

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 534, 591, and 930

RIN 3206-AJ44

Pay for Administrative Appeals Judge Positions

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations to implement a new pay system for administrative appeals judge positions. The administrative appeals judge pay system covers positions which are not classifiable above GS-15 and for which the duties primarily involve reviewing decisions of administrative law judges. OPM is issuing rules to ensure that agencies administer the new administrative appeals judge pay system in a consistent and equitable manner. These final regulations also implement changes in law regarding the manner in which the administrative law judge basic pay schedule is adjusted.

EFFECTIVE DATE: The regulations are effective on July 8, 2002.

FOR FURTHER INFORMATION CONTACT:
David Sweeney, (202) 606-2858, FAX: (202) 606-4264, or e-mail: payleave@opm.gov.

SUPPLEMENTARY INFORMATION: On December 11, 2001, the Office of Personnel Management (OPM) issued interim regulations to implement a new pay system for administrative appeals judges (AAJs) (66 FR 63907). Section 645 of the Treasury and General Government Appropriations Act, 2001, as incorporated in Public Law 106-544 by section 101(a)(3) of that Public Law, established the AAJ pay system effective on the first day of the first pay period beginning on or after April 20, 2001.

The AAJ pay system is authorized under 5 U.S.C. 5372b. Section 5372b authorizes OPM to issue regulations under which the head of an Executive agency must fix the rate of basic pay for each AAJ position.

The 60-day comment period for the interim regulations ended on February 11, 2002. We received no formal comments from either agencies or individuals. In informal comments, agency representatives expressed their satisfaction with the regulations. As a result, we believe no changes are necessary. Therefore, we are adopting as final the rules for agencies to administer the new AAJ pay system under 5 CFR part 534, subpart F. We are also adopting as final the changes in the interim regulations to 5 CFR part 591, subpart B (regarding nonforeign area cost-of-living allowances and post differentials), and 5 CFR part 930, subpart B (regarding the pay of administrative law judges).

Executive Order 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Parts 534, 591, and 930

Administrative practice and procedure, Computer technology, Government employees, Hospitals, Motor vehicles, Students, Travel and transportation expenses, Wages.

Accordingly, the Office of Personnel Management adopts the interim regulations amending 5 CFR parts 534, 591, and 930, published at 66 FR 63907 on December 11, 2001, as final.

Kay Coles James,

Office of Personnel Management, Director.
[FR Doc. 02-14168 Filed 6-6-02; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[No. LS-02-05]

Lamb Promotion, Research, and Information Program: Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule implements provisions of the Lamb Promotion, Research, and Information Order (Order), which established a national and industry-funded lamb promotion, research, and information program pursuant to the Commodity Promotion, Research, and Information Act of 1996 (Act). This rule will implement Order provisions concerning the collection and remittance of assessments, procedures for obtaining a refund, reporting, and books and records. In addition, comments are requested on a new form for certification of exempt transactions. Since the Lamb Promotion, Research, and Information Board (Board) is not in place, this rule provides for the Department of Agriculture (Department) to receive assessments and reports beginning July 1, 2002.

DATES: This rule is effective July 1, 2002. Comments must be received by August 6, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Send a copy of your comments to Marlene Betts, Acting Chief, Marketing Programs Branch, Room 2627-S; Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA; STOP 0251; 1400 Independence Avenue, SW., Washington, DC 20250-0251.

Telephone number 202/720-1115. Comments may also be submitted electronically to:

Marlene.Betts@usda.gov or by fax at 202/720-1125. All comments should reference the docket number (LS-02-05), the date, and page number of the issue of the **Federal Register**. Comments will be available for public inspection via the Internet at <http://www.ams.usda.gov/lsg/mpb/rp->

lamb.htm. or during regular business hours, 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, at the same address.

Pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35), send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information to the above address. Comments concerning the information collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:
Marlene Betts, Acting Chief, Marketing Programs Branch, 202/720-1115.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:
Invitation to submit proposals—November 23, 1999 (64 FR 65665), and January 12, 2000 (65 FR 1825); proposed Lamb Promotion, Research, and Information Order—September 21, 2001 (66 FR 48764); final Lamb Promotion, Research, and Information Order—April 11, 2002 (67 FR 17848).

Executive Orders 12866 and 12988

The Office of Management and Budget (OMB) has waived the review process required by Executive Order 12866 for this action.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under § 519 of the Act, a person subject to the Order may file a petition with the Department stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within 2 years after the effective date of the Order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Department will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts

business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Department's final ruling. Service of process in a proceeding may be made on the Department by delivering a copy of the complaint to the Department. If the court determines that the ruling is not in accordance with the law, the court shall remand the matter to the Department with direction to make such ruling as the court determining to be in accordance with the law or to take such further action as, in the opinion of the court the law requires. The pendency of a petition filed or an action commenced shall not operate as a stay of any action authorized by section 520 of the Act to be taken to enforce, including any rule, order, or penalty in effect.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) (5 United States Code (U.S.C.) 601 *et seq.*), the Agency is required to examine the impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened.

There are approximately 51,800 producers, 15,000 seedstock producers, 100 feeders, 571 first handlers, and 15 exporters of lamb who will be subject to the program. Most of the lamb producers, seedstock producers, feeders, and exporters would be classified as small businesses under the criteria established by the Small Business Administration (SBA) (13 CFR 121.201). Most first handlers would not be classified as small businesses. SBA defines small agricultural service firms as those whose annual receipts are less than \$5 million and small agricultural producers are defined as those having annual receipts of less than \$750,000. This number and size data remains the same as it appeared in the earlier analyses for the Order. Further, for purposes of this discussion and the prior Order analyses, there are approximately 3,318 market agencies, which include commission merchants, auction markets, brokers, or livestock markets in the business of receiving lambs for sale or commission. Most market agencies would be classified under SBA criteria as small businesses. Also, under the program, there are 20 national, State, or regional associations or organizations that are made up of and represent the producers, feeders, and first handlers previously discussed.

The Act authorizes generic programs of promotion, research, and information

for agricultural commodities. Congress found that it is in the national public interest and vital to the welfare of the agricultural economy of the United States to maintain and expand existing markets and develop new markets and uses for agricultural commodities through industry-funded, Government-supervised, generic commodity promotion programs.

The Order will develop and finance an effective and coordinated program of promotion, research, and information to maintain and expand the markets for lamb and lamb products. A proposed Order was published in the **Federal Register** on September 21, 2001 (66 FR 48764). The comment period ended on November 20, 2001. The final Order was published in the **Federal Register** on April 11, 2002 (67 FR 17848).

The April 11, 2002 publication included a regulatory flexibility analysis concerning the provisions of the final Order. That analysis took into account Order provisions concerning the establishment, collection and remittance of assessments, refunds, reports, and books and records. This rule will implement Order provisions concerning these requirements. To a great extent, this rule provides for the Department to receive assessments and reports until the Board is established and becomes functional. In addition, a new form for certification of exempt transactions is submitted for comment.

In this interim final rule, the section on assessments contains provisions on sharing proceeds of sale, market agencies, failure to collect, death, bankruptcy, receivership or incapacity to act, remittance of assessments, and non-producer status for certain transactions. The section on refunds includes provisions concerning the procedure for obtaining a refund, refund application forms, submission of refund applications to the Department, proof of payment of assessments, and payment of refunds. In addition, there are provisions on reporting and books and records.

With the exception of the form, Statement of Certification of Non-Producer Status, this rule does not increase the burden on the industry from that previously imposed by the Order. The information collection burden in connection with this form is minimal and is discussed in the following section concerning the Paperwork Reduction Act.

Accordingly, the Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with OMB regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35), this interim final rule announces that AMS has obtained emergency approval for a new information collection request for the Lamb Promotion, Research, and Information Program: Rules and Regulations. The emergency request was necessary because insufficient time was available to follow normal clearance procedures. This collection will be merged into 0581-0198.

