

§ 783.9

7 CFR Ch. VII (1-1-02 Edition)

which constitute the qualifying loss and the amount of the acreage of the individual stands with respect to which the loss was suffered. The applicant must provide sufficient evidence of the losses so as to allow the county committee to determine qualifying losses.

(b)(1) The county committee or a designee may conduct field reviews to determine the actual qualifying loss and the acreage of individual stands with respect to which the loss was suffered. The county committee and, if designated by the county committee, the county executive director, are authorized, subject to the provisions of this part, to approve or disapprove all applications, subject to the limitations and conditions of this part, provided the applicant is not a county committee member or an FSA employee.

(2) The State committee shall approve or disapprove applications of the county committee members and all FSA employees except applications submitted by the State Executive Director, or by a State committee member.

(3) The Deputy Administrator, or a designee, shall approve or disapprove applications of State committee members and the State Executive Director.

(4) All applications forwarded to a higher reviewing authority for consideration shall be accompanied by committee recommendations. No application shall be approved unless the owner meets all eligibility requirements. Information furnished by the applicant and any other information, including knowledge of the county and State committee members concerning the owner's normal operations, shall be taken into consideration in making recommendations and approvals. If information furnished by the owner is incomplete or ambiguous and sufficient information is not otherwise available with respect to the owner's farming operations in order to make a determination as to the owner's eligibility, the owner's application shall not be approved until sufficient additional information is provided by the owner.

(c) If an owner is eligible to receive payments under this part and the catastrophic risk protection crop insurance program (7 CFR part 402), or the non-insured crop disaster assistance pro-

gram (7 CFR part 1437) for the same tree or vine loss, the eligible owner must choose whether to receive the other program benefits or payments under this part. The eligible owner cannot receive both. However, if the other program benefits are not available until after the eligible owner has received benefits under this part, the eligible owner may obtain the other program benefits if the eligible owner refunds the total amount of the payment received prior to receiving the other program benefits. If the eligible owner purchased additional coverage insurance, as defined in 7 CFR 400.651, or is eligible for emergency loans, the eligible owner will be eligible for assistance under such program, and this part as long as the amount received for the loss under the additional coverage or the emergency loan together with the amount received from the other programs does not exceed the amount of the actual loss of the eligible owner.

[62 FR 50850, Sept. 29, 1997, as amended at 63 FR 3791, Jan. 27, 1998]

§ 783.9 Obligations of an eligible owner.

(a) Eligible owners must submit a request for assistance on the approved form and must also submit all documentation requested by the appropriate official as necessary to make determinations specified in this part.

(b) Eligible owners must:

(1) Comply with all terms and conditions of this part;

(2) Execute all required documents;

(3) Comply with all applicable noxious weed laws; and

(4) Complete the TAP practice within 24 months of the date the application is approved.

(c) In the event of a determination that a person was erroneously determined to be eligible or has become ineligible for all or part of a payment made under this part for any reason, including a failure to comply with the terms and conditions of this part, or other condition for payment imposed by the county or State committee or the Deputy Administrator, such person shall refund any payment paid under this part together with interest. Such interest shall be charged at the rate determined for late payment charges

Farm Service Agency, USDA

§ 783.14

under part 1403 of this title and computed from the date of disbursement of the payment to the date of the refund.

(d) Eligible owners must allow representatives of FSA to visit the site for the purposes of examining and certifying mortality and practice completion.

§ 783.10 Partial performance.

(a) Participants may elect not to replant the maximum amount of eligible trees or eligible vines because of imposition of the payment limitation in § 783.5(c) or any other reason. If owners partially complete their practices after they apply, but do not replant or rehabilitate all of their qualifying trees or vines, the county committee shall calculate payment based on the extent performed.

(b) Eligible owners who have been paid but choose not to complete the practice by the final practice expiration date shall refund their payments with interest. Interest on these refunds shall be calculated beginning on the date the payment was disbursed. Such refund amounts may be reduced, at the discretion of the Deputy Administrator, when only part of the required replanting practice is not implemented.

§ 783.11 Liens and claims of creditors; set-offs.

Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government. The regulations governing set-offs and withholdings found at part 792 of this chapter shall be applicable to this part.

§ 783.12 Appeals.

Any person who 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 chapter.

§ 783.13 Misrepresentation and scheme or device.

(a) A person shall be ineligible to receive assistance under this program if such person 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) All moneys paid by CCC under this part to any such person or to any other person as a result of such person's actions shall be refunded to CCC with interest together with such other sums as may become due. The party engaged in acts prohibited by this section and the party receiving payment shall be jointly and severally liable for any refund due under this section and for related charges. The remedies provided to CCC in this part shall be in addition to other civil, criminal, or administrative remedies which may apply.

§ 783.14 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 owner shall be eligible for assistance under this subpart only if such person 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.