

§ 2634.701 Failure to file or falsifying reports.

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(b) * * * The court in which the action is brought may assess against the individual a civil monetary penalty in any amount, not to exceed \$10,000, as provided by section 104(a) of the Act, for any such violation occurring before September 29, 1999, as adjusted effective September 29, 1999 to \$11,000 for any such violation occurring on or after that date, in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

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4. Section 2634.702 is amended by revising the respective last sentences of paragraphs (a) and (b) to read as follows:

§ 2634.702 Breaches by trust fiduciaries and interested parties.

(a) * * * The court in which the action is brought may assess against the individual a civil monetary penalty in any amount, not to exceed \$10,000, as provided by section 102(f)(6)(C)(i) of the Act, for such violation occurring before September 29, 1999, as adjusted effective September 29, 1999 to \$11,000 for any such violation occurring on or after that date, in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(b) * * * The court in which the action is brought may assess against the individual a civil monetary penalty in any amount, not to exceed \$5,000, as provided by section 102(f)(6)(C)(ii) of the Act, for any such violation occurring before September 29, 1999, as adjusted effective September 29, 1999 to \$5,500 for any such violation occurring on or after that date, in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

5. Section 2634.703 is amended by revising the second sentence to read as follows:

§ 2634.703 Misuse of public reports.

* * * The court in which the action is brought may assess against the person a civil monetary penalty in any amount, not to exceed \$10,000, as provided by section 105(c)(2) of the Act, for any such violation occurring before September 29, 1999, as adjusted effective September 29, 1999 to \$11,000 for any such violation occurring on or after that date, in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation

Adjustment Act of 1990, as amended.

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PART 2636—[AMENDED]

6. The authority citation for part 2636 is revised to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); Pub. L. 101-410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104-134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

7. Section 2636.104 is amended by revising paragraph (a) to read as follows:

§ 2636.104 Civil, disciplinary and other action.

(a) *Civil action.* Except when the employee engages in conduct in good faith reliance upon an advisory opinion issued under § 2636.103 of this subpart, an employee who engages in any conduct in violation of the prohibitions, limitations and restrictions contained in this part may be subject to civil action under 5 U.S.C. app. 504(a) and a civil monetary penalty of not more than \$10,000 for any such violation occurring before September 29, 1999, as adjusted effective September 29, 1999 to \$11,000 for any such violation occurring on or after that date, in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, or the amount of the compensation the individual received for the prohibited conduct, whichever is greater.

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BILLING CODE 6345-01-P

DEPARTMENT OF AGRICULTURE**Farm Service Agency****7 CFR Part 761**

RIN 0560-AF70

Small Hog Operation Payment Program

AGENCY: Farm Service Agency, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the regulations for the Small Hog Operations Payment (SHOP) Program. Enactment of the 1999 Emergency Supplemental Appropriations Act has made more funds available for the SHOP program. This will allow the

Department to spend up to \$175 million (including the \$50 million allocated in the original, February 10, 1999, (64 FR 6495) interim rule). Payments will be made to producers in the order in which they were filed, to the extent that funds are available. As amended in this rule, the SHOP program regulations would allow hog operations to receive up to \$5,000 in total payments at a total rate of \$10 per each eligible slaughter hog and \$3.60 for eligible feeder pigs sold during the relevant marketing period. Also, this rule expands the program's eligibility provisions to allow operations to qualify so long as the operation did not sell 2,500 or more hogs during the relevant marketing period. In the original rule, the limit was set at less than 1,000 hogs. SHOP program payments already received by an eligible operation will be deducted from the expanded eligible amount an operation may have under the new rules.

DATES: Effective August 26, 1999.

Comments on this rule must be received by September 29, 1999, in order to be assured of consideration. Comments on the information collections in this rule must be received by October 29, 1999, in order to be assured of consideration.

ADDRESSES: Comments should be mailed to Grady Bilberry, Director, Price Support Division (PSD), Farm Service Agency (FSA), United States Department of Agriculture (USDA), STOP 0512, 1400 Independence Avenue, SW, Washington, DC 20250-0512 or Candace Thompson, Branch Chief, PSD, FSA, USDA, at the same address; telephone: (202) 720-7901; e-mail:

candy__thompson@wdc.fsa.usda.gov. Comments may be inspected in the Office of the Director, PSD, FSA, USDA, Room 4095 South Building, Washington, DC, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this interim rule is available on the PSD home page at

<http://www.fsa.usda.gov/daftp/psd/>.