Otherwise the information collection requirements that appear in the Order and the regulations contained in this interim final rule have been previously approved under OMB control number 0581-0198, except that the OMB control number for the nominee background form is 0505-0001.

Title: Lamb Promotion, Research, and Information Program: Rules and Regulations.

OMB Number: 0581-new.

Expiration Date of Approval: 3 years after date of approval.

Type of Request: Approval of new information collection.

Abstract: The information collection requirements in the request are essential to carry out the intent of the Act and Order.

Persons who are market agencies, which include commission merchants, auction markets, brokers, or livestock markets in the business of receiving lambs for sale or commission, are generally exempt from paying the assessment. The program requires that any market agency seeking an exemption must complete a form when lambs are resold not later than 10 days from the date on which the market agency acquired ownership.

The information required from market agencies will be to certify that they meet the following requirements: (1) The respondents only share in proceeds of a sale of lambs is a sales commission, handling fee, or other service fee; (2) the person acquired ownership of the lambs to facilitate the transfer of ownership of such lambs from the seller to a third party; or (3) the person resold such lambs no later than 10 days from the date on which the person acquired ownership. Additionally, the market agency will certify information that they collected the assessment and passed it on to the subsequent purchaser, and: (1) Purchased lambs from another market agency; or (2) purchased lambs in a transaction in which they are not responsible for paying the assessment.

The form will require the minimum information necessary to effectively

carry out the requirements of the program, its use is necessary to fulfill the intent of the Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out the form and submitting it to the Secretary or the Board. The form will be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required form. In addition, the information to be included on this form is not available from other sources because such information relates specifically to market agencies that are subject to the provisions of the Act. Therefore, there is no practical method for collecting the required information without the use of this form.

Information collection requirements that are included in this rule include:

Certification of Non-Producer Status Form

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .03 hours per response.

Respondents: Market agencies.

Estimated Number of Respondents: 3,318.

Estimated Number of Responses per Respondent: 12.

Estimated Total Annual Burden on Respondents: 1,195 hours.

Total Cost: \$23,900.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of functions of the Order and the Department's oversight of the program, including whether the information will have practical utility; (b) the accuracy of Department's estimate of the burden of the collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection requirements contained in this action should reference the Docket Number LS-02-05, together with the date and page number

of this issue of the **Federal Register**. Comments should be sent to Marlene Betts, Acting Chief, Marketing Programs Branch, Room 2627-S; Livestock and Seed Program, AMS, USDA; STOP 0251; 1400 Independence Avenue, SW., Washington, DC 20250-0251; by fax at 202/720-1125, or by e-mail at Marlene.Betts@usda.gov. Comments should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503. All comments received will be available for public inspection via the Internet at <http://www.ams.usda.gov/lsg/mpb/rplamb.htm> during regular business hours, 8 a.m. to 4:30 p.m. eastern time, Monday through Friday, at the same address.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 days and 60 days after publication. Therefore, a comment to OMB is best assured of being considered if OMB receives it within 30 days after publication.

Background

The Act (7 U.S.C. 7411-7425) authorizes the Department to establish generic programs of promotion, research, and information for agricultural commodities designed to strengthen an industry's position in the marketplace, to maintain and expand existing domestic and foreign markets and uses for agricultural commodities. Pursuant to the Act, a proposed Order was published in the **Federal Register** on September 21, 2001 (66 FR 48764). The final Order was published in the **Federal Register** on April 11, 2002 (67 FR 17848). This program will be funded by assessments on domestic lamb producers, lamb feeders, exporters, and seedstock producers, in the amount of one-half cent (\$.005) per pound when live lambs are sold. First handlers, which means the packer or other person who buys or takes possession of lambs from a producer or feeder for slaughter, including custom slaughter, will be assessed an additional \$.30 cents per head of lambs purchased for slaughter or slaughtered by such first handler pursuant to a custom slaughter arrangement. Each person who processes or causes to be processed lamb or lamb products of that person's own production and markets the processed products will be assessed one-half cent (\$.005) per pound on the live weight at the time of slaughter and will be required to pay an additional assessment of \$.30 per head. Exporters who directly export lambs of their own production will be assessed in the amount of one-half cent (\$.005) per

pound of live lambs exported. Assessment rates may be adjusted in accordance with applicable provisions of the Act and the Order.

