

Proposed Rules

Federal Register

Vol. 66, No. 51

Thursday, March 15, 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 1410

RIN 0560-AG37

Conservation Reserve Program—Good Faith Reliance and Excessive Rainfall

AGENCY: Commodity Credit Corporation, USDA

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) proposes an amendment to the Conservation Reserve Program (CRP) regulations. This proposed amendment would provide, under certain conditions, for equitable relief to producers who violated their contract based on a good faith reliance on the action or advice of certain USDA representatives, or while attempting to comply with their contract. It will also provide that CRP contracts will not be terminated for failure to plant cover when that failure was due to excess rainfall or flooding.

DATES: Comments must be submitted on or before May 14, 2001.

ADDRESSES: All comments concerning these proposed regulations should be addressed to James Michaels, Conservation and Environmental Programs Division, USDA/FSA/CEPD/STOP 0513, 1400 Independence Avenue, S.W., Washington, D.C. 20250-0513 or sent electronically to: crprule1@wdc.usda.gov.

FOR FURTHER INFORMATION CONTACT: James Michaels, (202) 720-8774.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The proposed rule is issued in conformance with Executive Order 12866 and has been determined to not significant and, therefore, was not 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 since the Commodity Credit Corporation (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.

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 impact assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988. This proposed rule is not retroactive and does not pre-empt State laws. Before any judicial action may be taken with respect to the provisions of the proposed rule, administrative remedies at 7 CFR part 790 must be exhausted.

Executive Order 12372

This program 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).

Unfunded Mandates

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any 1 year. This rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic

Assistance, to which this rule applies, is the Conservation Program—10.069.

Paperwork Reduction Act

A request for approval under 44 U.S.C. Chapter 33 of the information collection requirements contained in the regulations at 7 CFR part 1410 has been submitted to OMB. The OMB Control Number is 0560-0125.

Background

The purpose of the Conservation Reserve Program (CRP) is to cost-effectively assist owners and operators in conserving and improving soil, water, and wildlife resources by converting highly erodible and other environmentally sensitive acreage normally devoted to the production of agricultural commodities to a long-term vegetative cover. CRP participants enter into contracts for 10 to 15 years in exchange for annual rental payments and cost-share assistance for installing certain conservation practices. In determining the amount of annual rental payments to be paid, CCC considers, among other things, the amount necessary to encourage owners or operators of eligible cropland to participate in the CRP. Offers are submitted in such a manner as the Secretary prescribes. The maximum rental payments CCC will pay reflect site-based soil productivity, prevailing local cash equivalent rental rates, and maintenance costs. Offers by producers who request rental payments greater than the amount CCC is willing to pay for their soil type are automatically rejected by CCC. Except for the continuous signup process, remaining offers are evaluated for possible acceptance based on a comparison of environmental benefits indicators with the rental payment cost. The continuous signup process does not include an evaluation based on environmental benefits indicators because only those practices designed to obtain high environmental benefits are eligible to be offered during the continuous signup. Acreage determined eligible and suitable to be devoted to continuous signup practices by the Secretary is automatically accepted in the CRP provided all other eligibility requirements are met.

Program Changes

Section 755 of the Agriculture, Rural Development, Food and Drug

Administration, and Related Agencies Appropriations Act, 2001 (the 2001 Act) (Pub. L. 106-387) provides that the Secretary shall provide equitable relief to an owner or operator who is in violation of a CRP contract if, in attempting to comply with the terms of the contract and enrollment requirements, the owner or contractor took actions in good faith reliance on the action or advice of an authorized representative of the Secretary. To the extent the Secretary determines that an owner or operator has been injured by such good faith reliance, the Secretary shall allow the owner or operator to do any one or more of the following: (1) Retain payments received under that contract, (2) continue to receive payments under the contract, (3) keep all or part of the land covered by the contract enrolled in the program, (4) re-enroll all or part of the land covered by the contract, or any other equitable relief the Secretary deems appropriate. The owner or operator shall be required to take such actions as are necessary to remedy any failure to comply with the contract. Equitable relief shall apply to all contracts in effect on January 1, 2000, and all subsequent contracts.

