

§ 1439.351 Violations.

(a) If a participant fails to carry out the terms and conditions of a PRP contract, CCC may terminate the PRP contract.

(b) If the PRP contract is terminated by CCC in accordance with this section then, in addition to all such other remedies as may be provided for in this subpart or elsewhere:

(1) The participant shall forfeit all rights to payments under such contract and refund all payments previously received together with interest; and

(2) Pay liquidated damages to CCC in such amount as specified in the contract.

(c) If the Deputy Administrator determines such failure does not warrant termination of such contract, the Deputy Administrator may authorize relief as the Deputy Administrator deems appropriate.

(d) CCC may also terminate a PRP contract without sanction if the participant agrees to such termination and CCC determines such termination to be in the public interest.

(e) CCC may reduce a demand for a refund under this section to the extent CCC determines that such relief would be appropriate and will not deter the accomplishment of the goals of the program.

§ 1439.352 Executed PRP contract not in conformity with regulations.

If, after a PRP contract is approved by CCC, CCC discovers that the PRP contract is not in conformity with the provisions of this part, the provisions of the regulations shall prevail and the contract may be terminated.

§ 1439.353 Performance based upon advice or action of the Department.

The provisions of § 718.8 of this title relating to performance based upon the action or advice of a representative of the Department shall be applicable to this part.

§ 1439.354 Access to land under contract.

(a) The applicant or participant shall, as requested, provide all representatives or designees of CCC with access to all land that is:

(1) The subject of an application for a contract under this part; or

(2) Under contract or otherwise subject to this part.

(b) With respect to such land identified in paragraph (a) of this section, the participant or applicant shall provide such representatives with access to examine records with respect to such land for the purpose of determining compliance with the terms and conditions of the PRP.

§ 1439.355 Miscellaneous.

(a) Any remedies permitted CCC under this part shall be in addition to any other remedy, including, but not limited to criminal remedies, or actions for damages in favor of CCC, or the United States, as may be permitted by law.

(b) Absent a scheme or device to defeat the purpose of the program, when an owner loses control of PRP acreage due to foreclosure, the Deputy Administrator may waive the demand that could otherwise be made for refunds.

(c) Payments under this subpart are subject to provisions contained in Subpart A of this part including, but not limited to provisions concerning misrepresentations, payment limitations, limitations on eligibility tied to the person's gross income, and refunds to CCC, liens, assignment of payments, and appeals, and maintenance of books and records. In addition other parts of this chapter and of chapter VII relating to payments in event of death, the handling of claims, and other matters may apply, as may other provisions of law and regulation.

(d) Any payments not earned that have been paid must be returned with interest subject to such other remedies as may be allowed by law.

(e) No interest will be paid or accrue on benefits under this subpart that are delayed or otherwise not timely issued unless otherwise mandated by law.

(f) Nothing in this subpart shall require a commitment of funds to this subpart in excess of that determined to be appropriate by the Deputy Administrator and/or CCC.

(g) Any payment otherwise due under this subpart will be reduced to the extent that it is determined that such payment produces a duplicate benefit

under another program operated by the Department of Agriculture and that to make such duplicate payment would be contrary to the purposes of the program.

(h) In no instance, unless approved by the Deputy Administrator in accordance with law, may the amount expended under this subpart exceed an amount that, when added to the amounts expended for the 1999 LAP payments and for the Livestock Indemnity Program, Phase II, exceeds \$200 million.

(i) Payments under this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this chapter shall be applicable to contract payments except to the extent that an exemption is provided for by the Executive Vice President, CCC.

(j) Any producer entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at part 1404 of this chapter.

(k) In those instances in which, prior to the issuance of this regulation, a producer has signed a power of attorney on an approved FSA-211 for a person or entity indicating that such power shall extend to "all above programs", without limitation, such power will be considered to extend to this program unless by June 22, 2000 the person granting the power notifies the local FSA office for the control county that the grantee of the power is not authorized to handle transactions for this program for the grantor.

Subpart E—Livestock Indemnity Program for Contract Growers

§ 1439.401 Applicability.

This subpart sets forth the terms and conditions of the Livestock Indemnity Program for Contract Growers. Under Title I of the Omnibus Consolidated Appropriations Act, 2000 (Pub. L. 106-113; 113 Stat. 1501), the Secretary is specifically authorized to use \$10 million to provide assistance to persons who

raise livestock owned by other persons for income losses sustained with respect to livestock during 1999 if the Secretary finds that such losses are the result of natural disasters. Section 802 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106-387; 114 Stat. 1549) amended the Omnibus Consolidated Appropriations Act, 2000, to cover losses that occurred during the period January 1, 2000 through February 7, 2000. Accordingly, this subpart provides for benefits to be paid to eligible producers who sustained a loss of income directly attributed to a reduction in the production of livestock and livestock products from livestock that were entirely owned by others, due to or as a result of natural disasters that occurred from January 1 through February 7, 2000 in areas for which a Presidential or Secretarial Declaration was approved. Producers in contiguous counties that were not designated as a disaster area in their own right are not eligible for benefits under this part. Benefits will be provided with respect to eligible livestock where the death occurred in the disaster area during January 1 through February 7, 2000 where the death was reasonably related to the disaster that prompted the disaster declaration as determined by the Deputy Administrator for Farm Programs, or designee. The livestock had to be in possession of the applicant during the time in which the disaster occurred.

[65 FR 82893, Dec. 29, 2000]

§ 1439.402 [Reserved]

§ 1439.403 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering this Livestock Indemnity Program for Contract Growers. Definitions in §1439.3 shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart. The following terms shall have the following meanings:

Application means the request for benefits and the necessary documentation supporting such a request.

Contract means, with respect to contracts for the handling of livestock, an