

§ 1421.108

by supplemental certificates completed under paragraph (f) of this section.

§ 1421.108 Transfers and reconcentrations.

(a) Upon request by the producer before transfer, the county committee may approve the transfer of a quantity of a commodity that is pledged as collateral for a farm-stored loan to a warehouse-stored loan at any time during the loan period.

(1) Liquidation of the farm-stored loan or part thereof shall be made through the pledge of warehouse receipts for the commodity placed under warehouse-stored loan and the immediate payment by the producer of the amount by which the warehouse-stored loan is less than the farm-stored loan or part thereof and charges plus interest. The loan quantity for the warehouse-stored loan cannot exceed 110 percent of the loan quantity transferred from the farm-stored loan.

(2) Any amounts due the producer shall be disbursed by the FSA county service center.

(b) Upon request by the producer before the transfer, the county committee may approve the transfer of a warehouse-stored loan or part thereof to a farm-stored loan at any time during the marketing assistance loan period. Quantities pledged as collateral for a farm-stored loan shall be based on a measurement or a calculation of average production of wool and mohair, such measurement or calculation to be made by a representative of the county office before approving the farm-stored loan. The producer must immediately repay the amount by which the farm-stored loan is less than the warehouse-stored loan and charges plus interest on the shortage. The maturity date of the farm-stored loan shall be the maturity date applicable to the warehouse-stored loan that was transferred.

(c) Upon the filing of the Reconcentration Agreement and Trust Receipt by the producer and warehouse operator, CCC may, during the marketing assistance loan period, approve the reconcentration in another CCC-approved warehouse for all or part of a commodity that is pledged as collateral for a warehouse-stored loan. Any such approval shall be subject to the

7 CFR Ch. XIV (1-1-08 Edition)

terms and conditions in the Reconcentration Agreement and Trust Receipt. A producer may, before the new warehouse receipt is delivered to CCC, pay to CCC:

(1) The principal amount of the marketing assistance loan and charges plus interest and applicable charges; or

(2) If CCC so announces, an amount less than the principal amount of the marketing assistance loan and charges plus interest under the terms and conditions specified by CCC at the time the producer redeems the commodity pledged as collateral for such marketing assistance loan.

§ 1421.109 Personal liability of the producer.

(a) When a producer obtains a commodity marketing assistance loan, the producer agrees, in writing, not to:

(1) Provide an incorrect certification of the quantity or make any fraudulent or erroneous representation for the marketing assistance loan; or

(2) Remove or dispose of a quantity of commodity that is collateral for a CCC farm-stored loan without prior written approval from CCC.

(3) The violation of the terms and conditions of the note and security agreement, will cause harm or damage to CCC in that funds may be disbursed to the producer for a quantity of a commodity that is not actually in existence or for a quantity on which the producer is not eligible.

(b) Such violations as are referred to in paragraph (a)(3) of this section may include:

- (1) Incorrect certification;
- (2) Unauthorized removal; and
- (3) Unauthorized disposition.

(c) The producer and CCC agree that it will be difficult, if not impossible, to prove the amount of damages to CCC for such violations. Accordingly, if the county committee determines that the producer has committed such violations, liquidated damages shall be assessed on the quantity of the commodity that is involved in the violation.

(d) Liquidated damages assessed in accordance with this section will be determined by multiplying the quantity involved in the violation by 10 percent

of the marketing assistance loan rate applicable to the loan note.

(e) When it has been determined that a violation of the terms and conditions of the note and security agreement has occurred as a result of unauthorized removal or disposition, CCC will determine the quantity of the commodity involved with respect to such violation and require the repayment of that portion of the marketing assistance loan which is commensurate to such quantity of the commodity. In the case of these violations, if CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages shall be assessed according to paragraph (d) of this section and the commodity involved in the violation must be redeemed at the lesser of:

(i) The rate at which the loan was disbursed, plus interest and any other charges assessed under the note and security agreement; or

(ii) The alternative repayment rate in effect on the date of the determination is issued by CCC that a violation has occurred, plus 15 percent of the original loan rate as provided on the note and security agreement.

(2) Did not act in good faith when the violation was committed, liquidated damages shall be assessed in accordance with paragraph (d) of this section, and administrative actions shall be taken in accordance with paragraph (h) of this section. The loan must be redeemed at the rate at which the loan was disbursed, plus interest and any other charges assessed under the note and security agreement.

(f) When it has been determined that a violation of the terms and conditions of the note and security agreement has occurred as result of an incorrect certification, CCC will determine the quantity of the commodity involved with respect to such violation and require the repayment of that portion of the marketing assistance loan which is commensurate to such quantity of the commodity. In the case of an incorrect certification, if CCC determines the producer:

(1) Acted in good faith when the violation occurred, liquidated damages shall be assessed according to paragraph (d) of this section, and the com-

modity involved in the violation must be redeemed at the rate at which the loan was disbursed, plus interest and any other charges assessed under the note and security agreement.

