

## Farm Service Agency, USDA

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(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.

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

In the case of death, incompetency or disappearance of any owner who is eligible to receive assistance in accordance with this part, such person or persons specified in part 707 of this chapter may receive such assistance.

### § 783.16 Other regulations.

In addition to any other regulations as may be applicable, the following regulations shall also apply to this part:

(a) Part 11 of this title, National Appeals Division Rules of Foreclosure;

(b) Part 12 of this title, Highly Erodible Land and Wetland Conservation;

(c) Part 703 of this chapter, Debt Settlements, Policies and Procedures;

(d) Part 718 of this chapter, Provisions Applicable to Multiple Productions;

(e) Part 780 of this chapter, Appeal Regulations;

(f) Part 1400 of this title, Payment Limitation and Payment Eligibility; and

(g) Part 1404 of this title, Assignments.

### § 783.17 Paperwork Reduction Act assigned numbers.

The information collection requirements of this part have been submitted to the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act.

## PART 784—LAMB MEAT ADJUSTMENT ASSISTANCE PROGRAM

Sec.

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AUTHORITY: Clause (3) of section 32 of the Act of August 24, 1935, as amended; 7 U.S.C. 612c.

SOURCE: 65 FR 38412, June 21, 2000, unless otherwise noted.

### § 784.1 Applicability; available payments.

(a) This part establishes the Lamb Meat Adjustment Assistance Program. The purpose of this program is to provide benefits to sheep and lamb operations pursuant to clause (3) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c) in order to re-establish their purchasing power in connection with the normal production of sheep and lambs for domestic consumption and boost the long-term development and growth of sheep and lamb farming in the United States.

(b) Under and subject to this part, FSA will provide with respect to sheep and lamb operations: "Year 1" payments in which sheep and lamb operations will receive payments for, during the time period encompassing "Year 1" as defined in these regulations, purchasing eligible rams for breeding, enrolling their herd in a sheep improvement program, and for making improvements to their production facilities; and "Year 2" and "Year 3" payments for marketings of eligible slaughter lambs or feeder lambs during the period encompassing those time periods. Unless otherwise determined by the agency in accordance with the provisions of this part, the amount that may be expended under this part shall not exceed \$30 million. Claims that exceed that amount will be prorated in accordance with the provisions for proration that are contained in this part.

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### § 784.2 Administration.

(a) This part shall be administered by the Farm Service Agency (FSA) under the general direction and supervision of the Deputy Administrator for Farm Programs, FSA. The program shall be carried out in the field by FSA State and county committees (State and county committees).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part.

(c) The State committee shall take any action required by this part which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action which is not in accordance with the regulations of this part.

(d) No delegation herein to a State or county committee shall preclude the Deputy Administrator for Farm Programs, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not adversely affect the operation of the program.

### § 784.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the Lamb Meat Adjustment Assistance Program established by this part.

*Agricultural Marketing Service or AMS* means the Agricultural Marketing Service of the Department.

*Application* means the Lamb Meat Adjustment Assistance Program Application, Forms FSA-382 and FSA-383.

*Department* means the United States Department of Agriculture.

*Eligible lambs* means feeder lambs and slaughter lambs.

*Farm Service Agency or FSA* means the Farm Service Agency of the Department.

*Feeder lamb* means a ewe or wether of less than 1 year of age that when sold is intended to be further fed a grain concentrate diet to reach an acceptable slaughter market weight.

*Muscling confirmation score of "Average Choice"* means a muscling confirmation score of that designation assigned in accordance with official USDA standards and procedures.

*Person* means any individual, group of individuals, partnership, corporation, estate, trust, association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen or citizens of, or legal resident alien or aliens in the United States.

*Secretary* means the Secretary of the United States Department of Agriculture or any other officer or employee of the Department who has been delegated the authority to act in the Secretary's stead with respect to the program established in this part.

*Sheep and lamb operation* means any self-contained, separate enterprise operated as an independent unit exclusively within the United States in which a person or group of persons raise sheep and/or lambs.

*Sheep improvement program* means the "National Sheep Improvement Program" operated by the American Sheep Industry Association or other similar program for herd improvement approved by the FSA with respect to payments under this part.

*Slaughter lamb* means a lamb that is sold for immediate slaughter.

*United States* means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

*USDA Choice, USDA Prime, USDA Yield Grade 2* means, respectively, the classifications so designated under the Official United States Standards for Grades of Lamb, Yearling, Mutton, and Mutton Carcasses promulgated by the Secretary of Agriculture under the Agricultural Marketing Act of 1946, as amended (60 Stat. 1087; 7 U.S.C. 1621-1627) and related authorities.

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*Year 1* means the period of time beginning July 22, 1999, and ending September 30, 2000.

*Year 2* means the period of time beginning August 1, 2000, and ending July 31, 2001.

