

or equal to 20 percent during the eligible claim period will then be paid at a rate, not to exceed the rate allowed in paragraph (a) of this section, determined by dividing the eligible losses of less than 20 percent by the funds remaining after making payments for all eligible losses above the 20-percent threshold.

(d) In no event will the payment exceed the value determined by multiplying the producer's total eligible loss times the average price received for commercial milk production in the producer's area as defined in paragraph (a) of this section.

(e) No participant will receive disaster benefits under this part that in combination with the value of production not lost would result in an amount that exceeds 95 percent of the value of the expected production for the relevant period as estimated by the Secretary. Unless otherwise program funds would not be fully expended, the sum of the value of the production not lost, if any; and the disaster payment received under this part, cannot exceed 95 percent of what the production's value would have been if there had been no loss. In no case, however, may the value of production and the payment exceed the value the milk would have without the loss.

(f) A reserve may be created to handle pending or disputed claims, but claims will not be payable once the available funding is expended.

§ 786.108 Availability of funds.

The total available program funds are \$16 million as provided by section 9007 of Title IX of Public Law 110-28.

§ 786.109 Appeals.

Provisions of the appeal regulations set forth at 7 CFR parts 11 and 780 apply to this part. Appeals of determinations of ineligibility or payment amounts are subject to the limitations in §§ 786.107 and 786.108 and other limitations that may apply.

§ 786.110 Misrepresentation, scheme, or device.

(a) In addition to other penalties, sanctions, or remedies that may apply, a dairy producer is ineligible to receive assistance under this program if the

producer is determined by FSA to have:

(1) Adopted any scheme or device that tends to defeat the purpose of this program,

(2) Made any fraudulent representation,

(3) Misrepresented any fact affecting a program determination, or

(4) Violated 7 CFR 795.17 and thus be ineligible for the year(s) of violation and the subsequent year.

(b) Any funds disbursed pursuant to this part to any person or dairy operation engaged in a misrepresentation, scheme, or device, must be refunded with interest together with such other sums as may become due. Interest will run from the date of the disbursement to the producer or other recipient of the payment from FSA. Any person or dairy operation engaged in acts prohibited by this section and any person or dairy operation receiving payment under this part is jointly and severally liable with other persons or dairy operations involved in such claim for benefits for any refund due under this section and for related charges. The remedies provided in this part are in addition to other civil, criminal, or administrative remedies that may apply.

§ 786.111 Death, incompetence, or disappearance.

In the case of death, incompetency, disappearance, or dissolution of an individual or entity that is eligible to receive benefits in accordance with this part, such alternate person or persons specified in 7 CFR part 707 may receive such benefits, as determined appropriate by FSA.

§ 786.112 Maintaining records.

Persons applying for benefits under this program must maintain records and accounts to document all eligibility requirements specified herein and must keep such records and accounts for 3 years after the date of payment to their dairy operations under this program. Destruction of the records after such date is at the risk of the party required, by this part, to keep the records.