

§ 1421.104

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

Kansas City, Missouri 64141-6205, from State and county offices, or at the FSA web site on the Internet.

§ 1421.104 Marketing assistance loan making.

(a)(1) The FSA county service center shall file or record, as required by State law, all security agreements that are issued with respect to commodities pledged as collateral for marketing assistance loans.

(i) The cost of filing and recording shall be paid by CCC.

(ii) The cost for terminating the financing statement before the end of the term shall be paid by the producer.

(2) If there are any liens or encumbrances on the commodity, waivers that fully protect the CCC's interest must be obtained even though the liens or encumbrances are satisfied from the loan proceeds. No additional liens or encumbrances shall be placed on the commodity after the marketing assistance loan is approved.

(b) Fees, charges, and interest must be paid by the producer to CCC at a rate CCC determines. Such fees, charges, and interest include:

(1) A non-refundable loan service fee;

(2) Interest that accrues on a loan under part 1405 of this chapter;

(3) For each soybean crop, the producer as defined in the Soybean Promotion, Research and Consumer Information Act (7 U.S.C. Chapter 6301), shall remit to CCC an assessment that CCC determines when it acquires the commodity and shall be equal to one-half of 1 percent of the amount determined under §1412.112.

(c) For peanuts, charges associated with warehouse stored loans including but not limited to storage and in charges, as determined by CCC are paid by CCC to the producer.

(d) The cost of terminating a financing statement shall be paid by the producer.

§ 1421.105 Farm-stored marketing assistance loans.

(a) The producer of a commodity pledged as security for a farm-storage loan shall:

(1) Certify the quantity of such commodity on the loan application, or;

(2) Have such quantity measured by CCC at the measurement service rate established by CCC.

(b) The State committee may establish a marketing assistance loan percentage not to exceed a percentage CCC establishes or it may apply quality discounts to the loan rate in each year for each commodity on a State-wide basis or for specified areas within the State. Before approving a county committee request to establish a different loan percentage, or to apply quality discounts, the State committee shall consider conditions in the State or areas within a State to determine if the marketing assistance loan percentage should be reduced below the maximum marketing assistance loan percentage or the quality discounts should be applied to the basic county marketing assistance loan rate to provide CCC with adequate protection. Marketing assistance loans disbursed based upon loan percentages previously lowered and loan rates adjusted for quality shall not be altered if conditions within the State or areas within the State change to substantiate removing such reductions. Percentages established or loan rates adjusted for quality under this section shall apply only to new marketing assistance loans and not to outstanding marketing assistance loans. In determining loan percentages or the necessity to apply quality discounts, the State committee shall consider any factor at its discretion, including the following:

(1) General crop conditions;

(2) Factors affecting quality peculiar to an area within the State; and

(3) Climatic conditions affecting storability.

(c) An eligible quantity of a commodity that is commingled with an ineligible quantity of the commodity is not eligible to be collateral for a marketing assistance loan unless the producer, when requesting a marketing assistance loan designates all structures that may be used for storage of the marketing assistance loan collateral.

(1) In such cases, the producer is not required to obtain prior written approval from the county committee before moving marketing assistance loan collateral from one designated structure to another designated structure.

(2) In all other instances, if the producer intends to move marketing assistance loan collateral from a designated structure to another undesignated structure, the producer must request prior approval from the county committee. Such approval shall be written and the eligible or ineligible commodity must be measured by a representative of the county office, at the producer's expense, before commingling. Prior to commingling, with respect to wool and mohair, a representative of the county committee may determine an average production of the wool and mohair in a manner approved by CCC.

(d)(1) Two or more producers may obtain:

(i) A single joint marketing assistance loan for commodities that are stored in the same farm storage facility; or

(ii) Individual marketing assistance loans for their share of the commodity that is commingled in a farm storage facility with commodities owned by other producers if such other producers execute an agreement that provides that such producers shall obtain the permission of a representative of the county committee before removal of any quantity of the commodity from the storage facility. All producers who store a commodity in a farm storage facility in which commodities that have been pledged as collateral for a marketing assistance loan shall be liable for any damage incurred by CCC for the deterioration or unauthorized removal or disposition of such commodities.

(2) In such cases, each producer must execute a note and security agreement with CCC, and each such producer shall be jointly and severally liable for the violation of the terms and conditions of the note and the requirements of this part. Each producer is also liable for repayment of the entire marketing assistance loan amount until the marketing assistance loan is fully repaid without regard to their share in the commodity pledged as collateral. In addition, such producer may not amend the note and security agreement for the producer's claimed share in such commodities, or marketing assistance

loan proceeds, after execution of the note and security agreement by CCC.

(e)(1) A producer, when requesting a marketing assistance loan, shall designate in writing specific storage structures.

(2) The producer is not required to request prior approval before moving marketing assistance loan collateral between such designated structures.

(3) Movement of marketing assistance loan collateral to any other structures not designated or the disposal of such loan collateral without prior written approval of the county committee, shall subject the producer to administrative actions.

(4) The producer is responsible for any loss in quantity or quality of the farm-stored commodity pledged as collateral.

(5) CCC shall not assume any loss in quantity or quality of the marketing assistance loan collateral for farm-stored loans.

§ 1421.106 Warehouse-stored marketing assistance loan collateral.

(a) A commodity may be pledged as collateral for a warehouse-stored marketing assistance loan in the quantity delivered to CCC for storage at a warehouse that meets standards for approval at part 1423 of this chapter. Such quantity shall be the net weight specified on the warehouse receipt or supplemental certificate.

(b) Two or more producers may obtain a single joint marketing assistance loan for commodities stored in an approved warehouse if the warehouse receipt pledged as collateral is issued jointly to the producers.

(c) If more than one producer executes a note and security agreement with CCC, each such producer shall be jointly and severally liable for the violation of the terms and conditions of the note and the regulations in this part. Each such producer shall also remain liable for repayment of the entire marketing assistance loan amount until the marketing assistance loan is fully repaid without regard to such producer's claimed share in the commodity pledged as collateral for the marketing assistance loan. In addition, such producer may not amend the note and security agreement with respect to