

Commodity Credit Corporation, USDA

§ 1434.4

Charge is a fee, cost, and expense (including foreclosure costs) incident to insuring, carrying, handling, storing, conditioning, and marketing the honey and otherwise protecting the honey.

CMA is a cooperative marketing association engaged in marketing honey.

County office is the local FSA office.

Crop year is the calendar year in which honey is extracted.

Executive Vice President, CCC, is the Administrator, FSA.

FSA is the Farm Service Agency, United States Department of Agriculture.

Ineligible honey is honey not eligible for a loan under this part for which ineligibility shall include, but is not limited to, honey from the following floral sources regardless of whether the honey meets other eligibility requirements: Andromeda, bitterweed, broomweed, cajeput (melaleuca), carrot, chinquapin, dog fennel, desert hollyhock, gumweed, mescal, onion, prickly pear, prune, queen's delight, rabbit brush, snowbrush (ceanothus), snow-on-the-mountain, spurge (leafy spurge), tarweed, and similar objectionably-flavored honey or blends of honey as determined by the Director, Price Support Division, FSA. If any blends of honey contain such ineligible honey, the lot as a whole shall be considered ineligible for loan.

Loan is a recourse loan on honey.

Loan quantity is the quantity on which the loan was disbursed shown on the note and security agreement.

Nontable honey is honey having a predominant flavor of limited acceptability for table use even though such honey may be considered suitable for table use in areas in which it is produced and includes honey with a predominant flavor of aster, athel, avocado, Brazilian pepper, buckwheat (except western wild buckwheat), cabbage palmetto, Christmas berry, cranberry, dandelion, eucalyptus, goldenrod, heartsease (smartweed), horsemint, kiawe, loosestrife, macadamia, mangrove, manzanita, mint, partridge pea, rattan vine, safflower, salt cedar (Tamarix Gallica) spanish needle, spikeweed, titi, toyon, tulip popular, wild cherry, yaupon, and similarly-flavored honey or blends of such honeys as determined by the Director, Price

Support Division, Farm Service Agency.

Ownership is with respect to honey tendered for a loan, control, title, risk of loss, and the right to make all decisions regarding the tender of honey to CCC for a loan or for marketing.

Person is an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, whenever applicable a State, political subdivision of a State, or any agency thereof.

Program is the administration and issuance of a loan in accordance with the terms and conditions of this part and of any note and security agreement which must be executed by a loan recipient under this part.

Table honey is any honey having a good flavor of the predominant floral source which can be readily marketed for table use in all parts of the country including honey having the following sources: alfalfa, apple, basswood, bird's-foot trefoil, blackberry, blueberry, brazil brush, catsclaw, Chinese tallow, clover, cotton, fireweed, gallberry, huajillo, knapweed (American), lima bean, mesquite, orange, raspberry, sage, saw palmetto, snowberry, sourwood, soybean, star thistle (barnaby's thistle), sunflower, sweet clover, tupelo, vetch, western wild buckwheat, wild alfalfa, and similar mild flavors or blends of mild-flavored honeys as determined by the Director, Price Support Division, FSA.

Representative is a receiver, executor, administrator, guardian, or trustee representing the interests of a person or an estate.

State committee is the FSA committee so designated for the applicable State.

§ 1434.4 Eligibility.

(a) To be eligible to receive an individual or joint loan under this part, a person must:

(1) Own, other than through a security interest, mortgage, or lien, honey that:

(i) Is produced in the United States during the calendar year for which a loan is requested and extracted on or before December 31 of such calendar year;

(ii) Does not contain any ineligible honey floral sources;

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- (iii) Is not adulterated;
 - (iv) Has not been scorched, burned, or subjected to excessive heat resulting in objectionable flavor, color deterioration or caramelization;
 - (v) Does not contain excessive bees or bee parts, paint chips, wood chips, or other foreign matter; and
 - (vi) Is not fermenting.
- (2) Share in the risk of producing honey;
- (3) Comply with paragraph (h) of this section;
- (4) Store the honey pledged as loan collateral in eligible storage and in eligible metal containers that meet the requirements of §§1434.7 and 1434.5, respectively;
- (5) Adequately protect the interests of CCC by providing security for a loan in accordance with the requirements in §1434.8 and by maintaining in good condition the honey pledged as security for a loan;
- (6) Be accurate and truthful and not make any misrepresentations with respect to any information provided to CCC concerning any activity covered by this part; and
- (7) Not have been convicted of a crime as would render the person not eligible for the loan because of the provisions of part 718 of this title.
- (b) A person who complies with paragraph (a) of this section, who enters into a contract to sell the honey used as collateral for a loan but retains, at a minimum, a beneficial interest in the honey and who does not receive an advance payment from the purchaser to enter into the contract unless the purchaser is a cooperative marketing association (CMA) that is eligible under paragraph (g) of this section, remains eligible for a loan.
- (c) Two or more applicants may be eligible for a joint loan if:
- (1) The conditions in paragraphs (a) and (b) of this section are met with respect to the commingled honey collateral stored in the same eligible containers they are tendering for a loan; and
 - (2) The commingled honey is not used as collateral for an individual loan that has not been repaid.
- (d) Heirs who succeed to a beneficial interest in the honey are eligible for a loan if they:

