

§ 1580.202

7 CFR Ch. XV (1–1–13 Edition)

previous 3 marketing years, and identify the source of the data. In such cases the Administrator (FAS) shall determine if the alternative data is acceptable.

(ii) If the petition is filed on behalf of producers in a specifically identified impacted area, the petitioners shall provide the national average prices or county prices if applicable, or quantity of production or value of production, or cash receipts for the petitioned commodity in the impacted area for the marketing year under review and for the previous 3 marketing years, and identification of the data source.

(iii) The Administrator (FAS) may request petitioners to provide records to support their data.

(d) Once the petition is received, the Administrator (FAS) shall determine if it meets the requirements of §1580.201(c) of this part, and if so, publish notice in the FEDERAL REGISTER that a petition has been filed and that an investigation is being initiated. The notice shall identify the agricultural commodity, including any like or directly competitive commodities, the marketing year being investigated, the data being used, and the production area covered by the petition. The notice may also announce the scheduling of a public hearing, if requested by the petitioner. If the petition does not meet the requirements of §1580.201(c) of this part, the Administrator (FAS) shall notify as soon as practicable the contact person or the authorized representative for the group of the deficiencies.

§ 1580.202 Hearings, petition reviews, and amendments.

(a) If the petitioner, or any other person found by the Administrator (FAS) to have a substantial interest in the proceedings, submits not later than 10 days after the date of publication of notice in the FEDERAL REGISTER under §1580.201(d) of this part, a request in writing for a hearing, the Administrator (FAS) shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

(b) If the petitioner or any other person having an interest in the proceedings takes issue with any of the in-

formation published in the FEDERAL REGISTER concerning the petition, such person may submit to the Administrator (FAS) their comments in writing or electronically for consideration by the Administrator (FAS) not later than 10 days after the date of publication of notice in the FEDERAL REGISTER under §1580.201(d) of this part.

(c) A producer or group of producers that resides outside of the State or region identified in the petition filed under paragraph (a) of this section, may file a request to become a party to that petition not later than 15 days after the date that the notice is published in the FEDERAL REGISTER under §1580.201(d) of this part. The Administrator (FAS) may amend the original petition to expand the impacted area and include the additional filer, or consider it a separate filing.

(d) The Administrator (FAS) shall publish in the FEDERAL REGISTER as soon as practicable any changes to the original notice resulting from any actions taken under this section.

§ 1580.203 Determination of eligibility and certification by the Administrator (FAS).

(a) As soon as practicable after the petition has been filed, but in any event not later than 40 days after that date, the Administrator (FAS) shall certify a group of producers as eligible to apply for adjustment assistance under this chapter if the Administrator (FAS) determines:

(1) At least one of the following:

(i) The national average price of the agricultural commodity produced by the group during the most recent marketing year for which data are available is less than 85 percent of the average of the national average price for the commodity in the 3 marketing years preceding such marketing year; or

(ii) The quantity of production of the agricultural commodity produced by the group during such marketing year is less than 85 percent of the average of the quantity of production of the commodity produced by the group in the 3 marketing years preceding such marketing year; or

(iii) The value of production of the agricultural commodity produced by

the group during such marketing year is less than 85 percent of the average value of production of the commodity produced by the group in the 3 marketing years preceding such marketing year; or

(iv) The cash receipts for the agricultural commodity produced by the group during such marketing year are less than 85 percent of the average of the cash receipts for the commodity produced by the group in the 3 marketing years preceding such marketing year;

(2) The volume of imports of articles like or directly competitive with the agricultural commodity produced by the group in the marketing year with respect to which the group files the petition increased compared to the average volume of such imports during the 3 marketing years preceding such marketing year; and

(3) The increase in such imports contributed importantly to the decrease in the national average price, or quantity of production, or value of production, or cash receipts for, the agricultural commodity.

(b) In any case in which there are separate classes of goods within an agricultural commodity, the Administrator (FAS) shall treat each class as a separate commodity in determining:

(1) Group eligibility;

(2) The national average price, or quantity of production, or value of production, or cash receipts; and

(3) The volume of imports.

(c) Upon making a determination, whether affirmative or negative, the Administrator (FAS) shall promptly publish in the FEDERAL REGISTER a summary of the determination, together with the reasons for making the determination.

(d) In addition, the Administrator (FAS) shall notify producers covered by a certification how to apply for adjustment assistance. Notification methods may include direct mailings to known producers, messages to directly affected producer groups and organizations, electronic communications, Web site notices on the Internet, use of broadcast print media, and transmittal through local USDA offices.

(e) Whenever a group of agricultural producers is certified as eligible to apply for assistance, the Administrator (FAS) shall notify NIFA, the Agricultural Marketing Service, and FSA who will assist in informing other producers about the TAA for Farmers program and how they may apply for trade adjustment assistance.

§ 1580.301 Application for trade adjustment assistance.

(a) Only producers covered by a certification of eligibility under §1580.203 of this title, may apply for adjustment assistance.

(b) An eligible producer may submit an application for adjustment assistance by submitting to FSA a designated application form at any time after the certification date but not later than 90 days after the certification date. If the 90-day application period ends on a weekend or legal holiday, the producer may apply the following business day.

(c) When submitting an application, the producer shall provide sufficient documentation to establish that:

(1) The producer produced the agricultural commodity in the marketing year for which the petition is filed and in at least 1 of the 3 marketing years preceding that marketing year;

(2) There has been a decrease in the quantity of the agricultural commodity produced by the producer in the marketing year for which the petition is certified from the most recent prior marketing year preceding that marketing year for which data is available; or

(3) There has been a decrease in the price of the agricultural commodity based on:

(i) The price received for the agricultural commodity by the producer during the marketing year with respect to which the petition is filed from the average price for the commodity received by the producer in the 3 marketing years preceding that marketing year; or

(ii) The effective posted county price maintained by the Secretary for the agricultural commodity on the date on which the Administrator (FAS) accepts a petition for consideration as published in the FEDERAL REGISTER from