Credit Corporation to compensate producers for losses resulting from long-term flooding. Areas impacted by generalized flooding since 1992 due to, for example, the expansion of the boundaries of natural bodies of water such as Devil's Lake in North Dakota and Day County and surrounding areas in South Dakota, have been the subject of considerable attention and concern. Such flooding can change the basic character of the land and render it ineligible for other benefits or for enrollment in programs like the Conservation Reserve Program.

The 1998 Flood Compensation Program (FCP), codified in 7 CFR 1439 by an interim rule published on August 31, 1999 (64 FR 47358), was designed to provide assistance to producers who had incurred losses as a result of such flooding. The program provided compensation to eligible producers whose "land was inaccessible or unfit for crop production, grazing, or haying because of flooding or excess moisture during all of the period beginning October 1, 1997, through August 1, 1999." Subsequently, a final rule published on June 8, 2000 (65 FR 36550) reorganized 7 CFR 1439 and removed the regulations related to the 1998 FCP because they were considered to be obsolete because the application deadline had passed.

This rule implements section 257 of the ARPA by implementing the 2000 FCP, which will be codified in subpart F of 7 CFR 1439. The new program will be operated in the same manner as the 1998 FCP with the exception (as required by ARPA) that the program will only be available in counties approved under the 1998 FCP. The 2000 FCP provides compensation to eligible producers whose land was not usable from October 1, 1999, through September 30, 2000. Under the provisions of the 2000 FCP, as required by the law no "person", as "person" is defined in the applicable regulations, will be able to receive over \$40,000. Also, no person can receive any payment if that person's gross revenue for 1999, as determined in conformity with the rules, was in excess of \$2.5 million. Consistent with the new law, the applicant must be the owner or lessee under a binding lease, of cropland or pastureland that was used for the production of at least one of the production years 1992–99, but that has been engulfed in the period after 1992, and such person must have owned or leased the land continuously since October 1, 1999 and must still be the owner or lessee of the land. Other restrictions apply as well. To avoid the possibility of over-compensation for the

same losses, producers will not be eligible to receive payments under this subpart and other programs for losses that occurred during FY 2000. As provided for in the new law, unadjusted payment rates will be equal to the average county cash rental rate per acre established by the National Agricultural Statistical Service for the 2000 crop year. For cases where such rate is not available, the rule provides for an alternative calculation method.

5. 7 CFR 1447—Peanut Marketing Assistance Program

Section 204(a) of the ARPA provides that “[t]he Secretary shall use funds of the Commodity Credit Corporation to provide payments to producers of quota peanuts or additional peanuts to partially compensate the producers for continuing low commodity prices, and increasing costs of production for the 2000 crop year.” The ARPA specifies that the payment rate shall be equal to \$30.50 per ton for quota peanuts and \$16.00 per ton for additional peanuts. In order to implement this program, regulations codified at 7 CFR part 1447, which implemented a similar program for the 1999 crop year, are amended by revising the time-frame for filing an application, the payment rate for quota and additional peanuts, and the years from which actual yields may be used in establishing the yield used in the payment calculation. The 1999 crop rules were set out in the February 16, 2000, rule (65 FR 7942).

Cost-Benefit Assessment

Summary

Outlays under the programs implemented by this rule will total approximately \$626 million. The table summarizes the outlays, while a summary of the Cost/Benefit Assessment for each program follows.

SUMMARY OF OUTLAYS

| Program                                                  | Outlays |
|----------------------------------------------------------|---------|
| Oilseeds Program .....                                   | 500.0   |
| 2000 Crop Eligibility for Loan Deficiency Payments ..... | 40.3    |
| Honey Recourse Loan Program ...                          | 0.0     |
| 2000 Flood Compensation Program .....                    | 24.0    |
| Peanut Marketing Assistance Program .....                | 61.6    |
| Total .....                                              | 625.9   |

2000 Oilseed Program

U.S. oilseed producers are experiencing serious financial hardships as a result of low oilseed prices. The farm-level market value of oilseed

production has dropped substantially since the mid-1990’s. The farm value of the 1999 oilseed crop was down an estimated \$5.3 billion, or 29 percent, from the previous 5-year high set in 1996, despite a 12-percent increase in production. Projections for the 2000 crop put farm value up 6 percent from 1999, but this is with a projected 13-percent increase in production from 1999. Farm value for the 2000 oilseed crop is projected down more than \$4.5 billion, or 25 percent, from 1996, despite a 26 percent increase in production during the period.

In passing ARPA, Congress recognized the financial hardships being faced by oilseed producers and the inability of the AMTA payment mechanism to provide market loss payments to these producers. Section 202 of ARPA authorized the use of \$500 million in CCC funds to assist oilseed producers suffering from reduced farm incomes as a result of large supplies and low prices. To be eligible for payments from these funds, a producer must produce an oilseed in 2000 that is eligible for marketing assistance loans under section 131 of AMTA (7 U.S.C. 7231). Oilseeds specifically designated as eligible for marketing assistance loans under section 102 of AMTA (7 U.S.C. 7202) are soybeans, safflower seed, canola, rapeseed, mustard seed, sunflower seed, and flaxseed. For the 2000 crop, the Secretary has also used his authority under section 102 to designate both crambe and sesame as an “other” oilseed, making them eligible for marketing assistance loans and oilseed program payments.