- (1) Assume the decedent's obligation under a loan if such loan has already been obtained; and
 - (2) Assure continued safe storage of the honey if such honey has been pledged as collateral for a loan.
- (e) A representative may be eligible to receive a loan on behalf of a person or estate who or which meets the requirements in paragraphs (a), (b), (c), and (d) of this section and that the honey tendered as collateral by the representative, in his capacity as a representative, shall be considered as tendered by the person or estate being represented.
- (f) A minor who otherwise meets the requirements of this part for a loan shall be eligible to receive a loan only if the minor meets one of the following requirements:
- (1) A court or statute has conferred the right of majority on the minor;
 - (2) A guardian has been appointed to manage the minor's property and the applicable loan documents are signed by the guardian;
 - (3) Any note signed by the minor is cosigned by a person determined by the county committee to be financially responsible; or
 - (4) A surety, by furnishing a bond, guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.
- (g) A CMA which the Executive Vice President, CCC, determines meets the requirements for CMA's in part 1425 of this title may be eligible to obtain a loan on behalf of those members who themselves are eligible to obtain a loan provided that:
- (1) The beneficial interest in the honey must always, until loan repayment or forfeiture, remain in the member who delivered the honey to the eligible CMA or its member CMA's, except as otherwise provided in this part; and
 - (2) The honey delivered to an eligible CMA shall not be eligible for a loan if the member who delivered the honey does not retain the right to share in the proceeds from the marketing of the honey as provided in part 1425 of this title.
- (h)(1) To be eligible to receive loans under this part a producer must have

the beneficial interest in the honey that is tendered to CCC for a loan. The producer must always have had the beneficial interest in the honey unless, before the honey was extracted, the producer and a former producer whom the producer tendering the honey to CCC has succeeded had such an interest in the honey. Honey obtained by gift or purchase shall not be eligible to be tendered to CCC for loans. Heirs who succeed to the beneficial interest of a deceased producer or who assume the decedent's obligations under an existing loan shall be eligible to receive loans whether succession to the honey occurs before or after extraction 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 honey if the producer retains control, title, and risk of loss in the honey including the right to make all decisions regarding the tender of such honey to CCC for a loan, and the producer takes one of the following actions:

(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 honey 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, and beneficial interest in the honey, as specified in 7 CFR part 1434, shall remain with the producer until the buyer exercises this option to purchase the honey. 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 honey; (2) the date the CCC claims title to such honey; or (3) such other date as provided in this option.

(ii) Enters into a contract to sell the honey if the producer retains title, risk of loss, and beneficial interest in the honey 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 are made available to producers through an approved CMA in accordance with part 1425 of this chapter,

the beneficial interest in the honey must always have been in the producer-member who delivered the honey to the CMA or its member CMA's, except as otherwise provided in this section. Honey delivered to such a CMA shall not be eligible for loans if the producer-member who delivered the honey does not retain the right to share in the proceeds from the marketing of the honey as provided in part 1425 of this chapter.

(i) A producer may, before the final date for obtaining a loan for honey, re-offer as loan honey any honey that has been previously pledged as loan honey except that the loan on such re-offered honey shall have the same maturity date as the original loan.

§ 1434.5 Containers and drums.

(a)(1) The honey must be packed in metal containers of a capacity of not less than 5 gallons or greater than 70 gallons. The metal containers must meet the requirements of the Federal Food, Drug, and Cosmetic Act, as amended, and regulations issued thereunder and must be generally fit for the purpose for which they are to be used;

(2) The 5-gallon containers must hold approximately 60 pounds of honey, and must be new, clean, sound, uncased, and free from appreciable dents and rust. The handle of each container must be firm and strong enough to permit carrying the filled container. The cover and can opening must not be damaged in any way that will prevent a tight seal. Cans which are punctured or have been punctured and resealed by soldering will not be acceptable, and

(3) The steel drums must be an open-end type and filled no closer than 2 inches from the top of the drums. Such drums must be new or must be used drums which have been reconditioned inside and outside. The steel drums must be clean, treated inside and outside to prevent rusting, fitted with gaskets which provide a tight seal and have an inside coating suitable for honey storage.

(b) Honey shall not be eligible to be pledged as collateral for loans if such honey is stored in:

(1) 55-gallon steel drums having a tare weight less than 38 pounds, 30-gallon steel drums having a tare weight