

(B) If $\frac{7}{10}$ bushel containers of grapefruit are marked, the count of fruit in the container shall not be less than the count marked on the container, but may exceed the count marked on the container by not more than 8 percent. When packed in marked containers other than $\frac{7}{10}$ bushel, the pack sizes applicable to $\frac{7}{10}$ bushel containers shall also apply to such containers.

* * * * *

3. Section 906.365 is amended by revising paragraphs (a)(2) and (a)(4) to read as follows:

§ 906.365 Texas Orange and Grapefruit Regulation 34.

(a) * * *

(2) Such oranges are at least pack size 138 with a minimum diameter limit of $2\frac{9}{16}$ inches;

* * * * *

(4) Such grapefruit are at least pack size 48 with a minimum diameter limit of $3\frac{9}{16}$: *Provided*, That any handler may handle grapefruit smaller than pack size 48, if such grapefruit grade at least U.S. No. 1 and they are at least pack size 56 with a minimum diameter limit of $3\frac{5}{16}$ inches.

* * * * *

Dated: August 26, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99-22666 Filed 8-30-99; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1439

RIN 0560-AF57

Flood Compensation Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule provides relief for a special Flood Compensation Program for farmers in certain counties affected by long-term flooding. Twelve million dollars have been made available from proceeds from a disaster reserve under section 813 of the Agricultural Act of 1970. Another thirty million dollars have been made available using funds under section 1102(c) of the Agriculture, Rural Development, Food and Drug Administration, and Related Appropriations Act, 1999 (1999 Act). Farmers can, subject to certain payment limits, receive payment for the loss of the use of cropland or pastureland in

eligible counties during the period from October 1, 1997 through September 30, 1998. The county must have been declared a disaster area under a Presidential Declaration or Secretarial Designation during a period specified in the rules and land on at least one farm in the county must be cropland or pasture land that was flooded sometime after October 1, 1992. Other limitations also apply. Applicants for assistance must own or have a binding cash lease on the property and have owned it or leased it continuously since October 1, 1997. These rules are designed to address circumstances where changes in bodies of water may have produced widespread losses that might not otherwise generate assistance under other programs. At least \$12 million of the total \$42 million will be reserved for livestock producers because of the special needs of such producers.

DATES: Effective August 26, 1999.

Comments on this rule must be received by September 27, 1999 in order to be assured of consideration. Comments on the information collection must be received by October 25, 1999 in order to be assured of consideration.

ADDRESSES: Comments should be mailed to Diane Sharp, Director, Production, Emergencies, and Compliance Division, Farm Service Agency, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250-0517, telephone (202) 720-7641, e-mail Diane_SSharp@wdc.fsa.usda.gov. Comments may be inspected in the Office of the Director, PECD, Farm Service Agency (FSA), USDA, Room 4752 South Building, Washington, DC, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Helen Smith, at the above address, (202) 720-6601.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule is issued in conformance with Executive Order 12866 and has been determined to be significant and therefore has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Farm Service Agency (FSA) and the Commodity Credit Corporation (CCC) are not 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 environment nor an adverse effect on human health on any population. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this 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 provisions of this rule, 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 Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (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 UMRA.

Paperwork Reduction Act

Information will be collected for the program provided for in this notice. The information collected will be used to operate the Flood Compensation Program. In accordance with the Paperwork Reduction Act, the Commodity Credit Corporation will submit an emergency information collections request to OMB for approval of the Flood Compensation Program reports as necessary for the proper functioning of the program.

Title: Flood Compensation Program.

OMB Control Number: 0560—New.

Type of Request: Request for approval of a New Information Collection.

Abstract: Producers must have land in counties declared a disaster area by a Presidential Declaration or Secretarial Designation during the period January 1, 1997, through August 1, 1998, as a result of damage due to severe flooding or excess moisture in order to be eligible

for benefits. Approval for benefits is contingent upon a determination that due to flooding or excess moisture the land was unfit for crop production, haying, grazing, or other agricultural production at all times during FY 1998. Producers will be required to certify the fields and acres that were unfit for crop production, haying, grazing, or other agricultural production at times during FY 1998 due to the flooding or excess moisture. The information collection will be used to determine the eligibility and amount of assistance. The information collection is essential to eligibility and assistance determinations.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour per response.

Respondents: Producers.

Estimated Number of Respondents: 6,500.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6,500 hours.

Proposed topics for comment include:

(a) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of the information on those who are to respond, including through 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, DC 20503 and to Diane Sharp, Director, Production, Emergencies, and Compliance Division, Farm Service Agency, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue SW, Washington, DC 20250-0517, telephone (202) 720-7641.

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.