Oilseed program benefits for a producer are determined by multiplying the payment acreage, times a payment yield, times a payment rate determined by the Secretary. Payment acreage for an eligible established producer—a producer who also produced oilseeds in 1997, 1998, and/or 1999—is based on the higher of that producers’ 1997, 1998, or 1999 acreage. For an eligible producer who was a new producer in 2000, payment acreage is based on that producer’s 2000 acreage. Payment yield for an established soybean producer is the higher of that producer’s actual yield in 1997, 1998, or 1999, or the Olympic average yield for that producer’s county for the years 1995 through 1999. (The Olympic average is the average annual yield for the stated period after excluding the highest and lowest years.) Payment yield for a new soybean producer in 2000 is the higher of that producer’s 2000 yield or the producer’s county 1995–99 Olympic average yield. For an established producer of other eligible oilseeds,

payment yield is the higher of that producers’ 1997, 1998, or 1999 yield, or the Olympic average of the national yield for the years 1995 through 1999 for the crop for which the payment is being made. Payment yield for a new producer of an eligible oilseed other than soybeans in 2000 is the higher of that producer’s 2000 yield, or the 1995–99 Olympic average national yield for the oilseed.

The payment rate determined by the Secretary must consider the number of eligible payment acres and payment yields as well as the fixed amount of CCC funds authorized by Congress for the Oilseed Program.

The Oilseed Program as prescribed by Congress in ARPA clearly lays out total available funding for direct producer payments and procedures for determining payment acreage and yield as did the 2000 Appropriations Act. For this reason no options were considered regarding these aspects of the program.

As was the case with the 2000 Appropriations Act, ARPA leaves to the Secretary’s discretion the method used to establish the payment rates under the 2000 Oilseed Program. This latitude results in at least two options or alternative methods for determining the payment rate by crop for the various types of eligible oilseeds. Under the first option, payment rates would be based on production volumes with the same per unit payment rate offered for all types of oilseeds. The second option would tie payment rates among the types of oilseeds to each crop’s relative market value using Olympic average farm prices for the 1995 through 1999 marketing years. The second option was selected because it incorporates into the payment rate calculation some measure of relative market value for each type of oilseed. This method was also used to determine the 1999 oilseed payment rate. Tying the payment rate to market value was thought to be more equitable to producers of higher value minor oilseeds because prices are much more volatile and quality issues much more important in the markets for these crops.

The budgetary impact of the Oilseed Program will total \$500 million. The largest share of total payments will go to soybean producers who, based on pre-enrollment estimates, are expected to receive \$477,933,976 or 96 percent of the total payments (Table 3). Pre-enrollment estimates for payments to minor oilseed producers are as follows: \$14,516,899 for sunflower seed producers, \$4,266,230 for canola producers, \$1,749,382 for safflower producers, \$1,136,675 for flaxseed producers, \$193,049 for mustard seed producers, \$124,066 for crambe

producers, \$16,753 for rapeseed producers, and \$62,969 for sesame producers. Because this assistance will be in the form of direct payments, the program is expected to result in a dollar-for-dollar increase in farm income for oilseed producers.

Pre-enrollment estimates of per unit payment rates are expected to be highest for safflower seed and mustard seed at 35 and 33 cents per hundredweight (cwt), respectively. The lowest per unit rate is expected to be for flaxseed at 22 cents per cwt (13 cents per bushel). The pre-enrollment estimate for the soybean payment rate is 24 cents per cwt (14 cents per bushel). On a per acre basis, the payments will be highest for soybeans and safflower at \$5.96 and \$5.92 per acre, respectively. For the remaining oilseeds, pre-enrollment estimates indicate that per acre payments will range from a low of \$2.70 for mustard seed to a high of \$3.65 for sunflower seed.

Final payment acreage and yield will depend upon enrollment. If actual enrollment data indicate that claims are different than \$500,000,000, a national factor will be applied so outlays equal \$500,000,000. This factor could be greater than or less than 1.

#### *2000 Crop Eligibility for Loan Deficiency Payments*

The Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) provided farms with base acreage for the 1996 crop the option to sign production flexibility contracts (PFC) for the 1996–2002 crops of wheat, corn, grain sorghum, barley, oats, upland cotton, and rice. Producers on farms enrolled in a PFC receive PFC payments that are based on the contract acres enrolled and the program yield for the contract commodity on the farm. In addition, these producers are eligible to receive commodity loan benefits for any contract commodity produced on the farm.

Results from the one-time sign-up for production flexibility payments, and thus, eligibility to receive loan benefits, suggest that most eligible cropland was enrolled in the program. Of the eligible 1996 cropland base, 98.8 percent was enrolled.

