

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Commodity Credit Corporation

### 7 CFR Parts 718 and 1405

RIN 0560-AG70

### Disqualification for Crop Insurance Fraud

**AGENCY:** Farm Service Agency, Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule implements statutory provisions which render a producer ineligible for certain programs administered by the Farm Service Agency (FSA), or Commodity Credit Corporation (CCC), of the United States Department of Agriculture (USDA) if that person is found to have engaged in crop insurance fraud.

**DATES:** Effective: July 2, 2003.

**FOR FURTHER INFORMATION CONTACT:** Sandy Bryant, Branch Chief, Production, Emergencies, and Compliance Division, FSA, USDA, STOP 0517, 1400 Independence Avenue, SW., Washington, DC 20250-0517, telephone (202) 720-4380.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This final rule was reviewed in conformance with Executive Order 12866, has been determined to be not significant, and therefore has not been reviewed by the Office of Management and Budget.

#### Federal Assistance Programs

This rule has a potential impact on all programs listed in the Catalog of Federal Domestic Assistance in the Agency Program Index under the Department of Agriculture, Farm Service Agency and Natural Resources Conservation Service.

Other assistance programs are also impacted.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule.

#### Environmental Evaluation

The environmental impacts of this proposed rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA and CCC regulations for compliance with NEPA, 7 CFR part 799. After evaluating the effects of the proposed action it was determined that no extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement.

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This final rule preempts any State law that is inconsistent with its provisions. Before any legal action may be brought concerning this rule, all administrative remedies provided must be exhausted.

#### Executive Order 12372

Executive Order 12372 requires consultation by Federal Agencies with State and local officials when providing funds or assistance that may require non-Federal input. The programs affected by this rule were excluded from the scope of this Executive Order in the Notice related to 7 CFR part 3015 published at 48 FR 29115 on June 24, 1983.

#### Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates as defined in Title II of the Unfunded Mandates Reform Act of 1995 (UMRA). Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Paperwork Reduction Act

This rule has no effect on the information collection requirements of the Agency.

#### Executive Order 12612

This rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

#### Discussion of Final Rule

This rule implements section 121(a) of the Agricultural Risk Protection Act of 2000 (ARPA) (Pub. L. 106-224), enacted June 20, 2000. ARPA amended the Federal Crop Insurance Act (7 U.S.C. 1514) to provide that a producer may be disqualified for a period of up to 5 years from receiving certain benefits under a number of programs administered by the Department of Agriculture. A proposed rule, proposing to apply the disqualification to programs administered by FSA or conducted using funds of CCC, was published on September 12, 2002 (67 FR 57759). Comments were accepted for 60 days and no comments were received. Since this rule affects programs of CCC and FSA, it has been determined that its changes should be set forth in both FSA and CCC regulations. Accordingly, the final rule is changed from the proposed to reflect that it will appear in two places in the Code of Federal Regulations. Also, the final rule adds section 1405.8 instead of section 1405.7 as indicated in the proposed rule. Section 1405.7 was added by a final rule October 21, 2002 to implement requirements of the Uruguay Round Agreements Act.

#### List of Subjects

7 CFR Part 718

Acreage allotments, Agricultural commodities, Marketing quotas.

7 CFR Part 1405

Loan programs—agricultural, Price support programs.

■ Accordingly, Title 7 of the Code of Federal Regulations is to be amended as follows:

#### PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS

■ 1. The authority for part 718 continues to read as follows:

**Authority:** 7 U.S.C. 1311 *et seq.*; 7 U.S.C. 1501 *et seq.*; 7 U.S.C. 1921 *et seq.*; 7 U.S.C. 7201 *et seq.*; 15 U.S.C. 714b.

### Subpart A—General Provisions

■ 2. Section 718.11 is added to read as follows:

#### § 718.11 Disqualification due to federal crop insurance fraud.

(a) Section 515(h) of the Federal Crop Insurance Act (FCIA) provides that a person who willfully and intentionally provides any false or inaccurate information to the Federal Crop Insurance Corporation (FCIC) or to an approved insurance provider with respect to a policy or plan of FCIC insurance after notice and an opportunity for a hearing on the record, will be subject to one or more of the sanctions described in section 515(h)(3). In section 515(h)(3), the FCIA specifies that in the case of a violation committed by a producer, the producer may be disqualified for a period of up to 5 years from receiving any monetary or non-monetary benefit under a number of programs. The list includes, but is not limited to, benefits under:

(1) Title V of the FCIA.  
 (2) The Agricultural Market Transition Act (7 U.S.C. 7201 *et seq.*), including the Noninsured Crop Disaster Assistance Program under section 196 of that Act (7 U.S.C. 7333).

