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Subpart B [Reserved]

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SOURCE: 46 FR 28331, May 26, 1981, unless otherwise noted.

Subpart A—Disaster Assistance— General

SOURCE: 53 FR 30384, Aug. 11, 1988, unless otherwise noted.

§ 1945.1 [Reserved]

§ 1945.2 Purpose.

This subpart describes and explains the types of incidents which can result in an area being determined a disaster area, thereby making qualified farmers in such areas eligible for Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 Emergency (EM) loans. With respect to natural disasters, it sets forth the responsibility of the Secretary of Agriculture; the factors used in making a natural disaster determination; the relationship between FmHA or its successor agency under Public Law 103-354 and the Federal Emergency Management Agency (FEMA); the method for establishing and using Emergency Loan Support Teams (ELST) and Emergency Loan Assessment Teams (ELAT); the training of FmHA or its successor agency under Public Law 103-354 personnel; and disaster related public information functions. The natural disaster determinations/notifications

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made under this subpart do not apply to any program other than the FmHA or its successor agency under Public Law 103-354 EM loan program. FmHA or its successor agency under Public Law 103-354's policy is to make EM loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the applicant can execute a legal contract) as provided by law.

§§ 1945.3-1945.4 [Reserved]

§ 1945.5 Abbreviations.

The following abbreviations are used in this subpart.

- (a) ASCS—Agricultural Stabilization and Conservation Service.
- (b) DAR—Damage Assessment Report.
- (c) ELAT—Emergency Loan Assessment Team.
- (d) ELST—Emergency Loan Support Team.
- (e) EM—Emergency.
- (f) EOH—USDA Emergency Operations Handbook.
- (g) FAC—Food and Agriculture Council.
- (h) FCIC—Federal Crop Insurance Corporation.
- (i) FCO—Federal Coordinating Officer.
- (j) FEMA—Federal Emergency Management Agency.
- (k) FmHA—Farmers Home Administration or its successor agency under Public Law 103-354.
- (l) LFAC—Local Food and Agriculture Council.
- (m) NASS—State Statistical Office of the USDA National Agricultural Statistics Service.
- (n) OMB—Office of Management and Budget.
- (o) SBA—Small Business Administration.
- (p) SFAC—USDA State Food and Agriculture Council.
- (q) USDA—United States Department of Agriculture.

§ 1945.6 Definitions.

The following definitions are applicable to this subpart:

- (a) *Applicant*. The person or entity carrying on the farming operation at

the time of the disaster and requesting EM loan assistance from FmHA or its successor agency under Public Law 103-354.

(b) *County*. A local administrative subdivision of a State or a similar political subdivision of the United States.

(1) *Primary county*. A county determined to be a disaster area.

(2) *Contiguous county*. A county that touches a primary county at any point.

(c) *Disaster*. A natural disaster, as determined by the Secretary of Agriculture or the FmHA or its successor agency under Public Law 103-354 Administrator, or a major disaster or emergency declared by the President.

(1) *Major disaster*. Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the "Disaster Relief Act of 1974," above and beyond normal emergency services available from Federal, State and local governments.

(2) *Presidential emergency*. Any hurricane, tornado, storm, flood, high water, wind-driven wave, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which is of such magnitude that the President makes a declaration requiring Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

(3) *Natural disaster*. A disaster in any part of the United States in which unusual and adverse weather conditions or other natural phenomena have substantially affected farmers by causing severe physical property losses and/or severe production losses within a county. Except where otherwise specified, the use of the term county or similar political subdivision is for administrative purposes only.

(i) Unusual and adverse weather conditions or natural phenomena include such things as:

(A) A major single natural occurrence or event such as a blizzard, cyclone, earthquake, hurricane or tornado.

(B) A single storm, or series of storms, accompanied by severe hail, excessive rain, heavy snow, ice and/or high wind.

(C) An electrical storm.

(D) A severe weather pattern over a period of time which, due to excessive rainfall, unusual lack of rainfall, or periods of high or low temperatures, causes flooding, substantial water damage, drought or freezing, or which results in the spreading and flourishing of insects or pests, or in plant or animal diseases spreading into epidemic proportions, or prevents the control of fire, however caused.

