

paid under these circumstances shall be refunded and any amounts otherwise due the participant shall be withheld. The withholding or refunding of such payments will be in addition to any other penalty or liability otherwise imposed by law.

§ 702.24 Depriving others of payments.

If the COC with STC concurrence finds that any participant has employed any scheme or device to deprive any other person of payments under this part, it may withhold or require a refund of all or part of any program payment otherwise due or paid that person in accordance with the CRSC Contract. A scheme or device includes, but is not limited to, coercion, fraud, or misrepresentation.

§ 702.25 Miscellaneous.

(a) In accordance with the regulations set forth at 7 CFR part 796:

(1) No payment shall be made to any participant who harvests or knowingly permits to be harvested for illegal use, marihuana or other such prohibited drug-producing plants on any part of the lands owned or controlled by such participants; and

(2) Any participant who is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for any payments under this part during that crop year and the four (4) succeeding crop years.

(b) In case of death, incompetency, or disappearance of any participant, any cost-share payment due shall be paid to the participant's successor in accordance with provisions of 7 CFR part 707.

§ 702.26 Paperwork Reduction Act assigned numbers.

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44 U.S.C. Chapter 33 and OMB number 0560-0128 has been assigned.

PART 707—PAYMENTS DUE PERSONS WHO HAVE DIED, DISAPPEARED, OR HAVE BEEN DECLARED INCOMPETENT

Sec.

707.1 Applicability.

707.2 Definitions.

707.3 Death.

707.4 Disappearance.

707.5 Incompetency.

707.6 Death, disappearance, or incompetency of one eligible to apply for payment pursuant to the regulations in this part.

707.7 Form of application.

AUTHORITY: 54 Stat. 728, as amended, sec. 121, 70 Stat. 197, sec. 375, 52 Stat. 66, as amended, sec. 124(i), 75 Stat. 300, sec. 307(h), 76 Stat. 617, sec. 318, 76 Stat. 622, sec. 324(2), 76 Stat. 630, sec. 704, 68 Stat. 911, secs. 4, 8(b), 49 Stat. 164, 1149, as amended, sec. 101(4), 76 Stat. 606, sec. 3, 77 Stat. 45, sec. 4, 62 Stat. 1070; 5 U.S.C. 301, 7 U.S.C. 1334 note, 1339, 1375, 1379j, 1385, 1783, 1809; 16 U.S.C. 590d, 590h(b), 590(e), 590p(h), 15 U.S.C. 714b(d)(j)(k).

SOURCE: 30 FR 6246, May 5, 1965, unless otherwise noted.

§ 707.1 Applicability.

This part applies to all programs in Title 7 of the Code of Federal Regulations which are administered by the Farm Service Agency under which payments are made to eligible program participants. This part also applies to all other programs to which this part is applicable by the individual program regulations.

§ 707.2 Definitions.

“Person” when relating to one who dies, disappears, or becomes incompetent, prior to receiving payment, means a person who has earned a payment in whole or in part pursuant to any of the programs to which this part is applicable. “Children” shall include legally adopted children who shall be entitled to share in any payment in the same manner and to the same extent as legitimate children of natural parents. “Brother” or “sister”, when relating to one who, pursuant to the regulations in this part, is eligible to apply for the payment which is due a person who

§ 707.3

dies, disappears, or becomes incompetent prior to the receipt of such payment, shall include brothers and sisters of the half blood who shall be considered the same as brothers and sisters of the whole blood. "Payment" means a payment by draft, check or certificate pursuant to any of the Programs to which this part is applicable. Payments shall not be considered received for the purposes of this part until such draft, check or certificate has been negotiated or used.

§ 707.3 Death.

(a) Where any person who is otherwise eligible to receive a payment dies before the payment is received, payment may be made upon proper application therefor, without regard to claims of creditors other than the United States, in accordance with the following order of precedence:

(1) To the administrator or executor of the deceased person's estate.

(2) To the surviving spouse, if there is no administrator or executor and none is expected to be appointed, or if an administrator or executor was appointed but the administration of the estate is closed (i) prior to application by the administrator or executor for such payment or (ii) prior to the time when a check, draft, or certificate issued for such payment to the administrator or executor is negotiated or used.

(3) If there is no surviving spouse, to the sons and daughters in equal shares. Children of a deceased son or daughter of a deceased person shall be entitled to their parent's share of the payment, share and share alike. If there are no surviving direct descendants of a deceased son or daughter of such deceased person, the share of the payment which otherwise would have been made to such son or daughter shall be divided equally among the surviving sons and daughters of such deceased person and the estates of any deceased sons or daughters where there are surviving direct descendants.

