

- (1) Multiplying the amount of insurance per acre by the net acres of the insured pecans;
- (2) Subtracting the dollar value of the total production to count as determined in section 13(d) from the result of section 13(c)(1):
 - (i) For additional coverage, the total dollar value of the total production to count determined in accordance with section 13(d); or
 - (ii) For catastrophic risk protection coverage, the result of multiplying the total dollar value of the total production to count determined in accordance with section 13(d) by the catastrophic risk protection factor contained in the Special Provisions; and
 - (d) The dollar value of the total production to count from all insurable acreage will include:
 - (1) The value of all appraised production as follows:
 - (i) Not less than your amount of insurance per acre for acreage;

- (A) That is abandoned;
- (B) That is sold by direct marketing if you fail to meet the requirements contained in section 12;
- (C) That is damaged solely by uninsured causes;
- (D) For which no sales records or unacceptable sales records are provided to us;
 - (ii) Production lost due to uninsured causes;
 - (iii) Unharvested production;
 - (iv) Potential production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we

- will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the value of production to count; and
- (v) The market price will be used to value all appraised production in section 13(d)(1); and
- (2) The value of all harvested production from the insurable acreage determined as follows:
 - (i) The dollar amount obtained by multiplying the number of pounds of pecans sold by the market price for each day the pecans were sold;
 - (ii) Totaling the results of § 457.167(d)(2)(i), as applicable;
 - (iii) The dollar amount obtained by multiplying the number of pounds of pecans harvested, but not sold production, by the market price;
 - (iv) Totaling the result of § 457.167(d)(2)(iii), as applicable; and
 - (v) Totaling the results of § 457.167(d)(2)(ii) and (iv).

PECAN REVENUE EXAMPLE

Year	Acres	Average pounds per acre	Average gross sales per acre
2004	100	750	\$1,050
2003	100	625	625
2002	100	200	250
2001	100	1250	750
Total Average Gross Sales Per Acre			2,675

The approved average revenue equals the total average gross sales per acre divided by the number of years (\$2,675 ÷ 4 = \$669). The amount of insurance per acre equals the approved average revenue multiplied by the coverage level percent (\$669 × .65 = \$435). Assume the insured produced, harvested and sold 70 acres of pecans with 300 pounds per acre of pecans on the 13th with an average price per pound of \$0.75, an actual price received of \$0.73, and an average AMS price of \$0.74, and elected not to harvest the other 30 acres of pecans, which were appraised on the 30th at 100 pounds per acre, but because of the quality, the average price per pound was \$0.65 and an average AMS price was \$0.64. The total dollar value of production to count is (300 pounds × \$0.75 × 70 net acres) + (100 pounds × \$0.65 × 30 net acres) = \$15,750 + \$1,950 = \$17,700. The indemnity would be: The amount of insurance per acre multiplied by the net acres minus the dollar value of the total production to count equals the dollar amount of indemnity (\$435 × 100 = \$43,500.00 – \$17,000.00 = \$25,800).

- 14. Late and Prevented Planting
The late and prevented planting provisions of the Basic Provisions are not applicable.
- 15. Substitution of Yields
The substitution of yield provisions of the Basic Provisions are not applicable.
- 16. Written Agreements
Notwithstanding the provisions of section 18 of the Basic Provisions, for counties with actuarial documents for pecans, you must have at least two years of production and gross sales records and for counties without actuarial documents, you must have at least four years of production and gross sales records to qualify for a written agreement.

Signed in Washington, DC, on August 19, 2004.
David C. Hatch,
Acting Manager, Federal Crop Insurance Corporation.
 [FR Doc. 04-19446 Filed 8-23-04; 9:20 am]
BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation
7 CFR Part 1434
RIN 0560-AH17
Nonrecourse Marketing Assistance Loan and Loan Deficiency Payment Regulations for Honey
AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the regulations governing the Honey Nonrecourse Marketing Assistance Loan (MAL) and Loan Deficiency Payment (LDP) Programs of the Commodity Credit Corporation (CCC). This rule allows honey pledged as collateral for securing an MAL or to be eligible for an LDP to be stored in CCC-approved, five-gallon plastic storage containers, in addition to the plastic Intermediate Bulk Containers already allowed, metal containers, and steel containers. This rule is intended to increase the storage options for honey producers that participate in the MAL and LDP programs.

