

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1437

RIN 0560-AI06

#### Noninsured Crop Disaster Assistance Program

**AGENCY:** Commodity Credit Corporation and Farm Service Agency, USDA.

**ACTION:** Interim Rule.

**SUMMARY:** The Commodity Credit Corporation (CCC) is amending the regulations for the Noninsured Crop Disaster Assistance Program (NAP) to conform with policies implemented under the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The amendments concern requirements for coverage of native sod, increases in service fees, the multiple benefits limitation of the program, payment and income limitations, and eligibility for aquaculture losses caused by drought. Also, the rule makes clarifying amendments regarding the eligibility of wheat, barley, oats, or triticale acreage used for grazing and regarding the eligibility of tropical crops for benefits. The rule also clarifies the eligibility requirements for coverage in tropical regions. The amendments in this rule have already been implemented administratively.

**DATES:** This rule is effective on April 9, 2013.

Comments on this rule must be received on or before June 10, 2013.

**ADDRESSES:** We invite you to submit comments on this interim rule. In your comment, please specify RIN 0560-AI06 and include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by either of the following methods:

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

- **Mail:** Steve Peterson, Branch Chief; Disaster Assistance Branch; Production, Emergencies, and Compliance Division; Farm Service Agency; U.S. Department of Agriculture, Mail Stop 0517, 1400 Independence Avenue SW, Washington, DC 20250-0517.

Comments may be inspected on [www.regulations.gov](http://www.regulations.gov) and at the mail address listed above, in Room 4746-S, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this interim rule is available through the Farm Service Agency (FSA) home page at <http://www.fsa.usda.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Steve Peterson; telephone (202) 720-5172. Persons with disabilities or who require alternative means for communications should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

#### SUPPLEMENTARY INFORMATION:

##### Background

NAP is operated by FSA for CCC under the authority section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333). Section 196 requires that the Secretary of Agriculture operate NAP to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)). NAP coverage is limited to crops that are commercial or agricultural in nature and for which crop insurance is not available. Qualifying losses must be due to drought, flood, or other natural disaster, as determined by the Secretary.

NAP provides financial assistance to producers of “noninsurable crops” when low yields, loss of inventory, or prevented planting occur due to natural disasters. “Noninsurable crops” means, in this instance, crops not covered by the crop insurance program operated by the Risk Management Agency (RMA) of USDA.

NAP coverage is not automatic; producers must apply for NAP and pay a service fee at their FSA county office to obtain coverage. NAP covers the amount of loss greater than 50 percent of expected production.

The 2008 Farm Bill (Pub. L. No. 110-246) made a number of NAP changes that were then implemented by FSA administratively. These amendments are required by sections 1206, 12020,

12027, 12028, 12033, and 15101 of the 2008 Farm Bill. This rule amends the regulations to be consistent with the 2008 Farm Bill and also makes other clarifying changes.

#### Payment and Income Limitation Changes

The general payment limit of \$100,000 per participant per year is unchanged by the 2008 Farm Bill, but certain definitions are amended. Specifically, prior to the 2008 Farm Bill, a “person” could include some types of legal entities, while the 2008 Farm Bill defines a “person” as an individual, natural person and not a legal entity. Also, the adjusted gross income limit for NAP eligibility is changed by the 2008 Farm Bill for the 2009 and subsequent crop years such that a person or legal entity with an average adjusted gross nonfarm income that exceeds \$500,000, or an average adjusted gross farm income that exceeds \$750,000, is ineligible to receive NAP benefits. Similar changes required by the 2008 Farm Bill were already made for other FSA and CCC programs in separate rulemakings. Prior to 2009, there was also a \$2 million eligibility-for-payments cap tied to adjusted gross revenue (as opposed to adjusted gross income) for NAP. That cap is removed with the 2008 Farm Bill, and is therefore removed in this rule. This rule amends the regulations to be consistent with the 2008 Farm Bill; the payment and income limitations as specified have already been implemented administratively.

#### Native Sod Requirements

The 2008 Farm Bill includes new native sod provisions. Under those provisions, the Governor of a State in the Prairie Pothole National Priority Area (specific counties within the States of Iowa, Minnesota, Montana, North Dakota, and South Dakota) may “elect” that native sod acreage that is tilled for the production of an annual crop will be ineligible for Federal crop insurance and for NAP benefits during the first 5 crop years of planting that annual crop. The NAP regulations are being amended accordingly to add those provisions, as required by the 2008 Farm Bill. So far, no Governor has made that election. This rule also adds a definition of “native sod,” consistent with the 2008 Farm Bill.