Section 135 of the 1996 Act specifies that a producer may elect to receive a loan deficiency payment (LDP) on a quantity of an eligible commodity rather than placing the commodity under loan. Commodities eligible for a nonrecourse marketing assistance loan include PFC commodities (wheat, rice, upland cotton, corn, grain sorghum, barley, and oats) and oilseeds, including soybeans, crambe, sesame, and minor oilseeds

(sunflower seed, canola, flaxseed, mustard seed, safflower, and rapeseed). Under the terms of section 135, as enacted, to receive an LDP on production of a PFC commodity, the farm on which the commodity was produced must have eligible cropland covered by a PFC.

Section 206 of the ARPA, however, expands the eligibility of producers of contract commodities to receive LDPs. Under the ARPA, any producer of a contract commodity, whether or not the commodity was produced on a farm with eligible cropland covered by a PFC, is eligible to receive LDPs on all production of contract commodities on the farm for the 2000 crop only.

It was assumed that all cropland suitable for production of contract commodities was included in the total base acres eligible for enrollment in a PFC. Thus, the potential cropland which could become eligible for LDPs under the provisions of the 2000 Act is represented by the crop base that was not enrolled in a PFC. Based on this assumption, an additional 2,603,649 acres of contract commodities grown during 2000/01 will be eligible for LDPs.

Because the 1996 Act provided nearly complete planting flexibility to producers, the mix of crops grown on the additional LDP eligible cropland is unlikely to match the base acreage in 1996. It is assumed that the mix of crops on the additional eligible acres is similar to the crop mix planted nationally. In addition, it is assumed that the average yield of each contract commodity grown on these acres is equal to the national average yield, and the LDP rate is equal to the national average LDP rate. Producers on farms which do not have a PFC are expected to request payments at about half the rate of producers on farms with a PFC. The additional amount of LDPs which will likely be paid under the extension of eligibility provided by the APRA is estimated at \$43 million and these benefits will be received by an additional 100,000 producers.

Because the additional LDP eligibility was not extended until after the 2000 crop had been planted, no change in supply, demand, or prices are expected under this program. Thus, the only impact on crop producers is the additional LDP payments which will increase farm income by a corresponding amount. Food prices are expected to be unaffected by the extension of eligibility of LDPs because supply, demand, and crop prices are unaffected.

#### *Honey Recourse Loan Program*

The ARPA provides that recourse loans shall be provided for the 2000 crop of honey on fair and reasonable terms and conditions. It further provides that the loan rate shall be 85 percent of the average price of honey during the 5-crop year period preceding the 2000 crop year, excluding the crop years in which the average price was the highest and the lowest.

The 2000-Crop Honey Recourse Loan Program (2000 Honey Program) will be administered in the same manner as the 1999-Honey Recourse Loan Program (1999 Honey Program). The 1999 Honey Program requires that the repayment of a loan shall include repayment of principal and interest. The loans must be repaid and honey may not be delivered to the CCC in satisfaction of the loan obligation. Loans will mature no later than 9 months following the month in which the loan is disbursed. Thus, loan principal can be held for a maximum of 10 months. Uniform Storage Agreements for honey warehouses will not apply. Interest will be charged at the rate paid by CCC plus 1 percentage point. There will not be loan premiums and discounts. If a loan is not repaid, CCC will conduct a local sale of the honey used as loan collateral. If the sales proceeds do not equal or exceed the amount owed by the producer, a claim will be established.

Effective August 1995, China agreed to limit its exports to the United States and to establish a price floor on such exports. That agreement was credited by the domestic honey industry for resulting in the price increases, from an annual average price of 52.8 cents for 1994, to 68.5 cents for 1995, and 88.8 cents for 1996. However, prices then began falling, to 75.2 cents for 1997, 65.5 cents for 1998, and 59.9 cents for 1999. Honey prices reported in June 2000 by the *National Honey Market News* (published by the Agricultural Marketing Service) have been in the range of 40–60 cents per pound, down about 3 cents from a year ago. Producers see these lower prices resulting from abundant and cheap imports, now primarily from Argentina. Imports make up about 40 percent of the honey consumed in the United States.

The 2000-crop loan rate will be unchanged from last year at 59.0 cents per pound based on the 1995 through 1999 prices and the statutory formula. With the current relatively low price for honey, the 2000-crop loan rate is expected to exceed most current market prices. This exposes CCC to the possibility of losses if loans are defaulted on and the proceeds from sale

of the honey are not large enough to cover the loan amount and interest expense. Loan default expenses are budgeted for in the program, but none has occurred in the past.

Producers who use the 2000-crop loan program will benefit from the reduced borrowing costs compared with commercial loans. Estimates of this interest savings are based on an assumed commercial rate of prime plus 2 percentage points. Currently, a honey producer would be charged 7.25 percent by CCC compared to 11.24 percent by a commercial lender. This 4-percentage point difference on program loan principal of \$12 million (same as loaned in 1999) is equivalent to loan interest savings to the sector of about \$400,000, if all loans are held the full 10 months. Producers may also gain from circumstances where commercial credit may not be available to them.

Program advocates assert that the primary benefit of the program is to allow producers to delay marketings to take advantage of any subsequent market price increases. A market-price increase of about 3.2 cents per pound would be needed to recover the loan interest if the loan is held to maturity. Current market prices are relatively low due to continued imports of cheap honey from China and Argentina.