Section 817 of the 2001 Act provides that the Secretary shall not terminate a CRP contract for failure to establish approved or vegetative cover if the failure to plant such cover was due to excessive rainfall or flooding, the land subject to the contract that could practicably be planted to such cover is planted to such cover, and the land that could not be planted to such cover is planted to such cover after the wet condition that prevented the planting subsidies.

List of Subjects in 7 CFR Part 1410

Administrative practices and procedures, Agriculture, Grazing lands, Soil conservation, Water resources.

For reasons set out in the preamble, 7 CFR part 1410 is proposed to be amended as follows:

PART 1410—CONSERVATION RESERVE PROGRAM

1. The authority citation for 7 CFR Part 1410 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3801-3847.

2. In § 1410.2, the definition of "violation" is added to read as follows:

§ 1410.2 Definitions.

* * * * *

Violation means an act by the participant, either intentional or unintentional, which would cause the

participant to no longer be eligible for cost-share or annual contract payments.

* * * * *

3. Section 1410.20(a)(2) is revised to read as follows:

§ 1410.20 Obligations of participant.

* * * * *

(a) * * *

(2) Implement the conservation plan, which is part of such contract, in accordance with the schedule of dates included in such conservation plan unless the Deputy Administrator determines that the participant cannot fully implement the conservation plan for reasons beyond the participant's control and CCC agrees to a modified plan. The Deputy Administrator may not terminate the contract for failure to establish an approved vegetative or water cover on the land if, as determined by the Deputy Administrator:

(i) The failure to plant such cover was due to excessive rainfall or flooding;

(ii) The land subject to the contract that could practicably be planted to such cover is planted to such cover; and

(iii) The land on which the participant was unable to plant such cover is planted to such cover after the wet conditions the prevented the planting subsidies;

* * * * *

4. Section 1410.54 is revised to read as follows:

§ 1410.54 Performance based upon advice or action of the Department.

* * * * *

(a) The provisions of § 718.8 of this title relating to performance based upon the action or advice of a representative of the Department shall be applicable to this part.

(b) Except as provided in paragraph (b)(3) of this section, and notwithstanding any other provision of this chapter, the Deputy Administrator may provide equitable relief to a participant that has entered into a contract under this chapter, and that is subsequently determined to be in violation of the contract, if the owner or operator, in attempting to comply with the terms of the contract and enrollment requirements, took actions in good faith reliance on the action or advice of an authorized USDA representative as determined by the Deputy Administrator, provided:

(1) The Deputy Administrator determines that a participant has been injured by good faith reliance. In such cases, the participant may be authorized, as determined by the Deputy Administrator, to do any one or more of the following:

(i) Retain payments received under the contract;

(ii) Continue to receive payments under the contract;

(iii) Keep all or part of the land covered by the contract enrolled in the applicable program under this chapter;

(iv) Re-enroll all or part of the land covered by the contract in the applicable program under this chapter; or

(v) Any other equitable relief the Deputy Administrator deems appropriate, and

(2) If relief under this section is authorized by the Deputy Administrator, the participant must take such actions as are determined by the Deputy Administrator to remedy any failure to comply with the contract.

(3) This section shall not apply to a pattern of conduct, as determined by the Deputy Administrator, in which an authorized USDA representative takes actions or provides advice with respect to a participant that the representative and the participant know, or should have known, are inconsistent with applicable law (including regulations).

(4) Relief under this section shall be available for contracts in effect beginning January 1, 2000.

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Signed at Washington, DC, on March 12, 2001.

James R. Little,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 01-6450 Filed 3-14-01; 8:45 am]

BILLING CODE 3410-05-p

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[No. 2001-14]

RIN 1550-AB45

Capital: Qualifying Mortgage Loan, Interest Rate Risk Component, and Miscellaneous Changes

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) is soliciting comment on a number of proposed changes to its capital regulations. These changes are designed to eliminate unnecessary capital burdens and to align OTS capital regulations more closely to those of the other banking regulators. Under the proposed rule, a