

Notices

Federal Register

Vol. 68, No. 130

Tuesday, July 8, 2003

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

Assistance for Producers in New Mexico for Tebuthiuron Application Losses

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) is issuing this notice to inform all interested parties of the 2003 New Mexico Tebuthiuron Program (NMTP). The NMTP was authorized by the Agricultural Assistance Act of 2003 (the 2003 Act), which requires the Secretary to reimburse certain agricultural producers on farms in New Mexico for losses related to the application by the Federal Government of the herbicide Tebuthiuron on land on or near the farms of the producers during July 2002.

DATES: (1) The Farm Service Agency (FSA), through New Mexico State University (NMSU) will begin accepting applications on July 8, 2003.

(2) The application deadline is July 23, 2003.

FOR FURTHER INFORMATION CONTACT:

Eloise Taylor, Chief, Compliance Branch, FSA/PECD, 1400 Independence Ave., SW., Washington, DC 20250-0517, (202) 720-9882, or e-mail at: Eloise_Taylor@wdc.usda.gov. Persons with disabilities who require alternative means of communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Section 217 of the 2003 Act requires that this program be administered without regard to 44 U.S.C. 35, the Paperwork Reduction Act (PRA). This means the information to be collected from the public to implement this

program and the burden, in time and money, the collection of the information would have on the public does not need to be approved by the Office of Management and Budget nor is it subject to the 60-day public comment period required by the PRA.

Background

This notice provides 2003 NMTP terms and conditions and informs affected parties that they may be eligible for benefits. Section 210 of the 2003 Act provides that the Secretary shall use not more than \$1,650,000 of funds of the Commodity Credit Corporation to reimburse agricultural producers on farms located in the vicinity of Malaga, New Mexico, for all losses to crops, livestock, and trees, and interest and lost income, and related expenses incurred as the result of the application by the Federal Government of Tebuthiuron on land on or near the farms of the producers during July 2002.

Tebuthiuron is a commercially available herbicide that is used to control broadleaf weeds, grasses, and brush. It can be toxic to many plants and can kill trees, shrubs and other desirable plants with roots extending into treated areas.

Tebuthiuron has been used in the past by Federal agencies, such as the Forest Service and Natural Resources Conservation Service (NRCS) of USDA, and the Bureau of Land Management (BLM) of the Department of Interior, in drug crop eradication efforts and to control brush and weeds on public lands. Producers have claimed that Tebuthiuron use by the Federal Government and by a private landowner on July 8, 10, and 12, 2002, caused water drawn from the Black River to be tainted, causing losses to crops and livestock in the vicinity of Malaga, New Mexico. The statute provided funds to address those claims. The program is limited to farmers in that area and for their losses and related expenses due to the July, 2002, applications. No other claims will be allowed. Allowance of claims is not intended to be, and is not, an admission of fact or liability on the part of anyone, but is intended to carry out the program as required by the 2003 Act, based on the claims of the producers and the assessment of NMSU, which will help collect and assess the information. Assistance will be provided to affected producers in

proportion to the losses incurred. No claims will be paid except upon the making of a proper application during the application period as announced in this notice. All claims are subject to the availability of funds. Funding is limited to the \$1,650,000 provided by the 2003 Act and will remain available until expended. Each producer must file a claim on a form developed by FSA and NMSU, and provide supporting documentation for 2002 losses or losses in subsequent years. Once the money is expended, all other claims must be rejected. The final determinations in this matter will be made by the FSA Deputy Administrator for Farm Programs (Deputy Administrator).

2003 New Mexico Tebuthiuron Program

I. How to Apply

(A) Producers must submit the following to FSA directly or through NMSU:

- (1) Application for benefits;
- (2) Certification from a qualified crop consultant or New Mexico Department of Agriculture soil test, that supports the producer's contention that the acreage claimed to have been damaged was caused by the July, 2002, Tebuthiuron applications; and
- (3) Verifiable or reliable production records for the 2002 and 2003 crop and farm, including, as applicable, commercial receipts, settlement sheets, warehouse ledgers, load summaries, or appraisal information from a loss adjuster acceptable to CCC. If the damaged crop was farm-stored, fed to livestock, or disposed of by means other than commercial channels, acceptable production records may include truck scale tickets, appraisals from loss adjusters acceptable to CCC, contemporaneous diaries, or other documents, such as contemporaneous measurements. In the absence of such records, CCC may assign production.

(4) Records for any production of a crop that is grown with an arrangement or contract for guaranteed payment. Failure to report any applicable guaranteed contract or similar agreement shall be considered as providing false information to CCC, will render producers ineligible for NMTP payments, and may lead to other civil or criminal sanctions.

(5) For applicable prevented planting claims for 2003 or subsequent years, a certification by a qualified crop