### Eligible Aquaculture Drought Losses

This rule amends the regulations to reflect that, as specified 2008 Farm Bill, drought losses will be covered for aquaculture. Before the 2008 Farm Bill, that coverage was not available and those losses were therefore ineligible for payment.

### Service Fee Increase

The 2008 Farm Bill also provides for increased NAP service fees. Those increased fees have been implemented administratively. The rule amends the regulations to reflect the increased fees.

### Multiple Benefits Exclusion

FSA programs generally have a provision prohibiting producers from receiving payments from multiple programs for the same loss. However, most of the FSA disaster assistance programs authorized by the 2008 Farm Bill have an eligibility requirement that the applicant must have obtained crop insurance for all crops for which coverage was available, or NAP coverage if crop insurance was not available. If such coverage was not obtained, then the applicant may not be eligible for those disaster assistance programs. FSA has determined, therefore, that such programs were not intended to be covered by the general exclusion on multiple benefits as specified in the 2008 Farm Bill. Those provisions specify that NAP payments cannot be received for losses covered by other programs. However, applying the multiple benefits exclusion in the case of NAP coverage and disaster benefits would be meaningless or produce results that were not intended. The program has been operated accordingly and this rule amends the regulations to specifically exclude the permanent disaster assistance program benefits from the limitation on multiple benefits. Also, the amended regulations specify, consistent with actual practice, that certain FSA emergency loans are not considered multiple benefits and thus are not subject to the multiple benefit exclusion in the 2008 Farm Bill provisions that apply to NAP.

### Grazed Acreage Ineligible for NAP—Conforming Change

This rule amends the regulations to reflect the 2008 Farm Bill provision that specifies that grazed-out wheat, barley, oats, or triticale crop acreage is ineligible for NAP payments. The ineligibility is for land where the producer has applied for grazing payments in lieu of a Loan Deficiency Payment (LDP) under other provisions of the 2008 Farm Bill. This limit is also

addressed in the current LDP regulations.

### Miscellaneous Clarifying Changes

This rule also makes certain clarifying changes. This rule amends § 1437.9, “Causes of Loss,” to specify that inadequacy of irrigation as a condition for crops other than tree crops and perennials will be measured at the time of planting, not the beginning of the crop year. This amendment is made to more precisely test the cause of loss and reflects current policy since the lack of irrigation could not have been the source of the loss if there was water available at the time of planting (irrespective of whether there was or was not water available earlier in the crop year).

This rule amends § 1437.301 “Value Loss,” and § 1437.305, “Ornamental Nursery,” to reflect changes in the definition of the period of time that constitutes a particular crop year for ornamental nursery. The change conforms with RMA crop insurance policy, consistent with the general purpose of NAP to supplement RMA coverage. That goal is facilitated by adopting similar policies for issues that appear in both programs. This is a technical change since a loss will be covered irrespective of when the loss occurs and this involves pinpointing the loss to a particular crop year.

This rule amends § 1437.302, “Determining Payments,” to correct cross-references within that section. This rule amends § 1437.105, “Determining Payments for Low Yield,” to correct an error. The correction, which does not reduce payments for producers, corrects how salvage value is used in the calculation of payment.

References to specific tropical regions and former territories are amended throughout subpart F “Determining Coverage in the Tropical Region.” The purpose of the amendments is to clarify eligibility requirements in tropical regions, while continuing to provide flexibility for the Deputy Administrator to determine where specific requirements apply. This rule amends § 1437.501, “Applicability; Definition of ‘Tropical Region’ and Additional Definitions,” to remove references to specific former U.S. territories in the definition of “tropical region” and to add a more general reference to other regions as determined by the Deputy Administrator. A parallel amendment is made to § 1437.504 “Notice of Loss for Covered Tropical Crops” to remove a reference to specific former territories. These amendments clarify that the requirements to document specific losses in former territories only apply if

the Deputy Administrator has determined that those regions are eligible tropical areas.

Section 1437.503, “Covered Losses and Recordkeeping Requirements for Covered Tropical Crops,” is amended to add unspecified other tropical areas to the list of tropical regions for which the causes of loss (including value loss, prevented planting, and low yield) are the same as those as specified for non-tropical crops in § 1437.9. The previous regulation covers only hurricanes, typhoons, and named tropical storms for these tropical regions, except as otherwise approved by the Deputy Administrator. This change reflects that the Deputy Administrator has routinely approved prevented planting, low yield, and other common losses in current U.S. territories and possessions, including Guam, American Samoa, and the Northern Mariana Islands, that are not specified in § 1437.503.

