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Thursday, June 12, 1986

Presidential Documents

Title 3—

The President

Proclamation 5500 of June 10, 1986

Youth Suicide Prevention Month, 1986

By the President of the United States of America

A Proclamation

Our youth are this Nation's hope for the future. Young people have so much to offer society and so much to hope for that their early death is always a keenly felt tragedy. That tragedy becomes even more poignant when a young person takes his or her own life.

During the last three decades, youth suicide rates have tripled. Last year alone, approximately five thousand young people took their own lives, and many thousands more attempted suicide. Their actions left family and friends bereft, heartbroken, and often baffled.

The phenomenon of youth suicide is a national problem. To cope with it we must enlist the combined diagnostic and educational efforts of individuals, families, communities, churches, synagogues, private groups, and government agencies. We must learn to detect the early symptoms of suicidal tendencies and develop ways of helping those whose depression and despondency could lead to this terrible act. We must continue to combat those tendencies and influences such as the "drug culture" that preach despair and violence and generously offer help and counsel to young people beset with problems of adolescence. We should not neglect to pray for young people tempted to end their own lives as the "easy way out."

The Congress, by Senate Joint Resolution 266, has designated the month of June 1986 as "Youth Suicide Prevention Month" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of June 1986 as Youth Suicide Prevention Month. I call upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of June, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

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Rules and Regulations

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Vol. 51, No. 113
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is amending its pay administration regulations to eliminate the requirement for a debt claim form "specified by OPM" when a creditor agency wishes to request recovery of a debt from an employee of another agency. These regulations are necessary to allow agencies greater flexibility in working out debt collection arrangements and to facilitate the collection of debts already certified by creditor agencies and awaiting further action.

EFFECTIVE DATE: July 14, 1986.

FOR FURTHER INFORMATION CONTACT: Frank Derby, (202) 632-4634.

SUPPLEMENTARY INFORMATION: On July 3, 1984, OPM published final regulations at 49 FR 27470 that implemented the salary offset provisions of 5 U.S.C. 5514. The final regulations specified what agency salary offset regulations should contain. They also established guidelines for requesting salary offsets when the debtor's creditor agency and the paying agency are not the same.

On November 25, 1985, OPM published proposed regulations at 50 FR 48421 to amend the debt collection procedures when the creditor and the paying agency are different. During the 30-day comment period on the proposed regulations, we received comments from one agency and three labor organizations. The agency supported the changes because they simplify the debt collection process without eliminating important employee protections. The labor organizations' comments are discussed below.

One labor organization commented that an employee should not be required to pay an alleged debt except when the debt is one acknowledged by the employee or reduced to a judgment by a court. The Debt Collection Act of 1982 provides general authority for administrative offset from salary to collect debts owed to the United States, while safeguarding the legitimate rights of privacy and due process of debtors. Under that law and the implementing regulations, any debtor may request a hearing to contest the validity or amount of the debt.

The other labor organizations commented that without the form specified by OPM, the paying agency would have no certification to furnish to employees as to the reason for the offset or to whom it is being paid, thus putting employees in the position of trying to contest "something that does not exist in writing." The final regulations (5 CFR 550.1108(a)(1)) require that the creditor agency "must certify, in writing, that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is due, the date the Government's right to collect the debt first accrued, and that the creditor agency's regulations implementing 5 U.S.C. 5514 have been approved by OPM." The written certification must be presented to the debtor's paying agency. Therefore, the paying agency will have a written statement of the details of the debt to present to the employee, if requested.

Except as noted below, the final regulations retain all existing requirements regarding the information to be certified and forwarded to the paying agency by the creditor agency. We have revised the final regulations to provide that (1) the creditor agency may advise the paying agency of either the amount or percentage of disposable pay to be collected in each installment, and (2) advice about the number of installments is optional. The regulations are further clarified by separating the responsibilities of the creditor and paying agencies into separate paragraphs.

To assist creditor agencies in complying with these certification requirements, OPM will publish a sample debt claim form through the Federal Personnel Manual system.

E.O. 12291, Federal Regulation

I certify that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because these regulations concern administrative practices that affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.
Constance Horner,
Director.

PART 550—PAY ADMINISTRATION (GENERAL)

Accordingly, OPM is amending 5 CFR Part 550 as follows:

Subpart K—Collection by Offset from Indebted Government Employees

1. The authority citation for Part 550 is removed and the authority citation for Subpart K is revised to read as follows:

Authority: 5 U.S.C. 5514; sec. 8(1) of E.O. 11609; redesignated in sec. 2-1 of E.O. 12107.

