

§ 1412.807

7 CFR Ch. XIV (1-1-05 Edition)

(3) Be a party to a written contract that was in effect on or before May 13, 2002, for the permanent transfer of a peanut quota to such party's farm but was not completed by that date. In such a case, the eligible peanut quota holder is the owner of the farm, as of May 13, 2002, to which the peanut quota was to be transferred; or

(4) Have owned a farm with a peanut quota which is protected under a Conservation Reserve Program contract in accordance with part 1410 of this chapter;

(b) Notwithstanding any provision of paragraph (a) of this section, CCC may determine that a person is an eligible peanut quota holder with respect to an amount of peanut quota for the purposes of this section, to the exclusion of all other persons in order to provide for the fair and equitable administration of this part so long as the total amount of eligible quota pounds for all program participants does not exceed the quantity of peanut quota that was available to all quota holders in the 2001 crop year.

(c) Sales and transfers of farms and peanut quotas may be disregarded by CCC when:

(1) Such sales and transfers were required to be reported to FSA under part 729 of this title; or

(2) It is otherwise determined by CCC that it would be unfair and inequitable in the overall administration of the program to make or modify an eligibility determination based on claims of transfers or sales that preceded January 1, 2002.

§ 1412.807 Contract provisions.

(a)(1) CCC will, on a per-farm basis, offer to enter into a contract with each eligible peanut quota holder on such farm under which CCC will provide a payment in five equal installments in each of the 2002 through 2006 fiscal years or in one lump sum payment in any such fiscal year as selected by such holder.

(2) Eligible peanut quota holders who elect to receive five equal installments payments will receive the fiscal year 2002 payment no later than December 31, 2002 and, as determined by CCC, between January 2 and January 31 in each of the years 2003 through 2006.

(3) Eligible peanut quota holders who elect to receive one lump sum payment may specify the fiscal year in which they wish to receive a payment. CCC will determine the day in such fiscal year that the payment will be made by CCC.

(b) The amount of each payment made under paragraph (a)(2) of this section shall be the product determined by multiplying:

(1) \$0.11 per pound; times

(2) The amount of eligible quota pounds of the eligible peanut quota holder.

(c) The amount of each payment made under paragraph (a)(3) of this section shall be the product determined by multiplying the product determined under paragraph (b) of this section times five.

(d) After a payment option has been selected under paragraph (a) of this section and a payment has been made by CCC, no change in the payment option will be allowed except as authorized by the Executive Vice President, CCC.

§ 1412.808 Contract liability.

All signatories to a contract are jointly and severally liable for contract violations and resulting repayments and liquidated damages.

§ 1421.809 Misrepresentation and scheme or device.

A person who is determined to have:

(a) Erroneously represented any fact affecting a program determination made in accordance with this subpart;

(b) Adopted any scheme or device that tends to defeat the purpose of the program; or

(c) Made any fraudulent representation affecting a program determination made in accordance with this subpart, must refund all payments received on all contracts entered into under this subpart, plus interest as determined in accordance with part 1403 of this chapter, and pay to CCC liquidated damages as specified in the contract.

§ 1412.810 Offsets and assignments.

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof made to any person under

this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the peanut quota or the farm for which a peanut quota had been established under part 729 of this title by any creditor or any other person.

(b) Any person eligible to receive a payment made under this subpart may assign the payment in accordance with part 1404 of this chapter.

§ 1412.811 Other regulations.

(a) The provisions of part 12 of this title, the controlled substance provisions of part 718 of this title, and the payment limitation provisions of part 1400 of this chapter shall not be applicable to payments made under this subpart.

(b) The provisions of part 707 of this title relating to the making of payments in the event of the death of a program participant and in the event of other special circumstances shall apply to payments made under this subpart.

PART 1413—HARD WHITE WHEAT INCENTIVE PROGRAM

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AUTHORITY: 7 U.S.C. 7999; 15 U.S.C. 714b and 714c.

SOURCE: 68 FR 5207, Feb. 3, 2003, unless otherwise noted.

§ 1413.101 Applicability.

(a) These regulations in this part set forth the terms and conditions of the Hard White Wheat Incentive Program. The Farm Security and Rural Investment Act of 2002 provides that \$20,000,000 of the funds of CCC shall be

available during the 2003 through the 2005 crop years for producers to produce and market hard white wheat limits this program to not more than a total of 2,000,000 acres or an equivalent volume of 120,000,000 bushels of production for the 2003 through 2005 crop years.

(b) A production payment incentive shall be available only for hard white wheat that grades U.S. # 2 grade or higher, established by the Federal Grain Inspection Service, that is produced and harvested in the United States.

(c) A certified seed incentive payment shall be available for each acre planted to certified hard white wheat seed, as approved by CCC. Producers are eligible to receive incentive payments for the production incentive or the certified seed incentive, or both. Each incentive payment is independent of the other.

[68 FR 5207, Feb. 3, 2003, as amended at 68 FR 16185, Apr. 3, 2003]

§ 1413.102 Administration.

(a) The program is administered under the general supervision of the Executive Vice-President, CCC, and shall be carried out by the Farm Service Agency (FSA) State and county committees (State and county committees).

(b) State and county committees, their representatives and employees, have no authority to modify or waive any of the provisions of the regulations of this part, except as provided in paragraph (e) of this section.

(c) The State committee shall take any action required by the regulations of this part that the county committee has not taken. The State committee shall also:

(1) Correct, or require a county committee to correct any action taken by such county committee that is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with the regulations of this part.

(d) No provision or delegation of this part to a State or county committee shall preclude the Executive Vice