

## Commodity Credit Corporation, USDA

## § 1421.5

documentation representing an eligible commodity for which a loan deficiency payment is requested is completed jointly for such producers.

(3) Each producer who is a party to a joint loan deficiency payment will be jointly and severally responsible and liable for the breach of the obligations set forth in the loan deficiency payment documents and in the applicable regulations in this subpart.

### § 1421.5 General eligibility requirements.

(a) A producer must, unless otherwise authorized by CCC, request loans and loan deficiency payments at the county office that, in accordance with part 718 of this title, is responsible for administering programs for the farm on which the commodity was produced. An approved CMA must, unless otherwise authorized by CCC, request loans and loan deficiency payments at the location designated by CCC. An eligible producer who produces a crop of barley, corn, grain sorghum, oats, rice, or wheat on a farm covered by a production flexibility contract shall be eligible for a loan on any production of that commodity. In the case of oilseeds, any production produced by an eligible producer shall be eligible for a loan. To receive loans or loan deficiency payments for a crop of a commodity, a producer must execute a note and security agreement or loan deficiency payment application on or before:

(1) January 31 of the year following the year in which the crop of peanuts is normally harvested for additional peanuts pledged as collateral for a farm-stored loan;

(2) March 31 of the year following the year in which the following crops are normally harvested: quota peanuts pledged as collateral for a farm-stored loan, barley, canola, flaxseed, oats, rapeseed, and wheat;

(3) April 30 of the year following the year in which the crop of peanuts is harvested for quota peanuts tendered for purchase; or

(4) May 31 of the year following the year in which the following crops are normally harvested: corn, grain sorghum, mustard seed, rice, safflower, soybeans, and sunflower seed.

(b)(1) To be eligible to receive loans or loan deficiency payments, commodities must be tendered to CCC by an eligible producer and must be eligible and in existence when approved by CCC. To be eligible to receive loans, commodities must also be stored in approved storage at the time of disbursement of loan proceeds. The commodity must not have been sold, nor any sales option on such commodity granted, to a buyer under a contract that provides that the buyer may direct the producer to pledge the commodity to CCC as collateral for a loan or to obtain a loan deficiency payment. Such commodities must also be merchantable for food, feed, or other uses determined by CCC and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to humans or animals. Notwithstanding any other provision of this part, such commodities that contain vomitoxin levels of 5 or less parts per million or contain levels of more than 5 parts per million, may be eligible for a nonrecourse or recourse loan, respectively. Corn containing aflatoxin levels not exceeding 20 parts per billion may be eligible for a nonrecourse loan.

(2) The determination of class, grade, grading factors, milling yields, and other quality factors, including the determination of type, quality and quantity for peanuts:

(i) With respect to barley, canola, corn, flaxseed, grain sorghum, oats, rice, soybeans, sunflower seed for extraction of oil, and wheat, shall be based upon the Official United States Standards for Grain and the Official United States Standards for Rice as applied to rough rice whether or not such determinations are made on the basis of an official inspection. The costs of an official grade determination may be paid by CCC. The grade and grading requirements that are used in administering loans and loan deficiency payments for the commodities in this paragraph are available in State and county offices.

(ii) With respect to a crop of mustard seed, rapeseed, safflower seed, and sunflower seed used for a purpose other than to extract oil, shall be based on quality requirements established and announced by CCC, whether or not such

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determinations are made on the basis of an official inspection. The costs of an official quality determination may be paid by CCC. The quality requirements that are used in administering loans and loan deficiency payments for the oilseeds in this paragraph are available in State and county offices.

(iii) With respect to peanuts, shall be determined at the time of delivery to CCC by a Federal-State Inspector authorized or licensed by the Secretary.

(3) Corn pledged as collateral for a farm-stored loan may be ear or shelled corn, but may not be ground ear corn. If the collateral is ear corn, the producer must:

(i) Before delivery to CCC, shell such corn without cost to CCC; and

(ii) Before removal of the commodity for shelling, have the approval of CCC in accordance with §1421.20. Corn pledged as collateral for a warehouse-stored loan must be shelled corn.