2. Section 550.1106 is revised to read as follows:

§ 550.1106 Time limit on collection of debts.

Under 4 CFR 102.3(b)(3), agencies may not initiate offset to collect a debt more than 10 years after the Government's right to collect the debt first accrued, with certain exceptions explained in that paragraph.

3. Section 550.1108 is added to read as follows:

§ 550.1108 Requesting recovery when the current paying agency is not the creditor agency.

(a) *Responsibilities of creditor agency.* Upon completion of the procedures established by the creditor agency under 5 U.S.C. 5514, the creditor agency must do the following:

(1) The creditor agency must certify, in writing, that the employee owes the debt, the amount and basis of the debt, the date on which payment(s) is due, the date the Government's right to collect the debt first accrued, and that the creditor agency's regulations implementing 5 U.S.C. 5514 have been approved by OPM.

(2) If the collection must be made in installments, the creditor agency also must advise the paying agency of the amount or percentage of disposable pay to be collected in each installment, and if the creditor agency wishes, the number and the commencing date of the installments (if a date other than the next officially established pay period is required).

(3) Unless the employee has consented to the salary offset in writing or signed a statement acknowledging receipt of the required procedures and the written consent or statement is forwarded to the paying agency, the creditor agency also must advise the paying agency of the action(s) taken under 5 U.S.C. 5514(b) and give the date(s) the action(s) was taken.

(4) Except as otherwise provided in this paragraph, the creditor agency must submit a debt claim containing the information specified in paragraphs (a)(1) through (3) of this section and an installment agreement (or other instruction on the payment schedule), if applicable, to the employee's paying agency.

(5) If the employee is in the process of separating, the creditor agency must submit its debt claim to the employee's paying agency for collection as provided in § 550.1104(1). The paying agency must certify the total amount of its collection and notify the creditor agency and the employee as provided in paragraph (c)(1) of this section. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the provisions of this section have been fully complied with. However, the creditor agency must submit a properly certified claim to the agency responsible for making such payments before the collection can be made.

(6) If the employee is already separated and all payments due from his or her former paying agency have been paid, the creditor agency may request, unless otherwise prohibited, that money due and payable to the employee from the Civil Service Retirement and Disability Fund (5 CFR 831.1801 *et seq.*), or other similar funds, be administratively offset to collect the debt. (See 31 U.S.C. 3716 and the FCCS.)

(b) *Responsibilities of paying agency.*—(1) *Complete claim.* When the paying agency receives a properly certified debt claim from a creditor agency, deductions should be scheduled to begin prospectively at the next officially established pay interval. The employee must receive written notice that the paying agency has received a certified debt claim from the creditor agency (including the amount) and written notice of the date deductions from salary will commence and of the amount of such deductions.

(2) *Incomplete claim.* When the paying agency receives an incomplete debt from a creditor agency, the paying agency must return the debt claim with a notice that procedures under 5 U.S.C. 5514 and this subpart must be provided and a properly certified debt claim received before action will be taken to collect from the employee's current pay account.

(3) *Review.* The paying agency is not required or authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(c) *Employees who transfer from one paying agency to another.* (1) If, after the creditor agency has submitted the debt claim to the employee's paying agency, the employee transfers to a position served by a different paying agency before the debt is collected in full, the paying agency from which the employee separates must certify the total amount of the collection made on the debt. One copy of the certification must be furnished to the employee, another to the creditor agency along with notice of the employee's transfer. However, the creditor agency must submit a properly certified claim to the new paying agency before collection can be resumed.

(2) When an employee transfers to another paying agency, the creditor agency need not repeat the due process procedures described by 5 U.S.C. 5514 and this subpart to resume the collection. However, the creditor agency is responsible for reviewing the debt upon receiving the former paying agency's notice of the employee's transfer to make sure the collection is resumed by the new paying agency.

[FR Doc. 86-13312 Filed 6-11-86; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1476

Special Disaster Payments for the 1983-1985 Crops of Rice, Upland Cotton, Feed Grains, and Wheat

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: A proposed rule was published in the **Federal Register** on May 20, 1986 (51 FR 18552) which would amend the regulations at 7 CFR Part 1476 and make them applicable to the Commodity Credit Corporation's ("CCC") establishment of criteria with respect to special disaster payments which may be made available to eligible producers of the 1983 through 1985 crops of rice, upland cotton, feed grains, and wheat. The proposed rule also would establish the criteria for determining when CCC would make such discretionary disaster payments to eligible producers participating in the CCC price support and production adjustment programs established for the 1983 through 1985 crops. This final rule adopts the proposed rule with one change.

