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failure to comply with any requirement or condition for payment under this part, must refund the amount of that payment to FSA.

(b) Any refund required will be due from the date of the disbursement by the agency with interest determined in accordance with paragraph (d) of this section and late payment charges as provided in part 1403 of this title.

(c) Each producer that has an interest in the agricultural operation will be jointly and severally liable for any refund and related charges found to be due to FSA.

(d) Interest will be applicable to any refunds to FSA required in accordance with parts 792 and 1403 of this title except as otherwise specified in this part. Such interest will be charged at the rate that the U.S. Department of the Treasury charges FSA for funds, and will accrue from the date FSA made the payment to the date the refund is repaid.

(e) FSA may waive the accrual of interest if it determines that the cause of the erroneous payment was not due to any action of the person or entity, or was beyond the control of the person or entity committing the violation. Any waiver is at the discretion of FSA alone.

§ 755.13 Miscellaneous provisions and appeals.

(a) *Offset.* FSA may offset or withhold any amount due to FSA from any benefit provided under this part in accordance with the provisions of part 1403 of this title.

(b) *Claims.* Claims or debts will be settled in accordance with the provisions of part 1403 of this title.

(c) *Other interests.* Payments or any portion thereof due under this part will be made without regard to questions of title under State law and without regard to any claim or lien against the eligible reimbursable costs thereof, in favor of the owner or any other creditor except agencies and instrumentalities of the U.S. Government.

(d) *Assignments.* Any producer entitled to any payment under this part may assign any payments in accordance with the provisions of part 1404 of this title.

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(e) *Violations regarding controlled substances.* The provisions of § 718.6 of this chapter, which generally limit program payment eligibility for persons who have engaged in certain offenses with respect to controlled substances, will apply to this part.

(f) *Appeals.* The appeal regulations specified in parts 11 and 780 of this chapter apply to determinations made under this part.

PART 759—DISASTER DESIGNATIONS AND NOTIFICATIONS

Sec.

759.1 Administration.

759.2 Purpose.

759.3 Abbreviations and definitions.

759.5 Secretarial disaster area determination and notification process.

759.6 EM to be made available.

AUTHORITY: 5 U.S.C. 301, 7 U.S.C. 1961 and 1989.

SOURCE 77 FR 41254, July 13, 2012, unless otherwise noted.

§ 759.1 Administration.

(a) This part will be administered under the general supervision and direction of the Administrator, Farm Service Agency (FSA).

(b) FSA representatives do not have authority to modify or waive any of the provisions of the regulations of this part as amended or supplemented.

(c) The Administrator will take any action required by the regulations of this part that the Administrator determines has not already been taken. The Administrator will also:

(1) Correct or require correction of any action taken that is not in accordance with the regulations of this part;

or

(2) Require withholding taking any action that is not in accordance with this part.

(d) No provision or delegation in these regulations will preclude the Administrator or a designee or other such person, from determining any question arising under this part, or from reversing or modifying any determination made under this part.

(e) Absent a delegation to the contrary, this part will be administered by the Deputy Administrator for Farm

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Programs of FSA on behalf of the Administrator of FSA or the Secretary, but nothing in this part will inhibit the ability of the Administrator of FSA or the person holding the equivalent position in the event of a reorganization to delegate the functions of DAFP under these regulations to another person. Likewise, nothing shall inhibit the ability of the Secretary to reassign any duties with respect to the designations of disasters under this part.

§ 759.2 Purpose.

(a) This part specifies the types of incidents that can result in an area being determined a disaster area, which under other regulations makes qualified farmers in such areas eligible for Emergency loans (EM) or eligible for such other assistance that may be available, based on Secretarial disaster designations. Nothing in this part overrides provision of those regulations that govern the actual administration and availability of the disaster assistance regulations.

(b) This part specifies the responsibility of the County Emergency Board (CEB), State Emergency Board (SEB), and the State Executive Director (SED) in regard to Secretarial Designations with regards to disasters. It also addresses matters relating to the handling of a Presidential declaration of disaster or the imposition of a USDA quarantine by the Secretary with respect to triggering the availability of EM loans.

§ 759.3 Abbreviations and definitions.

(a) *Abbreviations.* The following abbreviations apply to this part.

CEB means the County Emergency Board.

CED means the County Executive Director.

DAFP means the Deputy Administrator for Farm Programs of the Farm Service Agency.

EM means Emergency loan administered under 7 CFR part 764.

FSA means the Farm Service Agency.

LAR means the Loss Assessment Report.

SEB means the State Emergency Board.

SED means the State Executive Director.

USDA means the United States Department of Agriculture.

(b) *Definitions.* The following definitions apply to this part.

Administrator means the Administrator of FSA.

Contiguous county is used in reference to a primary county as defined in this section. A contiguous county is any county whose boundary touches at any point with that of the primary county. For programs other than the EM Program, disaster assistance regulations will specify whether benefits will be available only in the primary counties or also in the contiguous counties. For the EM Program that issue is addressed in § 759.6, unless specified otherwise in the disaster assistance regulations for other programs or in § 759.6 for the EM Program, only the “primary” county will be considered the qualifying “disaster county.” Therefore, if the disaster assistance regulations specify that they cover the disaster area and contiguous counties, then the only eligible counties would be the primary county and those contiguous to that county. Coverage would not include coverage of those counties that are in turn contiguous to those counties that are contiguous to the primary county.

County is used when referring to a geographical area, a local administrative subdivision of a State or a similar political subdivision of the United States generally considered to be in county usage, for example, it includes an area referred to as a “county” or “parish.” Except where otherwise specified, the use of the term county or similar political subdivision is for administrative purposes only.

CEB is comprised of the representatives of several USDA agencies that have responsibilities for reporting the occurrence of, and assessing the damage caused by, a natural disaster, and for requesting approval in declaring a county a disaster area.

CED is the person in charge of administering the local FSA county office for a particular county.

Disaster area is the county or counties declared or designated as a disaster area as a result of natural disaster related losses. The disaster area only includes the primary counties, but