(2) Did not act in good faith about the violation, liquidated damages shall be assessed in accordance with paragraph (d) of this section and administrative actions shall be taken in accordance with paragraph (h) of this section. The loan must be redeemed at the rate at which the loan was disbursed, plus interest and any other charges assessed under the note and security agreement.

(g) If the producer fails to pay such amount within 30 days from the date of notification of violations as provided in paragraphs (e)(1) and (f)(1) of this section, the producer must immediately repay the marketing assistance loan at the rate at which the loan was disbursed plus interest, and any other charges assessed under the note and security agreement.

(h) For violations subject to paragraphs (e)(2) and (f)(2) of this section, the producer must immediately repay the marketing assistance loan at the rate at which the loan was disbursed plus interest, and any other charges assessed under the note and security agreement. If the loan has already been repaid, any market gain previously realized on the loan, plus interest, must be refunded to CCC.

(i) If the county committee determines that the producer has committed a violation, the county committee shall notify the producer in writing that:

(1) The producer has 30 calendar days to provide evidence and information regarding the circumstances that caused the violation, to the county committee; and

(2) Administrative actions will be taken.

(j) If the loan is accelerated, the producer may not repay the loan at the lower alternative loan repayment rate and may not utilize commodity certificate exchanges, unless authorized by CCC.

(k) Producers rejected for a farm-stored loan under this section may apply for a warehouse-stored loan.

§ 1421.110

7 CFR Ch. XIV (1-1-08 Edition)

(1) The loan plus other charges shall be payable to CCC upon demand if a producer:

(1) Makes any fraudulent representation in obtaining a marketing assistance loan, maintaining, or settling a loan; or

(2) Disposes or moves the loan collateral without the approval of CCC.

(m) A producer shall be personally liable for damages resulting from a commodity delivered to or removed by CCC containing mercurial compounds, toxin producing molds, or other substances poisonous or harmful to humans or animals or property.

(n) If the amount disbursed under a marketing assistance loan or in settlement thereof, exceeds the amount authorized by this part, the producer shall be liable for repayment of such excess and charges, plus interest.

(o) If the amount collected from the producer in satisfaction of the marketing assistance loan is less than the amount required under this part, the producer shall be personally liable for repayment of the amount of such deficiency and charges, plus interest.

(p) In the case of joint loans or loan deficiency payments, the personal liability for the amounts specified in this section shall be joint and several on the part of each producer signing the note or loan deficiency payment application.

(q) Any or all of the liquidated damages assessed may be waived as determined by CCC.

[67 FR 63511, Oct. 11, 2002, as amended at 68 FR 67939, Dec. 5, 2003; 71 FR 32424, June 6, 2006]

§ 1421.110 Repayments.

(a) CCC may allow a producer to repay a nonrecourse marketing assistance loan at a rate that is the lesser of:

(1) The loan rate and charges, plus interest determined for a crop; or

(2) The prevailing world market price, as determined by CCC, for rice or the alternative repayment rate for all other commodities, as determined by CCC.

(b)(1) On a form prescribed by CCC, a producer may request to lock in the applicable repayment rate for a period of:

(i) 60 calendar days; or

(ii) not less than 14 calendar days before the maturity date of the loan, but not both.

(2) The request to lock in the applicable repayment rate must be received in the FSA county service center that disbursed the loan.

(3) The repayment rate that is locked in is the rate in effect when the request to lock in is approved.

(4) The repayment rate may be locked in on outstanding farm-stored or warehouse-stored loans.

(5) The repayment rate that is locked in will expire the earlier of:

(i) 60 calendar days from date of approval, or;

(ii) 14 calendar days before loan maturity.

(6) The requests can only be completed one time for a designated quantity.

(7) The requests can be made in person or by facsimile.

(8) The requests cannot be canceled, terminated, or changed after approval.

(9) The locked-in applicable repayment rate will not transfer to any loan disbursed outside of the originating county where the commodity was stored.

(10) Once a repayment rate is locked in it cannot be extended.

(c) If a producer fails to repay a marketing assistance loan within the time prescribed by CCC under the terms and conditions of the request to lock in a market loan repayment rate, the producer may repay the loan:

(1) On or before maturity, at the lesser of:

(i) Principal plus interest as determined by CCC;

(ii) The repayment rate in effect on the day the repayment is received in the FSA county service center.

(2) After maturity at principal plus interest.

(d) When the proceeds of the sale of the commodity are needed to repay all or a part of a farm-stored loan, the producer must request and obtain prior written approval on a CCC approved form and comply with the terms and conditions of such form, to remove a specified quantity of the commodity