EFFECTIVE DATE: June 9, 1986.

FOR FURTHER INFORMATION CONTACT: Jerry W. Newcomb, Director, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Telephone (202) 447-5621.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under United States Department of Agriculture (USDA) procedures implementing Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified as "not major." It has been determined that this notice will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this final rule applies are: Title—Commodity Loans and Purchases; Number 10.051; as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CCC 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.

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.

This program/activity is not subject to the provisions of Executive Order 12372 which requires 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).

A proposed rule was published in the **Federal Register** on May 20, 1986 (51 FR 18552) which would amend the regulations at 7 CFR Part 1476 and make them applicable to the Commodity Credit Corporation's ("CCC") establishment of criteria with respect to special disaster payments which may be made available to eligible producers of the 1983 through 1985 crops of rice, upland cotton, feed grains, and wheat. The proposed rule also would establish the criteria for determining when CCC would make such discretionary disaster payments to eligible producers participating in the CCC price support and production adjustment programs established for the 1983 through 1985 crops.

Comments Received

Two comments on the proposed rule were received. One comment was from a State Department of Agriculture and one was submitted by a State Attorney General's Office on its own behalf and on the behalf of a law firm, a State, and the Attorneys General of seven States.

1. Both parties commented that the sixty percent yield loss threshold for establishing the existence of a natural disaster is unreasonable high. One party suggested that the sixty percent loss provision be reduced to a percentage contained in rules implementing other disaster programs or reduced to a percentage as characterized by certain Departmental Officials. It was also suggested that the sixty percent threshold should not apply to counties as well as producers in the county, and the special disaster payment eligibility determinations be made exclusively on a case by case basis.

These suggestions have not been adopted. The statutory authority for the program requires that the Secretary determine that losses from natural disasters must have created an "economic emergency" for the producers before making the authorized payments. While losses above the average seasonal fluctuations in productivity of 20 to 30 percent could create situations where the producer may have to implement certain management decisions to alleviate the effects of adverse natural conditions, it has been determined that the sixty percent threshold provides a proper measure of the occurrence of an economic emergency. "Economic emergency" suggests the occurrence of conditions much more severe than those that arise, not uncommonly, from adverse conditions of limited scope. A "Committee to Establish Special Disaster Payment Criteria," created in the Department determined nearly three years ago that the sixty percent figure was proper. The committee report was approved by the Secretary of Agriculture on October 17, 1983.

It is believed that special disaster payments properly should be made only as a last resort, and that Congress did not intend that producers rely on the special disaster program, rather than the Federal crop insurance program (See response to comments numbered 3) and other forms of assistance for protection. The availability of many forms of assistance, from private as well as public sources, makes the occurrence of an economic emergency requiring intervention by CCC rare.

2. Both parties commented that the proposed rule fails to establish any means for differentiating between losses on feed grains used as livestock feed and grains sold on the open market. Both parties commented that losses of feed intended for livestock are potentially more serious to the producer, who must pay for expensive feed to replace losses. In addition, one party indicated that livestock operations are more sensitive to drought conditions because of multiple impacts on feed grain and livestock. The statutory authority for this program does not provide for distinguishing between producers who sell grain on the open market and producers who produce grain for livestock feed. Meeting a producer's expectations related to feeding livestock or selling grain on the open market or any other economic decision of the producer would prove to be expensive and impossible to achieve fully.

It has been determined not to change these provisions of the proposed rule. This is not to deny that certain producers of feed grains who feed their own production to livestock may have to purchase grain in the market when adverse conditions occur.

It is also true, however, that livestock producers may be able to salvage the silage value of a crop affected by a disaster, whereas producers who sell feed grains only for cash are less likely to obtain such a benefit. In addition, certain producers are more likely than others to "forward contract," i.e., contract before harvest to sell their production. If such producers' crops are destroyed, the producers not only lose the value of the crops, they must purchase commodities on the market, possibly at a price higher than the forward contracting price, to fulfill their contractual obligations. Forward contracting is more prevalent among producers of some commodities than others, and occurs with increasing frequency as the growing season progresses. The special disaster payment criteria simply cannot take into account all economic decisions made by producers. In accordance with the statutory authorities for the program, the program is based on loss of production.

