

**§ 1421.202**

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

to a processor, buyer warehouse, cooperative marketing association, or similar entity.

(3) For 2006 and subsequent crop years, the loan deficiency payment rate in effect in the county where the commodity was marketed or stored on the date:

(i) The request for benefits is received in the FSA Service Center, if the producer retains beneficial interest in the quantity on that date.

(ii) Beneficial interest was lost, as determined by CCC and as provided in §§1421.6 and 1421.13, if on the date the request for benefits was received in the FSA Service Center the producer no longer has beneficial interest in the requested quantity.

(iii) The commodity is delivered, if the producer elects to receive the LDP rate based on the date of delivery.

(c) The loan deficiency payment applicable to such crop shall be computed by multiplying the loan deficiency payment rate, as determined under paragraph (b) of this section, by the quantity of the crop the producer is eligible to pledge as collateral for a non-recourse loan for which the loan deficiency payment is requested.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32425, June 6, 2006; 71 FR 51426, Aug. 30, 2006]

**§ 1421.202 Loan deficiency payment quantity.**

(a) A loan deficiency payment may be based on 100 percent of the net eligible quantity specified on acceptable evidence of production of the commodity certified as eligible for loan deficiency payment if such production evidence is provided for such commodity under §1421.12.

(b) Two or more producers may obtain a single joint loan deficiency payment for commodities that are stored in the same storage facility. Two or more producers may obtain individual loan deficiency payments for their share of the commodity that is stored commingled in a farm storage facility with commodities for which a loan deficiency payment has been requested and shall be liable for any damage incurred by CCC for incorrect certification of such commodities under §1421.203.

(c) Two or more producers may obtain a single joint loan deficiency payment for commodities that are stored in an approved or unapproved warehouse if the acceptable documentation representing an eligible commodity for which a loan deficiency payment is requested is completed jointly for such producers.

**§ 1421.203 Personal liability of the producer.**

(a) When a producer requests a loan deficiency payment, the producer agrees:

(1) When signing the Loan Deficiency Payment Agreement and Request, as applicable, that the producer will not provide an incorrect certification of the quantity or make any fraudulent representation, that CCC will rely upon in determining a loan deficiency payment; and

(2) That violation of the terms and conditions of the loan deficiency payment request, as applicable, 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, if CCC determines that the producer has violated the terms and conditions of the applicable forms prescribed by CCC, liquidated damages shall be assessed on the quantity of the commodity that is involved in the violation.

(b) Liquidated damages assessed in accordance with this section will be determined by multiplying the quantity involved in the violation by 10 percent of the loan deficiency payment.

(c) If CCC determines that the producer:

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed in accordance with paragraph (b) of this section and the producer must repay the loan deficiency payment applicable to the loan deficiency quantity involved in the violation and charges, plus interest applicable to the amount repaid. If the producer fails to pay such amount within 30 days from the date of notification the producer must repay the entire loan deficiency payment and charges plus interest.

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(2) Did not act in good faith when the violation was committed, liquidated damages will be assessed in accordance with paragraph (b) of this section and the producer shall repay the entire loan deficiency payment and charges plus interest.

(d) CCC may waive the liquidated damages taken applicable to paragraph (b) of this section if the CCC determines that the violation occurred inadvertently, accidentally, or unintentionally.

(e) If, for any violation to which paragraph (b) of this section applies, the county committee determines that CCC's interest is not or will not be protected, the county committee shall:

(1) Call the producer's farm-stored loans;

(2) Deny future farm-stored loans for the current and 2 following crop years;

(3) Deny loan deficiency payments for the current and 2 following crop years unless production evidence is presented to CCC. Depending on the severity of the violation, the county committee may deny future farm-stored loan and loan deficiency payments without production evidence.

(f) 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 action will be taken under this section.

(g) If the amount disbursed under loan deficiency payments exceeds the amount authorized by this part, the producer shall be liable for repayment of such excess and charges, plus interest.

(h) In the case of joint 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 loan deficiency payment application.

(i) Any or all of the liquidated damages assessed under the provisions of

paragraph (b) of this section may be waived as determined by CCC.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32425, June 6, 2006]

**Subpart D—Grazing Payments for 2002–2007 Crop of Wheat, Barley, Oats and Triticale**

SOURCE: 66 FR 13404, Mar. 6, 2001, unless otherwise noted. Redesignated at 67 FR 63511, Oct. 11, 2002.

**§ 1421.300 Applicability.**

(a) The regulations in this subpart are applicable to the 2002–2007 crops of eligible acreage planted to wheat, barley, oats or triticale that is grazed by livestock and not harvested in any other manner. This subpart sets forth the terms and conditions under which a grazing payment in lieu of a loan deficiency payment will be made by CCC.

(b) The form that is used in administering these payments is available in State and county FSA offices and shall be prescribed by CCC.

[66 FR 13404, Mar. 6, 2001. Redesignated and amended at 67 FR 63511, 63523, Oct. 11, 2002]

**§ 1421.301 Administration.**

(a) This subpart shall be administered by the Farm Service Agency (FSA) under the general direction and supervision of the Executive Vice President, CCC or designee. The program shall be carried out in the field by State and county FSA employees under the general direction and supervision of the State and county FSA committees.

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part, as amended or supplemented.

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

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