

consultant that supports the producer's claim that a crop could not be taken to maturity because of the presence of Tebuthiuron. Prevented planted acreage shall be limited to the acres of the crop planted in 2002.

(6) Other information needed to verify the amount of the claim, including but not limited to information relating to acres planted, expected 1996 through 2000 actual yields, actual production, replanting expenses, legal fees, livestock records and associated matters as determined necessary by NMSU or CCC or as offered by the producer in support of the claim.

II. References and Payment Limitations

(A) "Deputy Administrator" in this notice means the Farm Service Agency (FSA) Deputy Administrator for Farm Programs.

(B) Funding for the program is limited to \$1,650,000. In the event that the \$1,650,000 is insufficient to pay all approved claims, CCC will reduce payments of all eligible and timely submitted claims on a pro rata basis or other method deemed appropriate by CCC.

(C) Total NMTP payments are not subject to a per person payment limitation as defined in 7 CFR part 1400.

(D) NMTP payments shall be made without regard to crop liens or title under State law, but may be assigned.

III. Who is Eligible

Eligible producers for NMTP payments are producers in the State of New Mexico who suffered loss in 2002 and subsequent years as a result of the use of the herbicide Tebuthiuron in the Black River watershed in July 2002 in the vicinity of Malaga, New Mexico.

IV. Eligibility Determinations

Eligibility determinations will be made by the Deputy Administrator upon receipt of all of the necessary data and the NMSU report of eligible claims timely submitted. Subject to the continued availability of funds, eligible losses are those claimed as a direct result from the Federal Government's use of Tebuthiuron in the vicinity of Malaga, New Mexico. The Deputy Administrator shall determine the level of proof needed to substantiate a claim for purposes of payment.

V. Payment Calculations

(A) NMTP payments for crop losses shall be based on the producer's share of the crop lost, or, if no crop was produced, the share the producer would have received if the crop had been produced.

(B) NMTP payments for lost crops will be calculated using the same or similar payment rates and county average yields established for the 2002 Crop Year Disaster Program as provided in 7 CFR part 1480, as determined by CCC. In lieu of county average yields, producers may use verifiable or reliable production evidence acceptable to CCC to establish the producers expected yield using the producer's 1996–2000 yields.

(C) NMTP payments to producers under this notice for losses to crops shall be made in an amount determined by multiplying the eligible loss of production for the farm by the applicable payment rate. Grazing losses will be based on the loss of forage value.

(D) Producers may be paid interest for 1 year for crop losses at such rate as determined by the Deputy Administrator, which may be the rate paid by the producer on outstanding loans, but not to exceed 7.44%.

(E) Attorney's fees may be claimed for representation resulting from losses due to the application of Tebuthiuron if the attorney certifies that representation was provided to a farmer. A written agreement of the terms and conditions must be provided along with the amount (by formula or dollar amount) as certified by the producer and attorney for which the producer is currently obligated or will be obligated to the attorney upon receipt of the NMTP payments.

(F) For replanting of alfalfa or pecan trees the producer must have certification from a qualified crop consultant that supports the producer's claim that a replanting is necessary due to the presence of Tebuthiuron.

(G) Miscellaneous expenses may be paid, provided that expenses are itemized and proper documentation is submitted that clearly identifies the nature of the expenses.

VI. General

(A) The NMTP shall be under the supervision of the Deputy Administrator, who shall have the authority to modify terms and conditions of the NMTP, and to impose additional terms and conditions, in order to achieve the purposes of the program.

(B) The producer, to receive payment, must meet all conditions set out in these regulations, the program application, or otherwise imposed by the Deputy Administrator.

(C) For additional information, or to submit an application directly to FSA, affected producers should contact the Farm Service Agency at the address above.

(D) Payments are subject to administrative offset.

VIII. Procedure, Application Deadline, Appeals, and Appeals Resolutions

NMSU will collect the information from all claimants. Any function NMSU declines to carry out shall be performed by the Deputy Administrator. Claimants must submit an application to NMSU or directly to the Deputy Administrator by the close of business on July 23, 2003. NMSU will submit the applications to CCC for consideration before August 4, 2003. CCC will accept or reject each application in whole or in part and will notify each producer in writing of such determination. If a producer disagrees with the determination, the producer must submit objections to CCC by writing to the Deputy Administrator, 1400 Independence Avenue, Room 3612, STOP 0510, Washington DC 20250–0510. Objections must be received within 10 days of notification of the determination.

If there are amounts in dispute, those amounts may be withheld from distribution to address those claims. If there is to be a proration such a withholding can affect all claimants. Alternatively, CCC may resolve the matter based upon the information at hand and make a full distribution, in which case there may not be sufficient funds to allow an appeal. The Deputy Administrator shall make the final determinations. All determinations on all claims shall be final except to the extent a withholding is made to allow for appeal to the Department's National Appeals Division. Notwithstanding any provision of this notice, the Deputy Administrator can adjust claims in any manner deemed appropriate to accomplish the goals of the program, may allow waivers of requirements as appropriate, and may prorate or withhold funds as needed to resolve claims under this program within the funding limit. The purpose of this notice is to inform producers of the availability of the program and to establish the basis on which program determinations can be made.

Signed at Washington, DC June 27, 2003.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 03–17201 Filed 7–7–03; 8:45 am]

BILLING CODE 3410–05–P