3. Both parties commented that the proposed rule fails to provide special disaster payments where no crop insurance covered the loss because of transitional problems attendant to the Federal Crop Insurance Program. One party suggested that the Federal Crop Insurance Corporation (FCIC) was in a transitional stage in 1983, a period covered by the proposed rule. At the time of the 1983–1985 period covered by the proposed rule, Federal Crop Insurance was available on every crop to which the special disaster program applies in every county where the crop was produced as an agricultural commodity. The transitional phase characterized by the Act had been completed. The unlimited availability of discretionary disaster payments would severly jeopardize the FCIC insurance program since producers would not have an incentive to purchase insurance if free crop insurance in the form of discretionary disaster payments is available. Such a result would affect adversely the actuarial soundness of the FCIC insurance program. Accordingly, to ensure a viable and actuarially sound FCIC crop insurance program, while providing adequate assistance to producers who have been subjected to a natural disaster for which adequate insurance is not available, CCC must require that Federal Crop Insurance cover the affected crop if available. Therefore, the availability of crop insurance as one of the criteria used to determine if an economic emergency

exists will remain a condition of determining producer eligibility.

4. Both parties commented that the requirement of the proposed rule that Governor of the State must request a special designation within ninety days of the last day of the occurrence of the natural disaster is improper. In determining individual producer eligibility to participate in the special disaster payment program, the approving official must take into consideration evidence of crop losses. It is the position of the Department that if an extended time beyond the 90 day period as described in the proposed rule were allowed, the evidence of crop disaster may not be such as to be reasonably appraised for loss. The Department has always required crop appraisals for disaster purposes. That policy gives the producer every reasonable opportunity to have the appropriate appraisal performed while evidence of the crop is still available to the approving official. Therefore, the proposed rule provided for the Governor of the State to request a special designation within 90 days of the last day of the occurrence of the natural disaster. However, the Department recognizes that this requirement, as applied to preceding crop years, could be unfair. Accordingly, the rule has been amended to provide that CCC may waive the requirement that the Governor request designation within 90 days, if CCC determines that the extent of loss can reasonably be ascertained.

5. One party suggested that the proposed rule does not include a payment rate for soybeans. There is no statutory authority for the conducting of a special disaster program for the 1982–1985 crops of soybeans. There is, therefore, no need to establish a payment rate for soybeans under the program.

6. One party suggested that Emergency loans that are made available by the Farmers Home Administration not be included in determining whether Federal assistance is sufficient to alleviate the effects of a natural disaster. It has been determined that such assistance should be included, as it is the purpose of such assistance to alleviate such emergencies.

7. One party argued that the payment rate was required to be computed on the basis of one half the established price for deficiency in production below 60 percent for the affected crop. The described payment rate, however, applies only to "regular" disaster payments. Accordingly, it has been determined that the payment rate provided in the proposed rule is proper and should be adopted.

8. One party stated that the program should apply to crop years prior and subsequent to the 1983 through 1985 crop years. The statutory authority for this program extends only to the 1982 through 1985 crops. These regulations are published pursuant to a court order in the case of *The State of Iowa, et al.* v. *John R. Block, Secretary of Agriculture, et al.*, 771 F.2d 347, (8th Cir. 1985). It has not been ordered that the program be implemented for the 1982 crop year. The Food Security Act of 1985 does continue, through 1990, the authority for a program of this nature. However, this rule is limited to the above stated crop years.

Based upon a review of the comments received it has been determined that the proposed rule should be adopted as a final rule with one amendment, heretofore described.

The information collection requirements of this subpart shall be submitted to the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act and it is anticipated that an OMB Number will be assigned.

List of Subjects in 7 CFR Part 1476

Indemnity payments.

Final Rule

Accordingly, Part 1476 of title 7 of the Code of Federal Regulations is amended by adding a new Subpart entitled "Special Disaster Payments for the 1983–1985 Crops of Rice, Upland Cotton, Feed Grains, and Wheat".

PART 1476—[AMENDED]

Subpart—Special Disaster Payments for the 1983–1985 Crops of Rice, Upland Cotton, Feed Grains, and Wheat

Authority: Secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, 1072, as amended (15 U.S.C. 714b and 714c); Sec. 101, 103, 105B, and 107B of the Agricultural Act of 1949, as amended, 63 Stat. 1051, as amended, 95 Stat. 1234, as amended. 1242 as amended (7 U.S.C. 1441, 1444, 1444d, and 1445b-1).

