

to cooperate with store visits shall result in the denial or withdrawal of authorization.

(B) Offer for sale perishable staple food items in at least two staple food categories. Perishable foods are items which are either frozen staple food items or fresh, unrefrigerated or refrigerated staple food items that will spoil or suffer significant deterioration in quality within 2–3 weeks; and

(C) Offer a variety of staple foods which means different types of foods, such as apples, cabbage, tomatoes, and squash in the fruit or vegetable staple food category, or milk, cheese, butter and yogurt in the dairy category. Variety of foods is not to be interpreted as different brands, different nutrient values, different varieties of packaging, or different package sizes. Similar processed food items with varying ingredients such as, but not limited to, sausages, breakfast cereals, milk, sliced breads, and cheeses, and similar unprocessed food items, such as, but not limited to, different varieties of apples, cabbage, tomatoes, or squash shall not each be considered as more than one staple food variety for the purpose of determining variety. Multiple ingredient food items intended for home preparation and consumption, such as, but not limited to, cold pizza, macaroni and cheese, soup, or frozen dinners, shall only be counted as one staple food variety each and will normally be included in the staple food category of the main ingredient as determined by the FNS.

(iii) *Application of Criterion B.* In order to qualify under this criterion, firms must have more than 50 percent of their total gross retail sales in staple food sales. Total gross retail sales must include all retail sales of a firm, including food and non-food merchandise, as well as services, such as rental fees, professional fees, and entertainment/sports/games income. However, a fee directly connected to the processing of staple foods, such as raw meat, poultry, or fish by the service provider, may be calculated as staple food sales under Criterion B.

(iv) *Ineligible firms.* Firms that do not meet the eligibility requirements in this section or that do not effectuate the purpose of the Food Stamp Program shall not be eligible for program participation. New applicant firms that are found to be ineligible will be denied authorization to participate in the program, and authorized retail food stores found to be ineligible will be withdrawn from program participation. Ineligible firms under this paragraph include, but are not limited to, stores selling only accessory foods, including

spices, candy, soft drinks, tea, or coffee; ice cream vendors selling solely ice cream; and specialty doughnut shops or bakeries not selling bread. In addition, firms that are considered to be restaurants, that is, firms that have more than 50 percent of their total gross retail sales in hot and/or cold prepared foods not intended for home preparation and consumption, shall not qualify for participation as retail food stores under Criterion A or B. This includes firms that primarily sell prepared foods that are consumed on the premises or sold for carryout. Such firms may qualify, however, under the special restaurant programs that serve the elderly, disabled, and homeless populations, as set forth in paragraph (d) of this section.

(v) *Wholesale food concerns.* Wholesale food concerns, the primary business of which is the sale of eligible food at wholesale, and which meet the staple food requirements in paragraph (b) of this section, shall normally be considered to have adequate food business for the purposes of the program, provided such concerns meet the criteria specified in paragraph (c) of this section.

(vi) *Co-located wholesale food concerns.* \* \* \*

\* \* \* \* \*

(q) \* \* \* With the exception of EINs and SSNs, any information collected from retail food stores and wholesale food concerns, such as ownership information and sales and redemption data, may be disclosed for purposes directly connected with the administration and enforcement of the Food Stamp Act and these regulations, and can be disclosed to and used by State agencies that administer the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). Such information may also be disclosed to and used by Federal and State law enforcement and investigative agencies for the purpose of administering or enforcing other Federal or State law, and the regulations issued under such other law. \* \* \*

\* \* \* \* \*

(t) *Periodic notification.* The FNS will issue periodic notification to participating retail stores and wholesale food concerns to clarify program eligibility criteria, including the definitions of “Retail food store”, “Staple foods”, “Eligible foods”, and “Perishable foods”. At a minimum, such information will be provided to stores at the time of authorization, reauthorization and upon request.

#### **§ 278.6 [Amended]**

4. In § 278.6:

a. Paragraph (a) is amended by removing the reference to “\$10,000” and adding in its place the words “an amount specified in § 3.91(b)(3)(i) of this title” and removing the reference to “\$20,000” and adding in its place the words “an amount specified in § 3.91(b)(3)(ii) of this title”; and

b. Paragraph (g)(3) is amended by removing the reference to “\$10,000” in the last sentence and adding in its place the words “an amount specified in § 3.91(b)(3)(i) of this title”.

Dated: January 5, 2001.