This rule amends § 1437.505, “Application for Payment for the Tropical Region,” to add Guam, American Samoa, and the Northern Mariana Islands to the list of tropical regions for which producers are required to file an application for payment by the later of the date on which the notice of loss is filed or the date of the completion of harvest for the specific crop acreage that existed at the time of loss for which the notice of loss was filed. Previously, the current regulation, absent a waiver, required producers in Guam, American Samoa, and the Northern Mariana Islands to file an application for payment at the same time as the filing of the notice of loss because it was anticipated that the eligible causes of loss (hurricanes, typhoons, and named tropical storms in those areas) would reflect a 100 percent loss. Therefore, it made sense, and was cost efficient, to have the application for payments and verification made at the same time that the loss occurred. That is not necessarily the case for the common loss causes added with this rule. Losses may increase in the period after the actual disaster. This change will allow producers of tropical crops in those regions to file an application for payment upon completion of harvest in the case of low yield due to common loss causes as amended in § 1437.503.

Of a more general nature, the previous regulations provided that, except as may be further limited by the Deputy Administrator, the tropical areas that would be covered would include certain former territories of the United States. The “except as may be further limited” language was provided to leave open the actual eligibility of losses in those areas. This rule provides greater clarity by not

listing these specific areas as eligible “except as limited,” but instead referring generally to other areas that may be eligible. This makes it clearer that tropical areas not specifically listed are eligible only if determined by the Deputy Administrator.

NAP eligibility in the former territories requires a flexible approach by FSA, in consultation with RMA. Generally NAP is authorized to provide coverage in those places in which RMA crop insurance is not available. Under the RMA statutory authority, crop insurance could theoretically be made available in the territories and possessions of the United States and in certain former territories. However, RMA crop insurance is generally made available for crops that have a certain history and market presence. Because of those requirements, crop insurance is generally unavailable outside the 50 States and Puerto Rico on that ground (lack of history and market presence) rather than necessarily on a determination not to extend coverage to a geographical region. Should there be a request for NAP coverage outside those areas covered by RMA, FSA would have to consider whether RMA coverage would, if the conditions were otherwise appropriate, be made available in those areas. The regulations, as clarified, leave out specific references to the former territories and generally leave the scope of coverage in the former territories to the Deputy Administrator to determine or reconsider in light of the considerations noted above and in consultation with RMA as appropriate. That is, the regulations are designed to provide the Deputy Administrator with flexibility on that issue.

#### Notice and Comment

In general, the Administrative Procedures Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. Such notice is not required when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

This rule implements provisions of the 2008 Farm Bill for which FSA has no discretion, and makes minor clarifications that are consistent with existing policy and implementation. Therefore, FSA finds that it would be impractical and contrary to the public

interest to delay the effective date of this rule. All of the provisions in this rule have already been implemented administratively and all of the substantive changes are required by law. The points of clarification, which are not required by the 2008 Farm Bill, should not have an adverse impact on producers and are merely a restatement of current policy or of current rules. By issuing these regulations as an interim rule, FSA provides an opportunity for the public to comment. FSA will consider those comments to determine if further change or clarification is needed or to the extent that a commenter disagrees with the assessment of what statutory law requires with respect to the operation of the program.

#### Executive Orders 12866 and 13563

Executive Order 12866, “Regulatory Planning and Review,” and Executive Order 13563, “Improving Regulation and Regulatory Review,” direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, “Regulatory Planning and Review,” and therefore has not reviewed this rule.

#### Clarity of the Regulations

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this interim rule, we invite your comments on how to make it easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?

- What else could we do to make the rule easier to understand?

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other law, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. FSA has determined that this rule will not have a significant impact on a substantial number of small entities. Provisions in this rule would not impact a substantial number of small entities to a greater extent than large entities. Limited resource farmers and ranchers will continue to be exempt from the service fees specified in this rule. Consequently, FSA has not prepared a regulatory flexibility analysis.

#### Environmental Review

FSA has determined that the provisions identified in this interim rule are administrative in nature, intended to improve the effectiveness and efficiency of the program without changing the basic scope of goals and does not constitute a major Federal action that would significantly affect the quality of the human environment. Therefore, consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799), no environmental assessment or environmental impact statement will be prepared.

#### Executive Order 12372

Executive Order 12372, “Intergovernmental Review of Federal Programs,” requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons set forth in the Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires

intergovernmental consultation with State and local officials.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, "Civil Justice Reform." The provisions of this rule will have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with such provision or which otherwise impede their full implementation. However, it is not expected that with respect any current laws that there will be any such conflict. The rule will not have retroactive effect. Before any judicial action may be brought regarding this rule, all administrative remedies must be exhausted.

