

reimburse the Judgment Fund or contact FMS to make arrangements in writing for reimbursement.

#### § 724.105 Compliance.

An agency's failure to reimburse the Judgment Fund, to contact FMS within 45 business days after receipt of an FMS notice for reimbursement under § 724.104 will be recorded on an annual basis and posted on the FMS Web site. After an agency meets the requirements of § 724.104, the recording will be eliminated no later than the next annual posting process.

#### § 724.106 Effective date.

This subpart is effective on October 1, 2003.

#### Subpart B—Notification of Rights and Protections and Training [Reserved]

#### Subpart C—Annual Report [Reserved]

#### Subpart D—Best Practices [Reserved]

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 760

RIN 0560-AH45

#### 2005 Section 32 Hurricane Disaster Programs

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Interim final rule with request for comment.

**SUMMARY:** The Farm Service Agency (FSA) issues this interim final rule in response to emergency agricultural situations caused by the 2005 Hurricanes Dennis, Katrina, Ophelia, Rita, and Wilma in certain counties in Alabama, Florida, Louisiana, Mississippi, North Carolina, and Texas. The named hurricanes severely limited the purchasing power of farmers engaged in the production of agricultural commodities. This rule provides for the establishment of four hurricane disaster programs and one grant program using an estimated \$250 million in funds available under section 32 of the Act of August 24, 1935, to be administered by FSA in order to provide funds to eligible producers who suffered eligible losses, thus reestablishing these producers' purchasing power. The grants will be provided to the respective States to enable them to assist aquaculture producers having losses

related to the aforementioned 2005 hurricanes.

**DATES:** This interim final rule is effective May 9, 2006. Written comments via letter, facsimile, or Internet must be received on or before June 9, 2006 in order to be assured consideration.

**ADDRESSES:** FSA invites interested persons to submit comments on this interim final rule. Comments may be submitted by any of the following methods:

- *E-mail:* Send comments to [Diane.Sharp@wdc.usda.gov](mailto:Diane.Sharp@wdc.usda.gov).
- *Fax:* Submit comments by facsimile transmission to: (202) 690-2130.
- *Mail:* Send comments to: Diane Sharp, Director, Production, Emergencies, and Compliance Division; Farm Service Agency; United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW., Washington, DC 20250-0517.
- *Hand Delivery or Courier:* Deliver comments to: Diane Sharp, Director, Production, Emergencies, and Compliance Division; Farm Service Agency; United States Department of Agriculture, Rm. 4754-S, 1400 Independence Avenue, SW., Washington, DC 20250-0517
- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Diane Sharp, Director, Production, Emergencies, and Compliance Division; Farm Service Agency; United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW., Washington, DC 20250-0517; telephone (202) 720-7641; e-mail [Diane.Sharp@wdc.usda.gov](mailto:Diane.Sharp@wdc.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

#### 2005 Section 32 Hurricane Disaster Programs

Section 32 of the Act of August 24, 1935, as amended (section 32) provides, in part, discretionary authority for the Secretary of Agriculture (the Secretary) to use section 32 funds to reestablish farmers' purchasing power by making payments to them in connection with the normal production of agricultural commodities produced for domestic consumption. This authority has been used in the past to provide assistance to producers in response to unusual market conditions that adversely affected them. Therefore, the Secretary is using funds available under section 32 in order to restore purchasing power to farmers affected by the significant

and widespread destruction caused by the 2005 Hurricanes Dennis, Katrina, Ophelia, Rita, and Wilma in applicable counties in Alabama, Florida, Louisiana, Mississippi, North Carolina, and Texas. The hurricanes destroyed and damaged trees, killed livestock, destroyed feed, and adversely impacted crop production, including aquaculture. This interim final rule addresses the hurricane destruction in those counties receiving a Presidential or Secretarial Designation as a primary county. Accordingly, the Secretary has determined that assistance is appropriate under this authority in these counties by providing the following programs:

- The Hurricane Indemnity Program (HIP) will provide payments to eligible producers who receive either a Federal Crop Insurance Corporation crop insurance indemnity payment or a crop loss payment under FSA's Noninsured Crop Disaster Assistance Program (NAP) for crop losses that are primarily attributable to one of the five listed hurricanes in an eligible county. HIP payments will be equal to 30 percent of the Risk Management Agency crop insurance indemnity or 30 percent of the NAP payment, subject to the limitations of this rule. Producers suffering crop losses due to an eligible hurricane may have been impacted by other causes of loss, not related to such a hurricane, prior to the hurricane occurrence. As a result, if a crop insurance indemnity or NAP payment was received for multiple causes of loss, including hurricane and related conditions, the entire crop insurance indemnity or NAP payment will be used to determine the HIP benefit. Since losses under both programs are not finalized until after harvest is completed or crop is abandoned RMA and FSA are unable to specifically prorate crop insurance indemnities or NAP payments strictly due to hurricane. If FSA determines that the cause of loss was not due to a hurricane or related condition, no payment will be made.

- The Feed Indemnity Program (FIP) will provide payments for feed losses or increased feed costs to eligible owners, or cash lessees, of eligible livestock in eligible counties due to 2005 hurricanes. Payments will be based on per-day feed needs for each type of eligible livestock.

- The Livestock Indemnity Program (LIP) will provide payments to eligible livestock owners and contract growers who suffered eligible livestock deaths that occurred in an eligible county due to 2005 hurricanes. Payments will be based on 75 percent of an average market value of the eligible livestock for non-contract growers and 75 percent of

a determined loss of income from eligible livestock for contract growers. Compensation received from the contractor for loss of income from the dead livestock will be deducted from the contract grower's payment.

- The Tree Indemnity Program (TIP) will provide payments to eligible owners of commercially grown fruit trees, nut trees, bushes, and vines that produce an annual crop and were lost or damaged due to 2005 hurricanes in eligible counties. Payment rates will be established based on the severity of damage caused by the hurricanes from least to most severe as reflected by established tiers. Maps showing the tiers are available at <http://disaster.fsa.usda.gov> and at applicable FSA service centers. The severity of damage is referenced using four tiers. These tiers were established using the maximum sustained wind speeds as recorded by the U.S. Weather Service stations located throughout the impacted areas. The first tier represents those areas where the maximum sustained wind speeds were between 90 and 110 mile per hour (MPH); the second tier represents those areas where the maximum sustained wind speeds were between 70 and 89 mph; the third tier represents those areas where the maximum sustained wind speeds were between 50 and 69 mph; and the fourth tier represents those areas where the maximum sustained wind speeds were between 30 and 49 mph.

- Aquaculture grants will be made available to the State governments of Alabama, Florida, Louisiana, Mississippi, North Carolina and Texas. Aquaculture producers who raise aquaculture species in a controlled environment in eligible counties and who have not received assistance under other disaster programs for the same aquaculture losses may be eligible. The amount of each grant will be based on the value of aquaculture sales from each eligible county uniformly prorated to insure that available funding is not exceeded.

