

## SUBCHAPTER D—SPECIAL PROGRAMS

### PART 750—SOIL BANK

EDITORIAL NOTE: Part 750 (formerly part 485 of title 6), published at 21 FR 6289, Aug. 22, 1956, and redesignated at 26 FR 5788, June 29, 1961, is no longer carried in the Code of Federal Regulations. This deletion does not relieve any person of any obligation or liability incurred under these regulations, nor deprive any person of any rights received or accrued under the provisions of this part. For FEDERAL REGISTER citations affecting this part, see the "List of CFR Sections Affected, 1949–1963, 1964–1972, and 1973–1985," published in seven separate volumes.

### PART 755—REIMBURSEMENT TRANSPORTATION COST PAYMENT PROGRAM FOR GEOGRAPHICALLY DISADVANTAGED FARMERS AND RANCHERS

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#### § 755.1 Administration.

(a) This part establishes the terms and conditions under which the Reimbursement Transportation Cost Payment (RTCP) Program for geographically disadvantaged farmers and ranchers will be administered.

(b) The RTCP Program will be administered under the general supervision of the FSA Administrator, or a designee, and will be carried out in the field by FSA State and county committees and FSA employees.

(c) FSA 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 of this part, except as provided in paragraph (e) of this section.

(d) The FSA State committee will take any action required by the provisions of this part that has not been taken by the FSA county committee. The FSA State committee will also:

(1) Correct or require an FSA county committee to correct any action taken by the county committee that is not in compliance with the provisions of this part.

(2) Require an FSA county committee to not take an action or implement a decision that is not in compliance with the provisions of this part.

(e) No provision or delegation of this part to an FSA State committee or a county committee will preclude the FSA Administrator, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State committee or a county committee.

(f) The Deputy Administrator for Farm Programs, FSA, may waive or modify program requirements of this part in cases where failure to meet requirements does not adversely affect the operation of the program and where the requirement is not statutorily mandated.

#### § 755.2 Definitions.

The following definitions apply to this part. The definitions in parts 718 and 1400 of this title also apply, except where they may conflict with the definitions in this section.

*Actual transportation rate* means the transportation rate that reflects the actual transportation costs incurred and can be determined by supporting documentation.

*Agricultural commodity* means any agricultural commodity (including horticulture, aquaculture, and floriculture), food, feed, fiber, livestock (including elk, reindeer, bison, horses, or deer), or insects, and any product thereof.

*Agricultural operation* means a parcel or parcels of land; or body of water applicable to aquaculture, whether contiguous or noncontiguous, constituting a cohesive management unit for agricultural purposes. An agricultural operation will be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon, it will be regarded to be in the county in which the major portion of the land or applicable body of water is located.

*Application period* means the period established by the Deputy Administrator for geographically disadvantaged farmers and ranchers to apply for program benefits.

*County office or FSA county office* means the FSA offices responsible for administering FSA programs in a specific area, sometimes encompassing more than one county, in a State.

*Department or USDA* means the U.S. Department of Agriculture.

*Eligible reimbursement amount* means the reported costs incurred to transport an agricultural commodity or input used to produce an agricultural commodity in an insular area, Alaska, or Hawaii, over a distance of more than 30 miles. The amount is calculated by multiplying the number of units of the reported transportation amount times the applicable transportation fixed, set, or actual rate times the applicable FY allowance (COLA).

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

*Fiscal year or FY* means the year beginning October 1 and ending the following September 30. The fiscal year will be designated for this part by year reference to the calendar year in which it ends. For example, FY 2010 is from October 1, 2009, through September 30, 2010 (inclusive).

*Fixed transportation rate* means the per unit transportation rate determined by FSA to reflect the transportation cost applicable to an agricultural commodity or input used to produce an agricultural commodity in a particular region.

*FY allowance (COLA)* means the non-foreign area cost of living allowance or post differential, as applicable, for that FY set by Office of Personnel Management for Federal employees stationed

in Alaska, Hawaii, and other insular areas, as authorized by 5 U.S.C. 5941 and E.O. 10000 and specified in 5 CFR part 591, subpart B, appendices A and B.

*Geographically disadvantaged farmer or rancher* means a farmer or rancher in an insular area, Alaska, or Hawaii.

*Input transportation costs* means those transportation costs of inputs used to produce an agricultural commodity including, but not limited to, air freight, ocean freight, and land freight of chemicals, feed, fertilizer, fuel, seeds, plants, supplies, equipment parts, and other inputs as determined by FSA.

*Insular area* means the Commonwealth of Puerto Rico; Guam; American Samoa; the Commonwealth of the Northern Mariana Islands; the Federated States of Micronesia; the Republic of the Marshall Islands; the Republic of Palau; and the Virgin Islands of the United States.

*Payment amount* means the amount due a producer that is the sum of all eligible reimbursement amounts, as calculated by FSA subject to the availability of funds, and subject to an \$8,000 cap per producer per FY.

*Producer* means any geographically disadvantaged farmer or rancher who is an individual, group of individuals, partnership, corporation, estate, trust, association, cooperative, or other business enterprise or other legal entity, as defined in §1400.3 of this title, who is, or whose members are, a citizen of or legal resident alien in the United States, and who, as determined by the Secretary, shares in the risk of producing an agricultural commodity in substantial commercial quantities, and who is entitled to a share of the agricultural commodity from the agricultural operation.

*Reported transportation amount* means the reported number of units (such as pounds, bushels, pieces, or parts) applicable to an agricultural commodity or input used to produce an agricultural commodity, which is used in calculating the eligible reimbursement amount.

*Set transportation rate* means the transportation rate established by FSA for a commodity or input for which there is not a fixed transportation rate

or supporting documentation of the actual transportation rate.

*United States* means the 50 States of the United States of America, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and any other territory or possession of the United States.

*Verifiable records* means evidence that is used to substantiate the amount of eligible reimbursements by geographically disadvantaged farmers and ranchers in an agricultural operation that can be verified by FSA through an independent source.

#### § 755.3 Time and method of application.

(a) To be eligible for payment, producers must obtain and submit a completed application for payment and meet other eligibility requirements specified in this part. Producers may obtain an application in person, by mail, or by facsimile from any county FSA office. In addition, producers may download a copy of the application at <http://www.sc.egov.usda.gov>.

(b) An application for payment must be submitted on a completed application form. Applications and any other supporting documentation must be submitted to the FSA county office serving the county where the agricultural operation is located, but, in any case, must be received by the FSA county office by the close of business on the last day of the application period established by the Deputy Administrator.

(c) All producers who incurred transportation costs for eligible reimbursements and who share in the risk of an agricultural operation must certify to the information on the application before the application will be considered complete. FSA may require the producer to provide documentation to support all verifiable records.

(d) Each producer requesting payment under this part must certify to the accuracy and truthfulness of the information provided in their application and any supporting documentation. All information provided is subject to verification by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in

a denial of eligibility. Furnishing the information is voluntary; however, without it program benefits will not be approved. Providing a false certification to the Federal Government may be punishable by imprisonment, fines and other penalties or sanctions.

(e) To ensure all producers are provided an opportunity to submit actual costs for reimbursement at the actual cost rate, applicants will have 30 days after the end of the FY to provide supporting documentation of actual transportation costs to the FSA County Office. The actual costs documented in supporting documentation will override previously reported costs of eligible reimbursable costs at the fixed or set rate made during the application period.

(f) If verifiable records are not provided to FSA, the producer will be ineligible for payment.

(g) If supporting documentation is provided within 30 days after the end of the FY, but an application was not submitted to the applicable FSA County Office before the end of the application period, the producer is not eligible for payment.

(h) Producers who submit applications after the application period are not entitled to any payment consideration or determination of eligibility. Regardless of the reason why an application is not submitted to or received by FSA, any application received after the close of business on such date will not be eligible for benefits under this program.

#### § 755.4 Eligibility.

(a) To be eligible to receive payments under this part, a geographically disadvantaged farmer or rancher must:

(1) Be a producer of an eligible agricultural commodity in substantial commercial quantities;

(2) Incur transportation costs for the transportation of the agricultural commodity or input used to produce the agricultural commodity;

(3) Submit an accurate and complete application for payment as specified in § 755.3; and

(4) Be in compliance with the wetland and highly erodible conservation requirements in part 12 of this title and meet the adjusted gross income and