

that increases in imports of that commodity contributed importantly to the decline in price, the Administrator will certify the group as eligible for trade adjustment assistance.

Upon certification, producers have 90 days to contact the Farm Service Agency (FSA) to apply for assistance. As soon as they apply, they are eligible to receive at no cost a technical assistance package specifically tailored to their needs by the Extension Service. Depending on the commodity and the region, the Extension Service package may include technical publications in print or on-line, group seminars and presentations, and one-on-one meetings. Producers, who receive the technical assistance and also satisfy personal and farm income limits, are eligible for TAA payments. If the funding authorized by Congress is insufficient to pay 100 percent of all TAA claims during the fiscal year, payments will be prorated and issued after June 15, the last possible date for producers to file a TAA application.

Producers may receive adjustment assistance in subsequent years. The Administrator will review and re-certify a petition for a subsequent qualifying year if prices remain at or below the same 80 percent threshold as the initial year of adjustment assistance, and if imports continue to increase and contribute importantly to the decline in prices.

Discussion of Comments

The Foreign Agricultural Service received 76 comments on the proposed rule. The comments focused on the following areas:

Inclusion of Aquaculture in the Program

The inclusion of aquaculture under TAA generated by far the most public comments, all of which were favorable. In fact, 47 respondents supported extending TAA coverage to fishermen of wild Alaska salmon, who face stiff competition from imported farm-raised salmon. Five more respondents proposed covering all fishermen. The rule covers aquaculture, which is defined to include products propagated and raised in controlled environments for the purpose of human consumption, and it covers fishermen whose catch is adversely affected by imported aquaculture products. FAS decided that inclusion of all fishermen under TAA for Farmers would be incompatible with section 143 of the Trade Act of 2002, which directs the Secretary of Commerce to conduct a study and report to Congress regarding whether a trade adjustment assistance program is appropriate and feasible for fishermen.

The Definition of Like or Directly Competitive Articles

Ten respondents favored a less restrictive definition that would recognize imports of some processed and semi-processed articles as directly competitive with the agricultural commodities they produced. The final rule leaves the definition of articles like or directly competitive unchanged. Petitioners, who believe that the definition in the rule is too limiting, may request a public hearing to present evidence supporting their case under § 1580.202. The rule allows the Administrator to evaluate the information provided in the hearing and other information submitted in writing and to amend the terms of the original petition, if warranted.

Impacted Areas

Five respondents supported this provision in the proposed rule allowing producers from impacted areas to file petitions; none opposed. They saw this option as potentially useful to regional producers who might be adversely affected by import competition, while producers nationally might be less affected.

Certification of a Decline in Net Farm Income

Three respondents expressed concern that producers managing diversified farms might not qualify for adjustment assistance payments due to higher earnings from sales of other commodities. The purpose of TAA is to assist producers to adjust to imports by providing technical assistance to all and cash payments to those facing economic hardship. The final rule leaves unchanged the requirement that producers certify to a decline in net farm income, as reported on Internal Revenue Service Schedule F (Form 1040) and Form 4835, in order to receive a cash payment. However, the final rule does exclude TAA payments from being considered part of net farm income in subsequent qualifying years. Otherwise, TAA payments might be the cause for excluding producers from receiving the full benefits of the program.

Window for Receiving Petitions

Two respondents questioned the use of a window for filing petitions. TAA is intended to provide rapid relief to producers. However, funding is limited to \$90 million per fiscal year, which must be prorated among all eligible producers whenever claims exceed this amount, a very real possibility. Waiting until the close of the fiscal year to prorate is inconsistent with providing

rapid relief. The rule therefore seeks middle ground between the intent of the legislation, on the one hand, and the requirement to prorate payments, on the other, by creating a window for filing petitions. The window concentrates the approval of petitions within the first half of the fiscal year. Closing the filing period at the end of January means that all petitions will be determined by mid-March and all applications for TAA benefits will be received by mid-June. The first prorated payments can be made shortly thereafter coincident with the issuance of any final counter-cyclical payments also made to the producer by the Commodity Credit Corporation. Because the total of TAA benefits and counter-cyclical payments are limited to \$65,000 in each fiscal year, issuing TAA benefits at this time will facilitate the application of this payment limitation.

Classes of Agricultural Commodities

One respondent raised the point that the rule does not address classes of goods within a commodity as discussed in section 292(c) of the Trade Act of 1974. The rationale for mentioning classes of commodities the Trade Act is to permit producers to take full advantage of the program by allowing them to define their crop more narrowly than might otherwise be permitted. To that end, the rule requires producers to identify their commodity by its *Harmonized Tariff Schedule of the United States* (HTS) number. This not only facilitates the unambiguous collection of official import data for the commodity, but it also accommodates the major commodity classes, which are often separately identified in the HTS.

List of Subjects in 7 CFR Part 1580

Agricultural commodity imports; reporting and record keeping requirements; and trade adjustment assistance.

Final Rule

■ Accordingly, the regulations chapter XV at title 7 of the Code of Federal Regulations are amended by adding a new part 1580, to read as follows:

PART 1580—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Sec.

1580.101 General statement.

1580.102 Definitions.

1580.201 Petitions for trade adjustment assistance.

1580.202 Hearings, petition reviews, and amendments.

1580.203 Determination of eligibility and certification by the Administrator.