

## Farm Service Agency, USDA

## § 759.12

FEDERAL REGISTER published on August 30, 1999. A producer who wishes to amend an application filed prior to February 12, 1999, may file an amended application by the deadline for new applications specified in § 759.4 of this part.

(c) To the extent that \$175 million is not sufficient to cover all claims under this part, claims filed on or before February 12, 1999, shall be paid in full for the eligible hogs and feeder pigs which were the subject of that claim. For claims filed after that date, the claims will be paid in the manner deemed appropriate by FSA to assure, to the extent practicable, that the claims are paid in the order in which they are filed, until the available funds are expended at which point no additional claims will be paid.

[64 FR 47099, Aug. 30, 1999]

### § 759.7 Appeals.

Any hog operation which is dissatisfied with a determination made with respect to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at part 11 of this title and part 780 of this title.

### § 759.8 Misrepresentation and scheme or device.

(a) A hog operation shall be ineligible to receive assistance under this program if it is determined by the State committee or the county committee to have:

(1) Adopted any scheme or device which tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to a hog operation engaged in a misrepresentation, scheme, or device, or to any other person as a result of the hog operation's actions, shall be refunded with interest together with such other sums as may become due. Any hog operation or person engaged in acts prohibited by this section and any hog operation or person receiving payment under this part shall be jointly and severally liable for any refund due under this section and for related

charges. The remedies provided in this part shall be in addition to other civil, criminal, or administrative remedies which may apply.

### § 759.9 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an otherwise eligible operator of a hog operation shall be eligible for assistance under this part only if such operation meets one of the following requirements:

(1) The minor establishes that the right of majority has been conferred on the minor by court proceedings or by 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 the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

### § 759.10 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a hog operation that is eligible to receive benefits in accordance with this part, such hog operation may receive such benefits.

### § 759.11 Maintaining records.

Hog operations making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein and the number of head of slaughter hogs and feeder pigs sold during the marketing period. Such records and accounts must be retained for at least 3 years after the date of the cash payment to hog operations under this program.

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

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application, or this part, and if any

refund of a payment to FSA shall otherwise become due in connection with the application, or this part, all payments made under this part to any hog operation shall be refunded to FSA together with interest as determined in accordance with paragraph (c) of this section and late-payment charges as provided for in part 1403 of this chapter.

(b) All persons listed on a hog operation's application shall be jointly and severally liable for any refund, including related charges, which is determined to be due for any reason under the terms and conditions of the application or this part.

(c) Interest shall be applicable to refunds required of the hog operation if FSA determines that payments or other assistance were provided to the producer was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges the Commodity Credit Corporation (CCC) for funds, as of the date FSA made such benefits available. Such interest shall accrue from the date such benefits were made available to the date of repayment or the date interest increases as determined in accordance with applicable regulations. FSA may waive the accrual of interest if FSA determines that the cause of the erroneous determination was not due to any action of the hog operation.

(d) Interest determined in accordance with paragraph (c) of this section shall not be applicable to refunds required of the hog operation because of unintentional misaction on the part of the hog operation, as determined by FSA.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 792.

(f) Hog operations must refund to FSA any excess payments made by FSA with respect to such application.

(g) In the event that a benefit under this subpart was provided as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

## PART 760—INDEMNITY PAYMENT PROGRAMS

### Subpart—Dairy Indemnity Payment Program

#### PROGRAM OPERATIONS

##### Sec.

760.1 Administration.

760.2 Definitions.

#### PAYMENTS TO DAIRY FARMERS FOR MILK

760.3 Indemnity payments on milk.

760.4 Normal marketings of milk.

760.5 Fair market value of milk.

760.6 Information to be furnished.

760.7 Other requirements for affected farmers.

760.8 Application for payments for milk.

760.9 Other legal recourse.

#### PAYMENTS TO MANUFACTURERS AFFECTED BY PESTICIDES

760.20 Payments to manufacturers of dairy products.

760.21 Application for payments by manufacturers.

760.22 Information to be furnished by manufacturer.

760.23 Other requirements for manufacturers.

#### GENERAL PROVISIONS

760.24 Limitation of authority.

760.25 Estates and trusts; minors.

760.26 Appeals.

760.27 Setoffs.

760.28 Overdisbursement.

760.29 Death, incompetency, or disappearance.

760.30 Records and inspection thereof.

760.31 Assignment.

760.32 Instructions and forms.

760.33 Availability of funds.

760.34 Paperwork Reduction Act assigned numbers.

### Subpart—Beekeeper Indemnity Payment Program (1978-80) [Reserved]

### Subpart—Dairy Indemnity Payment Program

AUTHORITY: Dairy Indemnity Program, Pub. L. 105-277, 112 Stat. 2681 and Pub. L. 106-78, 113 Stat. 1135.

SOURCE: 43 FR 10535, Mar. 14, 1978, unless otherwise noted.