

**§ 1439.357**

**7 CFR Ch. XIV (1-1-05 Edition)**

(c) Interest shall be applicable to refunds required of the livestock owner or other party receiving assistance or a payment if CCC determines that payments or other assistance were provided to the owner and the owner was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges CCC for funds, as of the date CCC made such benefits. Such interest that is determined to be due CCC shall accrue from the date such benefits were made available by CCC to the date of repayment or the date interest increases in accordance with part 1403 of this chapter. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the livestock owner or other individual or entity receiving benefits.

(d) Interest otherwise determined due in accordance with paragraph (c) of this section may be waived with respect to refunds required of the owner or other program recipient because of unintentional misaction on the part of the owner or other individual or entity, as determined by CCC.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in part 1403 of this chapter.

(f) Individuals or entities who are a party to any program operated under this part must refund to CCC any excess payments made by CCC with respect to such program.

(g) In the event that any request for assistance or payment under this part was established as a result of erroneous information or a miscalculation, the assistance or payment shall be recomputed and any excess refunded with applicable interest.

**§ 1439.357 Miscellaneous.**

(a) Any remedies permitted CCC under this part shall be in addition to any other remedy, including, but not limited to criminal remedies, or actions for damages in favor of CCC, or the United States, as may be permitted by law.

(b) Absent a scheme or device to defeat the purpose of the program, when an owner loses control of PRP acreage

due to foreclosure, CCC may waive the demand that could otherwise be made for refunds.

(c) Payments under this subpart are subject to provisions contained in Subpart A of this part including, but not limited to provisions concerning misrepresentations, payment limitations, limitations on eligibility tied to the person's gross income, and refunds to CCC, liens, assignment of payments, and appeals, and maintenance of books and records. In addition, other parts of this chapter and of chapter VII of this title relating to payments in event of death, the handling of claims, and other matters may apply, as may other provisions of law and regulation.

(d) Any payments not earned that have been paid must be returned with interest subject to such other remedies as may be allowed by law.

(e) No interest will be paid or accrue on benefits under this subpart that are delayed or otherwise not timely issued unless otherwise mandated by law.

(f) Nothing in this subpart shall require a commitment of funds to this subpart in excess of that determined to be appropriate by the Deputy Administrator and/or CCC.

(g) Any payment otherwise due under this subpart will be reduced to the extent that it is determined that such payment produces a duplicate benefit under another program operated by the Department of Agriculture and that to make such duplicate payment would be contrary to the purposes of the program.

(h) In no instance may the amount expended under this subpart exceed \$39.912 million.

(i) Payments under this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, 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 1403 of this chapter shall be applicable to PRP contract payments.

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

(k) In those instances in which, prior to the March 14, 2001 effective date of this subpart, a producer has signed a power of attorney on an approved FSA-211 for a person or entity indicating that such power shall extend to "all above programs", without limitation, such power will be considered to extend to this program unless by April 2, 2001 the person granting the power notifies the local FSA office for the control county that the grantee of the power is not authorized to handle transactions for this program for the grantor.

(l) Livestock producers or any other individual or entity seeking or receiving assistance under this part shall maintain and retain records that will permit verification of PRP practice completion for at least 3 years following the end of the calendar year in which payment was made, or for such additional period as CCC may request. An examination of such records by a duly authorized representative of the United States Government shall be permitted at any time during business hours.

(m) A person shall be ineligible to receive assistance under PRP and be subject to such other remedies as may be allowed by law, if, with respect to the PRP, it is determined by the State committee or the county committee or an official of FSA that such person has:

- (1) Adopted any scheme or other device that tends to defeat the purpose of a program operated under this part;
- (2) Made any fraudulent representation with respect to such program; or
- (3) Misrepresented any fact affecting a program determination.

### Subpart E [Reserved]

### Subpart F—2000 Flood Compensation Act

SOURCE: 65 FR 65716, Nov. 2, 2000, unless otherwise noted.

#### § 1439.501 Applicability.

This subpart sets forth the terms and conditions applicable to the 2000 Flood Compensation Program (FCP). Benefits will be provided to eligible producers in the United States but only in counties approved under the 1998 FCP (provided

for in regulations of this part contained in the 7 CFR, parts 1200 to 1599, edition revised as of January 1, 2000), where long-term flooding occurred, and that were subsequently approved by the Deputy Administrator for Farm Programs as eligible counties.

#### § 1439.502 Administration.

This subpart shall be administered as set forth in § 1439.2, except as provided for in this subpart.

#### § 1439.503 Definitions.

Except as otherwise indicated, terms in this part shall have the same meanings as those defined in 7 CFR 1439.3 and 718.2. To the extent that the definitions in this section differ from the definitions in 7 CFR 1439.3 and 718.2, the definitions in this section apply rather than the definitions in 7 CFR 1439.3 and 718.2.

*Application* means the Form CCC-454, Flood Compensation Program Application. The CCC-454 is available at county FSA offices.

*Covered land* means:

(1) Land that:

- (i) Was unusable for agricultural production during 2000 crop year as the result of flooding;
- (ii) Was used for agricultural production during at least 1 of the 1992 through 1999 crop years;
- (iii) Is a contiguous parcel of land of at least 1 acre;
- (iv) Is located in a county in which producers were eligible for assistance under the 1998 Flood Compensation Program;
- (v) Was not planted during FY 2000; and
- (vi) Meets all other conditions of eligibility.

(2) The term "covered land" excludes any land with respect to which a producer is insured, enrolled, or assisted during the 2000 crop year under:

- (i) A policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*);
- (ii) The noninsured crop assistance program operated under section 196 of the Agricultural Market Transition Act (7 U.S.C. 7333);
- (iii) Any crop disaster program established for the 2000 crop year;