Due to the limited amount of funding for HIP, FIP, LIP and TIP and in order to maintain equitable treatment of producers under all disaster programs of FSA and the Commodity Credit Corporation, the amount of payments per program that a 'person' may receive cannot exceed \$80,000; adjusted gross income rules apply, which provide that payments will not be available for persons whose adjusted gross income is \$2.5 million or higher, unless 75 percent or more of their income is derived from farming, ranching, and/or forestry; and the rules for conservation compliance, and controlled substances apply.

### Summary of Cost-Benefit Analysis

As a result of extensive crop damage from these five hurricanes, 261 counties in Alabama, Florida, Louisiana, Mississippi, North Carolina, and Texas were designated as Presidential and Secretarial primary disaster counties. Production losses for the three most devastating of storms, Katrina, Rita, and Wilma, are estimated to total \$2.1 billion. A wide variety of crops were damaged because of the diversity of production in the affected areas. Damaged crops include feed grains, soybeans, upland cotton, rice, sugarcane, nursery plants, fruits, vegetables, pecans, pasture, livestock, poultry, and aquaculture. The numbers of designated counties listed by states are as follows:

- Alabama—40 counties suffered under Dennis and/or Katrina.
- Florida—36 counties suffered under Dennis, Katrina, and/or Wilma.
- Louisiana—64 counties suffered under Katrina and Rita.
- Mississippi—82 counties suffered under Katrina.
- North Carolina—10 counties under Ophelia.
- Texas—29 counties under Rita.

HIP payments will provide additional crop loss assistance to restore purchasing power to producers affected by the named hurricanes. According to the Risk Management Agency (RMA) crop loss indemnities were approximately \$291 million. Based on the participation rates in the hurricane-impacted States, it is estimated that approximately \$16.6 million will be issued under NAP. Thus, HIP payments are estimated to total a maximum of \$60 million.

The value of expected claims under the 2005 FIP is \$30 million. To the extent program payments are ultimately spent on forage or grain or affect the total supply of available livestock, the impacts of the FIP on any sector of the economy, including livestock feed prices, livestock prices, and consumer prices, are not expected to be measurable. The effect on aggregate social welfare of any slight redistribution of wealth and income resulting from the expected \$30 million in 2005 FIP payment claims is expected to be so slight as to be immeasurable. However, for those producers who have suffered losses due to the 2005 hurricanes, and qualify for payments under the FIP, their farm income losses will be somewhat offset or reduced by these payments, and they and their local communities will benefit accordingly.

The value of expected claims under the 2006 LIP is \$16.9 million, but could

be higher by an unknown but likely small magnitude as actual applications for aid are submitted, or smaller to the extent that payments are bound by the \$80,000 maximum payment or the \$2.5 gross income limit for applicants. To the extent program payments are ultimately spent on forage or grain or affect the total supply of available livestock, the impacts of the LIP on any sector of the economy, including livestock feed prices, livestock prices, and consumer prices, are not expected to be measurable. The effect on aggregate social welfare of any slight redistribution of wealth and income resulting from the expected \$16.9 million in 2006 LIP payment claims is also expected to be so slight as to be immeasurable. However, for those producers who have suffered losses due to the 2005 hurricanes, and qualify for payments under the LIP, their farm income losses will be somewhat offset or reduced by these payments, and they and their local communities will benefit accordingly.

Cost of the TIP is expected to be between \$32.3 million and \$64.6 million with a point estimate of \$37.7 million. Over 90 percent the program funds will go to the Florida citrus industry.

Funding of \$25 million is being provided for assistance to aquaculture producers. Aquaculture grants will be made available to State governments as follows: Alabama, \$5,037,500; Florida, \$3,662,500; Louisiana, \$4,512,500; Mississippi, \$10,762,500; North Carolina, \$312,500; and Texas, \$712,500. It is likely that a preponderance of the assistance will be provided to crawfish operations, with most of the balance going to catfish producers. The total amount of funding is expected to be expended.

### Notice and Comment

In general, the Administrative Procedure Act (APA), as codified at 5 U.S.C. 553, requires that notice of proposed rulemaking shall be published in the **Federal Register** and interested persons must be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. This applies except to the extent there is involved a military or foreign affairs function of the United States or a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. Such notice is not required under the APA, however, when an agency publishes interpretative rules, general statements of policy, or rules of agency organization, procedure, or

practice. Further, such notice is not required when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. However, the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, 36 FR 13804 (July 24, 1971) (Statement), notes that the advantages of such APA requirements of permitting greater public participation in the formulation of rules generally outweighs any disadvantages such as increased costs or delays, when publishing rules related to public property, loans, grants, benefits, or contracts. As such, the Statement recommends notice of proposed rulemaking when formulating such rules. Nevertheless, like the APA, under this Statement, exemptions from such requirements are permitted where an agency, for good cause, finds that compliance would be impracticable, unnecessary or contrary to the public interest, and only when there is a substantial basis.

For the programs referenced in this regulation, FSA finds that a substantial basis exists for publishing this rule as interim final. It would be impracticable and contrary to public interest to delay implementation of this rule because it would significantly delay assistance under these section 32 programs to the many people who suffered losses and were affected by the 2005 Hurricanes. Such delay in implementation could possibly cause irreparable and additional damage to those who have already suffered losses as a result of the 2005 Hurricanes. This interim rule is thus effective immediately. However, public comments are still invited and will be considered to the extent practicable in the promulgation of the final rule.

#### **Executive Order 12866**

This rule has been determined to be economically significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget. A Cost-Benefit Analysis (CBA) was completed and is available from the contact person cited above.

#### **Regulatory Flexibility Act**

This rule is not subject to the Regulatory Flexibility Act since the Farm Service Agency is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for this rule.

#### **Environmental Review**

The environmental impacts of this rule have been considered consistent with 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 regulations of the Farm Service Agency (FSA) of the Department of Agriculture (USDA) for compliance with NEPA, 7 CFR part 799. An Environmental Evaluation was completed and it was determined that this action does not have the potential to significantly impact the quality of the human environment and, therefore, the rule is categorically excluded from further review under NEPA. A copy of the environmental evaluation is on file and available to the public in the Administrative Record at the address specified in the **ADDRESSES** section of this rule.

#### **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).

#### **Executive Order 12612**

This rule does not have Federalism implications that warrant the preparation of a Federalism Assessment. 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.

#### **Executive Order 12988**

This rule has been reviewed in accordance with Executive Order 12988. This interim rule is not retroactive and it does not preempt State law. Before any judicial action may be brought regarding the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

#### **Unfunded Mandates Reform Act of 1995**

This rule contains no Federal mandates under the regulatory provisions of Title II of the UMRA for State, local, and tribal government or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995, the Office of Management and Budget (OMB) has approved the information collection required to support this program and assigned it OMB Control number 0560-0257. Copies of the information collection may be obtained from Debbie

O'Donoghue, phone: (202) 720-6605; e-mail: [Debbie.Odonoghue@wdc.usda.gov](mailto:Debbie.Odonoghue@wdc.usda.gov).

