

Farm Service Agency, USDA

§ 784.12

which are contained in the application to be eligible for such benefits.

§ 784.9 Year 2, Year 3, and Year 4 rate of payment and limitations on funding.

Subject to the availability of funds, and the proration rules set out in § 784.10, Year 2, Year 3, and Year 4 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 qualifying slaughter lamb marketed in any covered month except for June or July of the applicable program year, and
- (c) \$8 for each qualifying slaughter lamb marketed in June or July of the applicable program year.
- (d) \$18 for each qualifying ewe lamb retained or purchased for breeding purposes for Year 3 and Year 4 only.

§ 784.10 Availability of funds for Year 1 through Year 4.

(a) Total payments under this part, unless otherwise determined by the FSA, cannot exceed \$67.7 million. At the close of Year 3, FSA will determine if the remaining available funds will be sufficient for program Year 4. In the event that funds should be insufficient to complete the expected payments to eligible producers during program Year 4, then the payment rates for that program year shall be prorated by a national factor so as to reduce the expected payments to be made to the amount available and payment shall be made at those rates until monies are expended. Payments made during a prorated program year shall be made first-come, first-served so long as there are monies available in the manner set for in these regulations. Payments for preceding years will not be affected.

(b) A national factor shall be determined, if necessary for slaughter lamb and feeder lamb payments based on the factoring of the remaining available funds at the conclusion of Year 3 divided by the average number of slaughter and feeder lambs that qualified for benefits during Year 2 and Year 3.

(c) Of the \$67.7 million of total funds under this part, \$26 million is specifically earmarked for the ewe lamb incentive payments, with a target of \$13

million per year for Year 3 and Year 4. Those monies (\$26 million) should be used only for the ewe incentive payments and no other funds shall be used for those payments. A national factor shall be determined, if necessary for ewe lamb payments based on the factoring of the remaining available funds at the conclusion of Year 3 divided by the number of ewe lambs that qualified for ewe lamb payments during Year 3.

(d) In the event that approval of all eligible applications would result in expenditures in excess of the amount available, FSA shall reduce the national factor in such manner as FSA, in its sole discretion, finds fair and reasonable.

§ 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 or otherwise applicable.

§ 784.12 Misrepresentation and scheme or device.

(a) A person or operation shall be ineligible to receive assistance under this program if it is determined by FSA 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 part and for related charges. The remedies provided in this part shall be in addition to other civil,