

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1437

RIN 0560-AF23

#### Noninsured Crop Disaster Assistance Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule includes provisions for providing assistance under the Noninsured Crop Disaster Assistance Program (NAP) for: aquacultural species; floriculture; forage; ornamental nursery; seed crops; reseeding or replanting of the same crop; and value loss crops. Amendments include redefining some existing terms and adding new terms and changes of applicability, eligibility, assistance, yield determinations, acreage and production reports, loss requirements, and payments for reduced yields and prevented planting.

**EFFECTIVE DATE:** October 17, 1997.

**FOR FURTHER INFORMATION CONTACT:** Sean O'Neill, Chief, Noninsured Assistance Branch (NAB), Production, Emergencies, and Compliance Division (PECD), Farm Service Agency (FSA), United States Department of Agriculture, STOP 0526, 1400 Independence Avenue, SW, Washington, D.C. 20250-0526; telephone (202) 720-9003.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866 and has been determined to be not significant and therefore has not been reviewed by OMB.

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because neither FSA nor the CCC is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

#### Executive Order 12988

The proposed rule has been reviewed in accordance with Executive Order 12988. The provisions of this proposed rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

#### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

#### Unfunded Mandates

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. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA regulations.

#### Paperwork Reduction Act

**Title:** Noninsured Crop Disaster Assistance Program.

**OMB Control Number:** 0560-0175.

**Expiration Date:** May 31, 1998.

**Type of Request:** Extension and revision of a currently approved information collection.

**Abstract:** The information collected under OMB control number 0560-0175, as identified above, allows CCC to effectively administer noninsured crop disaster assistance authorized by the

Federal Agriculture Improvement and Reform Act of 1996. The information collected allows CCC to provide assistance under the noninsured crop disaster assistance program for losses of commercial crops or other agricultural commodities that are produced for food or fiber. The information collected is necessary to provide those charged with determining eligibility for CCC a basis to determine whether the producer meets applicable conditions for assistance and to determine compliance with existing rules.

**Estimate of Burden:** Public reporting burden for this information collection is estimated to average .2 hours per response.

**Respondents:** Commercial agricultural producers of food or fiber.

**Estimated Number of Respondents:** 1,575,000.

**Estimated Number of Responses per Respondent:** 5.

**Estimated Total Annual Burden on Respondents:** 1,711,250 hours.

**Proposed topics for comment include:**

(a) Whether the continued collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the CCC's estimate of burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility, and clarity of the information collected; or (d) minimizing the burden of the collection of the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, and to Sean O'Neill, Chief, Noninsured Assistance Branch (NAB), Production, Emergencies, and Compliance Division (PECD), Farm Service Agency (FSA), United States Department of Agriculture, STOP 0526, 1400 Independence Avenue, SW, Washington, D.C. 20250-0526. All comments will become a matter of public record.

OMB is required to make a decision concerning the collection(s) of information contained in these proposed regulations between 30 and 60

days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

#### Executive Order 12612

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 will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

#### Federal Assistance Programs

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

#### Background

The regulation reflects changes in existing definitions, additional definitions, eligibility, assistance, yield determinations, acreage and production reporting requirements, loss requirements, and payments for reduced yields and prevented planting. Major changes include:

(1) Section 1437.4 is amended to specify that except for ornamental nursery and species or types and varieties of forage determined by CCC to be predominantly grazed, different species or types and varieties may be treated as separate crops.

(2) Section 1437.5 is amended to include a method for CCC to establish the value of an animal unit day.

(3) Section 1437.7 is amended to specify that CCC will establish expected area yields, or an equivalent measure in the event yield data are not available.

(4) Section 1437.8 is amended to include that, for forage, acreage reports must include the species or type and variety of forage reported, and the intended harvest method, i.e. grazing or mechanically harvested.

(5) Section 1437.9 is amended to require reseeding or replanting where it is practicable.

(6) Section 1437.11 is amended to include payments for losses of forage determined by CCC to be predominantly grazed.

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

Agricultural commodities, Disaster assistance, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, 7 CFR Chapter XIV is amended as set forth below.

### PART 1437—NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 1997 AND SUCCEEDING CROP YEARS

1. The authority citation continues to read as follows:

**Authority:** 15 U.S.C. 714b and 714c and 7 U.S.C. 7333.

1a. Revise the heading for part 1437 to read as set forth above.

