

## Commodity Credit Corporation, USDA

## § 1464.7

### § 1464.5 Interest rate and general provisions.

The loans made to the associations will bear interest at the rate announced by CCC and will be non-recourse both as to principal and interest except in the case of misrepresentation, fraud or failure to carry out the loan agreement. Tobacco loses its identity as to original ownership through commingling in the packing process, and individual producers may not redeem their tobacco once it has been pledged as security for the loan. Associations will sell the loan tobacco as provided in the loan agreements for each crop, and the net proceeds of sales of the loan collateral of each crop will be applied to the loan account for such crop until the loan is repaid in full. With respect to the 1981 and prior crops, if the proceeds from the sale of loan collateral of the 1981 or any prior crop exceed (a) the amount of the loan plus all fees, handling charges, operating costs and interest; and (b) any amount due CCC under a barter transfer agreement entered into between CCC and the association, such excess shall constitute "net gains" and shall be distributed in cash by the association to the producers who placed the tobacco under loan unless other disposition is approved by CCC.

[45 FR 9253, Feb. 12, 1980, as amended at 50 FR 7574, Feb. 25, 1985; 51 FR 32426, Sept. 12, 1986; 56 FR 21259, May 8, 1991]

### § 1464.6 Maturity date.

Loans made under the program will mature on demand.

### § 1464.7 Eligible producer.

To qualify as an eligible producer for purposes of receiving price support during the current marketing year a person must have eligible tobacco, as provided in §1464.8, for marketing and such person:

(a) Must have agreed to make contributions to a No Net Cost Fund or pay assessments to a No Net Cost Account, as applicable, in accordance with §1464.10.

(b) Must not have been found, after notice and opportunity for an administrative hearing in accordance with part 780 of this title, to have:

(1) Knowingly delivered nested tobacco for the purpose of receiving price support.

(2) Filed a false report with respect to the use of pesticides on tobacco produced for marketing during the current marketing year.

(3) Erroneously represented any fact affecting a tobacco program determination.

(4) Adopted any scheme or device which tends to defeat the purpose of the tobacco program.

(5) Made any fraudulent representations with respect to the tobacco program.

(c) Must be in compliance with the provisions of part 12 of this title.

(d) Must not be ineligible, in accordance with part 1498 of this title, to receive price support payments, loans, and benefits.

(e) With respect to any tobacco which is presented for price support, must have retained beneficial interest in the tobacco prior to presenting the tobacco for such loan.

(1) For purposes of this section, the producer will be considered to have retained beneficial interest in the tobacco only if such producer has complete control of and title to such tobacco, including the right to tender such tobacco to CCC for a price support loan on the date such tobacco is tendered to CCC for a price support loan, and has maintained this right and that interest in the tobacco at all times prior to presenting the tobacco for the loan.

(2) If a producer receives a monetary advance or other consideration in connection with or for such tobacco, the producer will be deemed for purposes of this section to have lost beneficial interest in such tobacco unless the producer has a written agreement with the person who provides the advance payment or consideration and such agreement accurately and fully:

(i) Sets forth the amount, nature and date of the advance or consideration;

(ii) Sets forth the poundage on which the advance or consideration was made;

(iii) Provides that the tobacco will be sold at a producer auction through an

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auction warehouse at which price support is provided, or will be presented for a price support loan;

(iv) Provides that as a full and final settlement on the tobacco, the full sales price at the producer auction or the full loan proceeds will be paid to the producer minus only the following:

(A) Any advance set out in the agreement; and

(B) Standard published assessments or charges for services rendered at standard published rates that apply to all tobacco of all producers, including tobacco for which no advance has been paid;

(v) Sets forth the date of final settlement to be made on the tobacco which date can be no later than the date applicable to tobacco on which no advance has been made.

(vi) States that the full profit and beneficial interest in the tobacco, and full control of the tobacco, remains with the producer and provides that the full profit and beneficial interest will remain with the producer at all times prior to any disposition of the tobacco as producer tobacco, or at a producer auction, or presenting for a price support loan.

(3) A producer will be considered to have lost beneficial interest in tobacco and thereby not be an "eligible producer" for such tobacco as of the date any advance or other preauction arrangement was made if CCC determines for that tobacco that:

(i) The advance per pound equalled or exceeded the producer's final net proceeds per pound on all tobacco marketed from the farm for that marketing year at producer auctions, including any tobacco on which an advance is made or the pledging of tobacco for price support loans;

(ii) A written agreement was required by paragraph (e)(2) of this section, but none has been executed; or

(iii) A written agreement was executed but did not meet the requirements of paragraph (e)(2) of this section.

(4) If tobacco is pledged for a price support loan and the producer is not then or thereafter deemed to be or to have been an eligible producer for that tobacco for purposes of placing the tobacco under such loan, then the to-

bacco shall be considered to have a loan value of zero. The producer and the person that took possession of the tobacco from the producer, or paid an advance, or marketed the tobacco, or disposed of the tobacco as producer tobacco, shall be jointly and severally liable with the producer for returning any loan proceeds previously paid in the name of, or for the account of, the producer. Further, the disposition of any tobacco as producer tobacco where the producer is not then or thereafter considered to have been an eligible producer with respect to such tobacco may be the subject of penalties on the grounds of false identification, excess marketings, or otherwise as provided in part 723 of this title. These remedies are in addition to any others as may apply.

(f) Must be in compliance with the provisions of parts 400 and 402 of this title by purchasing an amount of catastrophic insurance coverage which equals or exceeds the minimal required under those parts.

[51 FR 32426, Sept. 12, 1986, as amended at 53 FR 43675, Oct. 28, 1988; 56 FR 21259, May 8, 1991; 57 FR 43583, Sept. 21, 1992; 60 FR 21037, May 1, 1995]

**§ 1464.8 Eligible tobacco.**

Eligible tobacco for the purpose of pledging such tobacco as collateral for a price support loan is any tobacco of a kind for which price support is available, as provided in §1464.2, that is in sound and merchantable condition, is not nested as defined in 7 CFR part 29, and:

(a) Is not a kind of tobacco for which marketing quotas are not in effect for the marketing year because marketing quotas have been disapproved in a referendum of producers;

(b) Is offered for marketing by the person who was the producer of the tobacco, or in the case of a deceased producer, by the duly authorized successor(s) in interest;

(c) Is offered for marketing in accordance with §1464.2(b);

(d) If marketing quotas are in effect for the kind of tobacco:

(1) Except for burley tobacco, the farm operator has filed a report of the acreage planted to tobacco on the farm