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule has been determined to be Major under the Small Business Regulatory Enforcement Fairness Act of 1996, (Pub. L. 104-121) (SBREFA). SBREFA normally requires that an agency delay the effective date of a major rule for 60 days from the date of publication to allow for Congressional review. Section 808 of SBREFA allows an agency to make a major regulation effective immediately if the agency finds there is good cause to do so. Accordingly, FSA finds that it would be contrary to the public interest to delay implementation of this rule because it would significantly delay assistance to the many people affected by the hurricane disasters addressed by this rule. This rule is thus effective immediately.

#### **Government Paperwork Elimination Act**

FSA is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The regulation is available at <http://www.fsa.usda.gov> under the heading 'Other Partners.' Applications may be submitted at the FSA county offices, by mail or by FAX.

#### **List of Subjects for 7 CFR Part 760**

Disaster assistance, Hurricanes, Indemnity payments.

■ For the reasons set forth above, 7 CFR part 760 is amended as follows:

#### **PART 760—INDEMNITY PAYMENT PROGRAMS**

■ 1. The authority citation for part 760 is revised to read as follows:

**Authority:** 7 U.S.C. 612c; Pub. L. 106-387, 114 Stat. 1549; Pub. L. 107-76, 115 Stat. 704.

#### **Subpart [Amended]**

■ 2. The subpart entitled "Dairy Indemnity Program" is designated as subpart A and the subpart entitled "Bee Keeper Indemnity Program (1978-80) [Reserved]" is removed.

■ 3. In § 760.2, revise paragraphs (c), (d), and (e) to read as follows:

#### **§ 760.2 Definitions.**

\* \* \* \* \*

(c) *Deputy Administrator* means the Deputy Administrator for Farm Programs, FSA.

(d) *State committee* means the FSA State committee.

(e) *County committee* means the FSA county committee.

\* \* \* \* \*

■ 4. Subparts B through G are added to read as follows:

**Subpart B—General Provisions for the 2005 Section 32 Hurricane Disaster Programs**

- Sec.
- 760.101 Eligible counties, hurricanes and disaster periods.
- 760.102 Applicability.
- 760.103 Administration of HIP, FIP, LIP, and TIP.
- 760.104 Definitions.
- 760.105 Application for payment.
- 760.106 Limitations on payments and other benefits.
- 760.107 Appeals.
- 760.108 Offsets, assignments, and debt settlement.
- 760.109 Records and inspection thereof.

- 760.110 Refunds; joint and several liability.
- 760.111 Paperwork Reduction Act assigned number.

**Subpart C—Hurricane Indemnity Program**

- 760.201 Applicability.
- 760.202 Producer eligibility.
- 760.203 Payment calculation.

**Subpart D—Feed Indemnity Program**

- 760.301 Applicability.
- 760.302 Definitions.
- 760.303 Eligible livestock and producers.
- 760.304 Application process.
- 760.305 Payment calculation.

**Subpart E—Livestock Indemnity Program**

- 760.401 Applicability.
- 760.402 Definitions.
- 760.403 Eligible owners, contract growers and livestock.
- 760.404 Application process.
- 760.405 Payment calculation.

**Subpart F—Tree Indemnity Program**

- 760.501 Applicability.
- 760.502 Eligible producers and stands.
- 760.503 Application process.

- 760.504 Payment calculation.

**Subpart G—Aquaculture Program**

- 760.601 Funds availability.

**Subpart B—General Provisions for the 2005 Section 32 Hurricane Disaster Programs**

**§ 760.101 Eligible counties, hurricanes and disaster periods.**

Producers who have suffered certain losses due to 2005 Hurricanes Dennis, Katrina, Ophelia, Rita, and Wilma in the following counties (eligible counties) are eligible to enroll in the programs made available under subparts B through F of this part. The 'Disaster Period' is the time period in which losses occurred that would be considered eligible for the programs under subparts B through F of this part. Funds for the programs in subparts B through G are made available under section 32 of the Act of August 24, 1935, as amended (section 32).

State	County	Disaster period				
		Dennis	Katrina	Ophelia	Rita	Wilma
Alabama	Autauga	7/10/05–9/8/05				
Alabama	Baldwin	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Bibb		8/29/05–10/28/05			
Alabama	Butler	7/10/05–9/8/05				
Alabama	Chambers	7/10/05–9/8/05				
Alabama	Choctaw	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Clarke	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Clay	7/10/05–9/8/05				
Alabama	Cleburne	7/10/05–9/8/05				
Alabama	Coffee	7/10/05–9/8/05				
Alabama	Colbert		8/29/05–10/28/05			
Alabama	Conecuh	7/10/05–9/8/05				
Alabama	Covington	7/10/05–9/8/05				
Alabama	Crenshaw	7/10/05–9/8/05				
Alabama	Cullman		8/29/05–10/28/05			
Alabama	Dallas	7/10/05–9/8/05				
Alabama	Escambia	7/10/05–9/8/05				
Alabama	Geneva	7/10/05–9/8/05				
Alabama	Greene	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Hale	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Henry	7/10/05–9/8/05				
Alabama	Houston	7/10/05–9/8/05				
Alabama	Jefferson		8/29/05–10/28/05			
Alabama	Lamar		8/29/05–10/28/05			
Alabama	Lauderdale		8/29/05–10/28/05			
Alabama	Lowndes	7/10/05–9/8/05				
Alabama	Macon	7/10/05–9/8/05				
Alabama	Marengo	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Marion		8/29/05–10/28/05			
Alabama	Mobile	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Monroe	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Perry	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Pickens		8/29/05–10/28/05			
Alabama	Pike	7/10/05–9/8/05				
Alabama	Randolph	7/10/05–9/8/05				
Alabama	Sumter	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Tuscaloosa	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Washington	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Wilcox	7/10/05–9/8/05	8/29/05–10/28/05			
Alabama	Winston		8/29/05–10/28/05			
Florida	Bay	7/10/05–9/8/05	8/24/05–10/23/05			
Florida	Brevard					10/23/05–12/22/05
Florida	Broward		8/24/05–10/23/05			10/23/05–12/22/05
Florida	Calhoun	7/10/05–9/8/05				
Florida	Charlotte					10/23/05–12/22/05
Florida	Collier		8/24/05–10/23/05			10/23/05–12/22/05
Florida	Dixie	7/10/05–9/8/05				
Florida	Escambia	7/10/05–9/8/05	8/24/05–10/23/05			
Florida	Franklin	7/10/05–9/8/05	8/24/05–10/23/05			
Florida	Gadsden	7/10/05–9/8/05				

