Proposed Rules

Federal Register
Vol. 66, No. 45
Wednesday, March 7, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1439

RIN: 0560–AG33

Livestock Indemnity Program

AGENCIES: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 related to the Livestock Indemnity Program–2000 (LIP–2000). This proposed rule announces the program's availability and requirements and seeks comments on the program.

DATES: Comments on this rule must be received by April 6, 2001. Comments on the information collections in this rule must be received by May 7, 2001.

ADDRESSES: Comments should be mailed to: Sharon Biastock, Price Support Division, Farm Service Agency (FSA), U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, DC, 20250–0540, telephone (202) 720–6336, STOP 0517; e-mail address: sharon_biastock@wdc.fsa.usda.gov. Comments can be inspected in Room 4093 South Building, Washington, DC, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Sharon Biastock, Production, Emergencies, and Compliance Division, Farm Service Agency (FSA), U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, DC, 20250–0540, telephone (202) 720–6336, STOP 0517; e-mail address: *sharon_biastock@wdc.fsa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA is 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 human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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).

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 the provisions of this rule, the administrative remedies must be exhausted.

Unfunded Mandates Reform Act of 1995

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because USDA is 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. Further, in any case, these provisions do not impose any mandates on State, local or tribal governments, or the private sector.

Paperwork Reduction Act

Title: Certification of Livestock Losses For Eligible Disaster.

OMB Control Number: 0560–0179.

Type of Request: Reinstatement and revision of a previously approved information collection.

Abstract: The information previously collected under OMB Control Number 0560–0179, as identified above, is all that is currently required by FSA to meet administrative and statutory requirements for the Livestock Indemnity Program. Information collected from livestock owners will be used by CCC to approve or determine the eligibility and amount of assistance in accordance with this subpart. The CCC considers the information collected essential to prudent eligibility and assistance determinations. Failure to make sound decisions in providing livestock indemnity program payments would result in inaccurate payments to livestock owners and losses to the Government.

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

Respondents: Livestock Owners.

Estimated number of Respondents: 2,000.

Estimated Number of Responses per Respondent: 1.5.

Estimated Total Annual Burden on Respondents: 3,000 hours.

Proposed topics for comment include: (a) Whether the 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 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; or (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 Sharon Biastock, Program Specialist, Compliance Branch, 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) 720–6336.

Background

This proposed rule implements § 813 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. Law 106–387) related to the Livestock Indemnity Program–2000 (LIP–2000). The statute provides that the Secretary of Agriculture (the Secretary) use up to $10 million of the funds of the Commodity Credit Corporation to make livestock indemnity payments to producers on a farm for qualifying livestock losses occurring in the period beginning on January 1, 2000, and ending on December 31, 2000. A Government-Wide rescission of appropriated funds required by the FY 2001 Consolidated Appropriations Bill (Pub. Law 106–554, section 1403) reduces the funds available for by 0.22 percent. Funding available for LIP–2000 is therefore $9.978 million.

Pub. Law 106–387 specifically includes fires and anthrax as compensable losses under the new LIP–2000. LIP–2000 is a new authorization of funds and includes two new causes of disaster loss. However, in authorizing the program, Congress did not make any additional changes to the prior program so that, as proposed, the LIP–2000 will parallel many of the prior LIP program requirements and program parameters.

The losses must be due to disasters or wild fires in areas covered by a qualifying disaster declaration issued by the President or Secretary of Agriculture that was requested for calendar year 2000 and subsequently approved. In addition, the Act specifically requires LIP–2000 to include losses due to anthrax, but because disaster declarations are not issued for such losses, anthrax losses will be compensable without the declaration of a disaster by the Secretary or the President.

As in prior LIP's, losses due to drought will not be covered by the program because these losses are partially preventable by providing adequate shelter, food and water, which would be required to prove actions consistent with proper animal husbandry standards. No person can receive more than $40,000 in payments and no person can receive any payment if that person's annual gross revenue exceeds $2.5 million. Payment rates will vary by class of livestock involved and the payment rate will be a percentage of the assigned market price for the class. Should eligible claims exceed the available funds, the claims will, to the extent practicable, be prorated. Losses will be compensable only to the extent that they were caused by the disaster and were in excess of normal losses for the operation for the particular livestock category involved. This rule also amends the regulations to provide that payments will be made to *livestock owners* who have legal ownership of the livestock and are citizens, or legal resident aliens in, the United States. Previously, payments were made to *livestock producers,* which was defined as one who had a beneficial interest in eligible livestock, had a financial risk in the livestock, and were citizens of, or resident aliens in, the United States.