2. Revise § 1437.1 to read as follows:

#### § 1437.1 Applicability.

(a) For the 1997 and subsequent crop years, NAP is intended to provide eligible producers of eligible crops with protection comparable to the catastrophic risk protection plan of crop insurance. NAP is also designed to help reduce production risks faced by producers of crops for which Federal crop insurance under the Federal Crop Insurance Act, as amended is not available. NAP will reduce financial losses that occur when natural disasters cause a catastrophic loss of production or prevented planting of an eligible crop. Payment eligibility is based on an expected yield for the area and the producer's approved yield based on actual production history, or a transitional yield if sufficient production records are not available. In the case of forage determined by CCC to be predominantly grazed in accordance with § 1437.7(j), payment eligibility is based on an expected stocking level for the area and unit and the actual number of animals grazed and days grazing occurred. Production for both the applicable area expected yield and the individual producer approved yield for the unit or for forage determined by CCC to be predominantly grazed, area and unit expected stocking level must each fall below specified percentages in order to be eligible for payments under this part.

(b) The provisions contained in this part are applicable to each eligible producer and each eligible crop for which catastrophic coverage is not otherwise available.

3. Amend § 1437.3 to add new definitions for Animal unit, Animal unit day, Carrying Capacity, Floriculture, Grazing days, Ornamental Nursery, Stocking rate, Type and weight range, and Value loss crop, in alphabetical order, and revise existing definitions for Aquacultural species, Average market price, Eligible crop, Forage, Harvested, and Unit to read as follows:

#### § 1437.3 Definitions.

\* \* \* \* \*

*Animal unit (AU)* means an animal with daily energy requirement equating to 15.7 pounds of corn.

*Animal unit day (AUD)* means an expression of an expected or actual stocking rate.

\* \* \* \* \*

*Aquacultural species* means any species of aquatic organism grown as food for human consumption, or fish raised as feed for fish that are consumed by humans, or ornamental fish propagated and reared in an aquatic medium by a commercial operator on private property in water in a controlled environment. Eligible aquacultural species must be seeded in the aquacultural facility and not be growing naturally in the facility and must be planted or seeded in containers, wire baskets, net pens, or similar devices designed for the protection and containment of the seeded aquacultural species.

\* \* \* \* \*

*Average market price* means the price, or dollar equivalent on an appropriate basis for an eligible crop established by CCC for determining payment amounts under NAP; for example, pound, bushel, ton, and AUD (for forage determined by CCC to be predominantly grazed). Such price will be on a harvested basis without the inclusion of transportation, storage, processing, packing, marketing or other post-harvest expenses and will be based, in part, on historical data.

*Carrying Capacity* means the stocking rate, as determined by CCC, expressed as acres per animal unit (AC/AU) or reciprocal, which is consistent with maintaining or improving vegetation or related resources.

\* \* \* \* \*

*Eligible crop* means an agricultural commodity for which catastrophic coverage is not available and which is commercially produced for food or fiber as specified in this part. Eligible crop will also include floriculture, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops. In the case of a crop that historically has multiple plantings in the same crop year that are planted or are prevented from being planted, each planting may be considered a different crop for determining payments under this part as determined by CCC. In the case of a crop, except for forage determined by CCC to be predominantly grazed, that has different varieties or types, each variety or type may be considered a separate crop for determining payments under this part, if CCC determines there

is a significant difference in price or yield between the varieties or types.

\* \* \* \* \*

**Floriculture** means cut flowers or similar products of annual and perennial flowering plants grown under glass, fiberglass and other rigid plastics, film plastic, shade cloth, natural shade, other shade, and outdoor in a container or controlled environment for commercial sale.

**Forage** means land covered with grass or other similar herbaceous vegetation not of a woody plant species, produced under such range management practices as are necessary to sustain sufficient quality and quantity of grass or similar vegetation each year to be suitable for grazing or mechanical harvest to feed livestock in a commercial operation. NAP benefits for forage produced on Federal or State owned lands are available only for seeded forage.

\* \* \* \* \*

**Grazing days** means the number of days used in the calculation of the carrying capacity for each forage species or type or variety determined by CCC to be predominantly grazed.

**Harvested** means a single harvest crop is considered harvested when the producer has, by hand or mechanically, or by grazing of livestock, removed the crop from the field. Crops with multiple harvests in 1 year or harvested over multiple years are considered harvested when the producer has, by hand or mechanically removed at least one mature crop from the field. The mechanically harvested crop is considered harvested once it is removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not. Grazing is not considered harvesting for the purpose of determining an unharvested or prevented planting payment factor.

\* \* \* \* \*

**Ornamental Nursery** means decorative plants grown in a container or controlled environment for commercial sale.

\* \* \* \* \*

**Stocking rate** means the number of animal units grazing or utilizing specific crop acreage for a specific number of days, expressed as animal unit days.