State	County	Disaster period				
		Dennis	Katrina	Ophelia	Rita	Wilma
Florida	Glades					10/23/05-12/22/05
Florida	Gulf	7/10/05-9/8/05	8/24/05-10/23/05			
Florida	Hardee					10/23/05-12/22/05
Florida	Hendry					10/23/05-12/22/05
Florida	Highlands					10/23/05-12/22/05
Florida	Holmes	7/10/05-9/8/05				
Florida	Indian River					10/23/05-12/22/05
Florida	Jackson	7/10/05-9/8/05				
Florida	Jefferson	7/10/05-9/8/05				
Florida	Lee					10/23/05-12/22/05
Florida	Leon	7/10/05-9/8/05				
Florida	Levy	7/10/05-9/8/05				
Florida	Liberty	7/10/05-9/8/05				
Florida	Martin					10/23/05-12/22/05
Florida	Miami-Dade		8/24/05-10/23/05			10/23/05-12/22/05
Florida	Monroe	7/10/05-9/8/05	8/24/05-10/23/05			10/23/05-12/22/05
Florida	Okaloosa	7/10/05-9/8/05	8/24/05-10/23/05			
Florida	Okeechobee					10/23/05-12/22/05
Florida	Palm Beach					10/23/05-12/22/05
Florida	St. Lucie					10/23/05-12/22/05
Florida	Santa Rosa	7/10/05-9/8/05	8/24/05-10/23/05			
Florida	Sarasota					10/23/05-12/22/05
Florida	Taylor	7/10/05-9/8/05				
Florida	Wakulla	7/10/05-9/8/05				
Florida	Walton	7/10/05-9/8/05	8/24/05-10/23/05			
Florida	Washington	7/10/05-9/8/05				
Louisiana	Acadia		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Allen		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Ascension		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Assumption		8/29/05-10/28/05			
Louisiana	Avoyelles		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Beauregard		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Bienville		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Bossier		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Caddo		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Calcasieu		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Caldwell		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Cameron		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Catahoula		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Claiborne		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Concordia		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	De Soto		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	East Baton Rouge		8/29/05-10/28/05			
Louisiana	East Carroll		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	East Feliciana		8/29/05-10/28/05			
Louisiana	Evangeline		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Franklin		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Grant		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Iberia		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Iberville		8/29/05-10/28/05			
Louisiana	Jackson		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Jefferson		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Jefferson Davis		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Lafayette		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Lafourche		8/29/05-10/28/05			
Louisiana	La Salle		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Lincoln		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Livingston		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Madison		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Morehouse		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Natchitoches		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Orleans		8/29/05-10/28/05			
Louisiana	Ouachita		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Plaquemines		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Pointe Coupee		8/29/05-10/28/05			
Louisiana	Rapides		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Red River		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Richland		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Sabine		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	St. Bernard		8/29/05-10/28/05			
Louisiana	St. Charles		8/29/05-10/28/05			
Louisiana	St. Helena		8/29/05-10/28/05			
Louisiana	St. James		8/29/05-10/28/05			
Louisiana	St. John the Baptist		8/29/05-10/28/05			
Louisiana	St. Landry		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	St. Martin		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	St. Mary		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	St. Tammany		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Tangipahoa		8/29/05-10/28/05			
Louisiana	Tensas		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Terrebonne		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Union		8/29/05-10/28/05		9/23/05-11/22/05	

State	County	Disaster period				
		Dennis	Katrina	Ophelia	Rita	Wilma
Louisiana	Vermilion		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Vernon		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	Washington		8/29/05-10/28/05			
Louisiana	Webster		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	West Baton Rouge		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	West Carroll		8/29/05-10/28/05		9/23/05-11/22/05	
Louisiana	West Feliciana		8/29/05-10/28/05			
Louisiana	Winn		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Adams		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Alcorn		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Amite		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Attala		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Benton		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Bolivar		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Calhoun		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Carroll		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Chickasaw		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Choctaw		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Claiborne		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Clarke		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Clay		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Coahoma		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Copiah		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Covington		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	De Soto		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Forrest		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Franklin		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	George		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Greene		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Grenada		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Hancock		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Harrison		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Hinds		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Holmes		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Humphreys		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Issaquena		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Itawamba		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Jackson		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Jasper		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Jefferson		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Jefferson Davis		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Jones		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Kemper		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Lafayette		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Lamar		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Lauderdale		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Lawrence		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Leake		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Lee		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Leflore		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Lincoln		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Lowndes		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Madison		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Marion		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Marshall		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Monroe		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Montgomery		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Neshoba		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Newton		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Noxubee		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Oktibbeha		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Panola		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Pearl River		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Perry		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Pike		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Pontotoc		8/29/05-10/28/05			
Mississippi	Prentiss		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Quitman		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Rankin		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Scott		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Sharkey		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Simpson		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Smith		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Stone		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Sunflower		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Tallahatchie		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Tate		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Tippah		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Tishomingo		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Tunica		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Union		8/29/05-10/28/05			
Mississippi	Walthall		8/29/05-10/28/05		9/23/05-11/22/05	

State	County	Disaster period				
		Dennis	Katrina	Ophelia	Rita	Wilma
Mississippi	Warren		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Washington		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Wayne		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Webster		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Wilkinson		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Winston		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Yalobusha		8/29/05-10/28/05		9/23/05-11/22/05	
Mississippi	Yazoo		8/29/05-10/28/05		9/23/05-11/22/05	
North Carolina	Brunswick			9/11/05-11/10/05		
North Carolina	Carteret			9/11/05-11/10/05		
North Carolina	Craven			9/11/05-11/10/05		
North Carolina	Dare			9/11/05-11/10/05		
North Carolina	Hyde			9/11/05-11/10/05		
North Carolina	Jones			9/11/05-11/10/05		
North Carolina	New Hanover			9/11/05-11/10/05		
North Carolina	Onslow			9/11/05-11/10/05		
North Carolina	Pamlico			9/11/05-11/10/05		
North Carolina	Pender			9/11/05-11/10/05		
Texas	Angelina				9/23/05-11/22/05	
Texas	Brazoria				9/23/05-11/22/05	
Texas	Chambers				9/23/05-11/22/05	
Texas	Cherokee				9/23/05-11/22/05	
Texas	Fort Bend				9/23/05-11/22/05	
Texas	Galveston				9/23/05-11/22/05	
Texas	Gregg				9/23/05-11/22/05	
Texas	Hardin				9/23/05-11/22/05	
Texas	Harris				9/23/05-11/22/05	
Texas	Harrison				9/23/05-11/22/05	
Texas	Houston				9/23/05-11/22/05	
Texas	Jasper				9/23/05-11/22/05	
Texas	Jefferson				9/23/05-11/22/05	
Texas	Liberty				9/23/05-11/22/05	
Texas	Marion				9/23/05-11/22/05	
Texas	Montgomery				9/23/05-11/22/05	
Texas	Nacogdoches				9/23/05-11/22/05	
Texas	Newton				9/23/05-11/22/05	
Texas	Orange				9/23/05-11/22/05	
Texas	Panola				9/23/05-11/22/05	
Texas	Polk				9/23/05-11/22/05	
Texas	Rusk				9/23/05-11/22/05	
Texas	Sabine				9/23/05-11/22/05	
Texas	San Augustine				9/23/05-11/22/05	
Texas	San Jacinto				9/23/05-11/22/05	
Texas	Shelby				9/23/05-11/22/05	
Texas	Trinity				9/23/05-11/22/05	
Texas	Tyler				9/23/05-11/22/05	
Texas	Walker				9/23/05-11/22/05	

**§ 760.102 Applicability.**

(a) This part establishes the terms and conditions under which the following programs will be administered for 2005 hurricanes in eligible counties:

- (1) Hurricane Indemnity Program (HIP);
- (2) Feed Indemnity Program (FIP);
- (3) Livestock Indemnity Program (LIP);
- (4) Tree Indemnity Program (TIP); and
- (5) Aquaculture grants to States.