FOR FURTHER INFORMATION CONTACT: Candace Thompson, (202) 720-6689.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

This interim rule is in conformance with Executive Order 12866 and has been determined to be economically significant and therefore has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not

applicable to this rule because the Farm Service Agency is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement is not needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any legal action may be brought regarding determinations of this rule, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3014, subpart V, published June 24, 1983 (48 FR 29115).

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, FSA has submitted an emergency information collection request (ICR) to OMB for the approval of the Small Hog Operation Payment Program report as necessary for the proper functioning of the program.

Title: Small Hog Operation Payment Program.

OMB Control Number: 0560-0193.

Type of Request: Reinstatement with change.

Abstract: Hog operations are eligible to receive direct payments provided they make certifications that attest to their eligibility to receive such payments. These operations must certify: (1) The number of hogs marketed; (2) that the hogs were marketed during the last 6 months of

1998; (3) that the hogs were not marketed under a fixed-price or cost-plus contract; and (4) that the operation was still in the business of farming at the time of the SHOP Program request. The information collection will be used by FSA to approve Form FSA-1042 or to determine the program eligibility of the hog operation in accordance with this subpart. FSA considers the information collected essential to prudent eligibility determinations and payment calculations. The eligibility requirements have been established to target the direct payments towards smaller operations.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Hog Operations.

Estimated Number of Respondents: 55,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 13,750 hours.

Proposed topics for comment include:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information collected; or (d) ways to minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Grady Bilberry, Director, Price Support Division, Farm Service Agency, United States Department of Agriculture, STOP 0512, 1400 Independence Avenue, SW, Washington, DC 20250-0512, telephone (202) 720-7901.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Background

On February 10, 1999, regulations were published, by an interim rule (64 FR 6495), to establish the SHOP program.

The SHOP program utilizes funds available under clause (3) of section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c). That clause permits Section 32 funds to be used to "[r]eestablish farmers" purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption." However, by statute, normally no more than 25 percent of the available Section 32 funds can be used in a fiscal year for any one agricultural commodity or the products therefrom.

Taking into consideration that limit, \$50 million in assistance were made available under the original SHOP program rule. Subsequently, however, the 1999 Emergency Supplemental Appropriations Act (Pub. L. 106-31, enacted May 21, 1999) appropriated \$145 million to be added to the Section 32 fund and allowed the Secretary, for fiscal year 1999, to waive the 25 percent limitation. Because of the availability of these additional funds, it has been determined that the SHOP program's eligibility provisions should be expanded and its payment rates increased. Before, a hog operation could, up to February 12, 1999, sign-up to qualify for up to \$2,500 in SHOP program payments at \$5 per eligible slaughter hog and \$1.80 per eligible feeder pig hog, for hogs and feeder pigs marketed in the period from July 1, 1998 through December 31, 1998. However, no payment would be made if the operation marketed 1,000 or more head during that period. Under the new provisions of this interim rule, sign-up has been extended through September 24, 1999, the \$2,500 has been increased to \$5,000, the \$5 payment rate increased to \$10, the \$1.80 payment rate increased to \$3.60, and the maximum allowable marketings raised from less than 1,000 to less than 2,500. Payments already received will be deducted from the new benefit calculations and payments will continue to be subject to the proviso that, if a hog operation is owned by one or more individuals who have a gross revenue of \$2.5 million or more in farming and ranching operations in calendar year 1998, the payment to the operation will be reduced by a pro rata amount based upon the ownership interest of such entity or individual. All other eligibility requirements as specified in the original rule also remain unchanged. The new eligibility

requirements are consistent with the purposes of the original program, some of the comments in response to the original rule, and with the available funding. The regulations specify that no more than \$175 million in total may be expended under the SHOP program with the claims of old claimants given a first priority. For new claimants, the claims will be handled first-come, first-served, to the extent the \$175 million total has not been expended. However, it is expected that the total claims will be considerably below that amount.