Section 1133 of the 1999 Act exempts implementation of section 1102 from public rule-making. Although this rule is based on another authority as well (section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a)), in order to be consistent with the 1999 Act, to allow immediate acceptance of applications, and to assure that relief is made available promptly, this rule is made effective immediately with a 30-day comment period. Further delay would, for the reasons given, be contrary to the public interest. Likewise, to the extent that any statute requires Congressional review prior to implementation, it is determined that delay for such review would be contrary to the public interest.

Background

This interim rule sets forth the terms and conditions of the Flood Compensation Program (FCP) established by the Secretary of Agriculture to be carried out through the Commodity Credit Corporation (CCC) by the Farm Service Agency (FSA) of the Department of Agriculture (USDA). On June 12, 1996, Congress passed a Concurrent Resolution (S. Con. Res. 63), which addresses the Secretary's authority to dispose of commodities held in the disaster reserve established under section 813 of the Agricultural Act of 1970 (7 U.S.C. 1427a). The Concurrent Resolution suggests that the proceeds of the reserve be used for the benefit of livestock producers whose ability to maintain livestock is adversely affected by disaster conditions, such as prolonged drought or flooding. Accordingly, the Secretary designated \$12 million received from the sale of commodities previously held in the disaster reserve to compensate livestock producers whose flooded land was previously used in the production of feed or grazing for livestock.

In addition, section 1102(c) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Pub. L. 105-277) (1999 Act) appropriated funds to the Secretary "to make assistance available to producers on a farm who have incurred multiyear losses (as defined by the Secretary) in the 1998 and preceding crops of a commodity due to disasters." Of that appropriation, the Secretary has designated \$30 million for the FCP established by this subpart.

Accordingly, a total of \$42 million is made available to carry out the FCP.

The rule is designed to focus on counties with generalized flooding problems since 1992, due to, for

example, the expansion of the boundaries of natural bodies of water such as Devil's Lake in North Dakota and Day County and surrounding counties in South Dakota. Such flooding can change the basic character of the land and render the land ineligible for other benefits or for enrollment in programs like the Conservation Reserve Program (CRP). Generalized conditions of that sort can produce tertiary effects in the local community and accordingly, problems such as those in Devil's Lake have been the source of considerable attention and concern with respect to the exercise of discretionary authorities that may be available to the Secretary of Agriculture. The rule is addressed to those situations and is designed to focus on recent losses caused by flooding that may have occurred in the recent past, much as in the generalized disaster program provided for in section 1102 of the 1999 Act. Hence, the regulations set out in this notice would provide compensation to eligible producers whose land was not usable in the period from October 1, 1997 through September 30, 1998. To assure severe enough general conditions to accord with the intent of this program, the rules provide further that a county will be eligible for the program only if the county was declared a disaster area during the period January 1, 1997 through August 1, 1998 due to losses caused by flooding or excess moisture. Also, the county must have been experiencing such losses since 1992 in order to identify places where the problem is a long-term problem, but one that involves increasing losses due to increased flooding.

General Rules for programs of this type are provided in part 1439, which was revised in total by a rule published on March 19, 1999 (64 FR 13497). In the new program, no person, as defined in the applicable regulations, may receive over \$40,000, and no person may receive any payment if that person's gross revenue for 1998, as determined in conformity with the rules, exceeded \$2.5 million. The applicant must be the owner or lessee under a binding lease of cropland or pastureland that was engulfed after 1992, must have owned or leased the land continuously since October 1, 1997 and must still be the owner or lessee of the land. Other restrictions apply as well.

Also, this rule modifies the March 19, 1999 rule that, in addition to providing the general provisions for part 1439, set out specific rules for a general Livestock Assistance Program (LAP). The LAP rule indicated that LAP payments would be in addition to other payments received under other programs. That rule has

been changed in this rule to avoid the possibility of over-compensation for the same losses. Specifically, 1439.101(c) is amended so that, unless otherwise specified in some other authority, there will not be such double payment unless specifically approved for reasons of equity by the agency.

Because livestock producers don't generally have access to the same programs as other producers and because of the concern expressed in the 1996 resolution, at least \$12 million of the total \$42 million provided in the new program set out in this rule will be reserved for persons who, during the time set in the regulations, were livestock producers, even if it becomes necessary to prorate benefits due to claims in excess of available funds. Unadjusted payment rates will be based on the average local rental rates for crop land and pasture land, using, where possible, National Agricultural Statistical Service data.

List of Subjects in 7 CFR Part 1439

Animal feed, Disaster assistance, Flooded land, Livestock programs, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 1439 is amended as follows:

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

1. The authority citation for 7 CFR part 1439 is revised to read as follows:

Authority: 7 U.S.C. 1427a; 15 U.S.C. 714b and 714c; Sec. 1102, Pub. L. 105-277, 122 Stat. 2681.

§ 1439.101 [Amended].