(4) When a quantity of a commodity is determined by weight, the following shall apply:

(i) A bushel of barley shall be 48 pounds of barley free of dockage;

(ii) A bushel of corn shall be 56 pounds of shelled corn;

(iii) A bushel of oats shall be 32 pounds of oats;

(iv) Quantities of peanuts shall be determined in tons and hundredths of a ton;

(v) Quantities of farm-stored rice shall be in whole units of 100 pounds of rice;

(vi) A bushel of soybeans shall be 60 pounds of soybeans with no more than 1 percent foreign material;

(vii) A bushel of grain sorghum shall be 56 pounds of grain sorghum free of dockage;

(viii) A bushel of wheat shall be 60 pounds of wheat free of dockage;

(ix) Quantities of farm-stored canola, flaxseed, mustard seed, rapeseed, safflower seed, and sunflower seed shall be determined in whole units of 100 pounds of the respective commodity;

(x) A bushel of canola shall be 50 pounds of canola free of dockage;

(xi) A bushel of flaxseed shall be 56 pounds of flaxseed free of dockage;

(xii) A bushel of mustard seed shall be 54 pounds of mustard seed free of dockage;

(xii) A bushel of rapeseed shall be 50 pounds of rapeseed free of dockage;

(xiv) A bushel of safflower seed shall be 40 pounds of safflower seed free of dockage; and

(xv) A bushel of sunflower seed shall be 28 pounds of sunflower seed free of foreign material.

(5) With respect to farm-stored loans and loan deficiency payments, all determinations of weight and quality, except as otherwise agreed to by CCC, shall be determined at the time of delivery of the commodity to CCC or at the time the loan deficiency payment application is filed.

(c)(1) To be eligible to receive loans or loan deficiency payments, a producer must have the beneficial interest in the commodity that is tendered to CCC for a loan or loan deficiency payment. The producer must always have had the beneficial interest in the commodity unless, before the commodity was harvested, the producer and a former producer whom the producer tendering the commodity to CCC has succeeded had such an interest in the commodity. Commodities obtained by gift or purchase shall not be eligible to be tendered to CCC for loans or loan deficiency payments. Heirs who succeed to the beneficial interest of a deceased producer or who assume the decedent's obligations under an existing loan or loan deficiency payment shall be eligible to receive loans and loan deficiency payments whether succession to the commodity occurs before or after harvest so long as the heir otherwise complies with the provisions of this part.

(2) A producer shall not be considered to have divested the beneficial interest in the commodity if the producer retains control, title, and risk of loss in the commodity, including the right to make all decisions regarding the tender of such commodity to CCC for loans or loan deficiency payments, and the producer:

(i) Executes an option to purchase, whether or not a payment is made by the potential buyer for such option to purchase, with respect to such commodity if all other eligibility requirements are met and the option to purchase contains the following provision:

Notwithstanding any other provision of this option to purchase, title, risk of loss,

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and beneficial interest in the commodity, as specified in 7 CFR part 1421, shall remain with the producer until the buyer exercises this option to purchase the commodity. This option to purchase shall expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of: (1) The maturity of any CCC loan which is secured by such commodity; (2) the date the CCC claims title to such commodity; or (3) such other date as provided in this option or

(ii) Enters into a contract to sell the commodity if the producer retains title, risk of loss, and beneficial interest in the commodity and the purchaser does not pay to the producer any advance payment amount or any incentive payment amount to enter into such contract except as provided in part 1425 of this chapter.

(3) If loans and loan deficiency payments are made available to producers through an approved CMA in accordance with part 1425 of this chapter, the beneficial interest in the commodity must always have been in the producer-member who delivered the commodity to the CMA or its member CMA's, except as otherwise provided in this section. Commodities delivered to such a CMA shall not be eligible to receive loans or loan deficiency payments if the producer-member who delivered the commodity does not retain the right to share in the proceeds from the marketing of the commodity as provided in part 1425 of this chapter.

(d)(1) A producer may, before the final date for obtaining a loan for a commodity, re-offer as collateral for such a loan any commodity that had been previously pledged as collateral for a loan, except with respect to:

(i) Commodities that have been acquired in accordance with part 1401 of this chapter;

(ii) Commodities that have been redeemed at a rate that is less than the loan rate as determined in accordance with § 1421.25; and

(iii) Commodities for which a payment has been made in accordance with § 1421.29.

(2) The commodity re-offered as security for the subsequent loan shall have the same maturity date as the original loan.

(e) Producers who redeem loan collateral at the lower loan repayment

rate in accordance with § 1421.25 or, in lieu of receiving a loan receive a loan deficiency payment in accordance with § 1421.29, shall provide CCC with:

(1) Evidence of production of the collateral such as sales receipts or other written documentation acceptable to CCC; or

(2) The storage location of the collateral that has not been otherwise disposed of and allow CCC access to such collateral; and

(3) Permission to inspect, examine, and make copies of the records and other written data as deemed necessary to verify the eligibility of the producer and commodity.

