

Sodium acid pyrophosphate (CAS # 7758-16-9)—for use only as a leavening agent.

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Tetrasodium pyrophosphate (CAS # 7722-88-5)—for use only in meat analog products.

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■ 4. In § 205.681, paragraph (d)(1) is revised to read as follows:

§ 205.681 Appeals.

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(d) * * * (1) Appeals to the Administrator must be filed in writing and addressed to: Administrator, USDA, AMS, c/o NOP Appeals Staff, Stop 0203, Room 302-Annex, 1400 Independence Avenue, SW., Washington, DC 20250-0203.

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Dated: September 5, 2006.

Lloyd C. Day, Administrator,

Agricultural Marketing Service.

[FR Doc. E6-14923 Filed 9-8-06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1290

[Docket No. FV06-1290-1 FR]

RIN 0581-AC59

Specialty Crop Block Grant Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule provides regulations to implement the Specialty Crop Block Grant Program (SCBGP) to enhance the competitiveness of specialty crops. This action establishes the eligibility and application requirements, the review and approval process, and grant administration procedures for the SCBGP.

The SCBGP is authorized under Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note).

EFFECTIVE DATE: October 11, 2006.

FOR FURTHER INFORMATION CONTACT:

Trista Etzig, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0243, Washington, DC 20250-0243; Telephone: (202) 690-4942; Fax: (202) 690-0102; or e-mail: trista.etzig@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 by the Office of Management and Budget (OMB).

Public Law 104-4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State and local governments and the private sector. Under section 202 of the UMRA, the Agricultural Marketing Service (AMS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State and local governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532). When such a statement is needed for a rule, section 205 of the UMRA generally requires federal agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule (2 U.S.C. 1535).

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State and local governments or the private sector of \$100 million or more in any one year. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.169, Specialty Crop Block Grant Program.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires 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).

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 would 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.

Regulatory Flexibility Act

The AMS certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-534, as amended (5 U.S.C. 601 *et seq.*). This rule only will impact State departments of agriculture that apply for grant funds. States include the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico. The States are not small entities under the Act.

Authority for a Specialty Crop Block Grant Program

This program is intended to accomplish the goals of increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers. The SCBGP is authorized under section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note). Section 101 directs the Secretary of Agriculture to make grants to States for each of the fiscal years 2005 through 2009 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops.

Background

The Fruit and Vegetable Program will periodically announce that applications may be submitted for participation in a "Specialty Crop Block Grant Program" (SCBGP), which will be administered by personnel of the Agricultural Marketing Service (AMS).

Periodically, funding may be appropriated to the Secretary of Agriculture to provide specialty crop block grants. To the extent that funds are available, each year the AMS will publish a **Federal Register** notice announcing the program and soliciting grant applications.

Subject to the appropriation of funds, each State that submits an application that is reviewed and approved by AMS is to receive at least \$100,000 to enhance the competitiveness of specialty crops. In addition, each State will receive an amount that represents the proportion of the value of specialty crop production in the state in relation

to the national value of specialty crop production using the latest available complete specialty crop production data set in all states whose applications are accepted. All 50 States, the District of Columbia, and the Commonwealth of Puerto Rico are eligible to participate.

“Specialty crops” for the purpose of this rule, means fruits and vegetables, tree nuts, dried fruits, and nursery crops (including floriculture).

SCBGP applications will be accepted from any State department of agriculture, including the agency, commission, or department of a State government responsible for agriculture within the State.

Section 1290.6 prescribes the application procedure that includes a State plan to indicate how grant funds will be utilized to enhance the competitiveness of specialty crops using measurable expected outcomes.

Applications can be submitted for projects up to 3 calendar years in length. Applicants wishing to serve multi-state projects must submit the project in their State plan indicating which State is taking the coordinating role and the percent of the budget covered by each State.

Section 1290.8 prescribes that under the SCBGP program, the AMS will enter into agreements with those State departments of agriculture or other entities that are responsible for agriculture within a State whose applications have been approved. The State department of agriculture will assure that the State will comply with the requirements of the State plan. The State department of agriculture will also assure that funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

The AMS will provide the entire funding to the approved applicants by a one-time combined electronic transfer. SCBGP participants must deposit funds in federally insured, interest-bearing accounts and remit to AMS interest earned in accordance with 7 CFR 3015 and 3016.