2. Section 7 CFR 1439.101(c) is revised by removing the word "eligible" and adding the phrase "not eligible" in its place.

3. Part 1439 is amended by adding a new subpart entitled "Subpart—1998 Flood Compensation Program (FCP)", to read as follows:

Subpart—1998 Flood Compensation Program

Sec.

- 1439.201 Applicability.
- 1439.202 Administration.
- 1439.203 Definitions.
- 1439.204 Application process.
- 1439.205 County committee determinations of general applicability.
- 1439.206 Eligible producers, eligible land and loss criteria.
- 1439.207 Producer eligibility.
- 1439.208 Calculation of assistance.
- 1439.209 Availability of funds.

Subpart—1998 Flood Compensation Program

§ 1439.201 Applicability.

This subpart sets forth the terms and conditions applicable to the 1998 Flood Compensation Program (FCP). Benefits will be provided to eligible livestock and non-livestock producers in the United States but only in counties where long term flooding occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs as eligible counties.

§ 1439.202 Administration.

This subpart shall be administered as set forth in § 1439.2 of this part.

§ 1439.203 Definitions.

Terms in this part shall have the same meanings as are assigned by those defined in § 1439.3 and § 718.2 of this title. In addition, for purposes of this part and notwithstanding any contrary definitions in this part or part 718:

Application means Form CCC-454, Flood Compensation Program Application. Form CCC-454 is available at county FSA offices.

FCP means the Flood Compensation Program provided for in this part.

FY 1998 means the period from October 1, 1997 through September 30, 1998.

Livestock means beef and dairy cattle, buffalo and beefalo (when maintained in the same manner as beef cattle), sheep, goats, swine, poultry, and equine animals used commercially for human food or kept for the production of food or fiber on the owner's farm.

NASS means The National Agricultural Statistics Service.

§ 1439.204 Application process.

(a) Producers must submit a completed application prior to the close of business on July 2, 1999, or other such date as established by the Deputy Administrator. The application and any supporting documentation shall be submitted to the county office with administrative authority over a producer's eligible flooded land or to the county office that maintains the farm records for the producer.

(b) Producers shall certify as to the accuracy of all the information contained in the application, and provide any other information to CCC that the County Office or Committee deems necessary to determine the producer's eligibility.

§ 1439.205 County committee determinations of general applicability.

(a)(1) County Committees in counties declared or designated a disaster area by a Presidential Declaration or Secretarial

Designation during the period January 1, 1997, through August 1, 1998, because of severe flooding or excessive moisture shall determine whether that county has at least one farm with land used for the production of crops, feed, seed, or other agricultural use prior to October 1, 1992, on which both of the following apply:

(i) Land on the farm that otherwise would have been used for crops or for pasture was inaccessible or incapable of production at all times during FY 1998 due to flooding; and

(ii) Land on the farm has been subject to continuous flooding that began any time during FY 1993 and continued through FY 1998.

(2) In making this determination, the County committee shall use what it considers to be the best information available, including but not limited to: Extension Service, Natural Resources Conservation Service, aerial photography, rainfall data, and general knowledge of losses due to flooding

(b) Having made an affirmative determination under paragraph (a), the county committee shall, if it is also determined that cropland or pastureland in the county was incapable of crop production during FY 1998 because of new or increased continuous flooding that occurred since FY 1992, submit to the Deputy Administrator for Farm Programs, with State Committee concurrence, a memorandum of request for affirmance of the county as an eligible county for purposes of this part. That request shall be accompanied by a copy of applicable notification of disaster declaration or designation, and copies of certification maps and acreage reports from one farm in the county that indicate continuous flooding occurred on the farm that began no later than October 1, 1993. Upon affirmance by the Deputy Administrator or designee after review, the county shall be considered to be an "eligible county" for purposes of this part.

(c) With respect to each eligible county, the county committee for that county shall establish separate payment rates for cropland and pasture land. These rates shall be reviewed by the State Committee and shall be equal to the estimated five-year average for all land of each type in the county. The State Committee may take into account rates established for the Conservation Reserve Program operated under 7 CFR part 1410 and ensure, subject to paragraph (d), that the rates are comparable. The Deputy Administrator shall review and may adjust the rates for reasonableness and consistency.

(d) Except as provided by the Deputy Administrator, payment rates shall be established based on NASS data in the

States for which NASS has established rental rates on a county-by-county basis for 1998.

§ 1439.206 Eligible producers, eligible land, and loss criteria.

(a) The flooded land for which a producer requests benefits must be within the physical boundary of an eligible county. Producers in unapproved counties contiguous to an eligible county may not receive benefits under this subpart.