Domestic honey prices are closely related to prices of imports because of sizeable quantities imported. For the 1992–1995 period, honey imports represented about 42 percent of total domestic honey consumption. Without higher foreign honey prices, it would seem likely that domestic honey prices will remain low in spite of the 2000 Honey Loan Program. The amount of honey estimated to be put under loan is not sufficient to create upward price pressure. With prices expected to be unaffected by the loan program, domestic consumers will not be impacted.

#### *2000 Flood Compensation Program*

Legislation creating the 1998 Flood Compensation Program (1998 FCP) authorized the Secretary of Agriculture to provide financial assistance to eligible producers in North and South Dakota that incurred multi-year crop and grazing losses due to continuous flooding. Continuation of such flooding in these States has resulted in the need for further compensation to producers whose covered land has been unusable for agricultural production during the 2000 crop year. Section 257 of the Agricultural Risk Protection Act of 2000 (Pub. L. 106–224) authorizes the Secretary to provide assistance to these

producers under the 2000 Flood Compensation Program (2000 FCP).

Reports from State Farm Service Agency offices project that about 500,000 acres in North Dakota and 729,987 acres in South Dakota will be flooded continuously during the 2000 crop year (*i.e.*, flooding will have occurred from October 1, 1999, through September 30, 2000). These reports also suggest that about 12,000 producers are likely to be eligible for assistance.

Under the 2000 FCP, payments will be provided to eligible producers in the approved counties based on the quantity of cropland and pasture that was incapable of agricultural production due to flooding during the 2000 crop year. Per-acre payment rates will equal the average cash rental rate established for the county by the National Agricultural Statistics Service for the 2000 crop year. One rate per county will be established for cropland and another rate for pasture. Any person with gross receipts in excess of \$2.5 million for calendar year 1999 will not be eligible. The maximum payment amount for eligible persons is \$40,000, however, the sum of all payments cannot exceed \$24 million. Therefore, based on the projection of 12,000 eligible producers, the average payment per producer will be \$2,000.

#### *Peanut Marketing Assistance Program*

The 2000 Peanut marketing Assistance Program will provide \$61.6 million in financial assistance to an estimated 40,000 producers who have experienced increased costs of production and lower market prices over the last five years. While peanut yields on average have increased about 200 pounds per acre, this increase has not ameliorated the impact of the quota price support freeze and increased cost of production. Payments under the program will be based on produced and considered produced peanuts at the rates of \$30.50 per ton for quota peanuts and \$16.00 per ton for additional peanuts. Payments will assist peanut producers in meeting their financial obligations and are not likely to affect the market price for peanut products. No measurable impact is likely for consumers.

#### **List of Subjects**

##### *Part 1411*

Loan programs—agriculture, Oilseeds, Price support programs, Reporting and recordkeeping requirements.

##### *Part 1421*

Feed grains, Loan programs—agriculture, Oilseeds, Peanuts, Price support programs, Reporting and

recordkeeping requirements, Rice, Wheat.

##### *Part 1427*

Cotton, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

##### *Part 1434*

Honey, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

##### *Part 1439*

Animal feeds, Disaster assistance, Grant programs—agriculture, Livestock, Reporting and recordkeeping requirements.

##### *Part 1447*

Disaster assistance, Peanuts, Price support programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Chapter XIV is amended as set forth below.

#### **PART 1411—OILSEEDS PROGRAM**

1. The authority citation for 7 CFR part 1411 is revised to read as follows:

**Authority:** Sec. 202, Pub. L. 106–224.

2. Revise § 1411.101 to read as follows:

##### **§ 1411.101 Applicability.**

This part implements the oilseed provisions enacted in section 202 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224), which provides funds to allow for payments to producers who planted eligible oilseeds in 2000 and who meet other conditions of eligibility.

3. Amend § 1411.103 to revise the introductory paragraph and definitions of “County average soybean yield”, “Eligible oilseed”, “Established producer”, “National average oilseed yield”, and “New producer”, to read as follows:

##### **§ 1411.103 Definitions.**

The definitions set forth in this section shall be applicable for all purposes of administering the 2000 Oilseeds Program, and shall be used for Oilseeds Program purposes only. Although the definitions contained in parts 718 and 1412 of this title also apply, to the extent that the definitions in this section differ from the definitions in parts 718 and 1412 of this title, the definitions in this section apply rather than the definitions in parts 718 and 1412 of this title.

\* \* \* \* \*

*County average soybean yield* means an average yield approved by DAFP

using an Olympic average of the county's average soybean yield for each of the crop years 1995 through 1999 as determined by the State committee. To the extent such data is available, data from NASS shall be used.

\* \* \* \* \*

*Eligible oilseed* means one of the following kinds of oilseeds: soybeans, safflower seed, canola, rapeseed, mustard seed, sunflower seed (oil and confectionary), flaxseed, crambe, and sesame.

*Established producer* means a producer who planted an oilseed for the 2000 crop year, and shared in the production of that specific oilseed in 1997, 1998, or 1999.

*National average oilseed yield* means the Olympic average yield for an eligible oilseed using the National average yields for the oilseed for the years 1995 through 1999. Such yields shall be considered valid only if approved by DAFP.