LIP–2000 is being published at Subpart C of 7 CFR part 1439 (7 CFR 1439.200 *et seq.*). Accordingly, the LIP program for prior years can be found at Subpart C of 7 CFR part 1439 in the Code of Federal Regulations as it existed on January 1, 2001, and the LIP–2000, once adopted as final, will completely replace that subpart. The public is invited to comment on all aspects of LIP–2000.

List of Subjects in 7 CFR Part 1439

Animal feeds, Disaster assistance, Livestock, Pasture, Reporting and record keeping requirements.

For the reasons set out in the preamble, 7 CFR part 1439 is amended as follows:

PART 1439—EMERGENCY LIVESTOCK ASSISTANCE

1. The statutory authority for part 1439 continues to read as follows:

Authority: 7 U.S.C. 1427a; 15 U.S.C. 714 et seq.; Sec. 1103, Pub. Law 105–277, 112 Stat. 2681–42–44; Pub. Law 106–31, 113 Stat. 57; Pub. Law 106–78, 113 Stat. 1135; Pub. Law 106–113, 113 Stat. 1501; Sec. 257, Pub. Law 106–224, 114 Stat. 358; Secs. 802, 806, and 813, Pub. Law 106–387, 114 Stat. 1549.

2. Revise Subpart C of part 1439 to read as follows:

Subpart C—Livestock Indemnity Program

Sec.
1439.201 Applicability.
1439.202 Administration.
1439.203 Definitions.
1439.204 Sign-up period.
1439.205 Proof of loss.
1439.206 Indemnity benefits.
1439.207 Availability of funds.
1439.208 Limitations on payments.

Subpart C—Livestock Indemnity Program

§ 1439.201 Applicability.

(a) This subpart sets forth the terms and conditions applicable to the Livestock Indemnity Program for 2000 (LIP–2000). Benefits will be provided under this subpart only for losses (deaths) of livestock occurring as a result of:

(1) Natural disasters, except drought;

(2) Fires; or

(3) Anthrax.

(b) Losses due to natural disasters and fires (except drought) will be considered eligible for benefits in counties included in the geographic area covered by a qualifying natural disaster declaration, excluding contiguous counties, issued by the President of the United States or the Secretary of Agriculture of the United States which declaration was requested and approved for the period of January 1, 2000, through December 31, 2000, inclusive.

(c) A Presidential declaration or Secretarial designation is not required for losses due to anthrax.

(d) Owners will be compensated by livestock category as established by CCC. The owner's loss must be the result of the declared disaster or anthrax and in excess of the normal losses, established by CCC, for the owner's livestock operation. Losses to livestock due to drought conditions are deemed to have been avoidable and are not eligible for benefits under LIP–2000.

§ 1439.202 Administration.

Where circumstances preclude compliance with § 1439.204 due to circumstances beyond the applicant's control, the FSA county or State committee may request that relief be granted by the Deputy Administrator under this section. In such cases, except for statutory deadlines and other statutory requirements, the Deputy Administrator may, in order to more equitably accomplish the goals of this subpart, waive or modify deadlines and other program requirements if the failure to meet such deadlines or other requirements does not adversely affect operation of the program and are not prohibited by statute.

§ 1439.203 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering this subpart. The terms defined in § 1439.3 shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart.

Anthrax means a disease of animals caused by bacillus anthracis.

Application means the Form CCC–661, Livestock Indemnity Program Application.

Eligible disasters are any natural disasters occurring in 2000 that are named in the Presidential declaration or Secretarial designation, except drought or extreme heat.

Fires means wild fires that occurred in forests, brush, etc., and, as a result, livestock was killed when it was caught in these fires or in structures that burned in these fires. It does not include structure fires that were not the result of a wild fire.

Livestock means beef and dairy cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, and buffalo and beefalo when maintained on the same basis and in the same manner as beef cattle maintained for commercial slaughter.