The Order also requires persons to collect and remit assessments to the Board. Each producer, feeder, or seedstock producer is obligated to pay that portion of the assessments that is equivalent to that producer's, feeder's, or seedstock producer's proportionate share and pass it on to the subsequent purchaser, if applicable, and ultimately on to the first handler or exporter who will remit the total assessment to the Board. Any person who processes or causes to be processed lamb or lamb products of the person's own production and markets the processed products will be required to pay an assessment and remit the assessment to the Board. Each first handler who buys or takes possession of lambs from a producer or feeder for slaughter will be required to pay an additional assessment and remit the total assessment to the Board. Any person who exports live lambs will be required to collect and remit the total assessment to the Board at the time of export. Any exporter who directly exports lambs of their own production will pay an assessment to the Board. Additionally, a person who is a market agency; i.e., commission merchant, auction market, or livestock market in the business of receiving such lamb or lamb products for sale on commission for or on behalf of a producer, feeder, or seedstock producer will be required to collect an assessment and shall pass the collected assessment on to the subsequent purchaser(s) and ultimately on to the first handler or exporter who will remit the total assessment to the Board. Subsequent purchasers may include other market agencies, feeders, or other entities in the marketing chain.

The Order imposes certain recordkeeping and reporting requirements on persons subject to the Order. First handlers and exporters will collect and remit the assessments on lamb and lamb products to the Board. Their responsibilities will include accurate recordkeeping and accounting of the number of lambs purchased, total weight in pounds, the names of the producers, seedstock producers, and feeders, the purchase date, the amount of assessment remitted, and the date the assessment was paid. The required reporting forms require the minimum information necessary to effectively carry out the requirements of the program, and their use is necessary to fulfill the intent of the Act. Such records and reports shall be retained for at least 2 years beyond the fiscal year of their

applicability. These requirements are already being conducted as a normal business practice. In addition, a person who is a market agency; i.e., commission merchant, auction market, or livestock market in the business of receiving lambs for sale on commission for or on behalf of a producer, seedstock producer, or feeder, will be required to collect an assessment and pass the collected assessments on to the subsequent purchaser(s) and ultimately on to the first handler or exporter who will remit the total assessment to the Board. There will be a minimal burden on persons who are market agencies. It is not anticipated that they will be required to submit records of their transactions involving lamb purchases and the required assessment collection to the Board. Information on such transactions can be obtained through an audit of the market agencies' records. Such records are already being maintained as a normal business practice. This will include such records or documents that evidence payment of an assessment pursuant to the requirements in § 1280.225(b). In addition, market agencies must certify as required by regulations prescribed by the Department that the provisions of § 1280.217(b) have been met. This interim final rule includes these regulations.

Discussion of Regulations

This interim final rule includes provisions concerning assessments, refunds, reporting, and books and records. The section on assessments contain provisions on sharing proceeds of sale, market agencies, failure to collect, death, bankruptcy, receivership or incapacity to act, remittance of assessments, and non-producer status for certain transactions. The section on refunds includes provisions concerning the procedure for obtaining a refund, refund application forms, submission of refund applications to the Department, proof of payment of assessments, and payment of refunds. There are also provisions on reporting and books and records. This includes setting a reporting period on a calendar month basis.

This rule provides for the Department to receive assessments and reports until the Board is established and becomes functional. With the exception of the form, Statement of Certification of Non-Producer Status, this rule does not increase the industry's burden from that previously imposed by the Order.

