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(2) Site preparation and debris handling within normal cultural practices for the type of individual stand being re-established and necessary to ensure successful plant survival;

(3) Chemicals and nutrients necessary for successful establishment;

(4) Labor to plant seedlings or cuttings as determined reasonable by the county committee; and

(5) Labor used to transplant existing seedlings established through natural regeneration into a productive tree stand.

(b) Costs for fencing, irrigation, irrigation equipment, protection of seedlings from wildlife, general improvements, re-establishing structures, windscreens and other costs as determined by the Deputy Administrator are not eligible for reimbursement benefits.

(c) When lost stands are replanted, the types planted may be different than those originally planted if the new types have the same general end use, as the county committee determines and approves. Payments will be based on the lesser of rates established to plant the types actually lost or the cost to establish the alternative used. If the species of plantings, seedlings or cuttings differs significantly from the species lost then, except as the county committee determines, the costs may not be reimbursed.

(d) Eligible orchardists may elect not to replant the entire eligible stand. If so, the county committee shall calculate payment based on the number of qualifying trees, bushes or vines actually replanted.

(e) The cumulative total quantity of acres planted to trees, bushes or vines for which a person may receive assistance at any time under this part shall not exceed 500 acres.

(f) The cumulative amount of TAP benefits which any person, as defined in accordance with part 1400 of this title, may receive under this part shall not exceed \$75,000.

(g) In the event the total amount of claims submitted under this part during a sign-up period exceeds the applicable funds available for such period, such payments shall be reduced by a uniform national percentage or by such other method deemed appropriate by

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the Deputy Administrator. Such payment reductions shall be applied after the imposition of applicable payment limitation provisions.

§ 783.7 Obligations of a participant.

(a) Eligible orchardists must execute all required documents and complete the TAP funded practice within 12 months of application approval.

(b) If a person was erroneously determined to be eligible or becomes ineligible for all or part of a TAP benefit, the person and successor shall refund any payment paid under this part together with interest from the date of disbursement at a rate in accordance with part 1403 of this title.

(c) Participants must allow representatives of FSA to visit the site for the purposes of certifying compliance with TAP requirements.

§ 783.8 Multiple benefits.

Persons may not receive or retain payments for production losses from trees, vines and bushes under this part if they have been compensated under another program for the same loss. However, this restriction does not apply to emergency Federal loans or payments resulting from purchase of the additional coverage insurance, as defined in 7 CFR 400.651. However, in no case shall the total amount received from all sources exceed the amount of the owner's actual loss, unless the Deputy Administrator shall approve an exemption in writing.

§ 783.9 Miscellaneous.

(a) Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien in favor of any person except agencies of the U.S. Government.

(b) Persons shall be ineligible to receive or retain assistance under this program if they have:

(1) Adopted any scheme or device intended to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

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(c) TAP benefits paid to a person as a result of misrepresentation shall be refunded to FSA with interest and costs of collection. The party engaged in acts prohibited by this part and the party receiving payment and their successors shall be jointly and severally liable for any amount due. The remedies provided to FSA in this part shall be in addition to other civil, criminal, or administrative remedies which may apply.

(d) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(e) A minor who is an owner that has met all other eligibility criteria shall be eligible for TAP assistance if:

(1) The minor establishes that the right of majority has been conferred on the minor by court proceedings or by statute; or

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

(f) The regulations regarding reconsideration's and appeals at part 11 of this title and part 780 of this chapter apply to this part.

PART 784—2004 EWE LAMB REPLACEMENT AND RETENTION PAYMENT PROGRAM

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AUTHORITY: Clause (3) of section 32 of the Act of August 24, 1935, as amended; 7 U.S.C. 612c.

SOURCE: 69 FR 76837, Dec. 23, 2004, unless otherwise noted.

§ 784.1 Applicability.

(a) Subject to the availability of funds, this part establishes terms and conditions under which the 2004 Ewe Lamb Replacement and Retention Payment Program will be administered.

(b) Unless otherwise determined by the Farm Service Agency (FSA) in accordance with the provisions of this part, the amount that may be expended under this part for program payments shall not exceed \$18 million. Claims that exceed that amount will be prorated in accordance with § 784.7.

(c) To be eligible for payments, producers must comply with all provisions of this part and with any other conditions imposed by FSA.

§ 784.2 Administration.

(a) This part shall be administered by FSA under the general direction and supervision of the Deputy Administrator for Farm Programs, FSA. The program shall be carried out in the field by FSA State and county committees (State and county committees) in accordance with their assigned duties and the regulations of this part.

(b) The Deputy Administrator for Farm Programs, FSA, or a designee, may reverse or modify a determination made by a State or county committee.

(c) The Deputy Administrator for Farm Programs, FSA, may waive or modify deadlines and other program requirements in cases where timeliness or failure to meet such other requirements does not adversely affect the operation of the program.

(d) The program described under this part is a one-time program to be administered with respect to eligibility and qualifying factors occurring during or related to the base period of August 1, 2003 through July 31, 2004, as specified in this part.

§ 784.3 Definitions.

The definitions in this section shall apply to the 2004 Ewe Lamb Replacement and Retention Payment Program and this part.