§ 1476.120 Special disaster payments

(a) If special disaster payments are available to producers participating in the 1983 through 1985 price support and production adjustment programs authorized by this title, in accordance with Part 795 of this title, the total amount of disaster payments which a person shall be entitled to receive annually under the rice, upland cotton, corn, grain sorghum, oats, barley, and wheat programs shall not exceed $100,000.

(b) For purposes of §§ 1476.120–1476.127:

(1) "Economic emergency" means a loss of 60 percent or more of the value of all crop production, including hay and pasture, of producers on the farm and in the county, respectively;

(2) "Insufficient assistance to alleviate the economic emergency" means an economic loss of 60 percent or more on the farm and in the county, respectively, after taking into consideration:

(i) The value of agricultural commodities produced on the farm and in the county, respectively, during the applicable crop year; and

(ii) Any Federal assistance provided to producers on the farm and in the county, respectively, including, but not limited to, the value of any Federal crop insurance indemnity coverage available to producers in the county, land diversion payments, deficiency payments and noncash payments including in kind compensation; and

(3) "Natural disaster or other conditions beyond the control of the producers" means an occurrence which results in a yield reduction of at least 60 percent as the result of adverse weather or other similar condition.

(c) References to the Administrator and the Secretary include such individual and any individual who has been delegated the authority to perform the duties of the Administrator and Secretary in implmenting the provisions of this subpart.

§ 1476.121 Availability of special disaster payments in a county.

(a) Disaster payments may be made to producers on a farm when the Administrator determines that:

(1) As the result of drought, flood, or other natural disaster, or other conditions beyond the control of the producers in a county, such producers have suffered substantial losses of production for the crop year:

(i) Because the producers were prevented from planting applicable program crops or other nonconserving crops; or

(ii) Due to reduced program crop yields.

(2) Such losses have created an economic emergency in the county;

(3) Federal crop insurance indemnity payments and other forms of assistance made available by the Federal Government to producers in the county for such losses provide insufficient assistance to alleviate the economic emergency; and

(4) In accordance with paragraph (b) of this section, additional assistance must be made available to such producers to alleviate the economic emergency in the county.

(b) Producers in a county shall be eligible for payments made in accordance with §§ 1476.124–1476.126 if:

(1) A natural disaster or other condition beyond the control of the producers in the county has substantially and adversely affected producers in the county; and

(2) A written request from the State Governor for a special disaster designation has been received by the Secretary within 90 days of the last day of the occurrence of the natural disaster, except that CCC may waive the requirement that the Governor's request be received within 90 days if it is determined by CCC that the extent of loss in the affected area reasonably can be ascertained as of the date the request is received; and

(3) The Administrator determines that unusual and adverse weather conditions or other causes beyond the control of producers, excluding flooding within flood plains or in flowage easement areas, have resulted in substantial crop production losses resulting in an economic emergency.

§ 1476.122 Designation by the Secretary of Agriculture.

(a) The Secretary of Agriculture may designate a county as a county eligible to receive special disaster payments when the requirements of § 1476.121 are met.

(b) Upon receipt of the Governor's request made in accordance with § 1476.121(b)(2), the Governor's request shall be acknowledged, and if any delay is anticipated in processing the requesf, the acknowledgment shall state the reasons for such delay and when action will be taken.

(c) The State Executive Director, ASCS, in the role of the Food and Agriculture Council ("FAC") Vice Chairperson, Emergency Programs will immediately:

(1) Notify the local FAC to prepare a Damage Assessment Report ("DAR") in accordance with the Emergency Operations Handbook ("EOH") for the requested county; and

(2) Review each DAR and forward such DAR to the Deputy Administrator which a transmittal memorandum containing views, comments, and recommendations concerning the need or lack of need for special disaster payments to be made available.

(d) The local FAC Chairperson of an affected county shall foward DAR's to the FAC, Vice Chairperson, Emergency Programs. The DAR's shall be completed in accordance with instructions issued by the Deputy Administrator.

(e) Reports submitted in accordance with this section and any other evidence determined by the Administrator to be relevant shall be used to determine whether the requirements of § 1476.123 have been met. Such a determination shall take into consideration, but not be limited to, the value of all corps, including hay and pasture, in the affected county, the value of crop insurance available in the county (determined by multiplying the greater of (1) the acreage planted for harvest, or if a production adjustment program is in effect for the commodity, (2) the total permitted acreage for the commodity for the county, by the highest indemnity available for each commodity in the county at the 65 percent coverage level made available in accordance with Section 508(b) of the Federal Crop Insurance Act), and other Federal assistance available in the county.