Under these regulations market agencies will be required to certify that they meet the following requirements:

- (1) The respondents only share in

proceeds of a sale of lambs is a sales commission, handling fee, or other service fee; (2) the person acquired ownership of the lambs to facilitate the transfer of ownership of such lambs from the seller to a third party; or

- (3) the person resold such lambs no later than 10 days from the date on which the person acquired ownership. Additionally, the market agency will certify information that they collected the assessment and passed it on to the subsequent purchaser, and (1) purchased lambs from another market agency; or (2) purchased lambs in a transaction in which they are not responsible for paying the assessment.

The Order provides that if the Board is not in place by the date the first assessments are to be collected, then the Department may receive assessments and invest them on behalf of the Board. The regulations in this rulemaking take this situation into account since it has been determined that collection and remittance of assessments and applicable reporting should begin on July 1, 2002. This date would maximize the amount of assessments that may be collected during the marketing period so that the industry can more readily begin a national promotion and research program.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This rule implements the provisions of the Order. Specifically, this rule will implement the Orders provisions concerning the collection and remittance of assessments, procedures for obtaining a refund, reporting, and books and records. In addition, the Department has determined that July 1, 2002, will be the day that the collection and remittance of assessments will begin. Such date will provide the Department and industry organizations the opportunity to educate those persons subject to the assessment and collection provisions of the Order and allow adequate time to distribute the required reporting forms to those affected persons. By implementing this rule in a timely manner, the domestic lamb industry can more readily begin a marketing program to improve production efficiency and increase demand. This rule is effective July 1, 2002. A 60-day period is provided for interested persons to comment on this rule.

List of Subjects in 7 CFR Part 1280

Administrative practice and procedure, Advertising, Consumer Information, Marketing agreements, Lamb and lamb products, Reporting and record keeping requirements.

For the reason set forth in the preamble, Title 7 of Chapter XI of the Code of Federal Regulations is amended as follows:

PART 1280—LAMB PROMOTION, RESEARCH, AND INFORMATION

1. The authority citation for 7 CFR part 1280 continues to read as follows:

Authority: 7 U.S.C. 7411–7425.

2. In part 1280, a new subpart C consisting of § 1280.401 through § 1280.405 is added to read as follows:

Subpart C—Rules and Regulations

Sec.

1280.401 Terms defined.

1280.402 Assessments.

1280.403 Refunds.

1280.404 Reporting.

1280.405 Books and records.

Subpart C—Rules and Regulations

§ 1280.401 Terms defined.

As used throughout this subpart, unless the context otherwise requires, terms shall have the same meaning as the definition of such terms in subpart A of this part.

§ 1280.402 Assessments.

(a) *Sharing proceeds of sale.* If more than one producer, feeder, or seedstock producer shares the proceeds received for the lamb or lamb products sold, each such producer, feeder, or seedstock producer is obligated to pay that portion of the assessments that is equivalent to that producer's, feeder's, or seedstock producer's proportionate share of the proceeds.

(b) *Market agencies.* A person who is a market agency; i.e., commission merchant, auction market, or livestock market in the business of receiving lambs or lamb products for sale on commission for or on behalf of a producer, feeder, or seedstock producer, will be required to collect an assessment from the producer, feeder, or seedstock producer and pass the collected assessment on to the subsequent purchaser(s) until remitted by a first handler or exporter responsible for submitting assessments under this part.

(c) *Failure to collect.* Failure of a person to collect the assessment on lambs purchased from a producer, feeder, or seedstock producer shall not relieve the producer, feeder, or seedstock producer of their obligation to

pay the assessment and to remit the assessment to the Secretary.

(d) *Death, bankruptcy, receivership or incapacity to act.* In the event of a producer's, feeder's, seedstock producer's, or exporter's death, bankruptcy, receivership or incapacity to act, the representative of such producer's, feeder's, seedstock producer's, or exporter's estate, the person acting on behalf of creditors or other person acting in such person's stead, shall be considered the producer, feeder, or seedstock producer and shall be required to pay an assessment or collect an assessment.