Section 1290.9 prescribes the reporting and oversight requirements. If the grant period is more than one year, State departments of agriculture are required to submit an annual performance report(s) and a final performance report evaluating their project(s) using the measurable outcomes presented in the State plan, as well as a final financial report. If the grant period is less than a year, State departments of agriculture are required to submit a final performance report and a final financial report.

Section 1290.10 prescribes the audit requirements of the State. The State is accountable for conducting annual financial audits of the expenditures of all SCBGP funds. Not later than 30 days after completion of the audit, the State shall submit a copy of the audit results with an executive summary to AMS.

Notice of this action was published in the **Federal Register** on April 20, 2006. Interested persons were invited to submit written comments until May 22, 2006. During the comment period, eighty-two comments were received from members of Congress, producers of specialty crops, marketers of specialty crops, trade organizations, and interested consumers. Three comments were received after the comment period, but they did not introduce any new issues AMS has considered each comment timely submitted, and they are discussed below.

Summary of Comments Received

Purpose and Scope

Two commenters stated that the rule is not consistent in defining the program’s purpose to “enhance the competitiveness of specialty crops.” The commenters went on to say that the rule also states the program’s purpose as “increasing fruit, vegetable and nut consumption and improving the competitiveness of specialty crops.” The Act includes a provision on Findings and Purpose (Sec. 2) and a provision concerning the Availability and Purpose of Grants (Sec. 101(a)). The statements appeared in the supplementary information and Paperwork Reduction Act sections of the proposed rule and are within the meaning of these sections of the Act. Accordingly, no changes have been made as a result of these comments.

One commenter wanted clarification that funding is only to support specialty crops grown in the U.S. Another commenter asked if funds could be spent on projects in foreign markets to enhance the competitiveness of U.S. specialty crops. A purpose of the Act is to improve the competitiveness of United States specialty crop producers. Accordingly, this program only supports specialty crops grown in the United States. Furthermore, the Specialty Crop Block Grant Program funding may support U.S. grown specialty crops in both domestic and foreign markets.

Eight commenters requested reference to 7 CFR Part 3016 in Section 1290.1 be removed because it restricts grant funds from being used for advertising, public relations, selling, and marketing. Part 3016 refers to OMB Circular A-87 which provides that advertising and

public relations costs are allowable when they are undertaken for “purposes necessary to meet the requirements of the Federal award” (*i.e.* if the purpose of the grant is to promote a specialty crop, then it is allowable to use grant funds for advertising the specialty crop). Accordingly, no change is made as a result of these comments.

Definitions

USDA received 10 comments on the definition of “specialty crops”. The commenters recommended the following be included in the specialty crop definition: Low growing dense perennial turfgrass sod, processed fruit and vegetable products, Christmas trees, potatoes, dry beans, sugar beets, grapes for wine, vegetable seeds, maple syrup, apple cider, certified organic crops, flax, dry peas, exotic fruits and vegetables grown in Hawaii such as coffee, cocoa, seed crops, algae and seaweed, kava, ginger root, vanilla, lavender, honey, and sugar cane. While in some instances including examples in a definition may improve clarity, we believe that additions beyond the language reflected in the Act would be counter productive given the numerous commodities that come within the definition of specialty crops. USDA will work with State departments of agriculture in providing further assistance with this definition.

Fourteen comments were received requesting that a definition for “enhancing the competitiveness” of specialty crops be included in the regulations. AMS believes that these comments have merit and a definition has been included in the regulations for clarity at § 1290.2(c). Examples of enhancing the competitiveness of specialty crops include, but are not limited to: Research, promotion, marketing, nutrition, trade enhancement, food safety, food security, plant health programs, education, “buy local” programs, increased consumption, increased innovation, improved efficiency and reduced costs of distribution systems, environmental concerns and conservation, product development, and developing cooperatives.

Nine comments were received concerning how to incorporate outcome measures in a State plan. In order to provide additional clarity concerning this matter, examples of outcome measures may include per capita consumption, consumer awareness as a percent of target market reached, market penetration based on sales by geographic region, dollar value of exports, or Web site hits. Furthermore, for clarity, the final rule at § 1290.6(b)(7) has been modified to state that expected

measurable outcomes may be long term that exceed the grant period and that timeframes should be included in the State plan when long term outcome measures will be achieved.