*New producer* means a producer who planted an eligible oilseed for crop year 2000, but did not plant or share in the production of that oilseed in 1997, 1998, or 1999. A producer may be a new producer of one eligible oilseed, while being an established producer for another oilseed.

\* \* \* \* \*

4. Revise § 1411.201 to read as follows:

**§ 1411.201 Eligible producers.**

(a) Section 202 of Public Law 106-224 authorizes the Secretary to make payments to a producer who planted an eligible oilseed in 2000. Accordingly, producers of the 2000 crop of oilseeds identified in § 1411.103 are eligible to receive 2000 Oilseeds Program benefits, providing the producer meets the requirements of this part, and is in compliance with part 12 of this title regarding the conservation and protection of highly erodible lands and wetlands, and § 718.11 of this title regarding denials of program benefits for activities relating to the use of controlled substances.

(b) Eligibility determinations made under this part will be made for each producer separately for each specific eligible oilseed planted by that producer in 2000. A producer is not eligible for payment with respect to an oilseed that the producer did not plant in 2000 regardless of whether the producer did or did not plant that oilseed in 1997, 1998, or 1999.

5. Amend § 1411.204 by revising paragraphs (a) and (b) to read as follows:

**§ 1411.204 Payment acreage.**

(a) The oilseed payment acreage for an established producer shall, for a particular oilseed, be the higher of the three acreage amounts determined by calculating, for the 1997, 1998, and 1999 crops separately, the acreage determined to be equal to the producer's acreage for that oilseed at all locations for that crop year, adjusted to reflect interests that are only partial interests in such acreage.

(b) The payment acreage for a new producer of an eligible oilseed will be the producer's acreage for that oilseed for the 2000 crop at all locations, adjusted to reflect interests that are only partial interests in such acreage.

\* \* \* \* \*

6. Amend § 1411.205 by revising paragraphs (b) and (c) to read as follows:

**§ 1411.205 Payment yield.**

(a) \* \* \*

(b) A new producer's payment yield with respect to a particular eligible oilseed shall be the higher of the:

(1) Applicable average yield for that oilseed or

(2) Producer's actual yield for the 2000 crop year.

(c) For established producers, the producer's payment yield for a particular oilseed shall be the higher of:

(1) Applicable average yield; or

(2) The highest for the 1997, 1998, and 1999 crops of the producer's actual yield respectively for those crop years for all acres of the oilseed planted by the producer.

\* \* \* \* \*

**§ 1411.301 [Amended]**

7. In § 1411.301, remove the dollar amount "\$475 million" and add in its place the amount "\$500 million."

**§ 1411.303 [Amended]**

8. Amend § 1411.303 as follows:

a. Remove the words "Oilseed Program purposes" and add in their place the words "purposes of the Oilseed Program operated under this part pursuant to Public Law 106-224"; and

b. Remove the date "February 18, 2000" and add in its place the words "the last day of the signup period announced in accordance with § 1411.301".

**§ 1411.402 [Amended]**

9. Amend § 1411.402(c) as follows:

a. Add the word "form" preceding the term "FSA-211"; and

b. Remove the date "June 22, 2000" and add in its place, the date November 16, 2000.

**PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES**

10. The authority citation for part 1421 is revised to read as follows:

**Authority:** 7 U.S.C. 7213-7235, 7237; 15 U.S.C. 714b, 714c; Sec. 813, Pub. L. 106-78, 113 Stat. 1182; Sec. 206, Pub. L. 106-224.

11. Amend § 1421.1 by adding paragraph (f) to read as follows:

**§ 1421.1 Applicability.**

\* \* \* \* \*

(f) Notwithstanding provisions of this subpart and subchapter:

(1) Eligible contract commodities produced during the 2000 crop year on a farm that is not covered under a production flexibility contract, as defined in part 1412 of this chapter, are eligible for a loan deficiency payment to eligible producers in accordance with § 1421.4.

(2) With respect only to contract commodities produced in the 2000 crop year on a farm not covered under a production flexibility contract, a producer may receive with respect to such commodities, a loan deficiency payment in connection with the administration of loans under this part even though the crop has already been marketed, so long as:

(i) Neither the producer nor anyone else has received a marketing loan gain or loan deficiency payment on the commodity;

(ii) The person seeking the payment is the actual producer of the commodity and had beneficial interest in the commodity at the time of the operative marketing;

(iii) The producer will receive the payment as a loan deficiency payment in which case the amount to be paid will be determined as of the date the producer marketed or lost beneficial interest in the commodity;

(iv) Unless otherwise allowed by the Deputy Administrator for Farm Programs, FSA, the commodities were harvested and marketed on or before December 4, 2000.

**PART 1427—COTTON**

12. The authority citation for 7 CFR part 1427 is revised to read as follows:

**Authority:** 7 U.S.C. 7231, 7235, 7237; 15 U.S.C. 714b, 714c; Pub. L. 106-78, 113 Stat. 1182; Sec. 206, Pub. L. 106-224.