(4) If there is no surviving spouse and no direct descendant, payment shall be made to the father and mother of the deceased person in equal shares, or the whole thereof to the surviving father or mother.

(5) If there is no surviving spouse, no direct descendant, and no surviving parent, payment shall be made to the brothers and sisters of the deceased person in equal shares. Children of a deceased brother or sister shall be entitled to their parent's share of the payment, share and share alike. If there are no surviving direct descendants of the deceased brother or sister of such deceased person, the share of the payment which otherwise would have been made to such brother or sister shall be divided equally among the surviving brothers and sisters of such deceased person and the estates of any deceased brothers or sisters where there are surviving direct descendants.

(6) If there is no surviving spouse, direct descendant, parent, or brothers or sisters or their descendants, the payment shall be made to the heirs-at-law in accordance with the law of the State of domicile of the deceased person.

(b) If any person who is entitled to payment under the above order of precedence is a minor, payment of his share shall be made to his legal guardian, but if no legal guardian has been appointed payment shall be made to his natural guardian or custodian for his benefit, unless the minor's share of the payment exceeds \$1,000, in which event payment shall be made only to his legal guardian.

(c) Any payment which the deceased person could have received may be made jointly to the persons found to be entitled to such payment or shares thereof under this section or, pursuant to instructions issued by the Farm Service Agency, a separate payment may be issued to each person entitled to share in such payment.

§ 707.4 Disappearance.

(a) In case any person otherwise eligible to receive payment disappears before receiving the payment, such payment may be made upon proper application therefor, without regard to claims of creditors other than the United States, to one of the following in the order mentioned:

(1) The conservator or liquidator of his estate, if one be duly appointed.

(2) The spouse.

(3) An adult son or daughter or grandchild for the benefit of his estate.

(4) The mother or father for the benefit of his estate.

(5) An adult brother or sister for the benefit of his estate.

(6) Such person as may be authorized under State law to receive payment for the benefit of his estate.

(b) A person shall be deemed to have disappeared if (1) he has been missing for a period of more than 3 months, (2) a diligent search has failed to reveal his whereabouts, and (3) such person has not communicated during such period with other persons who would be expected to have heard from him. Evidence of such disappearance must be presented to the county committee in the form of a statement executed by the person making the application for payment, setting forth the above facts, and must be substantiated by a statement from a disinterested person who was well acquainted with the person who has disappeared.

§ 707.5 Incompetency.

(a) Where any person who is otherwise eligible to receive a payment is adjudged incompetent by a court of competent jurisdiction before the payment is received, payment may be made, upon proper application therefor, without regard to claims of creditors other than the United States, to the guardian or committee legally appointed for such incompetent person. In case no guardian or committee has been appointed, payment, if not more than \$1,000, may be made without regard to claims of creditors other than the United States, to one of the following in the order mentioned for the benefit of the incompetent person:

(1) The spouse.

(2) An adult son, daughter, or grandchild.

(3) The mother or father.

(4) An adult brother or sister.

(5) Such person as may be authorized under State law to receive payment for him (see standard procedure prescribed for the respective region).

(b) In case payment is more than \$1,000, payment may be made only to such person as may be authorized under State law to receive payment for the incompetent.

§ 707.6 Death, disappearance, or incompetency of one eligible to apply for payment pursuant to the regulations in this part.

In case any person entitled to apply for a payment pursuant to the provisions of § 707.3, § 707.4, § 707.5, or this section, dies, disappears, or is adjudged incompetent, as the case may be, after he has applied for such payment but before the payment is received, payment may be made upon proper application therefor, without regard to claims of creditors other than the United States, to the person next entitled thereto in accordance with the order of precedence set forth in § 707.3, § 707.4, or § 707.5, as the case may be.

§ 707.7 Form of application.

Persons desiring to claim payment in accordance with this part 707 may do so on Form FSA-325, "Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent". If the person who died, disappeared, or was declared incompetent did not apply for payment by filing the applicable program application for payment form, such program application for payment must also be filed in accordance with applicable regulations. If the payment is made under the Naval Stores Conservation Program, Part II of the Form FSA-325 shall be executed by the local District Supervisor of the U.S. Forest Service. In connection with applications for payment under all other programs itemized in § 707.1, Form FSA-325, and program applications for payments where required, shall be filed with the FSA county office where the person who earned the payment would have been required to file his application.

PART 708—RECORD RETENTION REQUIREMENTS—ALL PROGRAMS

AUTHORITY: Sec. 4, 49 Stat. 164, secs. 7-17, 49 Stat. 1148, as amended; 16 U.S.C. 590d, 590g-590q.

§ 708.1 Record retention period.

For the purposes of the programs in this chapter, no receipt, invoice, or other record required to be retained by any agricultural producer as evidence