(ii) Severe *physical* property losses are those which the Administrator determines prior to a natural disaster determination by the Secretary, to be severe, and to have caused extensive damage to or destruction of, physical farm property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment, and tools; livestock, livestock products; poultry; poultry products; growing crops (see §1945.163(b)(11) of subpart D of part 1945 of this chapter); harvested crops, and supplies which, if not repaired or replaced, would make it impossible for farmers affected by the unusual and adverse weather conditions to continue operating their farms on a sound basis.

(iii) Severe *production* losses within a county are those in which either:

(A) The Secretary determines that there has been a reduction countywide of at least 30 percent of the normal year's dollar value of all crops, including hay and pasture, and the crops could not be replanted or replaced with a substitute crop, or

(B) The Secretary determines that there has been a 30 percent loss countywide in the normal year's dollar value of a single enterprise (as defined in §1945.154(a) of subpart D of part 1945 of this chapter); or

(C) The Secretary, after exercising discretion, determines that, although

the conditions set forth in §1945.6(c)(3)(iii)(A) and (B) of this subpart have not been met, the unusual and adverse weather conditions or natural phenomena have resulted in such significant production losses, or have produced such extenuating circumstances as to warrant a finding that a natural disaster has occurred. In making this determination, the Secretary may request the Administrator to provide for consideration such factors as the nature and extent of production losses; the number of farmers who have sustained qualifying production losses; the number of farmers in that other lenders in the county indicate they will not be in position to finance; whether the losses will cause undue hardship to a certain segment of farmers in the county; whether damage to particular crops has resulted in undue hardship; whether other Federal and/or State benefit programs, which are being made available due to the same disaster, will consequently lessen undue hardship and the demand for EM loans; and any other factors considered relevant. The Secretary will consider the information set forth in §1945.6(i) of this subpart in deciding whether a natural disaster has occurred.

(4) *Potential natural disaster.* Unusual and adverse weather conditions or natural phenomena that have caused physical and/or production losses, but which have not yet been examined by the Secretary or the Administrator for consideration as a natural disaster.

(d) *Disaster area(s).* The county(ies) declared/designated as a disaster area for EM loan assistance as a result of disaster related losses. This included counties named as contiguous to those counties declared/designated as disaster areas.

(e) *Farmers.* Individuals, cooperatives, corporations, partnerships or joint operations who are farmers, ranchers, or aquaculture operators actively engaged in their operation at the time a disaster occurs.

(f) *Incidence period.* The specific date or dates during which a disaster occurred.

(g) *National Office.* The Director, Emergency Designation Staff.

(h) *Normal year's dollar value.* The FmHA or its successor agency under

Public Law 103–354 National Office will determine the normal year's dollar value by establishing a normal year yield and price. Normal year yield will be the average yield of the 5 years immediately preceding the disaster year for each cash crop, including hay and pasture, grown in the county. The price will be the average commodity price for the 36 months immediately preceding the disaster year for each crop. Yields and prices used to establish the value or normal production will be obtained from the NASS. In cases where crops produced and/or prices are not available from NASS, the information will be obtained from other reliable sources. Yields used to establish the disaster year's production will be obtained from DARs which are prepared by the LFACs and SFACs. Prices used to establish the value of disaster year production will be the same as those used to establish normal year values.

(i) *Substantially affected.* A farmer applicant has been substantially affected when there has been a disaster as defined in paragraph (c) of this section, and the applicant has sustained qualifying physical and/or production losses, as defined in §1945.154(a) of subpart D of part 1945 of this chapter.

(j) *Termination date.* The date specified in a disaster declaration/determination/notification which establishes the final date after which EM loan applications can no longer be accepted. For both physical and production losses, the termination date will be 8 months from the date of the disaster declaration/determination/notification.

(k) *United States or State.* Each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[53 FR 30384, Aug. 11, 1988, as amended at 58 FR 26681, May 5, 1993]

§§ 1945.7–1945.17 [Reserved]

§ 1945.18 United States Department of Agriculture (USDA) Food and Agriculture Council (FAC).

There is a USDA FAC established by the Secretary to serve every State and every County in the United States. The