13. Amend § 1427.1 by adding paragraph (e) to read as follows:

**§ 1427.1 Applicability.**

\* \* \* \* \*

(e) Notwithstanding provisions of this subpart and subchapter:

(1) Eligible cotton produced during the 2000 crop year on a farm that is not covered under a production flexibility contract, as defined in part 1412 of this chapter, are eligible for a loan deficiency payment to eligible producers in accordance with § 1427.4.

(2) With respect only to loan deficiency payments for eligible cotton produced in the 2000 crop year on a farm not covered by a production flexibility contract, a producer may receive with respect to such cotton, a loan deficiency payment in connection with the administration of loans under this part even though the cotton has already been marketed, so long as:

(i) Neither the producer nor anyone else has received a marketing loan gain or loan deficiency payment on the cotton;

(ii) The person seeking the payment is the actual producer of the cotton and had beneficial interest in the cotton at the time of the operative marketing;

(iii) The producer will receive the payment as a loan deficiency payment in which case the amount to be paid will be determined as of the date the producer marketed or lost beneficial interest in the cotton;

(iv) Unless otherwise allowed by the Deputy Administrator for Farm Programs, FSA, the cotton was harvested and marketed on or before December 4, 2000.

\* \* \* \* \*

**PART 1434—RECOURSE LOAN REGULATIONS FOR HONEY**

14. The authority citation for 7 CFR part 1434 is revised to read as follows:

**Authority:** Sec. 1122, Pub. L. 105-277, 112 Stat. 2681; Sec. 3018, Pub. L. 106-31, 113 Stat. 57; Sec. 801(f), Pub. L. 106-78, 113 Stat. 1175; Sec. 204(c), Pub. L. 106-224.

**§ 1434.1 [Amended]**

15. Amend the first sentence of § 1434.1 by removing the words “1998-crop and 1999-crop” and adding in their place the words “2000-crop year”.

16. Amend § 1434.6 by revising paragraphs (a) and (d) to read as follows:

**§ 1434.6 Application, availability, disbursement, and maturity.**

(a) The deadline for requesting a loan offered under this part is March 31, 2001.

(b) \* \* \*

(c) \* \* \*

(d) Subject to paragraph (a) of this section, loans for the 2000-crop of honey will be available to producers on such date as may be announced by the Secretary.

**PART 1439—EMERGENCY LIVESTOCK ASSISTANCE**

17. The authority citation for 7 CFR part 1439 is revised to read as follows:

**Authority:** 15 U.S.C. 714b, 714c; Sec. 805, 825, Pub. L. 106-78, 113 Stat. 1135; Pub. L. 106-113; Sec. 257, Pub. L. 106-224.

18. Amend part 1439 by adding subpart F to read as follows:

**Subpart F—2000 Flood Compensation Program**

- Sec.
- 1439.501 Applicability.
- 1439.502 Administration.
- 1439.503 Definitions.
- 1439.504 Application process.
- 1439.505 County committee determinations of general applicability.
- 1439.506 Eligible land and loss criteria.
- 1439.507 Producer eligibility.
- 1439.508 Calculation of assistance.
- 1439.509 Availability of funds.

**Subpart F—2000 Flood Compensation Act**

**§ 1439.501 Applicability.**

This subpart sets forth the terms and conditions applicable to the 2000 Flood Compensation Program (FCP). Benefits will be provided to eligible producers in the United States but only in counties approved under the 1998 FCP (provided for in regulations of this part contained in the 7 CFR, parts 1200 to 1599, edition revised as of January 1, 2000), where long-term flooding occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs as eligible counties.

**§ 1439.502 Administration.**

This subpart shall be administered as set forth in § 1439.2, except as provided for in this subpart.

**§ 1439.503 Definitions.**

Except as otherwise indicated, terms in this part shall have the same meanings as those defined in 7 CFR 1439.3 and 718.2. To the extent that the definitions in this section differ from the definitions in 7 CFR 1439.3 and 718.2, the definitions in this section apply rather than the definitions in 7 CFR 1439.3 and 718.2

*Application* means the Form CCC-454, Flood Compensation Program Application. The CCC-454 is available at county FSA offices.

*Covered land* means:

(1) Land that:

(i) Was unusable for agricultural production during 2000 crop year as the result of flooding;

(ii) Was used for agricultural production during at least 1 of the 1992 through 1999 crop years;

(iii) Is a contiguous parcel of land of at least 1 acre;

(iv) Is located in a county in which producers were eligible for assistance under the 1998 Flood Compensation Program;

(v) Was not planted during FY 2000; and

(vi) Meets all other conditions of eligibility.

(2) The term “covered land” excludes any land with respect to which a producer is insured, enrolled, or assisted during the 2000 crop year under:

(i) A policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*);

(ii) The noninsured crop assistance program operated under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333);

(iii) Any crop disaster program established for the 2000 crop year;

(iv) The conservation reserve program established under subchapter B of chapter 1 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3831 *et seq.*);

(v) The wetlands reserve program established under subchapter C of chapter 1 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3837 *et seq.*);

(vi) Any emergency watershed protection program or Federal easement program that prohibits crop production or grazing; or

(vii) Any other Federal or State water storage program, as determined by the Secretary.

*FCP* means the Flood Compensation Program provided for in this part.

*FY 2000* means the period from October 1, 1999 through September 30, 2000.