(b) The amount that may be expended for payments under subparts B through G of this part shall not exceed the amount of Section 32 funds made available by the Secretary for the administration of these programs.

(c) To be eligible for payments under these programs, producers must comply with all applicable provisions under subparts B through G of this part and with any other conditions imposed by FSA or, in the case of State grants, by the State.

**§ 760.103 Administration of HIP, FIP, LIP, and TIP.**

(a) These programs are administered under the general supervision of the Administrator, FSA.

(b) FSA representatives do not have authority to modify or waive any of the provisions of the regulations of subparts B through F of this part.

(c) The State FSA committee shall take any action required by the regulations of subparts B through F of this part that the county FSA committee has not taken. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with the regulations of subparts B through F of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with subparts B through F of this part.

(d) No provision or delegation to a State or county FSA committee shall preclude the Administrator, FSA, Deputy Administrator for Farm Programs, FSA or a designee or other such person, from determining any question arising under the program or from reversing or modifying any determination made by a State or county FSA committee.

**§ 760.104 Definitions.**

The following definitions in this section apply to the programs in subparts B through G of this part. The terms defined in part 718 of this chapter and parts 1400 and 1437 of this title shall also be applicable, except where they conflict with the definitions set forth in this section.

*Application* means the '2005 Hurricane Disaster Programs Application' form.

*Application* period means the date established by the Deputy Administrator

for producers to apply for program benefits.

*Bush* means a thick densely branched woody shrub grown for the production of an annual crop for commercial market for human consumption.

*Commercial use* means used in the operation of a business activity engaged in as a means of livelihood for profit by the eligible producer.

*Crop insurance* means an insurance policy reinsured by the Federal Crop Insurance Corporation under the provisions of the Federal Crop Insurance Act, as amended.

*Farming operation* means a business enterprise engaged in the production of agricultural products.

*Fruit tree* means a woody perennial plant having a single main trunk, commonly exceeding 10 feet in height and usually devoid of branches below, but bearing a head of branches and foliage or crown of leaves at the summit that is grown for the production of an annual crop, including nuts, for commercial market for human consumption.

*Owner* means one who had legal ownership of the trees, bushes, vines, or livestock for which benefits are being requested under subparts B through F, on the day such plant or livestock perished or suffered losses due to an eligible hurricane as set forth § 760.101.

*Stand* means a contiguous acreage of the same crop of trees, bushes, or vines, and excludes container-grown crops.

*Tier* means the geographic bands of damage generally correlating to the severity of damage caused by the maximum sustained winds of the applicable hurricanes.

*Vine* means a plant from which an annual fruit crop is produced for commercial market for human consumption, such as grape, kiwi, or passion fruit, that has a flexible stem supported by climbing, twining, or creeping along a surface.

#### § 760.105 Application for payment.

(a) A producer who applies for any program under subparts B through F shall file an application and any required supporting documentation in the county FSA office serving the county where the eligible loss occurred; or in the case of FIP, where the eligible livestock were physically located on the applicable date.

(b) The application must be filed during the application period announced by FSA.

(c) Payments may be made for eligible losses suffered by an eligible producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into a contract for

the producer signs the application for payment. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application for payment.

(d) Data furnished by the applicant will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without all required data program benefits will not be approved or provided.

(e) A minor child shall be eligible to apply for program benefits so long as all eligibility requirements are met and one of the following conditions exist:

(1) The right of majority has been conferred upon the minor by court proceedings or statute;

(2) A guardian has been appointed to manage the minor's property, and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which a surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

#### § 760.106 Limitations on payments and other benefits.

(a) Separate payment limitations apply to HIP, FIP, LIP, and TIP. No 'person' as determined under part 1400 of this title shall receive more than \$80,000 under each of these programs.

(b) An individual or entity whose adjusted gross income is in excess of \$2.5 million, as determined under part 1400 of this title, shall not be eligible to receive benefits under this part for HIP, FIP, LIP, and TIP.

(c) As a condition to receive benefits under subparts B through F, a producer must have been in compliance with the provisions of parts 12 and 718 of this title for the 2005 crop year and must not otherwise be barred from receiving benefits under any law.

(d) An individual or entity determined to be a foreign person under part 1400 of this title shall not be eligible to receive benefits under subparts B through F of this part.

#### § 760.107 Appeals.

The appeal regulations set forth at parts 11 and 780 of this title apply to determinations made pursuant to subparts B through F of this part.

#### § 760.108 Offsets, assignments, and debt settlement.

(a) Except as provided in paragraph (b) of this section, 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 commodity, and or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 792 of this chapter apply to payments made under subparts B through F of this part.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing the assignment of payments found at part 1404 of this title.

#### § 760.109 Records and inspection thereof.

Producers receiving payments under the programs in subparts B through F or any other person who furnishes information for the purposes of enabling such producer to receive a payment under subparts B through F of this part shall maintain any books, records, and accounts supporting any information so furnished for 3 years following the end of the year during which the application for payment was filed. Producers receiving payments or any other person who furnishes such information to FSA shall permit authorized representatives of USDA and the General Accounting Office during regular business hours to inspect, examine, and to allow such persons to make copies of such books, records, and to enter upon, inspect and verify all applicable livestock and acreage in which the applicant has an interest for the purpose of confirming the accuracy of the information provided by the applicant.

#### § 760.110 Refunds; joint and several liability.

In the event there is a failure to comply with any term, requirement, or condition for payment or assistance arising under subparts B through F of this part, and if any refund of a payment to FSA shall otherwise become due in connection with this part, all payments made in regard to such matter shall be refunded to FSA together with interest and late-payment charges as provided for in part 792 of this chapter.

#### § 760.111 Paperwork Reduction Act assigned number.

The information collection required to support the regulations of subparts B through F of this part has been approved by OMB and assigned OMB control number 0560-0257.

#### Subpart C—Hurricane Indemnity Program

##### § 760.201 Applicability.

This subpart sets forth the terms and conditions applicable to the Hurricane

Indemnity Program (HIP). Benefits will be provided under this subpart to producers who have received a crop insurance indemnity from the Risk Management Agency (RMA) based on the associated loss criteria set forth in § 760.202(a)(1) as provided to FSA by RMA; and to producers who have received Noninsured Crop Disaster Assistance Program (NAP) payments under part 1437 of this title based on the provisions of § 760.202(a)(1). HIP benefits will be provided under this subpart to eligible producers who suffered losses due to hurricanes as set forth in § 760.101.

#### § 760.202 Producer eligibility.

A producer who applies for benefits under this subpart will be eligible to receive a payment if both of the following apply:

- (a) The producer received a crop insurance indemnity from RMA or a NAP payment under part 1437 of this title for crop losses:
  - (1) In an eligible county;
  - (2) Recorded by RMA or FSA as being due to an eligible hurricane and the loss occurred during a disaster period as set forth in § 760.101; and
  - (3) Were due to any of the following causes of loss:
    - (i) Excessive moisture, precipitation, and/or rain;
    - (ii) Flood;
    - (iii) Excessive wind;
    - (iv) Cyclone;
    - (v) Tornado;
    - (vi) Hurricane or tropical depression;
    - (vii) Storm surge; and/or (viii) Salinity due to salt water intrusion.
- (b) An application is filed in accordance with § 760.105.