**Type and weight range** means the identification of animals according to the daily energy requirement, as determined by CCC, necessary to provide the daily maintenance ration, as determined by CCC, of the specific animal.

\* \* \* \* \*

**Unit** means, for NAP, all acreage of the eligible crop or for ornamental nursery, all eligible plant species and sizes except plant species or sizes for which catastrophic coverage is available, in the county for the crop year:

(1) In which the person has 100 percent crop share; or

(2) Which is owned by one person and operated by another person on a share basis.

**Value loss crop** means ornamental nursery, Christmas trees, aquaculture, or other crops as determined by CCC that, due to their unique nature do not lend themselves to yield calculations or expected yield loss situations. Eligibility for a crop categorized as value loss shall be determined based on a loss of value at time of disaster, as determined by CCC.

4. Amend § 1437.4 to revise the second sentence of paragraph (a) and paragraph (b)(10) to read as follows:

#### § 1437.4 Eligibility.

(a) \* \* \* Except for ornamental nursery and species or type or variety of a species of forage determined by CCC to be predominantly grazed, different types or varieties of a crop or commodity, may be treated as a separate eligible crop, if CCC determines there is a significant difference in price or yield.

(b) \* \* \*

(10) Seed crops, where the propagation stock is commercially produced for sale as seed stock for other eligible NAP crop production; and

\* \* \* \* \*

5. In § 1437.5 add paragraph (f) to read as follows:

#### § 1437.5 Assistance.

\* \* \* \* \*

(f) Animal Unit Day value will be established by CCC on the basis of a 5 year national average corn price per pound, as determined by CCC, and the daily energy requirement of one beef cow, as determined by CCC.

6. Amend § 1437.7 to revise the first sentence of paragraph (a) and add paragraphs (k) and (l) to read as follows:

#### § 1437.7 Yield determinations.

(a) CCC will establish expected area yields or an equivalent measure in the event yield data are not available, for eligible crops for each county or area for which the NAP is available, using available information, which may include, but is not limited to, National Agricultural Statistics Service data, Cooperative State Research, Education, and Extension Service records, Federal Crop Insurance Corporation data, credible nongovernment studies, yields

in similar areas, and reported approved yield data. \* \* \*

\* \* \* \* \*

(k) Prior to the beginning of the crop year, CCC in its own discretion will with respect to forage:

(1) Identify each species or type and variety of forage found in the county;

(2) Categorize each species or type and variety of forage identified as either:

(i) Predominantly mechanical harvested, or

(ii) Predominantly grazed;

(3) Establish a carrying capacity for each forage species or type and variety identified and determined by CCC to be predominantly grazed;

(4) Determine total acreage of forage determined by CCC to be predominantly grazed; and

(5) Calculate expected Animal Unit Day by dividing the total acres of forage in the county categorized by CCC as predominantly grazed by the approved carrying capacity and multiplying the result by the number of days of grazing used to determine the carrying capacity.

(l) In the event CCC receives a notice of loss of forage determined by CCC to be predominantly grazed, CCC will:

(1) Calculate utilized Animal Unit Day by dividing the total acres of forage reported to FSA determined by CCC to be predominantly grazed by the reported number of animal units grazed and multiplying the result by the number of days grazing occurred;

(2) Subtract the value of supplemental feed fed to the grazing livestock during the grazing period from the value of the utilized Animal Unit Day, as determined by CCC;

(3) Determine area utilization by dividing total area utilized Animal Unit Day by the expected Animal Unit Day; and

(4) Determine unit utilization by dividing the unit utilized Animal Unit Day by the expected unit Animal Unit Day.

7. Amend § 1437.8 to revise paragraph (b)(4) and add paragraphs (e) and (f) to read as follows:

#### § 1437.8 Acreage and production reports.

\* \* \* \* \*

(b) \* \* \*

(4) The crop, practice, intended use, and for forage, the predominant species or type and variety and the intended harvest method, i.e. grazing or mechanical harvest.

\* \* \* \* \*

(e) In lieu of a production report, producers of forage that is predominantly grazed shall, in the crop year in which the producer files a notice of loss, report grazing animals by type

and weight range and the number of days grazing occurred, and the amount and type of feed fed such grazing animals during any grazing period within the crop year.

(f) Animal Unit Day adjustments, as determined by CCC, may be calculated when a producer of forage predominantly grazed, provides adequate evidence, as determined by CCC, that unit forage management and maintenance practices provide different carrying capacity than practices generally provided forage acreage used to calculate the approved county expected carrying capacity.

