

§ 759.6

disaster, will consequently lessen undue hardship and the demand for EM; and any other factors considered relevant.

§ 759.6 EM to be made available.

(a) For purposes of the EM Program under part 764, subpart I, of this chapter, a county will be considered an eligible disaster area as designated by FSA for coverage of the EM Program as follows:

(1) *Secretarial designations.* When production losses meet the requirements in § 759.5 and the county has been designated as a disaster area for that reason, or when the discretionary exception to production losses for EM under § 759.5(d) has been exercised, the primary and contiguous counties will be areas in which otherwise eligible producers can receive EM loans.

(2) *Physical loss notification.* When only qualifying physical losses occur, the SED will submit a request to the FSA Administrator to make a determination that a natural disaster has occurred in a county, resulting in severe physical losses. If the FSA Administrator determines that such a natural disaster has occurred, then EM can be made available to eligible farmers for physical losses only in the primary county (the county that was the subject of that determination) and the counties contiguous to that county.

(3) *USDA quarantine.* Any quarantine imposed by the Secretary of Agriculture under the Plant Protection Act or the animal quarantine laws, as defined in section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990, automatically authorizes EM for production and physical losses resulting from the quarantine in a primary county (the county in which the quarantine was in force) and (where the quarantine effects extend beyond that county) the counties contiguous to that primary county.

(4) *Presidential declaration.* Whenever the President declares a Major Disaster Declaration or an Emergency Declaration, FSA will make EM available to eligible applicants in declared and contiguous counties, provided:

(i) The Presidential declaration is not solely for Category A or Category

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B Public Assistance or Hazard Mitigation Grant Assistance, and

(ii) The Presidential Major Disaster declaration is for losses due to severe, general disaster conditions including but not limited to conditions such as flood, hurricane, or earthquake.

(b) [Reserved]

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