Livestock owner means a person who has legal ownership of the livestock and is a citizen of, or legal resident alien in, the United States. A farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation owns or jointly owns eligible livestock or poultry, will be considered livestock owners. Any Native American tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (Public Law 93–638, 88 Stat. 2203)); any Native American organization or entity chartered under the Indian Reorganization Act; any tribal organization under the Indian Self-Determination and Education Assistance Act; and any economic enterprise under the Indian Financing Act of 1974 will be considered livestock owners so long as they meet the terms of the definition.

§ 1439.204 Sign-up period.

A request for benefits under this subpart must be submitted to the CCC at the FSA county office serving the county where the livestock loss occurred. All applications must be filed in the FSA county office prior to the close of business on such date as determined and announced by the Deputy Administrator.

§ 1439.205 Proof of loss.

(a) In the case of fires or natural disasters, livestock owners must, in accordance with instructions issued by the Deputy Administrator, provide adequate proof that the death of the eligible livestock occurred during the recognized natural disaster period, as provided in § 1439.201(b); or was reasonably related to the disaster.

(b) The livestock owner shall provide any available supporting documents that will assist the county committee, or is requested by the county committee, in verifying:

(1) The quantity of eligible livestock that perished in the natural disaster including, but not limited to, purchase records, veterinarian receipts, bank loan papers, rendering truck certificates, Federal Emergency Management Agency and National Guard records, auction barn receipts, and any other documents available to confirm the presence of the livestock and subsequent losses; and

(2) That the loss was reasonably related to the recognized disaster in the declaration or designation, including, but not limited to, newspaper articles or other media reports, photographs of disaster damage, veterinarian records, and any other documents available to confirm that the disaster occurred and was responsible for the livestock losses.

(c) Livestock owners requesting benefits for losses due to anthrax shall provide documentation verifying the quantity of livestock deaths that was caused by anthrax.

(d) Certifications by third parties or the owner and other such documentation as the county committee determines to be necessary in order to verify the information provided by the owner must also be submitted. Third-party verifications may be accepted only if the owner certifies in writing that there is no other documentation available. Third-party verification must be signed by the party that is verifying the information. Failure to provide documentation that is satisfactory to the county committee will result in the disapproval of the application by the county committee.

(e) Livestock owners shall certify the accuracy of the information provided. All information provided is subject to verification and spot checks by the CCC. A failure to provide information requested by the county committee or by agency officials is cause for denial of any application filed under this part.

§ 1439.206 Indemnity benefits.

(a) Livestock indemnity payments for losses of eligible livestock as determined by CCC are authorized to be made to livestock owners, based on the owner's share of the livestock, who file an application for the specific livestock category in accordance with instructions issued by the Deputy Administrator, if:

(1) The livestock owner submits an approved proof of loss in accordance with § 1439.205; and

(2) The FSA county or State committee determines that because of an eligible disaster condition the livestock owner had a loss in the specific livestock category in excess of the normal mortality rate established by CCC, based on the number of animals in the livestock category that were in the owner's inventory at the time of the disaster.

(b) If the number of losses in the animal category exceeds the normal mortality rate established by CCC for such category, the loss of livestock that shall be used in making a payment shall be the number of animal losses in the animal category that exceed the normal mortality threshold established by CCC.

(c) Payments shall be calculated by multiplying the national payment rate for the livestock category as determined by CCC, by the number of qualifying animals determined under paragraph (b) of this section. Adjustments, if necessary, shall apply in accordance with § 1439.207.

§ 1439.207 Availability of funds.

(a) In the event that the total amount of eligible claims submitted under this subpart exceeds $10 million allocated by the Act, then each payment shall be reduced by a uniform national percentage.

(b) Such payment reductions shall be applied after the imposition of applicable per-person payment limitation provisions.

§ 1439.208 Limitations on payments.

(a) The provisions of §§ 1439.10 and 1439.11 apply to LIP–2000.

(b) Payments earned under other programs contained in this part shall not reduce the amount payable under this subpart.

(c) Disaster benefits under this part are not subject to administrative offset. See § 842 of Pub. L. 106–387.

(d) No interest will be paid or accrue on disaster benefits under this part that are delayed or are otherwise not timely issued unless otherwise mandated by law.

Dated: March 1, 2001.

James R. Little,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 01–5493 Filed 3–5–01; 1:12 pm]

BILLING CODE 3410–05–P

FEDERAL ELECTION COMMISSION

11 CFR Part 100

[Notice 2001–3]

Definition of Political Committee

AGENCY: Federal Election Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Election Campaign Act, with certain exceptions,