(e) *Remittance of assessments.* (1) Assessments shall be remitted to the Lamb Promotion, Research, and Information Program, c/o the Secretary at USDA, 23029 Network Place, Chicago, Illinois 60673–1230, with a "Monthly Remittance Report" form LS-81 not later than the 15th day of the following month in which lambs or lamb products were purchased for slaughter or export, or marketed, if a first handler markets lambs or lamb products directly to consumers, in order to avoid late payment charges.

(2) In cases where a producer or feeder sells lambs as part of a custom slaughter operation, the producer or feeder shall be responsible for remitting the assessments pursuant to § 1280.219.

(3) Each person processing or causing to be processed lamb or lamb products of that person's own production and marketing such lamb or lamb products shall be responsible for remitting the assessments pursuant to § 1280.217(c).

(4) *Late payment charges.* Any unpaid assessments due to the Board pursuant to § 1280.217 shall be increased 2 percent each month beginning with the day following the date such assessments were due. Any remaining amount due, which shall include any unpaid charges previously made pursuant to this paragraph, shall be increased at the same rate on the corresponding day of each month thereafter until paid. Any assessment received at a date later than the date prescribed by this part, because of a person's failure to submit a timely report to the Secretary, shall be considered to have been payable by the date it would have been due if the report had been filed in a timely manner. The timeliness of a payment to the Secretary shall be based on the applicable postmark date or the date actually received by the Secretary, whichever is earlier.

(5) *Weekends and holidays.* If the 15th day of the month falls on a Saturday, Sunday, or a federally recognized holiday then the required reports and assessment will be due the

next business day in order to avoid late payment charges.

(f) *Non-producer status for certain transactions.* (1) Each person seeking non-producer status pursuant to § 1280.217 shall provide the person remitting the assessment a Statement of Certification of Non-Producer Status form (LS-78).

(2) A copy of the Statement of Certification of Non-Producer Status shall be forwarded by the person collecting the assessment to the Secretary.

§ 1280.403 Refunds.

(a) *Procedure for obtaining a refund.* Any producer, seedstock producer, feeder, first handler, or exporter from whom an assessment is collected and remitted to the Secretary, or who pays an assessment directly to the Secretary, under the authority of the Act and the Order through the announcement of the results of the required referendum, shall have a right to receive a refund of such assessment, or pro rata share thereof, upon submission of proof satisfactory that such person paid the assessment for which the refund is sought. Any such demand shall be made in accordance with the provision of the Order and this subpart.

(b) *Refund application form.* A producer shall obtain an approved application from the Secretary. Such form may be obtained by written request to the Lamb Promotion, Research, and Information Program, c/o the Secretary at USDA, P.O. Box 23198, Washington, DC 20026–3198.

(c) *Submission of refund application to the Secretary.* Any producer, seedstock producer, feeder, first handler, or exporter requesting a refund shall submit an application on the prescribed form to the Secretary within 60 days from the date the assessments were paid by such producer, seedstock producer, feeder, first handler, or exporter but no later than the date the results of the required referendum are announced by the Secretary.

(d) *Proof of payment of assessments.* The documentation provided pursuant to § 1280.225(b) to the producer, seedstock producer, feeder, first handler, or exporter by the person responsible for collecting an assessment pursuant to the Order and this subpart or such other evidence deemed satisfactory to the Secretary, shall accompany the producer's, seedstock producer's, feeder's, first handler's, or exporter's refund application.

(e) *Payment of refunds.* Refunds will be paid pursuant to § 1280.216(d).

§ 1280.404 Reporting.

(a) Each first handler required to submit assessments for live lambs pursuant to § 1280.217, each first handler marketing lamb products of that person's own production, and each exporter of lambs, shall report to the Secretary the following information on form LS-81.

(1) The number of lambs purchased, initially transferred or which, in any other manner, is subject to the collection of assessment, the total weight in pounds, and the dates of such transactions;

(2) The number of lambs exported and the total weight in pounds of lambs exported;

(3) The amount of assessment remitted;

(4) The basis; if necessary, to show why the remittance is less than the total weight in pounds of lamb multiplied by the assessment rate; and

(5) The date any assessment was paid.

