

# Notices

Federal Register

Vol. 67, No. 147

Wednesday, July 31, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 2001 Crop Assistance for Losses in the State of Idaho Due to the Herbicide Oust

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice.

**SUMMARY:** The Commodity Credit Corporation (CCC) is issuing this notice to inform all interested parties of the 2001 Idaho Oust Program (Oust Program). The program is to compensate farmers whose crops were damaged by the Bureau of Land Management's use of a herbicide near their farm.

**DATES:** All interested parties must file applications at the address specified below by such date as determined by the Idaho State Executive Director.

**FOR FURTHER INFORMATION CONTACT:** Dan McGlynn, Telephone (202) 720-3463.

**SUPPLEMENTARY INFORMATION:** Section 757 of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2002 (Public Law 107-76) provided that the Secretary of Agriculture may use not more than \$5,000,000 of funds of the Commodity Credit Corporation to pay claims of crop damage, upon consultation with the Secretary of the Interior, that resulted from the Bureau of Land Management's use of herbicides during the 2001 calendar year in the State of Idaho. Section 757 provided further that if the amount provided was not sufficient to pay all approved claims then the claims would be reduced on a pro rata basis related to the degree of loss in production. And, Section 757 specified that nothing in it would be construed to constitute an admission of liability by the United States arising from the use by the Bureau of Land Management of the herbicide Oust. Also, it was provided that the issuance of regulations

promulgated pursuant to Section 757 would be made without regard to: (1) The notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act"). Also, the Secretary was directed to use the authority provided under section 808 of title 5, United States Code which excepts certain rules from certain statutory provisions relating to Congressional oversight. This notice is to inform affected parties that they may be eligible for 2001 Oust benefits under the terms of this notice and to set forth the terms and conditions of the Oust Program.

Producers who seek benefits under this notice must file an application, CCC-559, 2001 Idaho Oust Program Application, for benefits in the county Farm Service Agency (FSA) office serving the county where the producer's farm is located for administrative purposes. The Secretary of Agriculture will spend \$5 million of CCC funds to pay claims of crop damage under the Oust Program. Because funding for the program is limited to \$5 million, national factors for reducing payments may be determined after the end of sign up, if necessary, to ensure that the total outlays do not exceed the amount of funds made available under this program. In the event that the \$5 million is insufficient to pay all approved claims, the Secretary of Agriculture will reduce all approvable and timely claims on a pro rata basis related to the degree of loss in production. Total Oust benefits are not subject to a payment limitation per "person" as defined in 7 CFR part 1400, or the gross revenue provisions.

Any payment or portion thereof to any producer shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor. Eligible producers for Oust benefits are producers in the State of Idaho who have suffered 2001 crop year production losses in excess of 25 percent of a field's expected production as a result of BLM's use of the herbicide

Oust. The 25 percent limit is not set out in the statute. However, the program is discretionary and claims above that amount are expected to exceed the \$5 million allowed to be spent. The 25 percent restriction is intended to help direct the funds to those with the greatest loss and the greatest needed. Although the statute speaks generally, initially, of a herbicide loss, without specifying a particular herbicide, the statute makes it clear that it is directed at the herbicide Oust. By statute, the program is limited to Idaho. As specified in this statute, nothing in the administration of the program is designed to suggest or constitute, or can be taken to suggest or constitute, and admission of liability by the United States or anyone arising from the use of the herbicide Oust or any other herbicide. As a condition to receive Oust benefits, a producer must have been in compliance with the Highly Erodible Land and Wetland Conservation provisions of 7 CFR part 12 for the 2001 crop year.

No person shall receive Oust benefits in an amount that exceeds the value of the expected production for the field for the 2001 crop year as determined by CCC.

To receive Oust benefits, the county FSA committee must determine that because of BLM's use of Oust, the producer sustained a loss of the expected production of a crop on a farm field. Ineligible causes of loss are those that are not a direct result from BLM's use of Oust. Calculation of benefits under this notice shall not include ineligible causes of loss, such as losses that are the result of adverse weather conditions, poor management decisions or poor farming practices.

Each eligible producer's share of an Oust payment shall be based on the producer's share of the crop or crop proceeds, or, if no crop was produced, the share the producer would have received if the crop had been produced.

Oust payments will be calculated using payment rates and yields established under the 2000 Crop Disaster Program (CDP) as provided in 7 CFR part 1480.

Eligible acreage shall be calculated using the number of acres shown to have been planted to a crop in a farm field, excluding acreage enrolled in the 2001 Sugar Payment-In-Kind Diversion Program. Such land was land for which

no crop was to be harvested in return for sugar from CCC's inventory. Accordingly, it would not be proper to consider such acres to have suffered a loss of the crop for purposes due to the application of this herbicide. Subject to the availability of funds, Oust benefits under this notice for losses to crops shall be made in an amount determined by multiplying the determined eligible loss of production in excess of 25 percent of the expected production for the field by the applicable payment rate.

