

which supports the expenditure and shall be made available to the FAS upon request.

(4) Participants shall maintain all records and documents relating to TASC projects, including the original documentation which supports reimbursement claims, for a period of three calendar years following the expiration or termination date of the program agreement. Such records and documents will be subject to verification by the FAS Compliance Review Staff and shall be made available upon request to authorized officials of the U.S. Government. The FAS may deny a claim for reimbursement if the claim is not supported by acceptable documentation.

(5) In the event that a reimbursement claim is overpaid or is disallowed after payment already has been made, the participant shall return the overpayment amount or the disallowed amount to the CCC within 30 days after realizing the overpayment or receiving notification of the overpayment or disallowed amount.

(b) *Advances.* Participants may request advances of funds, not to exceed 85 percent of the funding approved in any given program year. All advanced funds must be either fully expended or the balance returned by check made payable to the CCC no later than the 90th calendar day following the date of disbursement of the advance to the participant. Upon the expenditure of advance funds, participants must submit reimbursement claims to offset the advance charged to them.

(c) *Interest.* Participants shall deposit and maintain advanced funds in insured, interest-bearing accounts. Interest earned on outstanding advances must be returned by check made payable to the CCC at the time the advance is either fully expended or itself returned.

Dated: July 11, 2003.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 53

[Docket No. 02-048-2]

RIN 0579-AB46

Low Pathogenic Avian Influenza; Payment of Indemnity

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with several changes, an interim rule that amended our general indemnity regulations by allowing the Department to pay indemnity to contract growers and owners for poultry destroyed because of low pathogenic avian influenza associated with a disease situation in Virginia. As amended by this document, payments may also be made for poultry destroyed because of low pathogenic avian influenza associated with a disease situation in Texas. Also, subject to available funding, the Department may pay up to 75 percent of eligible total losses with contract growers being compensated at 100 percent of their losses and the remaining amount being paid to the owner of the flock. Additionally, this document makes eligible for compensation losses due to eggs and semen that were destroyed because of low pathogenic avian influenza associated with the disease situations in Virginia and Texas. These actions are necessary to provide appropriate compensation for losses incurred due to this disease.

EFFECTIVE DATE: July 18, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Cheryl Hall, Staff Veterinarian, National Center for Animal Health Programs, Certification and Control Team, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737-1231; (301) 734-4924.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (the Department) administers regulations at 9 CFR part 53 (referred to below as the regulations) that provide for the payment of indemnity to owners of animals and materials that are required to be destroyed because of foot-and-mouth disease, pleuropneumonia, rinderpest, exotic Newcastle disease, highly pathogenic avian influenza,

infectious salmon anemia, or any other communicable disease of livestock or poultry that, in the opinion of the Secretary of Agriculture, constitutes an emergency and threatens the U.S. livestock or poultry population. Payment for animals destroyed is to be based on the fair market value of the animals.

Payment of Indemnity

Section 53.2 of the regulations authorizes the APHIS Administrator to cooperate with a State in the control and eradication of disease. In an interim rule published in the **Federal Register** on November 4, 2002, and made effective December 9, 2002 (67 FR 67089-67096, Docket No. 02-048-1), we amended the regulations to allow the Department to pay indemnity to contract growers and owners for poultry destroyed because of low pathogenic avian influenza (LPAI) associated with a disease situation in Virginia. We provided that, subject to available funding, the Department may pay all eligible losses of contract growers and up to 50 percent of eligible losses of owners, minus any amount paid to the contract grower of a flock. Additionally, we provided that value of poultry destroyed due to the disease may be determined after destruction and disposal of the poultry, and required, except in limited situations, a waiting period of 7 days following cleaning and disinfection before premises that contained poultry affected by the disease may be restocked.

We solicited comments concerning the interim rule for 30 days ending December 4, 2002. We received 41 comments by that date. They were from poultry and egg producers, poultry federations, a farm bureau federation, a State Department of Agriculture, Federal and State congressional officials, and other members of the public. We have carefully considered all of the comments we received. They are discussed below by topic.

Recommendation That Indemnity Be Paid for a Disease Situation in Texas

In April 2002, birds in a poultry operation in Texas were identified as being affected with the LPAI H5 virus. The disease was subsequently identified in another poultry operation in Texas. All of the affected flocks were depopulated. A number of commenters recommended that indemnity be paid to producers of poultry in Texas for losses incurred from the occurrence of LPAI in that State. Some of the commenters stated that the disease situation in Texas was not as widespread as in Virginia only because Texas producers had been voluntarily taking part in a testing