#### § 760.203 Payment calculation.

The disaster benefits under this subpart will be equal to the smaller of:

- (a) 30 percent of the RMA crop insurance indemnity or 30 percent of the NAP payment for eligible crop losses according to § 760.202(a)(1), and adding the crop insurance premium for the indemnity as outlined in § 760.202(a)(1); or
- (b) 95 percent of the expected value of the crop in the absence of a disaster, as determined by RMA for insured crops, using information from the crop policy; and by FSA for NAP crops, using the producer's price and yield, minus the following:
  - (1) The value of the production as counted by RMA for insured crops to establish the indemnity and by FSA for NAP crops to establish the NAP payment,
  - (2) The crop's eligible indemnity or NAP payment for eligible crop losses

determined in accordance with § 760.202(a)(1),

(3) And adding the crop insurance premium for the indemnity as outlined in § 760.202(a)(1).

### Subpart D—Feed Indemnity Program

#### § 760.301 Applicability.

This subpart sets forth the terms and conditions applicable to the Feed Indemnity Program (FIP). FIP benefits will be provided under this subpart to eligible owners and cash lessees, but not both, for the same livestock, for feed losses or increased feed costs that occurred in eligible counties during the disaster period as set forth in § 760.101.

#### § 760.302 Definitions.

The following definitions are applicable for all purposes of administering FIP.

*Adult beef bulls* means male bovine animals that were at least 2 years old and used for breeding purposes on the beginning date of the applicable disaster period as set forth in § 760.101.

*Adult beef cows* means female bovine animals that had delivered one or more offspring before the beginning date of the applicable disaster period as set forth in § 760.101. A first-time bred beef heifer shall also be considered an adult beef cow if it was pregnant on the beginning date of the applicable disaster period as set forth in § 760.101.

*Adult buffalo and beefalo bulls* means male animals of those breeds that were at least 2 years old and used for breeding purposes on the beginning date of the applicable disaster period as set forth in § 760.101.

*Adult buffalo and beefalo cows* means female animals of those breeds that had delivered one or more offspring before the beginning date of the applicable disaster period as set forth in § 760.101. A first-time bred buffalo or beefalo heifer shall also be considered to be an adult buffalo or beefalo cow if it was pregnant on the beginning date of the applicable disaster period as set forth in § 760.101.

*Adult dairy bulls* means male bovine animals of a breed used for producing milk for human consumption that were at least 2 years old and used for breeding dairy cows on the beginning date of the applicable disaster period as set forth in § 760.101.

*Adult dairy cows* means female bovine animals used for the purpose of providing milk for human consumption, that had delivered one or more offspring before the beginning date of the applicable disaster period as set forth in § 760.101. A first-time bred dairy heifer shall also be considered an adult dairy

cow if it was pregnant on the beginning date of the applicable disaster period as set forth in § 760.101.

*Deer* means domesticated ruminant mammals of the genus *Cervus* having two large and two small hooves on each foot.

*Goats* means domesticated, ruminant mammals of the genus *Capra*, including Angora goats.

*Horses* means domesticated horses, and does not include donkeys, mules or other large solid-hoofed herbivorous mammals.

*Non-adult beef cattle* means male, female or neutered male bovine animals that weighed 500 pounds or more on the beginning date of the applicable disaster period as set forth in § 760.101, but do not meet the definition of adult beef cows or bulls.

*Non-adult buffalo/beefalo* means male, female or neutered male animals of those breeds that weighed 500 pounds or more on the beginning date of the applicable disaster period as set forth in § 760.101, but do not meet the definition of an adult buffalo or beefalo cow or bull.

*Non-adult dairy cattle* means male, female or neutered male bovine livestock, of a breed used for the purpose of providing milk for human consumption, that weighed 500 pounds or more on the beginning date of the applicable disaster period as set forth in § 760.101, but do not meet the definition adult dairy cows or bulls.

*Sheep* means domesticated, ruminant mammals of the genus *Ovis*.

#### § 760.303 Eligible livestock and producers.

(a) To be considered eligible, livestock must meet all the following conditions:

- (1) Be adult or non-adult dairy cattle, beef cattle, buffalo, beefalo, horses, sheep, goats or deer as defined in § 760.302;
  - (2) Be physically located in an eligible county on the beginning date of the applicable disaster period as set forth in § 760.101;
  - (3) Been maintained for commercial use as part of a farming operation on the beginning date of the applicable disaster period as set forth in § 760.101;
  - (4) Not have been produced and maintained for reasons other than commercial use as part of a farming operation. Such excluded uses include, but are not limited to wild free roaming animals or animals used for recreational purposes, such as pleasure, hunting, pets, or for show.
- (b) To be considered an eligible livestock producer, both of the following conditions must be met:
- (1) Owned or cash-leased, but not both for the same livestock, eligible

livestock on the beginning date of the applicable disaster period as provided in § 760.101; and

(2) Suffered a feed loss or an increased feed cost during the applicable disaster period as set forth in § 760.101. The feed must have been for the eligible livestock.

#### § 760.304 Application process.

(a) Applicants must submit a completed application certifying to the feed loss or increased feed cost, current physical location of livestock in inventory, physical location of claimed livestock on the beginning date of the applicable disaster period as set forth in § 760.101, and any other supporting documentation for FSA to determine the eligibility of the applicant.

(b) Supporting evidence may include quantity and kind of livestock for which benefits are being requested, including but not limited to, purchase records, veterinarian records, bank or other loan papers, rendering truck receipts, Federal Emergency Management Agency and National Guard records, written contracts, production records, Internal Revenue Service (IRS) records, property tax records, private insurance documents, and any other verifiable documents available to confirm the existence of the claimed livestock.

#### § 760.305 Payment calculation.

(a) FIP payments are calculated by multiplying the national payment rate for each of the following livestock categories by the number of eligible livestock in each category. The payment rate represents the cost of the amount of corn needed to maintain 1 animal unit for a specified period of time.

(b) The eligible livestock categories are:

- (1) Adult beef cows or bulls;
- (2) Non-adult beef cattle;
- (3) Adult buffalo or beefalo cows or bulls;
- (4) Non-adult buffalo or beefalo;
- (5) Adult dairy cows or bulls;
- (6) Non-adult dairy cattle;
- (7) Goats;
- (8) Sheep;
- (9) Horses; and
- (10) Deer.

### Subpart E—Livestock Indemnity Program

#### § 760.401 Applicability.

(a) This subpart sets forth the terms and conditions applicable to the Livestock Indemnity Program (LIP). Benefits will be provided under this subpart to eligible livestock owners and contract growers, but not both for the same livestock loss, for certain livestock

deaths that occurred in eligible counties during the disaster period as set forth in § 760.101.

(b) Eligible livestock owners and contract growers will be compensated in accordance with § 760.405 for eligible livestock deaths that occurred in eligible counties during the disaster period as set forth in § 760.101.

#### § 760.402 Definitions.

The following definitions are applicable for all purposes of administering LIP.