(f) The Manager of the Federal Crop Insurance Corporation shall determine whether crop insurance offered under the Federal Crop Insurance Act is available to producers in the affected county and whether the coverage afforded by the insurance which is available is adequate to indemnify the producers in such county for the damage incurred as a result of the disaster.

(g) The Administrator will review DAR's all other pertinent data, the State Executive Director's recommendations, and the determinations made in accordance with paragraph (f) of this section. Based upon this data, a determination of whether an economic emergency exists shall be made in accordance with § 1476.123.

§ 1476.123 Determination of economic emergency.

(a) In determining whether an economic emergency exists in a county, the total value of all crops, including hay and pasture, grown in the county shall be taken into consideration. The total value of such crops shall be determined by converting yield losses into dollar losses in the manner specified in this section. In making such a determination, the following criteria shall be used:

(1) The value of crops produced in the county during normal years shall be determined by multiplying a normal year's yield for each commodity by a normal year's price for each such commodity.

(2) The normal year's yield for each commodity shall be the average yield in the county for such commodity based upon each of the 5 years immediately preceding the year in which the disaster occurred.

(3) The normal year's price for each commodity shall be the average of the market prices for each such commodity based upon the 3 years immediately preceding the year in which the disaster occurred.

(4) Yields, crop acreage, and price data used to establish the normal year's production shall be determined by the Administrator and, to the extent practicable, shall be obtained from the Statistical Reporting Service ("SRS"), USDA.

(5) Yields, crop acreages, and price data used to establish the disaster year's production shall be determined by the Administrator and may be obtained from the DAR's submitted in accordance with § 1476.122 or, if available, the actual production data for such year as determined by SRS except as otherwise provided in §§ 1476.120–1476.126.

(b)(1) The gross income for each commodity for the year in which the disaster occurred shall be determined by multiplying the total acres of the crop of each commodity planted in the county in the disaster year by the price of the commodity by the disaster year's yield for the crop. The gross income for the county will be the total of the individual commodity computations.

(2) The gross income for each commodity for the normal year shall be determined by multiplying the total acres planted and intended to be planted in the county in the disaster year by the price of the commodity by the normal year's yield for the crop. The gross income for the county will be the total of the individual commodity computations.

(3) A gross income gain will exclude the county from consideration. The gross income loss experienced in the county in the disaster year shall be determined by substracting the disaster year's gross income from the normal year's gross income.

(4) The gross income loss determined in accordance with paragraph (b)(3) of this section shall be adjusted by the following:

(i) The total value of the Federal crop insurance available in the county (determined by multiplying the greater of (A) the acreage planted for harvest or, if a production adjustment program is in effect for the commodity, (B) the total permitted acreage for the commodity for the county, by the highest indemnity available for the commodity in the county at the 65 percent coverage level made available in accordance with section 508(b) of the Federal Crop Insurance Act). The total FCIC adjustment will be the total for all commodities for which crop insurance is available in the county;

(ii) The value of all noncash payments, including in kind compensation, provided in the county;

(iii) The total value of Farmers Home Administration loans made available for the same disaster losses of crop production;

(iv) The value of any special emergency haying or grazing of acreage diverted to the acreage conservation reserve under the commodity production adjustment programs, or acreage subject to a contract under the Water Bank Program;

(v) The value of any emergency livestock feed made available in the county;

(vi) The value of any land diversion payments and deficiency payments made with respect to the crop; and

(vii) The value of any other forms of assistance made available by the Federal Government to such producers in a county for the same disaster losses of crop production.

(c) To determine whether a sufficient percentage of loss exists to constitute insufficient assistance to alleviate the economic emergency in the county, as defined in § 1476.120 to make a county eligible for special disaster payments, the adjusted gross income loss shall be divided by the normal year's gross income.

§ 1476.124 Producer eligibility.

(a) If the Secretary determines that the county has met the conditions set forth in §§ 1476.122 and 1476.123, the county committee may be authorized to make payments available to only those producers on a farm for which the operator of the farm:

(1) Submits a Form ASCS–574, Application for Disaster Credit, in the case of a reduced yield application or a Form ASCS–574–1, Prevented Planting Claim, in the case of a prevented planting application, in accordance with instructions issued by the Deputy Administrator;

(2) Submits a report in accordance with the provisions in § 1476.125;

(3) Meets the economic emergency requirements in § 1476.125; and

(4) Applies for payment on a form prescribed by the Deputy Administrator.