Eligible Grant Projects

Seventy-one comments were received from processors and wineries to remove the last sentence of § 1290.4(b) which provides that "priority will be given to fresh specialty crop projects." These comments have merit. The Act does not restrict the term specialty crops to only fresh commodities and, as such, both fresh and processed specialty crop producers would benefit from the block grants provided for in this program. Accordingly, this sentence has been removed from § 1290.4(b) in the final rule.

USDA received four comments on the timeframe of eligible grant projects. One commenter requested projects longer than three years should be allowed without the requirement to obtain approval from USDA. Two commenters recommended project deadlines be set by the State. One commenter pointed out that the authorizing statute does not specify a time constraint of three years. Based upon experience with other grant programs, we consider three years as appropriate and reasonable. Furthermore, USDA intends to track projects through performance reports during the grant period. The grant period is established by the longest approved project in the State plan, so if a project goes beyond the grant period, AMS must be notified. Secondly, the final rule in § 1290.4(b) has been clarified to state, for cause, an extension of the grant period not to exceed three years may be granted by AMS on a case by case basis with a written request from the State.

Another commenter recommended USDA give extra time for evaluation of projects in addition to three years. State departments of agriculture have appropriate time for project evaluation. Reporting requirements are based on the grant period established by the longest project submitted and approved in the State plan which can not exceed three years. Some projects may be completed prior to the annual or final reporting period. Therefore, State departments of agriculture will have at least 90 days, if not more, to evaluate their projects and submit performance reports to USDA. This commenter also requested that a definition for project activities should be added to the regulations. We disagree. Each State department of agriculture has discretion to select projects to include in their State plan and, as such, providing examples of

project activities in the regulations could suggest limitation and a narrowing of the range of project activities.

Restrictions and Limitations on Grant Funds

Two comments were received concerning the language in § 1290.5(c) "grant funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds." One commenter stated "it is unrealistic for programs not to cross between state funding and federal funding." Another commenter wanted clarification if the language prevents a State from creating a new state program that would support specialty crops. This language in § 1290.5(c) of the rule reflects the statutory language that appears in Sec. 101(d)(3) of the Act which provides that a grant application should contain an assurance that grant funds received under this section shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds. Under section § 1290.5(c) of the rule, grant funds can supplement existing programs or create new programs, but not replace state funds. Accordingly, no changes are made as a result of these comments.

Electronic Transfer of Funds

Three comments were received on the electronic transfer of funds. One commenter recommended direct payments be made to a third party. Another commenter recommended USDA award funding on a fixed-based or deliverable-based basis and another commenter explained one State has a policy that state funds are spent on projects and then the State seeks a one time reimbursement of federal dollars at the end of the projects. Since the grant agreements are made with the State department of agriculture, it is appropriate that the funds will be transferred to the State department of agriculture after the grant agreement is signed. The State department of agriculture can then disperse the funds based upon their approved State plans.

Completed Application

Comments from seventeen organizations were received on the application process. Seven commenters recommended USDA notify the State departments of agriculture on the exact amount of funds they are to receive prior to submitting State plans. USDA intends to notify the State departments of agriculture of the exact amount of grant funds they may receive in the Notice for Applications, which will be

published in the **Federal Register** soon after publication of this final rule.

In addition, three comments were received recommending USDA explain how funds will be distributed if one or more States do not file an application or if an application is denied. One commenter recommended funds not distributed be rolled over and made available the following fiscal year to that respective State who did not apply the previous year and another commenter recommended that funds not distributed be allocated pro rata to all other States. The commenter went on further to request that USDA provide for an appeal process by a State department of agriculture should USDA deny a State plan. With regard to rolling over funds to the following fiscal year, States who do not apply for or do not request all available funding during the specified grant application period will forfeit all or that portion of available funding not requested for that application year. Finally, Sec. 101(f) of the Act provides that the Secretary of Agriculture may accept or reject applications for a grant. Accordingly, no change is made in the regulations concerning additional processes. However, we are clarifying § 1290.7 concerning review of applications to include language concerning not only accepting applications, but also rejecting them as well. Nonetheless, USDA will work closely with State departments of agriculture to assist applicants in meeting deadlines.