*NASS* means The National Agricultural Statistics Service.

**§ 1439.504 Application process.**

(a) Producers must submit a completed application prior to the close of business on December 15, 2000, or other such later date as established and announced by the Deputy Administrator. The application and any supporting documentation shall be submitted to the FSA county office with administrative authority over a producer's eligible flooded land or to the FSA county office that maintains the farm records for the producer.

(b) Producers shall certify as to the accuracy of all the information contained in the application, and provide any other information to CCC that the FSA county office or FSA Committee deems necessary to determine the producer's eligibility.

**§ 1439.505 County committee determinations of general applicability.**

(a) FSA county committees shall determine whether that county was determined eligible under the 1998 FCP, and whether the land has been unusable from October 1, 1999 through September 30, 2000 due to continuing flooding. In making this determination, the FSA county committee shall use what it considers to be the best information available including but not limited to: Cooperative State Research, Education, and Extension Service; Natural Resources Conservation Service; aerial photography; rainfall data; and general knowledge of losses due to flooding.

(b) With respect to each eligible county, the FSA county committee for that county shall establish a separate payment rate for crop-land and pasture-land. These rates shall be reviewed by the FSA state committee and shall be equal to the average rental rate for the years 1996 through 2000 for all such land of each type in the county. Where these rates cannot be set in the manner provided for in paragraph (c) of this section, the FSA state committee may take into account rates established for the Conservation Reserve Program operated under 7 CFR part 1410 and ensure, subject to paragraph (c) of this section, that the rates are comparable. The Deputy Administrator shall review and may adjust the rates for reasonableness and consistency.

(c) Except as provided by the Deputy Administrator, rental rates shall be equal to the applicable county average for the kind of land involved using established NASS data in all locations where NASS has established rental rates on a county-by-county basis for 2000.

**§ 1439.506 Eligible land and loss criteria.**

(a) The flooded land for which a producer requests benefits must be within the physical boundary of an eligible county. Producers in unapproved counties contiguous to an eligible county will not receive benefits under this subpart.

(b) To be eligible for benefits under this subpart, a producer in an eligible county must have land in a county which is eligible for payment. Such land, to be eligible for payment must meet all of the following criteria:

(1) The land is cropland or pasture land used for the production of feed for livestock (haying, grazing, or feed grain production) or other agricultural use in one or more years during the period beginning October 1, 1991, through September 30, 1999;

(2) The land is inaccessible or unable to be used for crop production, grazing,

or haying because of flooding or excess moisture during all of the period beginning October 1, 1999, through September 30, 2000 unless some other period is established as the 2000-crop year for the commodity by the Deputy Administrator;

(3) The land was not used for planting during October 1, 1999, through September 30, 2000;

(4) The land has been owned, leased or under a binding cash lease by the producer continuously since October 1, 1999;

(5) The land is a contiguous parcel of land with an area equal to one acre or more;

(6) The land was not, except as determined by the Deputy Administrator, the subject of, nor will be the subject of, any other federal payment for activities or lack of activity during the period October 1, 1999, through September 30, 2000, whether or not disaster-related, with the exception of the production flexibility contract (PFC) program payments received under 7 CFR part 1412. This prohibition includes but is not limited to other payments under this part, or payments under the Conservation Reserve Program (7 CFR part 1410), the Wetlands Reserve Program (7 CFR part 1467), any Emergency Watershed Protection Program, or Federal Easement Program.

(c) On Form CCC-454 producers shall be required to certify by tract on each farm the number of flooded cropland and non-cropland acres for the farm in 2000 and the number of flooded cropland and non-cropland acres in 1992. To establish the acreage eligible for payment, flooded land certified for 1992 for each type shall be subtracted from the flooded land certified for 2000 for the applicable type. The difference will be the acreages of cropland and non-cropland subject to flooding and eligible for FCP payment, except that the difference may be adjusted as needed to ensure, to the extent practicable, an accurate estimate of the net increased flooding on the farm after October 1, 1993.

(d) All determinations as to the amount of land eligible for enrollment and compensation under this subpart are subject to approval by the county committee.

(e) The FSA county committee may use any available documentation to make the determinations under paragraphs (b) and (c) of this section, including but not limited to: maps, acreage reports, slides, precipitation data, water table levels and disaster reports.

**§ 1439.507 Producer eligibility.**

(a) Payments under this subpart shall be subject to the provisions of § 1439.1 through § 1439.12, except as otherwise provided in this subpart.

(b) No person (as defined and determined under 7 CFR part 1400) may receive more than \$40,000 under this subpart.

(c) No person (as defined and determined under 7 CFR part 1400) will be eligible for payment under this subpart if that person's annual gross receipts for calendar year 1999 were in excess of \$2.5 million. That determination shall be made in the manner provided for in § 1439.11.

(d) The following entities are not eligible for benefits under this subpart:

- (1) State or local governments or subdivisions thereof; or
- (2) Any individual or entity who is a foreign person as determined in accordance with the provisions of 7 CFR 1400.501 and 1400.502.