(b) Special disaster payments are authorized to be made to producers of wheat, corn, grain sorghum, oats, barley, upland cotton, and rice only if:

(1) For a crop of a commodity for which a production adjustment program has been established, such producer is in compliance with the regulations set forth at Parts 713 and 770 of this title.

(2) The producer had a Federal Crop Insurance Policy in effect on at least a part of the affected program crop acreage if such insurance is available for purchase by producers in the county; and

(3) The operator of the farm has complied with the requirements in paragraph (a) of this section; and

(4) The producer submits a report of any indemnity payments received for crops produced on the farm, and any other assistance made available by the Federal Government to such producers for such losses.

(c) In addition to the requirements of paragraph (b) of this section, the county committee must also determine that the operator and other producers were prevented from planting an eligible commodity or other nonconserving crop, or that the production of an eligible commodity on an acreage resulted in a reduced yield of such commodity, because of a drought, flood, other natural disaster or other condition byond the control of the producers.

§ 1476.125 Determination of economic emergency for a producer.

(a) In determining whether a producer has suffered a loss which constitutes an economic emergency, the total value of all crops produced on the farm, including hay and pasture, will be taken into consideration. The total value of such crops shall be determined by converting yield losses into dollar losses in accordance with this section.

(b)(1) The value of crops produced on the farm during normal years shall be determined by multiplying a normal year's yield for each commodity by a normal year's price for each such commodity.

(i) The normal year's yield for each commodity shall be the farm program payment yield established for program crops and, with respect to other crops, the yield established by the county committee in accordance with instructions issued by the Deputy Administrator taking into consideration actual production on the farm in the five years immediately preceding the disaster year and the average yields of such crops in the county for such years.

(ii) The normal year's price for each commodity shall be the average of the market prices for each such commodity based upon the 3 years immediately preceding the year in which the disaster occurred.

(2) The value of production from any acreage for the disaster year shall be determined as follows:

(i) The production from acreage which is not harvested shall be appraised in accordance with instructions issued by the Deputy Administrator and shall be added to the actual production.

(ii) The production from acreage which is harvested shall be the actual production of the farm. The farm program payment yield established in accordance with § 713.6 of this title shall be used with respect to any acreage for which production cannot be determined. If the county committee determines that the acreage of a farm was affected by a natural disaster, the farm yield with respect to such acreage shall be the larger of 60 percent (75 percent for upland cotton and rice) of the farm program payment yield established in accordance with § 713.6 or the actual yield from the harvested acreage of the crop.

(iii) Producers shall report the production and disposition of all crops produced on the farm, including hay and pasture, in accordance with instructions issued by the Deputy Administrator.

(A) If there has been a disposition of crop production through commercial channels, the producer must furnish documentary evidence of such disposition in order to verify the information provided on the report. Acceptable evidence shall include such items as the original or copy of commercial receipts, gin records, CCC loan documents, settlement sheets, warehouse ledger sheets, elevator receipts or load summaries.

(B) If there has been disposition of crop production other than through commercial channels, the producer must furnish such documentary evidence as the county committee determines to be necessary in order to verify the information provided on the report. If the producer utilized any of the crops produced on the farm as feed, the producer must provide the number and type of livestock fed, the duration of the feeding period, the type of feed, and other documentation to substantiate the production on the farm in the disaster year.

(iv) Prices of commodities used to establish the disaster year's production will be the higher of the price the producer actually received for the crop or the average of the prices received by producers in the county as determined in accordance with instructions issued by the Deputy Administrator.

(3)(i) The gross income for each commodity for the year in which the disaster occurred shall be determined by multiplying the total acres of each commodity planted or intended to be planted which were affected by the disaster by the price of the commodity for the disaster year by the disaster year's yield for each crop. The gross income for the farm will be the total of the individual commodity components.

(ii) The gross income for each commodity in the normal year shall be determined by multiplying the total acres planted and intended to be planted on the farm in the disaster year by the price of the commodity by the normal year's yield for the commodity. The gross income for the farm will be the total of the individual commodity components.

(iii) A gross income gain will exclude the producer from consideration. The gross income loss experienced by the producers on the farm shall be determined by subtracting the disaster year gross income from the normal year's gross income.

