

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

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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.

Farm Service Agency, USDA

§ 760.2

PROGRAM OPERATIONS

§ 760.1 Administration.

This indemnity payment program will be carried out by FSA under the direction and supervision of the Deputy Administrator. In the field, the program will be administered by the State and county committees.

§ 760.2 Definitions.

For purposes of this subject, the following terms shall have the meanings specified:

(a) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the U.S. Department of Agriculture to whom he has delegated, or to whom he may hereafter delegate, authority to act in his stead.

(b) *FSA* means the Farm Service Agency, U.S. Department of Agriculture.

(c) *Deputy Administrator* means the Deputy Administrator, State and County Operations, FSA.

(d) *State committee* means the Agricultural Stabilization and Conservation State committee.

(e) *County committee* means the Agricultural Stabilization and Conservation county committee.

(f) *Pesticide* means an economic poison which was registered pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135 through 135k), and approved for use by the Federal Government.

(g) *Chemicals or Toxic Substances* means any chemical substance or mixture as defined in the Toxic Substances Control Act (15 U.S.C. 2602).

(h) *Nuclear Radiation or Fallout* means contamination from nuclear radiation or fallout from any source.

(i) *Violating Substance* means one or more of the items defined in paragraphs (f), (g), and (h) of this section.

(j) *Public agency* means any Federal, State or local public regulatory agency.

(k) *Affected farmer* means a person who produces whole milk which is removed from the commercial market any time from:

(1) Pursuant to the direction of a public agency because of the detection

of pesticide residues in such whole milk by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency, or

(2) Pursuant to the direction of a public agency because of the detection of other residues of chemicals or toxic substances residues, or contamination from nuclear radiation or fallout in such whole milk by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency.

(l) *Affected manufacturer* means a person who manufactures dairy products which are removed from the commercial market pursuant to the direction of a public agency because of the detection of pesticide residue in such dairy products by tests made by a public agency or under a testing program deemed adequate for the purpose by a public agency.

(m) *Milk handler* means the marketing agency to or through which the affected dairy farmer marketed his whole milk at the time he was directed by the public agency to remove his whole milk from the commercial market.

(n) *Person* means an individual, partnership, association, corporation, trust, estate, or other legal entity.

(o) *Application period* means any period during which an affected farmer's whole milk is removed from the commercial market pursuant to direction of a public agency for a reason specified in paragraph (k) of this section and for which application for payment is made.

(p) *Pay period* means (1) in the case of an affected farmer who markets his whole milk through a milk handler, the period used by the milk handler in settling with the affected farmer for his whole milk, usually biweekly or monthly, or (2) in the case of an affected farmer whose commercial market consists of direct retail sales to consumers, a calendar month.

(q) *Whole milk* means milk as it is produced by cows.

(r) *Commercial market* means (1) the market to which the affected farmer normally delivers his whole milk and from which it was removed because of