DATES: This rule is effective August 25, 2004. Comments on this rule must be

received on or before October 25, 2004 in order to be assured of consideration. Comments received after that date may be considered to the extent practicable.

ADDRESSES: The Farm Service Agency invites interested persons to submit comments on this interim final rule. Comments may be submitted by any of the following methods:

- *E-Mail:* Send comments to Kimberly_Graham@wdc.usda.gov.
- *Fax:* Submit comments by facsimile transmission to (202) 690-3307.
- *Mail:* Send comments to Grady Bilberry, Director, Price Support Division (PSD), Farm Service Agency, United States Department of Agriculture (USDA), STOP 0512, Room 4095-S, 1400 Independence Avenue, SW., Washington, DC 20250-0512.

- *Hand Delivery or Courier:* Deliver comments to the above address.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Comments may be inspected in the Office of the Director, PSD, FSA, USDA, Room 4095-S, 1400 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this rule is available on the PSD home page at <http://www.fsa.usda.gov/dafp/psd>. All comments will become a matter of public record, including the name, mailing address, and e-mail address of the commenting party.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham, (202) 720-9154, e-mail: Kimberly.Graham@wdc.usda.gov. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

This rule allows honey stored in CCC-approved, 5-gallon plastic containers to be eligible for MAL's and LDP's. This change will make CCC regulations more consistent with marketing practices in the honey industry, especially regarding producers of relatively small quantities of honey. Most honey marketed in the U.S. is stored in metal drums or plastic storage units called Intermediate Bulk Containers (IBC's), and the majority of commercially exported and imported honey is stored in steel drums. However, producers of smaller quantities of honey, who normally market through local channels like farmer markets or local groceries, often store it in smaller plastic containers, which are significantly less expensive

than metal drums or IBC's. Producers who use these smaller plastic containers are currently not eligible for honey MAL's and LDP's. CCC has determined that storing honey in 5-gallon plastic containers is a normal marketing practice, and their use does not increase the risk to the honey loan collateral. Thus, this rule provides that honey stored in CCC-approved, 5-gallon plastic containers is eligible for MAL's and LDP's, and requests public comment on this change.

Notice and Comment

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (2002 Act) provides that the regulations needed to implement Title I of the 2002 Act, including those involved here, may 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. Because this rule involves technical storage and packaging requirements, it was determined to be in the public's interest to solicit comments on the rule. The rule is effective upon publication in order to benefit producers in 2004, and because the rule is consistent with commercial storage practices used, under limited circumstances, for years.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, was determined to be not significant and has not been reviewed by the Office of Management Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Farm Service Agency (FSA) is not required to publish a notice proposed rulemaking for the subject matter of this rule.

Environmental Assessment

The environmental impacts of this rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799. FSA concluded that the rule requires no further environmental review because it is categorically excluded. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental

assessment or environmental impact statement.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule preempts State laws that are inconsistent with it. Before any legal action may be brought regarding a determination under this rule, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates Reform Act of 1995

The rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, Local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be made without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed to administer the program authorized by these regulations are not subject to review by OMB under the Paperwork Reduction Act.

Executive Order 12612

This rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. 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.

Government Paperwork Elimination Act

FSA is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to

the maximum extent possible. The forms and other information collection activities required for participation in the program are available electronically for downloading or electronic submission through the USDA eForms Web site at <http://forms.sc.egov.usda.gov/eforms>.

Federal Assistance Programs

The title and number of the Federal assistance program found in the Catalog of Federal Domestic Assistance to which this final rule applies are Commodity Loans and Loan Deficiency Payments, 10.051.