(iv) The gross income loss determined in accordance with paragraph (a)(3)(iii) of this section shall be adjusted to the following:

(A) The total value of the Federal crop insurance available for the farm (determined by multiplying the greater of (*1*) the acreage planted for harvest or, if a production adjustment program is in effect for the commodity, (*2*) the total permitted acreage for the commodity on the farm, by the highest indemnity available for the commodity in the county at the 65 percent coverage level made available in accordance with section 508(b) of the Federal Crop Insurance Act). The total FCIC adjustment will be the total for all commodities for which crop insurance is available on the farm whether or not the producer elected to purchase such crop.

(B) The value of all noncash payments, including in kind payments, received by such producer;

(C) The total value of Farmers Home Administration loans made available for the same disaster losses of crop production;

(D) The value of any special emergency haying or grazing of acreage diverted to the Acreage Conservation Reserve under the commodity production adjustment programs, or acreage subject to a contract under the Water Bank Program;

(E) The value of emergency livestock feed made available to such producers;

(F) The value of any land diversion payments and deficiency payments made with respect to the crop; and

(G) The value of any other forms of assistance made available by the Federal Government to the producer for the same disaster losses of crop production.

§ 1476.126 Special disaster payments to producers

(a) *Applicability.* Special disaster payments may be made to eligible producers as soon as practicable after the extent of the crop loss is determined and payment is approved. Special disaster payments shall not exceed the amount necessary to alleviate the economic emergency of the producer on the farm, as defined in § 1476.120.

(b) *Prevented planting.* Producers who were prevented from planting a program crop shall receive special disaster payments in accordance with this section.

(1) *Payment rate.* The prevented payment rate is one-third of the established (target) price as provided for in § 713.106.

(2) *Acreage Eligible for Payment.* Acreage in flood plains or flowage easement areas is ineligible acreage for special disaster payment purposes. The acreage eligible for payment shall equal the smaller of the following:

(i) The acreage of the crop intended for harvest, but which could not be planted to the crop or other nonconserving crops because of a drought, flood or other natural disaster or other condition beyond the producer's control;

(ii) The result obtained by subtracting the acreage of the crop planted in the current year from the acreage of the crop that was planted or prevented from being planted in the previous year;

(iii) For crops for which an acreage reduction or set-aside requirement is in effect or on farms participating in a land diversion or wheat grazing and hay program, the amount by which the permitted acreage of the crop for the current year exceeds the acreage of the crop planted in the current year; or

(iv) The acreage for which crop insurance under the Federal Crop Insurance Act is not available.

(3) *Payment Computation.* Prevented planting payments for each crop shall be the result of multiplying the acreage eligible for payment times 75 percent of the farm program payment yield as determined in accordance with § 713.6 by the prevented planting payment rate.

(c) *Reduced Yield.* Producers on farms on which the yield of the program crop planted for harvest is reduced shall receive payments in accordance with this paragraph.

(1) *Payment rate.* The reduced yield payment rate is one-third of the established (target) price for upland cotton and rice and one-half of the established (target) price for barley, corn, grain, sorghum, oats, and wheat as provided for in § 713.106.

(2) *Payment Computation.* Reduced yield payments shall be determined for each crop by multiplying the reduced yield payment rate times the smaller of the result of the following computations:

(i) The result determined by multiplying the acreage of the crop on the farm by 60 percent (75 percent for upland cotton and rice) of the farm yield as provided in § 713.6, and subtracting the determined production for the farm therefrom; or

(ii) The result determined by multiplying the acreage of the crop on the farm for which crop insurance under the Federal Crop Insurance Act was not available by 60 percent (75 percent for upland cotton and rice) of the farm yield as provided in § 713.6, and subtracting the determined production for the eligible acreage therefrom.

§ 1476.127 OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 1476) have been approved by the office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35.

Signed at Washington, DC on June 9, 1986.

Milton J. Hertz,

Acting Executive Vice President Commodity Credit Corporation.

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FARM CREDIT ADMINISTRATION

12 CFR Part 611

Farm Credit System Capital Corporation; Organization; Extension of Comment Period

AGENCY: Farm Credit Administration.

ACTION: Final Rule; comment period extension.

SUMMARY: The Farm Credit Administration ("FCA") published final regulations with request for comments in the **Federal Register** on March 13, 1986, (51 FR 8665), 12 CFR 611.1140–1142, applicable to the Farm Credit System Capital Corporation ("Corporation")