Production shall include all harvested production, unharvested production and assigned production for the field. The county committee shall assign production when the county committee determines: (1) An acceptable appraisal or record of harvested production does not exist; (2) acreage was destroyed and no appraisal exists; (3) yields are diminished or losses are increased due to an ineligible cause of loss.

The county committee shall establish production factors for ineligible causes of loss. Production factors will apply when assigning production for ineligible causes of loss.

Producers are responsible for providing verifiable or reliable production records available for the crop and field and summarizing all the production evidence. If the eligible crop was sold or otherwise disposed of through commercial channels, production records include: commercial receipts; settlement sheets; warehouse ledger sheets; or load summaries; appraisal information from a loss adjuster acceptable to CCC. If the eligible crop was farm-stored, sold, fed to livestock or disposed of by means other than commercial channels, production records for these purposes include: truck scale tickets; appraisal information from a loss adjuster acceptable to CCC; contemporaneous diaries; or other documentary evidence, such as contemporaneous measurements.

Producers must provide all records for any production of a crop that is grown with an arrangement, or contract for guaranteed payment. The failure to report the existence of any guaranteed contract or similar arrangement or agreement shall be considered as providing false information to CCC and will render producers ineligible for Oust benefits, and may lead to other civil or criminal sanctions.

To receive Oust benefits, the county committee must determine that because of the herbicide Oust, the producer, with respect to the 2001 crop year, sustained a loss in production of a crop.

To determine if eligible acreage was damaged by Oust, the producer must

supply one of the following types of documentation: (1) Field inspection form compiled by a licensed crop consultant; (2) documentation from an independent crop consultant that indicates Oust damage; (3) positive soil test results that show the presence of Oust in the sample; or (4) documentation from a University of Idaho Specialist that the acreage showed Oust damage.

To apply for benefits, producers must submit: (1) Form CCC-559, and include supporting documentation described in this notice; (2) Form AD-1026, Highly Erodible Land and Wetland Conservation Compliance; and (3) FSA-578, Report of Acreage.

Unless extended by CCC, the final date for accepting applications for the Oust Program shall be no less than 15 calendar days after the date this notice is published in the **Federal Register**. It has been determined that the notice and comment provisions of section 553 of title 5, United States Code, the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking, and chapters 35 of title 44, United States Code (the "Paperwork Reduction Act") are not applicable to the Oust Program. Also delay for Congressional review under 5 U.S.C. 808 *et seq.*, to the extent if any, that it would otherwise apply, would be contrary to the public interest and contrary to the provisions of section 757 of Public Law 107-76 which specifies that in carrying out that section the Secretary shall use the authority of 5 U.S.C. 808 exempting agency actions from such review. Applications may be obtained and filed in the county FSA office where the producer's farm is located for administrative purposes. All late and incomplete applications may be rejected.

The Oust Program shall be under the supervision of the Farm Service Agency, Deputy Administrator for Farm Programs, who shall have the authority to modify terms and conditions of the Oust Program in order to achieve the purposes of the Oust Program. Additional conditions may be added by the program application as needed. No claims will be paid except upon the making of a proper application during the sign-up period for this program. The final terms and conditions shall be those set out in the program application, CCC-559, which all participants must sign. A copy of this form is available at any FSA office.

For additional information, affected producers should contact the Farm

Service Agency Service Center in the county in which their farm is located for administrative purposes. Eligibility determinations will be made upon receipt of all of the necessary data.

Signed at Washington, DC, on July 25, 2002.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 02-19260 Filed 7-30-02; 8:45 am]

BILLING CODE 3410-05-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Flathead County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Flathead County Resource Advisory Committee will meet in Kalispell, Montana August 5 and August 20. The purpose of the meeting is to discuss potential Title II projects for fiscal year 2003 funded by the Secure Rural Schools and Community Self Determination Act.

**DATES:** The meetings will be held August 5 from 7 pm to 9:30 pm and August 20, 7 pm to 9:30 pm.

**ADDRESSES:** The meeting will be held at the Flathead National Forest Supervisors Office, Conference Rooms A & B, 1935 third Ave East, Kalispell, Montana, 59901.

**FOR FURTHER INFORMATION CONTACT:** Allen Rowley, Flathead National Forest Public Affairs Specialist, (406) 758-5252.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Time will be available for public input on potential projects the committee may be discussing.

**Allen Rowley,**

*Public Affairs Specialist.*

[FR Doc. 02-19286 Filed 7-30-02; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Revised Payments Table Related to Secure Rural Schools and Community Self-Determination Act of 2000 and Opportunity for Counties To Change Payment Election Decisions

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.