

(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, as amended or supplemented.

(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.

§ 759.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the Small Hog Operation Payment Program established by this part.

Application means the Small Hog Operation Payment Program Application, FSA-1042.

Cost-plus contract means an agreement between a hog operation and a purchaser which bases payment to the hog operation on the estimated cost of production of a hog plus a profit margin.

Department means the United States Department of Agriculture.

Eligible hogs means feeder pigs and slaughter hogs.

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

Feeder pigs means young pigs that are sold to another person for further feeding for a period of more than 1 month.

Fixed-price contract means an agreement between a hog operation and a purchaser which bases payment at a negotiated fixed price and includes contracts that may specify the duration and minimum and/or maximum number of hogs to be delivered during the contract period.

Hog operation means any person or group of persons who as a single unit raises hogs and whose production and facilities are located in the United States.

Marketing period means the period beginning on July 1, 1998, and ending on December 31, 1998.

Negotiated cash sales means a sale in which the price is determined by interactions between the hog operation and the purchaser during the current day, for delivery within the next 7 slaughter days, and does not include hogs which are sold under contract.

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.

Slaughter hogs means barrows, gilts, sows, and boars that are 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.

§ 759.4 Time and method for application.

(a) Hog operations may obtain an application, Form FSA-1042 (Small Hog Operation Payment Program Application), in person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of the FSA-1042 at <http://www.fsa.usda.gov/dafp/psd/>.

§ 759.5

(b) A request for benefits under this part must be submitted on a completed Form FSA-1042. The Form FSA-1042 should be submitted to the FSA county office serving the county where the hog operation is located but, in any case, must be received by the FSA County Office by the close of business on September 24, 1999. Applications not received by the close of business on September 24, 1999, will be returned as not having been timely filed and the hog operation will not be eligible for benefits under this program.

(c) The hog operation requesting benefits under this part must certify with respect to the accuracy and truthfulness 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 to the Government is punishable by imprisonment, fines and other penalties.

[64 FR 6497, Feb. 10, 1999, as amended at 64 FR 47099, Aug. 30, 1999]

§ 759.5 Eligibility.

(a) If a hog operation is owned by one or more individuals or entities who have an annual gross revenue of \$2.5 million or more in farming and ranching operations in calendar year 1998, the payment to the operation will be reduced by a pro rata share based upon the ownership interest of such entity or individual.

(b) To be eligible to receive cash payments under this part, a hog operation must:

(1) Have sold fewer than 2,500 hogs (produced in the United States) during the period of July 1, 1998, through December 31, 1998;

(2) Have sold hogs on a negotiated cash basis or under a contract other than a fixed-price or cost-plus contract during the marketing period;

(3) Be engaged in the business of producing and marketing agricultural products at the time of filing the application; and

(4) Apply for payments during the application period.

(c) Hogs marketed during the marketing period under fixed-price contracts, cost-plus contracts, or under any circumstance not equivalent to be eligible for benefits under this part with respect to hogs subject to such sales.

(d) A hog operation must submit a timely application and comply with all other terms and conditions of this part and those that are otherwise contained in the application to be eligible for benefits under this part.

[64 FR 6497, Feb. 10, 1999, as amended at 64 FR 47099, Aug. 30, 1999]

§ 759.6 Rate of payment and limitations on funding.

(a) Benefits under this part may be made to hog operations for the quantity of eligible slaughter hogs and feeder pigs actually marketed during the marketing period in accordance with the limitations set forth in this section. Payments will be calculated by operation and shall be made in an amount determined by:

(1) Multiplying \$3.60 by the number of eligible feeder pigs marketed during the marketing period; plus

(2) Multiplying \$10 by the number of eligible slaughter hogs marketed during the marketing period;

(3) Limiting the payment per hog operation otherwise calculated under paragraphs (a)(1) and (2) of this section to \$5,000; and

(4) Reducing the amount due as calculated under paragraphs (a)(1) through (3) of this section by amounts previously paid under this part based on marketings in the same period and, for claims filed after February 12, 1999, by reducing the payment further to zero as necessary to insure subject to paragraph (c), that the total payments under this part do not exceed \$175 million.

(b) Producers who filed an application under this part prior to February 12, 1999, do not need to file another application in order to receive benefits at the increased rates announced in the