*Year 3* means the period of time beginning August 1, 2001, and ending July 31, 2002.

### § 784.4 Year 1 time and method for application.

(a) Sheep and lamb producers may obtain a “Year 1” application, Form FSA-382 (Lamb Meat Adjustment Assistance Program Payment Application), in person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of the Form FSA-382 at <http://www.usda.gov/dafp/psd/>.

(b) A request for “Year 1” benefits under this part must be submitted on a completed Form FSA-382. The Form FSA-382 should be submitted to the FSA county office serving the county where the sheep and lamb operation is located but, in any case, must be received by the FSA county office by the close of business on October 13, 2000. Applications not received by the close of business on October 13, 2000, will be returned as not having been timely filed and the sheep and lamb operation filing the application will not be eligible for benefits under this program.

(c) The sheep and lamb operation requesting “Year 1” benefits under this part must certify to the accuracy of the information provided in their application for benefits. All information provided is subject to verification and spot checks by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility. Data furnished by the applicant will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be approved. Providing a false certification may be subject to additional civil and criminal sanctions.

(d) Notwithstanding any other provisions of this section, payments will not be made under this section for the acquisition of rams to the extent that

any such purchase, at any time during “Year 1”, created, or help create, a ratio of rams to ewes for the operation that was less than 1 ram to 15 ewes. However, the limitation on payments provided for in the preceding sentence shall not apply to the extent that the operation establishes to the satisfaction of the COC that a lower ratio of rams to ewes is customary for the operation.

### § 784.5 Year 1 eligibility.

(a) To be eligible to receive the “Year 1” payments under this part, as described in § 784.1, at the rates provided in § 784.6, a sheep and lamb operation must be engaged in the business of producing and marketing agricultural products at the time of filing the application, must have in 1999 gross annual revenue of \$2.5 million or less, and must have done at least one of the following during “Year 1”:

(1) Purchased rams for breeding purposes within that operation, provided that such rams must have been at least 90 days of age when purchased and must have been, or will be, maintained by the operation for at least 90 days continuously after the date of purchase;

(2) Enrolled sheep in an eligible sheep improvement program; or

(3) Made sheep and lamb operation facility improvements with respect to their operation.

(b) With respect to paragraph (a)(3) of this section, in order to receive payments, the sheep and lamb operation must submit supporting documentation of the cost of the improvements made to the facility during program “Year 1” and must use facility improvements for sheep and lamb production activities continuously for at least the next 3 consecutive years. Upon a failure to maintain the facility for the full three years, the operation must refund the “Year 1” facility payment immediately and with interest.

(c) With respect to payments made for activities addressed in paragraph (a)(1) of this section, upon any failure to maintain a ram after payment for the full required 90-day period, unless that period has already expired, the operation must immediately refund the payment made and with interest.

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### § 784.6 Year 1 rate of payment and limitations on funding.

Subject to the availability of funds and to the proration rules of § 784.10, “Year 1” payments for qualifying operations shall be at the following rates:

(a) Up to \$100 for each eligible ram purchased, up to \$2,500 per sheep and lamb operation;

(b) \$.50 for each qualifying sheep enrolled in a qualifying sheep improvement program, up to \$500 per sheep and lamb operation; plus

(c) 20% of the cost of the qualifying facility improvements up to \$2,500 per sheep and lamb operation.

### § 784.7 Year 2 and Year 3 time and method for application.

(a) To receive “Year 2” and “Year 3” benefits, as described in § 784.1, at rates set out in § 784.9, sheep and lamb operations may obtain an application, Form FSA-383 (Lamb Meat Adjustment Assistance Program Payment Application), in person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of the Form FSA-383 at <http://www.fsa.usda.gov/dafp/psd/>.

(b) Sheep and lamb operations must have the certification section of the application Form FSA-383 completed prior to submission of the form to the county office.

(c) A request for “Year 2” and “Year 3” benefits under this part must be submitted on a completed Form FSA-383. The Form FSA-383 should be submitted to the FSA county office serving the county where the sheep and lamb operation is located but, in any case, must be received by the FSA county office by the close of business on August 15, 2001, if applying for “Year 2” benefits, and by the close of business on August 15, 2002, if applying for “Year 3” benefits. Applications not received by the respective deadlines will be returned as not having been timely filed and the sheep and lamb operation will not be eligible for the benefits which were the subject of the failed application.

(d) The sheep and lamb operation requesting benefits under this part must certify to the accuracy of the information provided in their application for benefits. All information provided is

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subject to verification and spot checks by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility. Data furnished by the applicant will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be approved. Providing a false certification to the Government is punishable by imprisonment, fines and other penalties.