Ten commenters recommended that the application process be adjusted because State departments of agriculture need time to work with grant partners and decide on projects. In addition, 10 comments were received recommending USDA allow State departments of agriculture flexibility to establish granting processes, collaborate with subgrantees, and select projects based on the unique needs and priorities of that State. Under the Specialty Crop Block Grant Program, State departments of agriculture must submit their State plans within one year after the publication of the Notice for Applications. This one year period is reasonable and provides State departments of agriculture a sufficient amount of time to establish granting processes, collaborate with subgrantees, decide on projects, and develop and submit their State plan to USDA. Accordingly, no changes to the regulations are made as a result of these comments.

Another commenter recommended post-approval adjustments to allow States to participate in multi-state projects. State departments of

agriculture will have one year to work with other State departments of agriculture to coordinate multi-state projects prior to submitting State plans. Again, a one year period is appropriate and will provide a reasonable amount of time for participation in multi-state projects. Therefore, no change to the regulations is made as a result of this comment.

Another commenter requested clarification on the number of State plans that need to be submitted to USDA. A State department of agriculture must submit one plan to USDA that includes all projects and submit annual performance reports and a final report that summarizes progress on all projects in the State plan. This comment has merit and has been clarified in the final rule in § 1290.6(b) and § 1290.9.

One commenter asked for guidance on what is an acceptable percentage for project administrative costs. Based upon experience with other grant programs, we consider administrative costs not exceeding 10 percent of any proposed budget as appropriate and reasonable. If administrative costs exceed 10 percent, a State department of agriculture should include a justification in their State plan. This comment has merit and § 1290.6(b)(4) has been clarified accordingly. One commenter asked if a State department of agriculture may charge the paperwork burden costs and audit costs to administrative expenses. These are acceptable administrative expenses. While these costs may be considered acceptable, USDA will work with States concerning acceptable costs on a case-by-case basis.

Five commenters wanted clarification that an application would be reviewed and approved by USDA before the grant funds are dispersed. These comments have merit and this has been clarified at § 1290.8 in the final rule.

Review of Grant Applications

Eight comments were received on the grant application review process stating USDA should not need to approve each project and the State department of agriculture should have flexibility in selecting projects. Each State department of agriculture has discretion to select projects to include in their State plan, while final review and approval of the State plan resides with USDA.

Grant Agreements

One commenter suggested language be added to the rule to indicate "it shall be allowable to include fee-based or deliverable-based projects as part of an approvable grant agreement with the

State department of agriculture." A State department of agriculture is responsible for selecting the type of projects that enhance the competitiveness of specialty crops to include in their State plan subject to USDA review and approval. We believe that it is preferable to retain a measure of flexibility in the regulations. Including such language in the regulations is not necessary. Accordingly, no change to the regulations is made as a result of this comment.

Reporting and Oversight Requirements

One commenter wanted language added to the rule to indicate the allowance for subgrantees, and whether subgrantees would be subject to the same reporting requirements and financial audit requirements of the applicant as stated previously. The State department of agriculture is responsible for selecting the type of projects that enhance the competitiveness of specialty crops and whether to include subgrantees or not. Retaining a measure of flexibility in the regulations is preferable. As such, the recommended language is not necessary in the regulations. Whether subgrantees are included or not in a project is a matter for a State department of agriculture to decide. The State department of agriculture remains accountable for the project reporting.

Audit Requirements

Four comments were received regarding the requirement to follow Government Auditing Standards as being costly. Two commenters recommended the Single Audit Act should oversee the audit requirement. Two commenters asked for clarification on who would perform the audit, how the audit requirement affected subgrantees, and if the audit was fiscal or performance based. Section 101 (h) of the Specialty Crops Competitiveness Act provides that the State shall conduct an audit of the expenditures of grant funds by the State. The Act further provides that not later than 30 days after the completion of the audit, the State shall submit a copy of the audit to the USDA. Accordingly, the State and not the subgrantee is accountable for audit requirements. Furthermore, under this program, an audit is required to be conducted. Whether the Single Audit Act applies or not to an eligible grantee, audit results must be provided to AMS for the SCBGP grant expenditures. Government Auditing Standards are applicable as provided for under the Act as well as revised OMB Circular A-133,

"Audits of States, Local Governments, and Non-Profit Organizations."