(b) To be eligible for benefits under this subpart, a producer in an eligible county must have a tract of land that meets all the following criteria:

(1) The land is cropland or pasture land used for the production of feed for livestock (haying, grazing, or feed grain production) or other agricultural use in one or more years during the period beginning October 1, 1991, through September 30, 1997;

(2) The land was inaccessible or unfit for crop production, grazing, or haying because of flooding or excess moisture during all of the period beginning October 1, 1997, through September 30, 1998;

(3) The land has been owned or leased under a binding cash lease by the producer continuously since October 1, 1997;

(4) The land is a contiguous parcel of land with an area equal to one acre or more;

(5) The land was not, except as determined by the Deputy Administrator, the subject of, nor will be the subject of, any other Federal payment for activities or lack of activity during the period October 1, 1997, through September 30, 1998, whether or not disaster-related, with the exception of the production flexibility contract (PFC) program payments received under part 1412 of this chapter. This prohibition includes but is not limited to other payments under this part; the Conservation Reserve Program, part 1410 of this chapter; the Wetlands Reserve Program, part 1467 of this chapter; or any Emergency Watershed Protection Program or Federal Easement Program that prohibits crop production or grazing.

(c) On Form CCC-454 producers shall be required to certify on each farm the number of flooded cropland and non-cropland acres for the farm in 1998 and the number of flooded cropland and non-cropland acres in 1992. To establish the acreage eligible for payment, flooded land certified for 1992 shall be subtracted from the flooded land certified for 1998 for each applicable type. The difference will be the acreages of cropland and non-cropland subject to

flooding and eligible for FCP payment, except that the difference may be adjusted as needed to ensure, to the extent practicable, an accurate estimate of the net increased flooding on the farm after October 1, 1993.

(d) All determinations as to the amount of land eligible for enrollment and compensation under this subpart are subject to approval by the county committee.

(e) The county committee may use any available documentation to make the determinations under paragraphs (b) and (c) of this section, including but not limited to: maps, slides, precipitation data, water table levels and disaster reports.

§ 1439.207 Producer eligibility.

(a) At least \$12 million in payments under this part shall be reserved for livestock producers. For this purpose, a livestock producer is a person who, on the applicable farm, meets the definition of livestock producer set out in § 1439.3 during the period beginning January 1, 1993 and ending with the ending date of the Presidential disaster designation that qualified the county for this program.

(b) Payments under this subpart shall be subject to the provisions of § 1439.1 through § 1439.12, and their successor regulations, except as otherwise provided in this subpart.

(c) No person (as defined and determined under part 1400 of this chapter) may receive more than \$40,000 under this subpart.

(d) No person (as defined and determined under part 1400 of this chapter) will be eligible for payment under this subpart if that person's annual gross receipts for the most recent tax year preceding the crop year for which benefits are requested were in excess of \$2.5 million. That determination shall be made in the manner provided for in § 1439.11.

(e) The following entities are not eligible for benefits under this subpart:

(1) State or local governments or subdivisions thereof; or

(2) Any individual or entity who is a foreign person as determined in accordance with the provisions of § 1400.501 and § 1400.502 of this chapter.

§ 1439.208 Calculation of Assistance.

(a) The unadjusted value of FCP assistance determined with respect to the flooded land in an eligible county for each producer may not exceed the amount obtained by adding paragraphs (b) and (c) of this section.

(b) For each eligible producer with respect to the applicable qualifying

cropland, the established local payment rate for cropland will be multiplied by the number of qualifying acres, as determined by the County Committee in accordance with instructions from the Deputy Administrator.

(c) For each eligible producer with respect to the applicable qualifying non-cropland, the established local payment rate for non-cropland will be multiplied by the number of qualifying acres, as determined by the County Committee in accordance with instructions from the Deputy Administrator.

§ 1439.209 Availability of Funds.

In the event that the total amount of claims submitted under this subpart exceeds the \$42 million appropriated for FCP, each payment shall be reduced by a uniform national percentage except as needed to assure sufficient payment to livestock producers as provided for in this part. Such payment reductions shall be after the imposition of applicable payment limitation provisions.

Signed in Washington, DC, on August 26, 1999.

Parks Shackelford,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99-22626 Filed 8-26-99; 4:24 pm]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 14 and 17

[Docket No. FAA-1998-4379; Amendment No. 14-03, Part 17 (New)]

RIN 2120-AG19

Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes certain corrections to the final rule published in the **Federal Register** on June 18, 1999, (64 FR 32926), which provides regulations for the conduct of protests and contract disputes under the Federal Aviation Administration Acquisition Management System.

DATES: Effective on August 31, 1999.

FOR FURTHER INFORMATION CONTACT: Marie A. Collins, telephone: (202) 366-6400.

SUPPLEMENTARY INFORMATION: This action adds language inadvertently omitted from the final rule, corrects erroneous references to subsections, and