#### Executive Order 13132

This rule has been reviewed under Executive Order 13132, "Federalism." The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 imposes requirements on the development of regulatory policies that have Tribal implications or preempt Tribal laws. The policies contained in this rule do not, to our knowledge, preempt Tribal law. This rule was included in the October through December, 2010, Joint Regional Consultation Strategy facilitated by USDA that consolidated consultation efforts of 70 rules from the 2008 Farm Bill. USDA sent senior level agency staff to seven regional locations and consulted with Tribal leadership in each region on the rules. No issues about this rule were raised during that consultation. FSA will continue to respond in a timely and meaningful manner to all Tribal government requests for Tribal consultation about this rule and its implementation and will provide additional avenues, such as webinars and teleconferences, as requested, for collaborative conversations with Tribal leaders and their representatives about ways to improve this program and rule in Indian Country.

#### Unfunded Mandates Reform Act of 1995 (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104-4) requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### Federal Assistance Programs

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, is: Noninsured Assistance 10.451.

#### Paperwork Reduction Act of 1995

The amendments to 7 CFR part 1437 in this interim rule require no new information collection or changes to the currently approved information collection under OMB control number 0560-0175.

#### E-Government Act Compliance

CCC is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### List of Subjects in 7 CFR part 1437

Agricultural commodities, Crop insurance, Disaster assistance, Fraud, Penalties, Reporting and recordkeeping requirements.

For the reasons discussed above, 7 CFR part 1437 is amended as follows:

#### PART 1437—NONINSURED CROP DISASTER ASSISTANCE PROGRAM

■ 1. The authority citation for part 1437 is revised to read as follows:

**Authority:** 7 U.S.C. 1501–1508 and 7333; 15 U.S.C. 714–714m; 19 U.S.C. 2497, and 48 U.S.C. 1469a.

#### Subpart A—General Provisions

■ 2. Amend § 1437.3 by adding, in alphabetical order, a definition for "native sod" to read as follows:

#### § 1437.3 Definitions.

\* \* \* \* \*

*Native sod* means land on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and that has not been tilled for the production of an annual crop as of June 18, 2008.

\* \* \* \* \*

■ 3. Amend § 1437.4 by adding paragraphs (c), (d), and (e) to read as follows:

#### § 1437.4 Eligibility.

\* \* \* \* \*

(c) Except as specified in paragraph (d) of this section, the Governor of a State in the Prairie Pothole National Priority Area (Iowa, Minnesota, Montana, North Dakota, and South Dakota) may specify that native sod acreage that is tilled for the production of an annual crop will be ineligible for NAP benefits during the first 5 crop years of planting.

(d) If the producer's total native sod acreage is 5 acres or less, the eligibility restrictions for native sod specified in paragraph (c) of this section will not apply.

(e) Wheat, barley, oats, or triticale crop acreage subject to an application for grazing payments under the program specified in part 1421, subpart D of this chapter, or successor program, is ineligible for NAP payments.

#### § 1437.6 [Amended]

■ 4. Amend § 1437.6(b), as follows:

■ a. Remove the amount "\$100", and add the amount "\$250", in its place;

■ b. Remove the amount "\$300", and add the amount "\$750", in its place; and

■ c. Remove the amount "\$900", and add the amount "\$1875", in its place.

#### § 1437.9 [Amended]

■ 5. Amend § 1437.9 as follows:

■ a. In paragraph (e)(6), remove the words "the beginning of the crop year" and add the words "time of planting", in their place, and

■ b. In paragraph (e)(7), remove the words "A loss" and add the words "Except as specified in § 1437.303, a loss", in their place.

■ 6. Revise § 1437.13(b) to read as follows:

#### § 1437.13 Multiple benefits.

\* \* \* \* \*

(b) The limitation on multiple benefits specified in paragraph (a) of this section will not apply to:

(1) Emergency Loans made under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961–1970).

(2) Supplemental Revenue Assistance Payments Program (SURE) payments as specified in part 760 of this title,

(3) Livestock Forage Disaster Program (LFP) payments as specified in part 760 of this title,

(4) Tree Assistance Program (TAP) payments as specified in part 760 of this title, or

(5) Emergency Assistance for Livestock, Honeybees, and Farm-Raised Fish Program (ELAP) payments as specified in part 760 of this title.

\* \* \* \* \*

■ 7. Amend § 1437.14 as follows:

■ a. Revise paragraphs (a) and (b) introductory text; and

■ b. Remove paragraph (d).

The revisions read as follows:

**§ 1437.14 Payment and income limitations.**

(a) The provisions of part 1400 of this title apply to NAP.