Hog operations may apply in person at county FSA offices during regular business hours by the close of business September 24, 1999, and at that time complete the application Form FSA-1042. Hog operations who applied for and received payment under the February 1999 SHOP program interim rule do not need to re-apply. Additional payments will be issued based upon the original application. Hog operations needing an application may request the SHOP program application by mail, telephone, or facsimile from their designated county FSA office, or obtain the application via the Internet. The Internet website is located at www.fsa.usda.gov/dafp/psd/. The completed application, Form FSA-1042, must be received by the hog operations' local county FSA office by the September 24 deadline and can be returned in person, by mail, or by facsimile.

Because of the poor market conditions that have recently faced hog operations as specified in the February rule, particularly that have faced small hog operations, a delay in making this assistance available would be contrary to the public interest and the purpose of the statute authorizing additional assistance. Likewise and for those reasons it has been determined that to the extent that Section 801 of the Small Business Regulatory Enforcement Fairness Act of 1996 would otherwise apply, delaying this rule for Congressional review would be contrary to the public interest. Accordingly, it has been determined that this rule will be made effective immediately upon filing for public inspection at the Office of the Federal Register.

List of Subjects in 7 CFR Part 761

Direct payments to small hog operations, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Part 761 is amended to read as follows:

PART 761—SMALL HOG OPERATION PAYMENT PROGRAM

1. The authority citation for part 761 continues to read as follows:

Authority: 7 U.S.C. 612c.

2. Amend § 761.4 by removing "February 12, 1999" and adding in its place "September 24, 1999".

3. Amend § 761.5 by removing "1,000" and adding in its place "2,500".

* * * * *

4. Revise § 761.6 to read as follows:

§ 761.6 Rate of payment and limitations on funding.

(a) Benefits under this part may be made to hog operations for the quantity of eligible slaughter hogs and feeder pigs actually marketed during the marketing period in accordance with the limitations set forth in this section. Payments will be calculated by operation and shall be made in an amount determined by:

(1) Multiplying \$3.60 by the number of eligible feeder pigs marketed during the marketing period; plus

(2) Multiplying \$10 by the number of eligible slaughter hogs marketed during the marketing period;

(3) Limiting the payment per hog operation otherwise calculated under paragraphs (a)(1) and (2) of this section to \$5,000; and

(4) Reducing the amount due as calculated under paragraphs (a)(1) through (3) of this section by amounts previously paid under this part based on marketings in the same period and, for claims filed after February 12, 1999, by reducing the payment further to zero as necessary to insure subject to paragraph (c), that the total payments under this part do not exceed \$175 million.

(b) Producers who filed an application under this part prior to February 12, 1999, do not need to file another application in order to receive benefits at the increased rates announced in the **Federal Register** published on August 30, 1999. A producer who wishes to amend an application filed prior to February 12, 1999, may file an amended application by the deadline for new applications specified in § 761.4 of this part.

(c) To the extent that \$175 million is not sufficient to cover all claims under this part, claims filed on or before February 12, 1999, shall be paid in full for the eligible hogs and feeder pigs which were the subject of that claim. For claims filed after that date, the claims will be paid in the manner deemed appropriate by FSA to assure, to the extent practicable, that the claims are paid in the order in which they are

filed, until the available funds are expended at which point no additional claims will be paid.

Signed at Washington, DC, on August 29, 1999.

Parks Shackelford,

Acting Administrator, Farm Service Agency.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 270, 274a, and 280

28 CFR Parts 20, 22, 36, 71, 76, and 85

[AG Order No. 2249-99]

RIN 1105-AA48

Civil Monetary Penalties Inflation Adjustment

AGENCY: Office of the Attorney General, Justice.

ACTION: Final rule.

SUMMARY: In accordance with the requirements of section 4 of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, the United States Department of Justice is publishing this regulation adjusting for inflation the civil monetary penalties assessed or enforced by the Department.

DATES: This rule is effective September 29, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4258, Main Building, 950 Pennsylvania Avenue, NW., Washington, DC. 20530, (202) 514-8059.

SUPPLEMENTARY INFORMATION:

Background

Why Is the Justice Department Revising Its Civil Monetary Penalties?

The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410 (Adjustment Act), provides for the regular evaluation of civil monetary penalties to ensure that they continue to maintain their deterrent effect and that penalty amounts due the Federal Government are properly accounted for and collected.

On April 26, 1996, President Clinton signed into law the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134. Section 31001 of that Act, also known as the Debt Collection