### § 784.8 Year 2 and Year 3 eligibility.

(a) Subject to the availability of funds, “Year 2” and “Year 3” payments will, as described to in § 784.1, be made for eligible marketings of slaughter lambs for slaughter. (Criteria for feeder lamb payments appear elsewhere in this section). Such payments for slaughter lambs, as opposed to feeder lambs, can be received by an operation, at the rates described in § 784.9, for those eligible lambs slaughtered in the respective time periods comprising “Year 2” and “Year 3” if the lambs were owned, by the operation, in the normal course of raising lambs for slaughter, continuously for 30 days prior to the marketing for slaughter and if the carcasses produced by the slaughter of the lamb meets the criteria set out in paragraph (b) of this section. Other criteria, as set out in this part, may also apply as a condition for, or limitation on, payment.

(b) In order for a marketing of a slaughter lamb to qualify for payment under paragraph (a) of this section, the carcass produced by the slaughter must be evaluated and certified by an AMS agent or their assigned representative that such carcass meets the following criteria:

(1) Meet the requirements of USDA Quality Grade Choice or Prime;

(2) Meet the requirements of USDA Yield Grade 2;

(3) Have a muscling confirmation score of “Average Choice” or better; and

(4) Have a 55-75 pound dressed hot carcass weight;

(c) Subject to the availability of funds, in order to be eligible for the “Year 2” and “Year 3” feeder lamb

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payments referred to in § 784.1, at the rates specified in § 784.9, sheep operations must have in the preceding year of which payment is sought had a gross annual revenue of \$2.5 million or less, and must for the year in which the payment is sought marketed qualifying feeder lambs. In order for a feeder lamb to be a qualifying feeder lamb it must have been:

(1) Owned by the operation, as part of its normal raising of lambs for slaughter, continuously for 30 days prior to the time of the qualifying marketing; and

(2) At the time of the marketing must have been, as determined and certified by AMS, thick-muscled and large-framed.

(d) To be eligible for any payments under this section, the sheep and lamb operation must be engaged in the business of producing and marketing agricultural products at the time of filing the application.

(e) In addition, to be eligible for "Year 2" and "Year 3" payments, a sheep and lamb operation must submit a timely application during the application period for "Year 2" and "Year 3" benefits and comply with all other terms and conditions of this part or are contained in the application to be eligible for such benefits.

### § 784.9 Year 2 and Year 3 rate of payment.

Subject to the availability of funds, and the proration rules set out in § 784.10, "Year 2" and "Year 3" payments may be made to sheep and lamb operations at the following rates:

(a) \$3 for each qualifying feeder lamb; plus

(b) \$5 for each eligible qualifying slaughter lamb, except those slaughter lambs marketed during the period of June 1 through July 31 of the applicable program year for which the payment rate will be \$8 per head.

### § 784.10 Availability of funds for Year 1 through Year 3.

Total payments under this part, unless otherwise determined by the FSA, cannot exceed \$30 million. In the event that funds should be insufficient to complete payments for a program year then the claims for that program year

shall be prorated by a national factor so as to reduce the payments to be made to the amount available. Payments for preceding years will not be affected.

### § 784.11 Appeals.

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

### § 784.12 Misrepresentation and scheme or device.

(a) A sheep and lamb 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 any person or operation engaged in a misrepresentation, scheme, or device, shall be refunded with interest together with such other sums as may become due. Any sheep and lamb operation or person engaged in acts prohibited by this section and any sheep and lamb operation or person receiving payment under this part shall be jointly and severally liable with other persons or operations involved in such claim for benefits 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.

### § 784.13 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 otherwise eligible for assistance under this part must, also:

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(1) Establish that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) Show a guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

### **§ 784.14 Death, incompetency, or disappearance.**

In the case of death, incompetency, disappearance or dissolution of a person that is eligible to receive benefits in accordance with this part, such person or persons specified in part 707 of this chapter may receive such benefits, as determined appropriate by FSA.

### **§ 784.15 Maintaining records.**

Persons making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein. Such records and accounts must be retained for 3 years after the date of payment to the sheep and lamb operations under this program. Destruction of the records after such date shall be the risk of the party undertaking the destruction.

### **§ 784.16 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 sheep and lamb operation shall be refunded to FSA together with interest as determined in accordance with para-

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graph (c) of this section and late payment charges as provided in part 1403 of this title.

(b) All persons signing a sheep and lamb operation's application for payment as having an interest in the operation 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 with respect to such operation.

(c) Interest shall be applicable to refunds required of any person under this part if FSA determines that payments or other assistance was provided to a person who 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, from the date FSA made such benefits 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 person.

(d) Interest determined in accordance with paragraph (c) of this section may be waived at the discretion of FSA alone for refunds resulting from those violations determined by FSA to have been beyond the control of the person committing the violation.

(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) Any excess payments made by FSA with respect to any application under this part must be refunded.

(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.