(3) The Agricultural Act of 1949 (7 U.S.C. 1421 *et seq.*).

(4) The Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*).

(5) The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 *et seq.*).

(6) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 *et seq.*).

(7) Any law that provides assistance to a producer of an agricultural commodity affected by a crop loss or a decline in prices of agricultural commodities.

(b) Violation determinations are made by FCIC. However, upon notice from FCIC to FSA that a producer has been found to have committed a violation to which paragraph (a) of this section applies, that person shall be considered ineligible for payments under the programs specified in paragraph (a) of this section that are funded by FSA for the same period of time for which, as determined by FCIC, the producer will be ineligible for crop insurance benefits of the kind referred to in paragraph (a)(1) of this section. Appeals of the determination of ineligibility will be administered under the rules set by FCIC.

(c) Other sanctions may also apply.

### PART 1405—LOANS, PURCHASES AND OTHER OPERATIONS

■ 3. The authority citation for part 1405 is revised to read as follows:

**Authority:** 7 U.S.C. 1515; 7 U.S.C. 7991(e); 15 U.S.C. 714b and 714c.

■ 4. Section 1405.8 is added to read as follows:

#### § 1405.8 Disqualification due to Federal crop insurance fraud.

(a) Section 515(h) of the Federal Crop Insurance Act (FCIA) provides that a person who willfully and intentionally provides any false or inaccurate information to the Federal Crop Insurance Corporation (FCIC) or to an approved insurance provider with respect to a policy or plan of FCIC insurance after notice and an opportunity for a hearing on the record, will be subject to one or more of the sanctions described in section 515(h)(3). In section 515(h)(3), the FCIA specifies that in the case of a violation committed by a producer, the producer may be disqualified for a period of up to 5 years from receiving any monetary or non-monetary benefit under a number of programs. The list includes, but is not limited to, benefits under:

(1) Title V of the FCIA.  
 (2) The Agricultural Market Transition Act (7 U.S.C. 7201 *et seq.*), including the Noninsured Crop Disaster Assistance Program under section 196 of that Act (7 U.S.C. 7333).

(3) The Agricultural Act of 1949 (7 U.S.C. 1421 *et seq.*).

(4) The Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*).

(5) The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 *et seq.*).

(6) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 *et seq.*).

(7) Any law that provides assistance to a producer of an agricultural commodity affected by a crop loss or a decline in prices of agricultural commodities.

(b) Violation determinations are made by FCIC. However, upon notice from FCIC to CCC that a producer has been found to have committed a violation to which paragraph (a) of this section applies, that person shall be considered ineligible for payments under the programs specified in paragraph (a) of this section that are funded by CCC for the same period of time for which, as determined by FCIC, the producer will be ineligible for crop insurance benefits of the kind referred to in paragraph (a)(1) of this section. Appeals of the determination of ineligibility will be administered under the rules set by FCIC.

(c) Other sanctions may also apply.

Signed in Washington, DC, on June 17, 2003.

**James R. Little,**

*Administrator, Farm Service Agency,  
 Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 03-16663 Filed 7-1-03; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

#### Small Business Size Standards; Waiver of the Nonmanufacturer Rule

**AGENCY:** Small Business Administration.

**ACTION:** Final decision to waive the nonmanufacturer rule.

**SUMMARY:** This document advises the public that the U.S. Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for Other Ordnances and Accessories Manufacturing. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA 8(a) Program.

**EFFECTIVE DATE:** July 11, 2003.

**ADDRESS COMMENTS TO:** Edith Butler, Program Analyst, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416, Tel: (202) 619-0422.

**FOR FURTHER INFORMATION CONTACT:** Edith Butler, Program Analyst, (202) 619-0422, FAX: (202) 205-7280.

**SUPPLEMENTARY INFORMATION:** Pub. L. 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small businesses or SBA's 8(a) Program must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market.

To be considered available to participate in the Federal market on