(b) For the 2008 and earlier crop years for which NAP was authorized, NAP payments will not be made to a person who has qualifying gross revenues in excess of \$2 million for the most recent tax year preceding the year for which assistance is requested. Qualifying gross revenue means:

\* \* \* \* \*

**Subpart B—Determining Yield Coverage Using Actual Production History**

■ 8. Revise § 1437.105(a)(6) to read as follows:

**§ 1437.105 Determining payments for low yield.**

(a) \* \* \*

(6) Adding the producer's share of any salvage value and secondary use and subtracting the result from the result of paragraph (a)(5) of this section.

\* \* \* \* \*

**Subpart D—Determining Coverage Using Value**

■ 9. Revise § 1437.301(b) to read as follows:

**§ 1437.301 Value loss.**

\* \* \* \* \*

(b) The crop year for all value loss crops, except ornamental nursery as specified in § 1437.305, is October 1 through September 30.

\* \* \* \* \*

■ 10. Amend § 1437.302 as follows:

■ a. In paragraph (b), remove the reference to “(a)(1)” and add a reference to “(a)” in its place;

■ b. In paragraph (c), remove the reference to “(a)(2)” and add a reference to “(b)” in its place;

■ c. In paragraph (d), remove the reference to “(a)(3)” and add a reference to “(c)” in its place;

■ d. Revise paragraph (e); and

■ e. Remove paragraph (f).

The revision reads as follows:

**§ 1437.302 Determining payments.**

\* \* \* \* \*

(e) Subtracting the result from paragraph (d) of this section from the producer's share of any salvage value, if applicable.

■ 11. Amend § 1437.303 by adding paragraph (f) to read as follows:

**§ 1437.303 Aquaculture, including ornamental fish.**

\* \* \* \* \*

(f) If all other eligibility provisions of this part are determined by FSA to be satisfied, assistance will be provided to producers for eligible NAP aquaculture crop losses that are the direct result of drought.

■ 12. Amend § 1437.305 by adding paragraph (g) to read as follows:

**§ 1437.305 Ornamental nursery.**

\* \* \* \* \*

(g) For the 2010 and subsequent crops, the crop year for ornamental nursery is June 1 through May 31.

**Subpart F—Determining Coverage in the Tropical Region**

■ 13. Revise § 1437.501(b)(1) to read as follows:

**§ 1437.501 Applicability; definition of “tropical region” and additional definitions.**

\* \* \* \* \*

(b) \* \* \*

(1) *Tropical region* includes, as may be further limited by the Deputy Administrator: Hawaii, American Samoa, Guam, the U.S. Virgin Islands, Puerto Rico, and the territories and possessions of the United States. Other areas may be included as determined by the Deputy Administrator to be required by law. References to specific areas elsewhere in this subpart will not limit the ability of the Deputy Administrator to limit the geographic scope of this subpart.

\* \* \* \* \*

**§ 1437.502 [Amended]**

■ 14. In § 1437.502(c), remove the amount “\$100.00” and add the amount “\$250” in its place.

**§ 1437.503 [Amended]**

■ 15. Amend § 1437.503, in paragraphs (a) and (b), by removing the words “Hawaii and Puerto Rico” both times they appear and adding, in their place, the words “Hawaii, Puerto Rico, and other areas approved by the Deputy Administrator.”

**§ 1437.504 [Amended]**

■ 16. In § 1437.504(e), remove the words and punctuation “, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau”.

■ 17. Revise § 1437.505 to read as follows:

**§ 1437.505 Application for payment for the tropical region.**

(a) For producers of covered tropical crops, except as specified in paragraph (b) of this section or approved in individual cases by the Deputy Administrator, an application for payment must be filed at the same time as the filing of the notice of loss required under §§ 1437.10 and 1437.504.

(b) For producers in Puerto Rico, Hawaii, Guam, American Samoa, and the Northern Mariana Islands, an application for payment for such crops must be filed by the later of:

(1) The date on which the notice of loss is filed in accordance with §§ 1437.10 and 1437.504, or

(2) The date of the completion of harvest for the specific crop acreage that existed at the time of loss for which the notice of loss was filed.

Signed on April 2, 2013.

**Candace Thompson,**

*Acting Executive Vice President, Commodity Credit Corporation, and Acting Administrator, Farm Service Agency.*

[FR Doc. 2013–08168 Filed 4–8–13; 8:45 am]

BILLING CODE 3410–05–P

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 240**

[Docket No. R–1428]

RIN 7100–AD 79

**Retail Foreign Exchange Transactions (Regulation NN)**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System (“Board”) is adopting a final rule to permit banking organizations under its supervision to engage in off-exchange transactions in