*Adult beef bull* means a male bovine animal that was at least 2 years old and used for breeding purposes before it died.

*Adult beef cow* means a female bovine animal that had delivered one or more offspring before dying. A first-time bred beef heifer shall also be considered an adult beef cow if it was pregnant at the time it died.

*Adult buffalo and beefalo bull* means a male animal of those breeds that were at least 2 years old and used for breeding purposes before it died.

*Adult buffalo and beefalo cow* means a female animal of those breeds that had delivered one or more offspring before dying. A first-time bred buffalo or beefalo heifer shall also be considered an adult buffalo or beefalo cow if it was pregnant at the time it died.

*Adult dairy bull* means a male bovine animal of a breed used for producing milk for human consumption that was at least 2 years old and used for breeding dairy cows before it died.

*Adult dairy cow* means a female bovine animal used for the purpose of providing milk for human consumption that had delivered one or more offspring before dying. A first-time bred dairy heifer shall also be considered an adult dairy cow if it was pregnant at the time it died.

*Buck* means a male goat.

*Contract* means, with respect to contracts for the handling of livestock, a written agreement between a livestock owner and another individual or entity setting the specific terms, conditions and obligations of the parties involved regarding the production of livestock or livestock products.

*Deer* means a domesticated ruminant mammal of the genus *Cervus* having two large and two small hooves on each foot.

*Doe* means a female goat.

*Equine animal* means a domesticated horse, mule or donkey.

*Ewe* means a female sheep.

*Goat* means a domesticated, ruminant mammal of the genus *Capra*, including Angora goats. Goats will be further delineated by sex (bucks and does) and age (kids).

*Kid* means a goat less than 1 year old.

*Lamb* means a sheep less than 1 year old.

*Non-adult beef cattle* means male, female or neutered male bovines that do not meet the definition of adult beef cows or bulls. *Non-adult beef cattle* is further delineated by weight categories of less than 400 pounds, and 400 pounds or more at the time they died.

*Non-adult buffalo or beefalo* means a male, female or neutered male animal of those breeds that do not meet the definition of adult buffalo/beefalo cow or bull. *Non-adult buffalo or beefalo* is further delineated by weight categories of less than 400 pounds, and 400 pounds or more at the time of death.

*Non-adult dairy cattle* means male, female or neutered male bovine livestock, of a breed used for the purpose of providing milk for human consumption, that do not meet the definition of adult dairy cows or bulls. *Non-adult dairy cattle* is further delineated by weight categories of less than 400 pounds, and 400 pounds or more at the time they died.

*Poultry* means domesticated chickens, turkeys, ducks and geese. *Poultry* will be further delineated by sex, age and purpose of production, as determined by FSA.

*Ram* means a male sheep.

*Sheep* means domesticated, ruminant mammals of the genus *Ovis*. *Sheep* will be further delineated by sex (rams and ewes) and age (lambs).

*Swine* means domesticated omnivorous pigs, hogs, and boars. *Swine* will be further delineated by sex and weight as determined by FSA.

#### § 760.403 Eligible owners, contract growers and livestock.

(a) To be considered eligible, a livestock owner must have had legal ownership of the eligible livestock on the day the livestock died.

(b) To be considered eligible, a contract grower on the day the livestock died must have had:

(1) A written agreement with the owner of eligible livestock setting the specific terms, conditions and obligations of the parties involved regarding the production of livestock; and

(2) Control of the livestock that died.

(c) To be considered eligible, livestock must meet all the following:

(1) Be adult or non-adult dairy cattle, beef cattle, buffalo, beefalo, equine, sheep, goats, swine, poultry or deer.

(2) Perished as a direct result of an applicable disaster, in an eligible county and during the applicable disaster period as set forth in § 760.101;

(3) Been maintained for commercial use as part of a farming operation on the day they died; and before dying;

(4) Not have been produced or maintained for reasons other than commercial use as part of a farming operation, including but not limited to wild free roaming animals or animals used for recreational purposes, such as pleasure, hunting, pets, or for show.

**§ 760.404 Application process.**

(a) Applicants must submit a completed application, documentary evidence of loss, current physical location of livestock in inventory, physical location of claimed livestock at the time of death, and any other supporting documentation necessary for FSA to determine eligibility.

(b) Applicants must provide adequate proof that the death of the eligible livestock occurred during the applicable disaster period, and the death was a direct result of the applicable disaster, as set forth in § 760.101.

(c) The quantity and kind of livestock that died as a direct result of the applicable disaster may be documented by purchase records, veterinarian records, bank or other loan papers, rendering truck receipts, Federal Emergency Management Agency and National Guard records, written contracts, production records, IRS records, property tax records, private insurance documents, and any other verifiable documents available to confirm the presence and subsequent death of the livestock.

(d) Certifications of livestock deaths by third parties may be accepted only if both the following conditions are met:

(1) The livestock owner or livestock contract grower, as applicable, certifies in writing:

(i) That there is no other documentation of death available; and

(ii) The number of livestock, by category as determined by the Deputy Administrator, in inventory at the time the applicable disaster occurred; and

(2) The third party certifying to the claimed deaths by the livestock owner or contract grower must provide their telephone number and address, and certify in writing to all the following:

(i) Specific details about their knowledge of the livestock deaths;

(ii) Their affiliation to the livestock owner or contract grower;

(iii) The accuracy of the deaths claimed by the livestock owner or contract grower; and

(iv) Other details necessary for FSA to determine the certification acceptable.

**§ 760.405 Payment calculation.**

(a) Under LIP, separate payment rates are established for eligible livestock

owners and eligible contract growers in accordance with paragraphs (b) and (c) of this section. LIP payments are calculated by multiplying the national payment rate, as determined in paragraphs (b) and (c) of this section, by the number of eligible livestock in each category, as provided in paragraph (d) of this section. The payment calculated for an eligible contract grower for an eligible livestock category shall be reduced by the amount of any compensation received from the contractor for the loss of income from the dead livestock.

(b) The LIP payment rate for eligible livestock owners is based on 75 percent of the average fair market value of the livestock.

(c) The LIP payment rates for eligible contract growers is based on 75 percent of the average income loss sustained by the contract grower with respect to the dead livestock.

(d) The categories of eligible livestock are as follows:

- (1) Adult beef cows;
- (2) Adult beef bulls;
- (3) Non-adult beef cattle;
- (4) Adult buffalo or beefalo cows;
- (5) Adult buffalo or beefalo bulls;
- (6) Non-adult buffalo/beefalo;
- (7) Adult dairy cows;
- (8) Adult dairy bulls;
- (9) Non-adult dairy cattle;
- (10) Swine, sows, boars, barrows, gilts over 150 pounds;
- (11) Swine, sows, boars, barrows, gilts 50 to 150 pounds;
- (12) Swine, feeder pigs under 50 pounds;
- (13) Goats, bucks;
- (14) Goats, does;
- (15) Goats, kids;
- (16) Sheep, rams;
- (17) Sheep, ewes;
- (18) Sheep, lambs;
- (19) Deer;
- (20) Chickens, layers, roasters;
- (21) Chickens, broilers, pullets;
- (22) Chickens, chicks;
- (23) Turkeys, toms, fryers, roasters;
- (24) Turkeys, poult;
- (25) Ducks;
- (26) Ducks, ducklings;
- (27) Geese, goose;
- (28) Geese, gosling; and
- (29) Equine.