General

One commenter asked for a cost benefit analysis on the SCBGP. The SCBGP is authorized by statute to enhance the competitiveness of specialty crops. We have conducted the required analyses for the rulemaking, which appear as part of this document. The commenter also recommended records be kept for seven years. We disagree. State departments of agriculture will be required to retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP. This is a part of normal business practice and consistent with USDA regulations (7 CFR parts 3015 and 3016).

Finally, we have added for clarity a paragraph (f) to § 1290.9 concerning the three year record retention period.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the AMS had previously submitted this information collection to OMB and obtained approval of this information collection under OMB number 0581-0236.

The information collection requirements in this request are applied only to those State departments of agriculture who voluntarily participate in the SCBGP. The information collected is needed for the implementation of the SCBGP, to determine a State department of agriculture's eligibility in the program, and to certify that grant participants are complying with applicable program regulations. Data collected is the minimum information necessary to effectively carry out the requirements of the program, and to fulfill the intent of Section 101 of the Competitiveness Act of 2004.

State departments of agriculture who wish to participate in the SCBGP will have to submit standard form SF-424, "Application for Federal Assistance", approved under OMB#4040-0004. After receipt of the SF-424, the State department of agriculture will have to submit SF-424B, "Assurances-Non-Construction Programs", approved under OMB#0348-0040 as part of the grant agreement to the AMS. The State department of agriculture will then submit to the AMS 90 days after the expiration date of the grant period SF269 "Financial Status Report (Long Form)", if the project had program income, approved under OMB#0348-

0039, or SF269A "Financial Status Report (Short Form)", approved under OMB#0348-0038.

Completed applications must also include a State plan to show how grant funds will be utilized to enhance the competitiveness of specialty crops.

After approval of a grant application, State departments of agriculture will have to enter into a grant agreement with AMS by reading and signing the grant agreement.

The grant period is not to exceed three calendar years, therefore State departments of agriculture will have to submit to AMS annual performance reports within 90 days after the first year of the grant agreement and within 90 days after the second year of the grant agreement.

If a project goes beyond the grant period, not to exceed three years, a State department of agriculture will have to submit a letter to AMS requesting a grant period extension.

A State department of agriculture will have to submit a final performance report to AMS within 90 days following the expiration date of the grant period.

No later than 60 days after expiration of the grant period, a State will be required to conduct an audit of SCBGP grant funds. An audit report will be required to be submitted to AMS no later than 30 days after completion of the audit.

The SCBGP is expected to accomplish the goal of enhancing the competitiveness of specialty crops.

This program would not be maintained by any other agency, therefore, the requested information will not be available from any other existing records.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The SF forms and State plan can be filled out electronically and printed out for submission or filled out electronically and submitted as an attachment through Grants.gov. The annual performance reports, final performance report, and the audit report/executive summary can be submitted electronically. The grant agreement requires an original signature and can be submitted by mail.

Finally, State departments of agriculture will be required to retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP. This is a part of

normal business practice and consistent with USDA regulations (7 CFR Parts 3015 and 3016).

The estimated one-time cost for all State departments of agriculture in completing the information collection is \$9,980. This total cost was calculated by multiplying the estimated 499 total burden hours by \$20 per hour (a sum deemed reasonable, shall the respondents be compensated for this time).

Comments were invited on the information collection in the April 20, 2006, notice of proposed rulemaking. The deadline for comments ended on June 19, 2006. Five comments were received stating the time estimated to prepare applications and reports is understated because many hours of planning would have to occur before a State department of agriculture could prepare an application that might include multiple projects and subgrantees. AMS recognized that there would be planning involved in the preparation of the information collection and included this time into the average burden hours per response. AMS believes that the burden hours stated in the rule are accurate because the burden hours are based on the average time it takes the 52 State departments of agriculture to complete the information collection requirements.

List of Subjects in 7 CFR Part 1290

Specialty crop block grants, Agriculture, Reporting and recordkeeping requirements.

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

■ 1. A new part 1290 is added to read as follows:

PART 1290—SPECIALTY CROP BLOCK GRANT PROGRAM

Sec.

- 1290.1 Purpose and scope.
- 1290.2 Definitions.
- 1290.3 Eligible grant applicants.
- 1290.4 Eligible grant project.
- 1290.5 Restrictions and limitations on grant funds.
- 1290.6 Completed application.
- 1290.7 Review of grant applications.
- 1290.8 Grant agreements.
- 1290.9 Reporting and oversight requirements.
- 1290.10 Audit requirements.