(b) *Reporting periods.* For reports required pursuant to § 1280.223, each calendar month shall be a reporting period.

§ 1280.405 Books and records.

(a) Each first handler, exporter of lambs, and market agency shall maintain and, during normal business hours, make available for inspection by representatives of the Secretary, such books and records as are necessary to carry out the provisions of this part, including such books and records as are necessary to verify any required reports.

(b) *Documents evidencing payments of assessments.* Each person, including first handlers, exporters, and market agencies, responsible for collecting an assessment paid pursuant to this part is required to give the person from whom the assessment was collected, written evidence of payment of the assessments paid. Such written evidence serving as a receipt shall include the following information:

(1) Name and address of the person collecting the assessment.

(2) Name of person who paid assessment.

(3) Number of head of lambs sold.

(4) Total weight in pounds of lamb sold.

(5) Total assessments paid by the producer, seedstock producer, or feeder.

(6) Date of sale.

(7) Such other information as the Secretary may require.

Dated: June 4, 2002.

A.J. Yates,

Administrator.

[FR Doc. 02-14457 Filed 6-5-02; 11:44 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Commodity Credit Corporation****7 CFR Part 1467****RIN 0578-AA16****Wetlands Reserve Program**

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Farm Security and Rural Investment Act of 2002 amended the authority of the Secretary of Agriculture under the Wetlands Reserve Program to broaden the ability of landowners subject to foreclosure to remain eligible for participation in the program. This change, the terms of which are not subject to agency discretion, is mandatory.

EFFECTIVE DATE: June 7, 2002.

FOR FURTHER INFORMATION CONTACT:

Roger L. Bensey at (202) 720-3534.

SUPPLEMENTARY INFORMATION:**Discussion**

The Wetlands Reserve Program is authorized under Subtitle D, Title XII of the Food Security Act of 1985 (16 U.S.C. 3837-3837f) and provides wetland conservation assistance through long-term easements and restoration agreements. NRCS published the current regulations for the Wetlands Reserve Program, 7 CFR part 1467, as a final rule on August 14, 1996 (61 FR 42137). The regulations, based upon statutory mandate, prohibited the Secretary from creating an easement on land that had changed ownership within the 12 months preceding the application for enrollment in the program. However, the Secretary could waive this ownership requirement if the new ownership was acquired by will or succession, or if the Secretary determined that the land was acquired under circumstances that gave adequate assurances that such land was not acquired for the purposes of placing it in the program. The Farm Security and Rural Investment Act of 2002, Public Law 107-171, expands the ability of the Secretary to grant a waiver if the "ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law."

This final rule incorporates this mandated statutory change into the Wetlands Reserve Program regulations. This change is non-discretionary on the part of the agency, and thus no public comments are being solicited.

Executive Order 12866

This document does not meet the criteria for a significant regulatory action as specified in Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because Natural Resources Conservation Service (NRCS) is not required by 5 U.S.C. 553, or any other provision of law, to publish a notice of proposed rule making with respect to the subject matter of this rule.

Paperwork Reduction Act

No recordkeeping or reporting burden is associated with this rule.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule are not retroactive. Furthermore, the provisions of this final rule preempt State and local laws to the extent such laws are inconsistent with this final rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR part 614 must be exhausted.

Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, NRCS assessed the affects of this rulemaking action on State, local, and tribal governments, and the public. This action does not compel the expenditure of \$100 million or more by any State, local or tribal governments, or anyone in the private sector, and therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Wetlands Reserve Program—10.072.

List of Subjects in 7 CFR Part 1467

Administrative practice and procedure, Agriculture, Soil conservation, Wetlands.

Accordingly, 7 CFR part 1467 is amended as follows:

PART 1467—WETLANDS RESERVE PROGRAM

1. The authority citation for part 1467 is revised to read as follows:

Authority: 16 U.S.C. 3837, *et seq.*