List of Subjects in 7 CFR Part 1434

Honey, Loan programs-agriculture, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, 7 CFR part 1434 is amended as follows:

PART 1434—NONRECOURSE MARKETING ASSISTANCE LOAN AND LDP REGULATIONS FOR HONEY

■ 1. The authority citation for part 1434 continues to read as follows:

Authority: 7 U.S.C. 7931.

■ 2. Amend § 1434.8 by revising paragraphs (a) and (b)(4) to read as follows:

§ 1434.8 Containers and drums.

(a)(1) To be eligible for assistance under this part, honey must be packed in:

- (i) CCC-approved, 5-gallon plastic containers;
- (ii) 5-gallon metal containers;
- (iii) Steel drums with a capacity not less than 5 gallons nor greater than 70 gallons, or
- (iv) Plastic Intermediate Bulk Containers (IBC's).

(2) Honey stored in plastic containers must be determined safe and secure from all possibility of contamination.

(3) Honey storage containers used for these purposes must meet requirements of the Federal Food, Drug and Cosmetic Act, as amended and other specified requirements, as determined by CCC and must be generally fit for the purpose for which they are to be used.

(4) CCC-approved 5-gallon plastic containers must hold approximately 60 pounds of honey. The containers must be free and clear of leakage and punctures and of suitable purity for food contact use and meet food storage standards as provided by CCC. Plastic containers must be new or previously used only to store honey. Plastic containers previously used to store chemicals, pesticides, or any other

product or substance other than honey are ineligible for honey storage. The handle of each container must be firm and strong enough to permit carrying the filled container. The cover opening must not be damaged in any way that will prevent a tight seal. Containers that have been punctured and resealed will not be acceptable;

(5) The 5-gallon metal containers must hold approximately 60 pounds of honey, and must be new, clean, sound, uncased, and free from appreciable dents and rusts. The handle of each container must be firm and strong enough to permit carrying the filled container. The cover and container opening must not be damaged in any way that will prevent a tight seal. Containers that are punctured or have been punctured and resealed by soldering will not be acceptable; and

(6) The steel drums must be an open type and filled no closer than 2 inches from the top of the drums. Drums must be new or must be used drums that have been reconditioned inside and outside. Drums must be clean, treated inside and outside to prevent rusting, fitted with gaskets that provide a tight seal and have an inside coating suitable for honey storage.

(7) IBC's are bulk containers with a polyethylene inner bottle and a galvanized steel protective cage, a capacity of either 275 or 330 gallons, and are reusable. IBC's must be clean, sound and provide a tight seal.

(b) * * *

(4) Containers that do not meet the specified requirements of paragraph (a) of this section or other CCC specifications or requirements.

* * * * *

Signed in Washington, DC, on July 6, 2004.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 04-19401 Filed 8-24-04; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 1987C-0023]

Listing of Color Additives Subject to Certification; D&C Black No. 2; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of July 28, 2004 (69 FR 44927). The final rule amended the color additive regulations to provide for the safe use of D&C Black No. 2 (a high-purity furnace black, subject to FDA batch certification) as a color additive in the following cosmetics: Eyeliner, brush-on-brow, eye shadow, mascara, lipstick, blushers and rouge, makeup and foundation, and nail enamel. The action was in response to a petition filed by the Cosmetic, Toiletry, and Fragrance Association. The final rule published with inadvertent errors. This document corrects those errors.

DATES: See the first correction under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Celeste Johnston, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202-418-3423.

SUPPLEMENTARY INFORMATION: In the FR Doc. 04-17153, appearing on page 44927, in the **Federal Register** of July 28, 2004, the following corrections are made:

■ 1. On page 44927, in the third column, the section entitled “**DATES**,” is corrected to read:

DATES: This rule is effective August 30, 2004. Submit objections and requests for a hearing by August 27, 2004. See section IX of this document for information on the filing of objections.

■ 2. On page 44929, in the third column, under the section “**Objections**,” the heading and paragraph are corrected to read:

IX. Objections

This rule is effective as shown in the “**DATES**” section of this document; except as to any provisions that may be stayed by the filing of proper objections. Any person who will be adversely affected by this regulation may at any time file with the Division of Dockets Management (see **ADDRESSES**) written or electronic objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the