8. Amend § 1437.9 to revise paragraph (b)(2) to read as follows:

**§ 1437.9 Loss Requirements.**

\* \* \* \* \*

(b) \* \* \*

(2) The failure of the producer to reseed or replant to the same crop in the county where it is practicable to reseed or replant;

\* \* \* \* \*

9. Amend § 1437.11 to revise the introductory text and add paragraph (c) to read as follows:

**§ 1437.11 Payments for reduced yields and prevented planting.**

In the event that the area loss requirement has been satisfied for the crop and:

\* \* \* \* \*

(c) The producer has sustained a loss of forage determined by CCC to be predominantly grazed in accordance with § 1437.7(l), in excess of 50 percent of the producer's expected Animal Unit Day established for the unit, the NAP payment will be determined by:

(1) Dividing the unit acreage for each species or type or variety identified on the unit by the approved carrying capacity and multiplying the result by the corresponding grazing days used as the basis for determination of the carrying capacity, totaling the result for each species or types and varieties.

(2) Multiplying the result of paragraph (c)(1) of this section by 50 percent.

(3) Multiplying the number of animals grazed by the daily allowance of corn according to type and weight range and divide the result by pounds of corn CCC determines is necessary to provide the daily energy requirement for one animal unit.

(4) Multiplying the result of paragraph (c)(3) of this section by the number of days grazing occurred to determine gross actual AUD.

(5) Adding AUD for ineligible causes of loss and incidental mechanically harvested Category 1 forage to the result of paragraph (c)(4) of this section.

(6) Subtracting AUD or equivalent value of supplemental feed fed to the grazing livestock during the crop year from the result of paragraph (c)(5) of this section.

(7) Subtracting the result of paragraph (c)(6) of this section from the result of paragraph (c)(2) of this section. If a zero or negative number results, payment cannot be calculated.

(8) Multiplying the positive result of paragraph (c)(7) of this section by:

(i) For the 1997 through 1998 crop years, 60 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC; or

(ii) For the 1999 and subsequent years, 55 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC.

Signed at Washington, DC, on October 8, 1997.

**Keith Kelly,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 97-27432 Filed 10-16-97; 8:45 am]

BILLING CODE 3410-01-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

RIN 3150-AF73

### Codes and Standards; IEEE National Consensus Standard

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The Nuclear Regulatory Commission is amending its regulations to incorporate by reference IEEE Std. 603-1991, a national consensus standard for power, instrumentation, and control portions of safety systems in nuclear power plants. This action is necessary to endorse the latest version of this national consensus standard in NRC's regulations, and replace an IEEE standard currently endorsed in the NRC's regulations which has been withdrawn by the IEEE.

**EFFECTIVE DATE:** The final rule is effective on January 1, 1998, unless significant adverse comments are received by December 1, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**. The incorporation by reference of IEEE Std. 603-1991 is approved by the Director of the Federal Register as of January 1, 1998.

**ADDRESSES:** Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; Attention: Rulemakings and Adjudications Staff. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

**FOR FURTHER INFORMATION CONTACT:** Satish K. Aggarwal, Senior Program Manager, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 415-6005, Fax (301) 415-5074 (e-mail: SKA@NRC.GOV).

**SUPPLEMENTARY INFORMATION:** NRC considers this rulemaking, which endorses IEEE Std. 603-1991, to be noncontroversial because, as noted in the background discussion, there was no adverse public comment on the regulatory guide endorsing this standard. Accordingly, the Commission finds that public notice and opportunity for comment are unnecessary pursuant to 5 U.S.C. 553(b)(B). Thus, the Commission is publishing this rule in final form without seeking public comments on the amendment in a proposed rule. This action will become effective on January 1, 1998. However, if the NRC receives significant adverse comments by December 1, 1997, then the NRC will publish a document that withdraws this action, and will address the comments received in response to an identical proposed rule which is being concurrently published in the proposed rules section of this **Federal Register**. Any significant adverse comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

### Background

In 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," § 50.55a requires that the protection systems in nuclear power plants meet the requirements set forth in IEEE Std. 279, "Criteria for Protection Systems for Nuclear Power Generating Stations," in effect on the formal docket date of the application. However, IEEE Std. 279 is obsolete, has been withdrawn by IEEE and has now been superseded by IEEE Std. 603-1991, "Criteria for Safety Systems for Nuclear Power Generating Stations."

In November 1995, the NRC staff issued for public comment a draft regulatory guide, DG-1042, which was proposed Revision 1 to Regulatory Guide 1.153, "Criteria for Safety Systems." This draft regulatory guide proposed to endorse IEEE Std. 603-1991