**Shirley R. Watkins,**

*Under Secretary, Food, Nutrition and Consumer Services.*

[FR Doc. 01–957 Filed 1–11–01; 8:45 am]

**BILLING CODE 3410–30–U**

## **DEPARTMENT OF AGRICULTURE**

### **Farm Service Agency**

#### **7 CFR Part 760**

#### **RIN 0560–AG 39**

#### **Dairy Indemnity Payment Program**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the authority citation for the Dairy Indemnity Payment Program (DIPP) regulations to cover the expenditure of additional funds appropriated under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001. The DIPP indemnifies dairy farmers and manufacturers for losses suffered with respect to milk and milk products, through no fault of their own.

**EFFECTIVE DATE:** January 12, 2001.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Hill, Agricultural Program Specialist, Price Support Division, FSA, USDA, STOP 0512, 1400 Independence Avenue, SW, Washington, DC 20250–0512; telephone (202) 720–9888; e-mail address is Elizabeth\_Hill@wdc.fsa.usda.gov.

#### **SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866**

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

#### **Federal Assistance Program**

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance,

to which this rule applies are Dairy Indemnity Payments, Number 10.053.

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the Farm Service Agency is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

#### Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

#### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require 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 12988

This rule has been reviewed pursuant to Executive Order 12988. To the extent State and local laws are in conflict with these regulatory provisions, it is the intent of Commodity Credit Corporation that the terms of the regulations prevail. The provisions of this rule are not retroactive. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

#### Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### Paperwork Reduction Act

The amendment to 7 CFR part 760 set forth in this final rule does not contain additional information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35. Existing information collections were approved by OMB and assigned OMB Control Number 0560-0116.

#### Background

The DIPP was originally authorized by section 331 of the Economic

Opportunity Act of 1964. The statutory authority for the program was extended several times. Funds were appropriated for DIPP by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act, 1999, (the 1999 Act), Pub. L. 105-277, 112 Stat. 2681, and, more recently, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (the 2000 Act), Pub. L. 106-78, 113 Stat. 1135, both of which authorized the program to be carried out until the funds appropriated were expended. Most recently, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (the 2001 Act), Pub. L. 106-387, 114 Stat. 1549 also appropriated funds and authorized the program to be carried out until the funds are expended. Not all the funds appropriated under the previous Acts have been expended and the remaining funds are still available in addition to the funds appropriated under the 2001 Act.

The objective of DIPP is to indemnify dairy farmers and manufacturers of dairy products who, through no fault of their own, suffer income losses with respect to milk or milk products removed from commercial markets because such milk or milk products contain certain harmful residues. In addition, dairy farmers can also be indemnified for income losses with respect to milk required to be removed from commercial markets due to residues of chemicals or toxic substances or contamination by nuclear radiation or fallout.

The regulations governing the program are set forth at 7 CFR Part 760. This rule makes no changes in the provisions of the regulations. Since the only purpose of this final rule is to revise the authority citation pursuant to the 2001 Act, it has been determined that no further public rulemaking is required. Therefore, this final rule shall become effective upon the date of publication in the **Federal Register**.

#### List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Pesticides and pests.

Accordingly, 7 CFR part 760 is amended as follows:

## PART 760—INDEMNITY PAYMENT PROGRAMS

### Subpart—Dairy Indemnity Payment Program

The authority citation for Subpart—Dairy Indemnity Payment Program is revised to read as follows:

**Authority:** Pub. L. 105-277, 112 Stat. 2681, and Pub. L. 106-78, 113 Stat. 1135, and Pub. L. 106-387, 114 Stat. 1549.

Dated: January 4, 2001.

**Keith Kelly,**

*Administrator, Farm Service Agency.*

[FR Doc. 01-1017 Filed 1-11-01; 8:45 am]

**BILLING CODE 3410-05-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 00-AEA-04FR]

#### Amend Class E Airspace: Westminster, MD

**AGENCY:** Federal Aviation Administration [FAA], DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E airspace at Clearview Airpark (2W2), Westminster, MD. This action is made necessary by the development of a Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Clearview Airpark. Sufficient controlled airspace is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport. The area would be depicted on aeronautical charts for pilot reference.

**EFFECTIVE DATE:** 0901 UTC December 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA-520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434-4809, telephone: (718) 553-4521.

#### SUPPLEMENTARY INFORMATION:

##### History

On September 11, 2000 a notice proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Clearview Airpark, Westminster, MD was published in the **Federal Register** (65 FR 54825). Interested parties were invited to participate in this rulemaking