(f) Producers who redeem loan collateral or receive a loan deficiency payment for a commodity in accordance with paragraph (e) of this section must provide evidence of production acceptable to CCC before the final loan availability date of the crop year for such commodity following the crop year for which the loan or loan deficiency payment was made. Production evidence includes but is not limited to:

(1) Evidence of sales;

(2) Load summary or assembly sheets;

(3) Warehouse receipts issued by a warehouse that is approved according to § 1421.8(b) or by a warehouse that is not approved; and

(4) Quantities determined by measurement at CCC's discretion.

(g) If the producer fails to provide acceptable evidence of production as required in paragraph (e)(1) of this section, such producer shall be required to repay the market gain or loan deficiency payment and charges, plus interest.

(h) The loan documents shall not be presented for disbursement unless the commodity subject to the note and security agreement is an eligible commodity, in existence, and is in approved storage. If the commodity was not either an eligible commodity, in existence, or in approved storage at the time of disbursement, the total amount disbursed under the loan and charges plus interest shall be refunded promptly by the producer.

(i) CCC shall limit the total loan quantity for a loan disbursement or

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loan deficiency quantity for a loan deficiency payment based on a subsequent increase in the quantity of eligible commodity by the final loan availability date to 100 percent of the outstanding quantity of such loan or loan deficiency payment application. A producer may obtain a separate loan or loan deficiency payment before the final loan availability date for the commodity for quantities in excess of 100 percent of such quantity if such quantities are an otherwise eligible commodity.

### § 1421.6 Maturity dates.

(a)(1) All loans shall mature on demand by CCC and with respect to:

(i) All commodities, except peanuts and loan collateral transferred in accordance with §1421.17(c) and (d), no later than the last day of the 9th calendar month following the month in which the note and security agreement is filed in accordance with §1421.5(a) and approved; and

(ii) Peanuts, April 30 of the year following the year the commodity is normally harvested.

(2) CCC may at any time accelerate the loan maturity date by providing the producer notice of such acceleration at least 30 days in advance of the accelerated maturity date.

(3) The request for a loan shall not be approved until all producers having an interest in the collateral sign the note and security agreement and CCC approves such note and security agreement.

(b) If a producer fails to settle the loan in accordance with paragraph (a) of this section within 30 days from the maturity date of such loan, or other reasonable time period as established by CCC, a claim for the loan amount and charges plus interest shall be established. CCC shall:

(1) Inform the producer before the maturity date of the loan of the date by which the loan must be settled or a claim will be established in accordance with part 1403 of this title; and

(2) If the producer delivers the loan collateral in accordance with §1421.22 after a claim is established:

(i) Determine the value of the settlement for such collateral in accordance with §1421.22;

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(ii) Waive interest on the loan amount that accrued before the establishment of the claim with respect to the settlement value of the quantity delivered from the date such loan proceeds were disbursed through the loan maturity date. Interest that accrues after the establishment of the claim shall not be waived; and

(iii) Reduce the outstanding claim amount arising from the loan by the amount of the settlement value of the quantity delivered plus the amount of interest that was waived.

### § 1421.7 Adjustment of basic loan rates.

(a) Basic loan rates for a commodity may be established on a State, regional, or county basis and may be adjusted by CCC to reflect quality and location applicable to the commodity and as otherwise provided in this section.

(b) The basic loan rates for the wheat, corn, barley, oats, grain sorghum, rice, peanuts, soybean, canola, flaxseed, mustard seed, rapeseed, safflower, and sunflower seed crops will be determined by CCC and made available at State and county offices.

(c)(1) With respect to all commodities except peanuts and rice, warehouse-stored loans shall be disbursed at levels based on the basic county loan rate for the county where the commodity is stored, adjusted for the schedule of premiums and discounts established for the commodity on the basis of quality factors set forth on warehouse receipts or supplemental certificates and for other quality factors, as determined and announced by CCC.

(2) With respect to rice, warehouse-stored loans shall be disbursed at levels based on the milling yields times the whole and broken kernel loan rates, adjusted for the schedule of discounts on the basis of quality factors set forth on warehouse receipts or supplemental certificates and for other quality factors, as determined and announced by CCC.

(3) With respect to commodities moved from one warehouse to another in accordance with the terms and conditions prescribed by CCC on Form CCC-699, Reconcentration Agreement and Trust Receipt, the loan rate will be