Authority: 7 U.S.C. 1621 note.

§ 1290.1 Purpose and scope.

Pursuant to the authority conferred by Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note) AMS will make grants to

States to enhance the competitiveness of specialty crops in accordance with the terms and conditions set forth herein and other applicable federal statutes and regulations including, but not limited to, 7 CFR Part 3016.

§ 1290.2 Definitions.

(a) *AMS* means the Agricultural Marketing Service of the U. S. Department of Agriculture.

(b) *Application* means application for Specialty Crop Block Grant Program.

(c) "*Enhancing the competitiveness*" of specialty crops includes, but is not limited to: Research, promotion, marketing, nutrition, trade enhancement, food safety, food security, plant health programs, education, "buy local" programs, increased consumption, increased innovation, improved efficiency and reduced costs of distribution systems, environmental concerns and conservation, product development, and developing cooperatives.

(d) *Grant period* means the period of time from when the grant agreement is signed until the completion of all SCBGP projects submitted in the State plan.

(e) *Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant agreement.

(f) *Outcome measure* means an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(g) *Project* means all proposed activities to be funded by the SCBGP.

(h) *Specialty crop* means fruits and vegetables, tree nuts, dried fruits, and nursery crops (including floriculture).

(i) *State* means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(j) *State department of agriculture* means the agency, commission, or department of a State government responsible for agriculture within the State.

(k) *Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of funds provided.

§ 1290.3 Eligible grant applicants.

Eligible grant applicants are State departments of agriculture from the fifty states, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1290.4 Eligible grant project.

(a) To be eligible for a grant, the project(s) must enhance the competitiveness of specialty crops.

(b) To be eligible for a grant, the project(s) must be completed 3 calendar years after the grant agreement prescribed in § 1290.8 is signed. The grant period is established by the longest approved project submitted in the State plan. However, for cause, an extension of the grant period not to exceed three years may be granted by AMS on a case by case basis with a written request from the State.

§ 1290.5 Restrictions and limitations on grant funds.

(a) Grant funds may not be used to fund political activities in accordance with provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7326).

(b) All travel expenses associated with SCBGP projects must follow Federal Travel Regulations (41 CFR Chapters 300 through 304) unless State travel requirements are in place.

(c) Grant funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

§ 1290.6 Completed application.

Completed applications shall be clear and succinct and shall include the following documentation satisfactory to AMS.

(a) Completed applications must include an SF-424 "Application for Federal Assistance".

(b) Completed applications must also include one State plan to show how grant funds will be utilized to enhance the competitiveness of specialty crops. The state plan shall include the following:

(1) *Cover page.* Include the lead agency for administering the plan and an abstract of 200 words or less for each proposed project.

(2) *Project purpose.* Clearly state the specific issue, problem, interest, or need to be addressed. Explain why each project is important and timely.

(3) *Potential impact.* Discuss the number of people or operations affected, the intended beneficiaries of each project, and/or potential economic impact if such data are available and relevant to the project(s).

(4) *Financial feasibility.* For each project, provide budget estimates for the total project cost. Indicate what percentage of the budget covers administrative costs. Administrative costs should not exceed 10 percent of any proposed budget. Provide a justification if administrative costs are higher than 10 percent.

(5) *Expected measurable outcomes.* Describe at least two discrete, quantifiable, and measurable outcomes that directly and meaningfully support each project's purpose. The outcome measures must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(6) *Goal(s).* Describe the overall goal(s) in one or two sentences for each project.

(7) *Work plan.* Explain briefly how each goal and measurable outcome will be accomplished for each project. Be clear about who will do the work. Include appropriate time lines. Expected measurable outcomes may be long term that exceed the grant period. If so, provide a timeframe when long term outcome measure will be achieved.

(8) *Project oversight.* Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration.

(9) *Project commitment.* Describe how all grant partners commit to and work toward the goals and outcome measures of the proposed project(s).

(10) *Multi-state projects.* If the project is a multi-state project, describe how the States are going to collaborate effectively with related projects. Each State participating in the project should submit the project in their State plan indicating which State is taking the coordinating role and the percent of the budget covered by each State.

§ 1290.7 Review of grant applications.

Applications will be reviewed and approved or rejected as appropriate for conformance with the provisions in § 1290.6. AMS may request the applicant provide for additional information or clarification.

§ 1290.8 Grant agreements.