**Subpart F—Tree Indemnity Program**

**§ 760.501 Applicability.**

(a) This subpart sets forth the terms and conditions applicable to the Tree Indemnity Program (TIP). Benefits will be provided under this subpart for eligible fruit trees, bushes, and vines that were lost or damaged during the disaster period as set forth in § 760.101.

(b) Compensation will be based on expenses incurred for replanting, rehabilitation, cleanup, and debris removal.

(c) No benefits shall be provided when the loss:

(1) Occurred in any county other than an eligible county, or

(2) Was not the result of an eligible disaster as set forth in § 760.101.

**§ 760.502 Eligible producers and stands.**

(a) An eligible fruit tree, bush, and/or vine producer is one who bears financial responsibility and who has incurred costs of at least \$90 per acre for replanting, rehabilitation, cleanup, or debris removal, excluding crop production.

(b) An eligible stand must:

(1) Be physically located in an eligible county;

(2) Have been impacted during an eligible disaster as set forth in § 760.101; and

(3) Be grown for commercial use.

**§ 760.503 Application process.**

(a) Applicants must submit a completed application and report of acreage identifying the geographic location and number of acres in the disaster-affected stand of claimed fruit trees, bushes, and vines according to part 718 of this chapter, and any other supporting documentation for FSA to determine the eligibility of the applicant.

(b) Applicants must certify and provide adequate proof that the expenses incurred to eligible fruit trees, bushes, or vines occurred during the applicable disaster period and that the loss or damage was a direct result of the applicable disaster, as set forth in § 760.101.

(c) The quantity and kind of fruit trees, bushes, or vines that died or were damaged as a result of the applicable disaster may be documented by purchase records, bank or other loan papers, Federal Emergency Management Agency and National Guard records, IRS records, property tax records, private insurance documents, and any other verifiable documents available to confirm the presence and subsequent loss or expenses incurred of said fruit trees, bushes, or vines.

**§ 760.504 Payment calculation.**

(a) TIP payments shall be calculated by multiplying the following national payment rate for the applicable tier by the number of eligible acres, excluding but not limited to such things as drainage ditches and canals, in a stand of fruit trees, bushes, or vines by the producer's share in such crop:

- (1) Tier I—\$750;  
 (2) Tier II—\$300;  
 (3) Tier III—\$200; and  
 (4) Tier IV—\$90.

(b) If the actual expenses incurred for damage are greater than the value associated with the tier based on the location of the stand, the applicant may submit documentation to FSA to request the stand be placed in the next lower-numbered tier which represents a greater level of loss and a higher payment rate. Regardless of the expenses incurred the stand can only be placed in the next lower-numbered tier.

### Subpart G—Aquaculture Program

#### § 760.601 Funds availability.

FSA will provide block grants to the states of Alabama, Florida, Louisiana, Mississippi, North Carolina and Texas where aquaculture was adversely affected by the hurricanes as set forth in § 760.201 for those States. Producers in eligible counties in those states who raise aquaculture species in a controlled environment as part of a farming operation and who have not received assistance under other disaster programs for the same aquaculture losses may be eligible for these funds. Funds provided by a State to a farming operation under such a grant shall not exceed \$80,000.

Signed in Washington, DC, May 2, 2006.

**Thomas B. Hofeller,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 06-4278 Filed 5-9-06; 8:45 am]

BILLING CODE 3410-05-P

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Parts 594, 595 and 597

#### Global Terrorism Sanctions Regulations; Terrorism Sanctions Regulations; Foreign Terrorist Organizations Sanctions Regulations

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Treasury Department's Office of Foreign Assets Control ("OFAC") is revising the Global Terrorism Sanctions Regulations, the Terrorism Sanctions Regulations, and the Foreign Terrorist Organizations Sanctions Regulations to add general licenses authorizing certain transactions with the Palestinian Authority ("PA").

**DATE:** Effective May 10, 2006.

**FOR FURTHER INFORMATION CONTACT:**

Assistant Director of Compliance, Outreach & Implementation, tel.: 202/

622-2490, Assistant Director of Licensing, tel.: 202/622-2480, Assistant Director of Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Electronic and Facsimile Availability

This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: <http://www.treas.gov/ofac>, or via FTP at [ofacftp.treas.gov](ftp://ofacftp.treas.gov).

##### Background

OFAC administers three sanctions programs with respect to terrorists and terrorist organizations. The Terrorism Sanctions Regulations, 31 CFR part 595 ("TSR"), implement Executive Order 12947 of January 23, 1995, in which the President declared a national emergency with respect to "grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process." The Global Terrorism Sanctions Regulations, 31 CFR part 594 ("GTSR"), implement Executive Order 13224 of September 23, 2001, in which the President declared an emergency more generally with respect to "grave acts of terrorism and threats of terrorism committed by foreign terrorists." The Foreign Terrorist Organizations Sanctions Regulations, 31 CFR part 597 ("FTOSR"), implement provisions of the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA").

HAMAS, members of which now form the majority party within the Palestinian Legislative Council and hold positions of authority within the government including the position of Prime Minister, is a target of each of these sanctions programs, resulting in the blocking of any property and interests in property of HAMAS that are in the United States or hereafter come within the United States, or that are in or hereafter come within the possession or control of a United States person. These restrictions prohibit U.S. persons from dealing in property or interests in property of HAMAS. OFAC has determined that, as a result of the recent elections, HAMAS has a property interest in the transactions of the Palestinian Authority. Accordingly, pursuant to the TSR, the GTSR and the FTOSR, U.S. persons are prohibited from engaging in transactions with the Palestinian Authority unless authorized.

Notwithstanding the prohibitions, OFAC, consistent with current foreign policy, is authorizing U.S. persons to engage in certain transactions in which the Palestinian Authority may have an interest. It should be noted that the prohibitions involving the Palestinian Authority do not bar all transactions involving individuals and entities in Palestinian territory.

#### Executive Order 12866, Administrative Procedure Act, Regulatory Flexibility Act, and Paperwork Reduction Act

Because the regulations at issue involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

#### List of Subjects

##### 31 CFR Part 594

Administrative practice and procedure, Banks, Banking, Penalties, Reporting and recordkeeping requirements, Terrorism.

##### 31 CFR Part 595

Administrative practice and procedure, Banks, Banking, Currency, Foreign investments in United States, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

##### 31 CFR Part 597

Administrative practice and procedure, Banks, Banking, Currency, Foreign investments in United States, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

■ For the reasons set forth in the preamble, and under the authority of IEEPA and AEDPA, 31 CFR chapter V is amended by amending the interpretations and licenses provisions in 31 CFR parts 594, 595, and 597 as set forth below.

#### PART 594—GLOBAL TERRORISM SANCTIONS REGULATIONS

■ 1. The authority citation for part 594 continues to read as follows:

**Authority:** 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 13224, 66 FR 49079,