**§ 1439.508 Calculation of assistance.**

(a) The unadjusted value of FCP assistance determined with respect to the flooded land in an eligible county for each producer shall not exceed the amount obtained by adding the amounts in paragraphs (b) and (c) of this section.

(b) For each eligible producer with respect to the applicable qualifying cropland which is determined, consistent with this subpart, to be eligible land for the payment purposes, the established local payment rate for cropland will be multiplied by the number of acres determined to be qualifying acres, as determined by the County Committee in accordance with instructions of the Deputy Administrator.

(c) For each eligible producer with respect to the applicable qualifying non-cropland acres consistent with this subpart, as determined by the county committee in accordance with instructions of the Deputy Administrator, the acres will be multiplied by the established payment rate for non-cropland acres.

(d) Payments will be adjusted as determined necessary to comply with other provisions of this subpart such as those set in § 1439.509.

**§ 1439.509 Availability of funds.**

In the event that the total amount of claims submitted under this subpart exceeds the \$24 million authorized for FCP by Public Law 106-224, each payment to a producer shall be reduced by a uniform national percentage. Such payment reductions shall be after the imposition of applicable payment limitation provisions.

**PART 1447—1999 PEANUT MARKETING ASSISTANCE PROGRAM**

19. Revise the heading for part 1447 to read as follows:

**PART 1447—2000 PEANUT MARKETING ASSISTANCE PROGRAM**

20. The authority citation for 7 CFR part 1447 is revised to read as follows:

**Authority:** Pub. L. 106–78, 113 Stat 1135; Sec. 204(a), Pub. L. 106–224; 15 U.S.C. 714b, 714c.

21. Revise § 1447.101 to read as follows:

**§ 1447.101 Applicability.**

This part sets out provisions related to the 2000 crop of peanuts as authorized and in accordance with the applicable provisions of Public Law 106–224, the Agricultural Risk Protection Act of 2000 (the 2000 Act). Under section 204(a) of the 2000 Act, the Secretary of Agriculture is required to make certain payments available to eligible producers of 2000-crop quota and additional peanuts.

22. Amend § 1447.105 by revising paragraph (a) to read as follows:

**§ 1447.105 Time for filing application.**

(a) Applications for benefits under this part must be filed on or after October 2, 2000, but not later than the close of business on February 1, 2001, in the county FSA office serving the county where the producer's farm is located for administrative purposes.

\* \* \* \* \*

23. Revise § 1447.106 to read as follows:

**§ 1447.106 Payment rate.**

(a) *Payment rate for quota peanut production.* The payment rate for quota peanuts under this part is \$30.50 per ton.

(b) *Payment rate for additional peanut production.* The payment rate for additional peanuts under this part is \$16.00 per ton.

24. Amend § 1447.107 by revising paragraphs (a)(3)(ii) and (a)(3)(iii) to read as follows:

**§ 1447.107 Calculation of Payment.**

(a) \* \* \*

(3) \* \* \*

(ii) The actual yield for any of the 1997, 1998 or 1999 crop years,

(iii) The actual yield for the 2000 crop year.

\* \* \* \* \*

Signed in Washington, DC, on October 25, 2000.

**Keith Kelly,**  
*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 00–27793 Filed 10–27–00; 10:26 am]

**BILLING CODE 3410–05–P**

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**Farm Service Agency**

**7 CFR Parts 718, 1427, 1464, and 1469**

**RIN 0560–AG19**

**Farm Reconstitutions and Market Assistance for Cottonseed, Tobacco, and Wool and Mohair**

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

**ACTION:** Final rule.

**SUMMARY:** This rule implements provisions of the Agricultural Risk Protection Act of 2000 (ARPA) related to the market assistance programs for cottonseed, tobacco, and wool and mohair. Other provisions of the Act will be implemented under separate rules.

**EFFECTIVE DATE:** October 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, USDA/FSA/ORAS/RRFIDB/STOP 0540, 1400 Independence Avenue, SW, Washington, DC, 20250–0540, telephone (202)205–5851, or by e-mail to: tom\_witzig@wdc.fsa.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Notice and Comment**

Section 263 of the ARPA requires that these regulations be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These regulations are thus issued as final.

**Executive Order 12866**

This final rule has been determined to be economically significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment was completed and is summarized after the background section explaining the actions this rule will take.

**Regulatory Flexibility Act**

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA 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**

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.

**Executive Order 12372**

The programs administered under the regulations contained in this rule are 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).

**Unfunded Mandates**

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA 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.

**Small Business Regulatory Enforcement Act of 1996**

Section 263 of the ARPA requires that the regulations necessary to implement the Act be issued as soon as practicable after the date of enactment and without regard to the notice and comment provision of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to the notice of proposed rulemaking and public participation in rulemaking. It also requires the Secretary to use the provisions of 5 U.S.C. 808 (the Small Business Regulatory Enforcement Act (SBREFA)), which provide that a rule may take effect at such time as the agency may determine if the agency finds for good cause that public notice is impracticable, unnecessary, or contrary to the public purpose, and thus does not have to meet the requirements of § 801 of SBREFA requiring a 60-day delay for Congressional review of a major regulation before the regulation can go into effect. This final rule is considered major for the purposes of SBREFA. However, these regulations