(a) After review and approval of a grant application, AMS will enter into a grant agreement with the State department of agriculture.

(b) AMS grant agreements will include at a minimum the following:

(1) The projects in the approved State plan.

(2) Total amount of Federal financial assistance that will be advanced.

(3) Terms and conditions pursuant to which AMS will fund the project(s).

§ 1290.9 Reporting and oversight requirements.

(a) An annual performance report will be required of all State departments of agriculture 90 days after the end of the first year of the date of the signed grant

agreement and each year until the expiration date of the grant period. If the grant period is one year or less, then only a final performance report (see paragraph (b) of this section) is required. The annual performance report shall include the following:

(1) Briefly summarize activities performed, targets, and/or performance goals achieved during the reporting period for each project.

(2) Note unexpected delays or impediments as well as favorable or unusual developments for each project.

(3) Outline work to be performed during the next reporting period for each project.

(4) Comment on the level of grant funds expended to date for each project.

(b) A final performance report will be required by the State department of agriculture within 90 days following the expiration date of the grant period. The final progress report shall include the following:

(1) An outline of the issue, problem, interest, or need for each project.

(2) How the issue or problem was approached via the project(s).

(3) How the goals of each project were achieved.

(4) Results, conclusions, and lessons learned for each project.

(5) How progress has been made to achieve long term outcome measures for each project.

(6) Additional information available (e.g. publications, Web sites).

(7) Contact person for each project with telephone number and e-mail address.

(c) A final SF-269A "Financial Status Report (Short Form)" (SF-269 "Financial Status Report (Long Form)" if the project(s) had program income) is required within 90 days following the expiration date of the grant period.

(d) AMS will monitor States, as it determines necessary, to assure that projects are completed in accordance with the approved State plan. If AMS, after reasonable notice to a State, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, AMS may disqualify, for one or more years, the State from receipt of future grants under the SCBGP.

(e) States shall diligently monitor performance to ensure that time schedules are being met, project work within designated time periods is being accomplished, and other performance measures are being achieved.

(f) State departments of agriculture shall retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP.

§ 1290.10 Audit requirements.

The State is accountable for conducting a financial audit of the expenditures of all SCBGP funds. The State shall submit to AMS not later than 30 days after completion of the audit, a copy of the audit results.

Dated: September 6, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

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DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 25**

[Docket No. NM315; Special Conditions No. 25-327-SC]

Special Conditions: Airbus Model A380-800 Airplane; Emergency Exit Arrangement—Outside Viewing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A380-800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding outside viewing from emergency exits. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380-800 airplane.

DATES: *Effective Date:* The effective date of these special conditions is August 28, 2006.

FOR FURTHER INFORMATION CONTACT:

Holly Thorson, FAA, International Branch, ANM-116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (425) 227-1357; facsimile (425) 227-1149.

SUPPLEMENTARY INFORMATION:**Background**

Airbus applied for FAA certification/validation of the provisionally-designated Model A3XX-100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the technical challenges, complexity, and the number of new and novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR-100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE-A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380-800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380-800 airplane, and no changes are required based on the new application date.

The Model A380-800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380-800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380-800 airplane because of novel or unusual design features, special

conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380-800 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93-574, the "Noise Control Act of 1972."

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101.

Discussion of Novel or Unusual Design Features

Emergency evacuations are generally associated with adverse conditions, such as a fire outside the airplane. Because those adverse conditions may pose an immediate threat to the occupants of the airplane, it is often necessary to avoid opening emergency exits that would otherwise be usable. For this reason, it would be extremely useful to have a viewing window or other means of assessing the outside conditions to determine whether to open a particular emergency exit.

The regulations governing the certification of the A380 do not adequately address a full-length double deck airplane in terms of the exit of passengers in an emergency and a viewing window or other means of assessing the outside conditions to determine whether to open an emergency exit. Therefore, special conditions are needed to ensure that each emergency exit has a means to permit viewing of the conditions outside the exit when the exit is closed. These special conditions are based upon Notice of Proposed Rulemaking (NPRM) 96-9 and Amendment 25-116, effective November 26, 2004, which adopted a similar requirement into § 25.809(a).

Discussion of Comments

Notice of Proposed Special Conditions No. 25-05-10-SC, pertaining to Emergency Exit Arrangement—Outside Viewing, was published in the **Federal Register** on