

§ 1423.2

to processed commodities, extracted honey, and bulk oils purchased in store by CCC for prompt shipment or to handling of commodities.

(b) Copies of the CCC storage agreement and forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, P.O. Box 205, Kansas City, Missouri 64141 (hereinafter referred to as the "KCCO").

(c) A warehouse must be approved by KCCO and a storage contract or agreement must be in effect between CCC and the warehouseman before CCC will use such warehouse. The approval of a warehouse or the entering into of a storage contract or agreement does not constitute a commitment that CCC will use the warehouse, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman when applying for approval under this subpart, shall submit to CCC at KCCO:

(1) A completed Form CCC-560, "Application for Approval of Warehouse (Processed Commodities)", or Form CCC-513, "Application for Approval of Tank Farm", or Form CCC-55, "Application for Approval of Warehouse for Honey Storage Contract", whichever is applicable,

(2) A current financial statement on Form WA-51, "Financial Statement", supported by such supplemental schedules as CCC may request. Financial statements may be submitted on forms other than Form WA-51 with approval of the Director, KCCO, or the Director's designee. Financial statements shall show the financial condition of the warehouseman as of a date no earlier than ninety (90) days prior to the date of the warehouseman's application, or such other date as CCC may prescribe. Additional financial statements shall be furnished annually and at such other times as CCC may require. CCC also may require that financial statements prepared by the warehouseman or by a public accountant be examined by an independent certified public accountant in accordance with generally accepted auditing standards. Only one financial statement is required for a chain of warehouses owned

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

or operated by a single business entity. If approved by the Director, KCCO, or the Director's designee, the financial statement of a parent company, which includes the financial position of a wholly-owned subsidiary, may be used to meet the CCC standards for approval for the wholly-owned subsidiary.

(3) Copies of the warehouseman's tariff and any changes thereto, and

(4) Evidence that the warehouseman is licensed by the appropriate licensing authority as required under § 1423.2(a)(2) and such other documents or information as CCC may require.

[44 FR 67081, Nov. 23, 1979, as amended at 45 FR 84009, Dec. 22, 1980; Amdt. 3, 50 FR 42512, Oct. 21, 1985]

§ 1423.2 Basic standards.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by such warehouseman for which CCC approval is sought for the storage or handling of CCC-owned or loan commodities shall meet the following standards:

(a) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling for hire, or both, the applicable commodity. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business.

(2) Have a current and valid license for the kind of storage operation for which the warehouseman seeks approval if such a license is required by State or local laws or regulations.

(3) Have a net worth which is the greater of \$25,000 or (i) for dairy and other processed commodities (other than those shown in paragraph (a)(3)(ii) of this section, the amount which results from multiplying five (5) percent of the current purchase price, times the quantity of the commodity to be stored; (ii) for honey, sugar and bulk oils, the amount which results from multiplying the storage capacity of the flat warehouse space available to CCC or the maximum capacity of the bulk tank(s), whichever is applicable, times five (5) percent of the current loan value for honey and sugar and five (5) percent of the current market value for

Commodity Credit Corporation, USDA

§ 1423.3

bulk oils. The net worth need not exceed \$250,000. If the calculated net worth exceeds \$25,000, the warehouseman may satisfy any deficiency in net worth between the \$25,000 minimum requirement and such calculated net worth by furnishing bonds (or acceptable substitute security) meeting the requirements of § 1423.3.

(4) Have available sufficient funds to meet ordinary operating expenses,

(5) Have satisfactory corrected, upon request by CCC, any deficiencies in the performance of any storage contract or agreement with CCC,

(6) Use only warehouse receipts or such other documents as CCC may prescribe,

(7) Maintain accurate and complete inventory and operating records,

(8) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and applicable stored commodity, and

(9) Have a work force and equipment available to complete loadout as stated below or as CCC may prescribe:

(i) Forty-five (45) working days of the total quantity of all honey and processed commodities stored for CCC.

(ii) Seventy-five (75) working days of that quantity of bulk oils for which the warehouse is or may be approved under a contract with CCC.

(b) The warehouseman, officials, or supervisory employees of the warehouseman in charge of the warehouse operations shall have the necessary experience, organization technical qualifications, and skills in the warehousing business regarding the applicable commodity to enable them to provide proper storage and handling services.

(c) Warehouseman, officials, and each of the supervisory employees of the warehouseman in charge of the warehouse operations shall:

(1) Have a satisfactory record of integrity, judgment, and performance, and

(2) Be neither suspended nor debarred under applicable CCC suspension and debarment regulations.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately equipped to receive, handle, store, preserve, and deliver the applicable commodity,

(2) Be under the control of the contracting warehouseman at all times. If a warehouse is leased by the warehouseman, a copy of the written lease agreement must be furnished to CCC at the time the warehouseman applies for approval under this subpart. The lease agreement must be renewable and must provide that the lessor cannot cancel the agreement without giving at least 120 days notice to the warehouseman. All leases are subject to approval by the CCC Contracting Officer, and

(3) Not be subject to greater than normal risk of fire, flood or other hazards.

[44 FR 67081, Nov. 23, 1979, as amended by Amdt. 3, 50 FR 42512, Oct. 21, 1985]

§ 1423.3 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(b) Such bond shall be on Form CCC-33, "Warehouseman's Bond", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(1) CCC determines that such bond provides adequate protection to CCC.

(2) It has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and

(3) It is noncancellable for not less than one hundred twenty (120) days or includes a rider providing for not less than one hundred twenty (120) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses.