

Commodity Credit Corporation, USDA

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(6) By such other methods as CCC determines appropriate, including methods to enable the producer to receive payments in order to assure that the producer receives the same total return as if the payments had been made in cash.

(c) The value of the payments made in any manner set forth in paragraph (b) shall be determined by CCC.

(d) Notwithstanding any other provision of this part, CCC may, with respect to producers who are members of a cooperative marketing association which has been determined in accordance with part 1425 of this title to be eligible to receive price support on behalf of its producer-members, enter into agreements with such producers and such cooperatives to facilitate the making of payments to such producers. Such agreements may include a provision which allows a producer to make available for the use of the cooperative the value of the non-cash payment which would otherwise be made to the producer.

§ 1401.3 Payments to persons with outstanding CCC loans.

(a) Persons with outstanding CCC loans who are eligible to receive payments from CCC, including a person authorized to receive a payment on behalf of another person, may be required to liquidate such loans in accordance with this section in order to be eligible to receive a payment authorized by §1470.2.

(b) A person with an outstanding CCC loan must, unless otherwise agreed upon by the person and CCC, redeem and sell to CCC a quantity of the commodity pledged as collateral for a CCC loan, as determined by CCC, in an amount equal in value to the value of the payment which would otherwise be made to such person. If the person has more than one outstanding CCC loan, CCC may, by contract or otherwise, prescribe which loan collateral the person shall be required to redeem in order to receive payment. The purchase price shall be equal to the cost of liquidating the loan or the portion of the loan for which the quantity of the commodity sold to CCC is pledged as collateral, except that, in the case of a special producer storage loan or a

farmer-owned reserve loan, the purchase price will not include the amount of any unearned advance storage payments received with respect to the redeemed collateral. After redemption and the subsequent sale to CCC of the commodity pledged as collateral for such CCC loan, CCC shall make available to the person a like quantity of the commodity.

§ 1401.4 Commodity certificates.

(a) *General.* CCC may issue commodity certificates as a form of payment. Commodity certificates will bear a dollar denomination. Such certificate may be transferred, exchanged for the inventory of CCC (including the receipt in accordance with paragraph (e) of this section of loan collateral by a person to whom a loan secured by such collateral is made); or exchanged for cash, as provided for in this section. Commodity certificates shall be subject to the provisions of this part, and to any terms, conditions and restrictions provided on the certificate, which are incorporated by reference herein.

(b) *Liens, encumbrances, and State law.*
(1) The provisions of this section or the commodity certificates shall take precedence over any state statutory or regulatory provisions which are inconsistent with the provisions of this section or with the provisions of the commodity certificates.

(2) Commodity certificates shall not be subject to any lien, encumbrance, or other claim or security interest, except that of an agency of the United States Government arising specifically under Federal statute.

(3) The provisions of this paragraph (b) shall apply without regard to the identity of the holder of the certificate.

(c) *Transferability.* Any person may transfer a commodity certificate to any other person. However, any such transfer must be in the full amount of the certificate, and can be effected only by restrictive endorsement on the back of the certificate, showing the name of the transferee and the date of the transfer, and signed by the transferor. CCC will not honor any certificate bearing any endorsement to "bearer" or any other nonrestrictive endorsement, or otherwise transferred

in a manner contrary to the regulations contained in this section. The person who submits a commodity certificate to CCC shall endorse the certificate to CCC.

(d) *Exchange of commodity certificate for CCC-owned commodities*—(1) *General*. Except as otherwise provided in this paragraph and in paragraphs (f) and (g) of this section, any holder of a commodity certificate may exchange such certificate, by itself or together with other commodity certificates, for such commodities as are made available by CCC by endorsing and submitting the certificate to CCC. If a person submits commodity certificates for exchange in order that the person would be eligible to receive a quantity of a commodity which includes less than an entire unit in which the commodity is stored (e.g., less than an entire bale of cotton or an entire barrel of honey): (i) Such person may forfeit the partial unit of the commodity to CCC, or (ii) CCC may issue a check to such person for the partial unit of the commodity or permit such person to purchase the remainder of such unit at a price determined by CCC. A person may obtain information regarding commodities available for exchange and the procedure for exchange from Kansas City Commodity Office, FSA-USDA, Kansas City, MO 64141-0205.

(2) *Minimum quantities*. A holder of an amount of commodity certificates sufficient to acquire a carload lot, or other quantity as may be determined by CCC, may present such amount for exchange at any time on or before the expiration date of such certificates. A holder who is permitted to exchange the certificate for CCC-owned commodities but who does not possess commodity certificates in the amount specified in the preceding sentence may, not to exceed once during a calendar month, submit such certificates to CCC. CCC will, at CCC's option, pay such holder by check in the amount of the certificate or transfer to such holder title to commodities owned by CCC.

(3) *CCC-owned commodities stored by a person who submits commodity certificates to CCC*. CCC may require or permit holders of commodity certificates to exchange such certificates for commodities owned by CCC which are stored by

such holder, without making such commodities or kinds of commodities available to other holders of commodity certificates.

(4) *Valuation*. Except as otherwise may be announced by CCC, CCC will determine the value of CCC-owned commodities made available to holders of commodity certificates.

(5) *Transfer of title*. Title to commodities owned by CCC which are transferred to a person who submits commodity certificates to CCC shall be transferred in store, except as may be determined and announced by CCC. The person who submits certificates to CCC shall be responsible for all costs incurred in transferring title to the commodity, except as specifically provided by CCC. The transfer of title to such commodities shall occur without regard to any State law or any claim of lien against the commodity or proceeds thereof which may be asserted by any creditor except agencies of the U.S. Government whose lien arises specifically under Federal statute.

(6) *Expiration date*. CCC may, at its option, discount or refuse to accept any commodity certificate presented for exchange after the expiration date stated on the certificate.

(e) *Use of commodity certificates to receive loan collateral*—(1) *General*. Except as otherwise provided in this paragraph and in paragraphs (f) and (g) of this section, any holder of a commodity certificate may use such certificate to receive commodities pledged as collateral for CCC loans made to such person, at any time on or before the expiration date stated on the certificate. A holder of a commodity certificate who wishes to receive a quantity of a commodity pledged by such person as collateral for a CCC loan in exchange for a certificate shall redeem and sell to CCC a quantity of the commodity equal in value to the dollar denomination of the certificate, as determined by CCC. The purchase price shall be equal to the cost of liquidating the loan or the portion of the loan for which the quantity of the commodity sold to CCC is pledged as collateral, except that, in the case of a special producer storage loan or a farmer-owned reserve loan, the purchase price will not include the

amount of any unearned advanced storage payments received with respect to the redeemed loan collateral. Upon submission of the certificate, which is endorsed to CCC, to the county FSA office which issued the loan, the holder of a commodity certificate will receive the quantity of the commodity which has been sold to CCC. Except as otherwise determined by CCC, if the holder of such certificate does not have commodities pledged as collateral for CCC loans equal in value to the dollar denomination of the certificate, as determined by CCC, CCC will, at CCC's option and after the producer has submitted the certificate, pay the difference to the person by check or in the form of a new commodity certificate.

(2) *Ineligible commodities.* No person may use a commodity certificate to receive a quantity of tobacco, peanuts, or extra long staple cotton pledged as collateral for a CCC loan. No person may, before August 1, 1986, use a commodity certificate to receive a quantity of upland cotton pledged as collateral for a CCC loan.

(f) *Cash redemption start date.* (1) The person to whom a generic certificate is issued which has a date entered in block D may submit such certificate, endorsed to CCC, at the issuing county FSA office for payment by check in the amount of the certificate on or after the date entered in block D through the expiration date of the certificate. Such person may not exchange the certificate for commodities owned by CCC, except as otherwise agreed upon between such person and CCC.

(2) The person to whom a generic certificate is issued which has an entry of "S/H" in block D may exchange such certificate for commodities owned by CCC.

(3) The person to whom a commodity specific certificate is issued which has a date entered in block D may submit such certificate, endorsed to CCC, to the Kansas City Commodity Office for the specific commodity entered in block C beginning on the date entered in block D through the expiration date of the certificate. Such certificate may not be exchanged for cash, except as otherwise agreed on by CCC.

(4) All other certificates may be transferred and exchanged as determined and announced by CCC.

(g) *"Generic" and commodity-specific commodity certificates—(1) General.* If a commodity certificate indicates that it is a "generic" certificate, such certificate may, subject to the provisions of paragraphs (a) through (f) of this section, be exchanged for any commodity made available by CCC or, as appropriate, used to receive a quantity of any commodity which serves as collateral for a CCC loan. If a certificate is not a "generic certificate", such certificate may be exchanged for the commodity specified on the certificate, except as may be determined and announced by CCC.

(2) *Cotton program payments.* Certificates issued as payments under the 1991 through 1995 upland cotton program, including payments issued in accordance with section 103B(a)(5)(B) of the Agricultural Act of 1949, may be exchanged for CCC-owned upland cotton only during such times as determined and announced by CCC.

(3) *Commodities not available in CCC inventory.* Notwithstanding any other provision of this section, if a person submits a commodity specific certificate to CCC in exchange for a quantity of such commodity and CCC determines it is not possible to make such commodity available, CCC may: (i) Require such person to exchange the commodity specific certificate for a generic certificate; or (ii) refuse to accept submission of such certificate until CCC is able to make available a quantity of the commodity specified on such certificate.

(h) CCC, at its option, may discount or refuse to accept any certificate made, transferred, or submitted in violation of this section.

(i) *Interest.* With respect to producers who receive commodity certificates in accordance with the wheat, feed grains, upland cotton and rice price support and production adjustment programs authorized by parts 1413 and 1421 of this title, a producer to whom the certificate is issued who exchanges such a certificate with CCC for cash in accordance with subsection (f) of this section shall receive interest with respect to such certificate for a 150 day period.

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Such interest shall be the rate of interest determined in accordance with part 1405 of this Title which is in effect on the date the certificate is issued.

[51 FR 36921, Oct. 16, 1986, as amended at 51 FR 43580, Dec. 3, 1986; 52 FR 45607, Dec. 1, 1987; 56 FR 361, Jan. 4, 1991]

§ 1401.5 In kind payments.

(a) Subject to the provisions of §§ 1470.2 and 1470.3, CCC may make payments in the form of commodities. Quantities of commodities made available as payment shall be based upon the value of the commodity, as determined by CCC. Such quantity may be adjusted by CCC to reflect the location, quality, and other similar factors which CCC determines to affect the value of the commodity.

(b) The transfer of title to commodities made available in accordance with paragraph (a) of this section shall be in store, except as determined by CCC, and shall be made without regard to any State law or any claim of lien against the commodity, or proceeds thereof, which may be asserted by any creditor except agencies of the U.S. Government whose lien arises specifically under Federal statute. The recipient of such commodities shall be responsible for all costs incurred in transferring title to the commodity, except as specifically provided by CCC.

§ 1401.6 Assignments.

Notwithstanding any other provision of this chapter, a payment made under this part may not be the subject of an assignment, except as determined and announced by CCC.

§ 1401.7 Miscellaneous provisions.

Except as determined by CCC, the following provisions of this title shall apply to this part:

- (a) Part 13, Setoffs and Withholding.
- (b) Part 707, Payments Due Persons Who Have Died, Disappeared, or Been Declared Incompetent.
- (c) Part 718, Determination of Acreage and Compliance.
- (d) Part 780, Appeal Regulations.
- (e) Part 790, Incomplete Performance Based Upon Actions or Advice of an Authorized Representative of the Secretary.

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(f) Part 791, Authority to Make Payments When There has been a Failure to Comply Fully with the Program.

(g) Part 795, Payment Limitation.

(h) Part 796, Denial of Program Eligibility for Controlled Substance Violations.

(i) Part 1403, Interest on Delinquent Debts.

(j) All other parts of the Code of Federal Regulations which are made applicable to this part.

§ 1401.8 Subsequent holders.

(a) *General.* A person who acquires a commodity certificate from another person shall be considered to be a "subsequent holder" of the certificate. Subsequent holders of certificates who purchased a commodity certificate on or before January 1, 1990 may, after the expiration date specified on the certificate, submit the certificate to CCC for a payment from CCC determined in accordance with paragraph (b) of this section. All certificates must be submitted after January 2, 1991 and on or before May 28, 1991. Certificates submitted after May 28, 1991 shall not be accepted for payment. Certificates shall be considered to be submitted as of the date of the postmark on the envelope containing the certificate. All certificates submitted for payment must be submitted with, and in accordance with, Form CCC-8. All certificates submitted to CCC for payment shall be retained by CCC.

(b) *Payment rates.* (1) Certificates with an expiration date of April 30, 1989 or earlier shall not, in any instance, be eligible for payment by CCC. Certificates which are submitted 18 months after the expiration date specified on the certificate shall not be accepted for payment by CCC.

(2) Persons who submit to CCC, in accordance with this section, certificates with an expiration date of May 31, 1989 or later shall receive a payment equal to 50 percent of the certificate's face value if such certificate is submitted within the period which:

- (i) Begins 6 months and one day after the expiration date specified on the certificate and
- (ii) Ends 18 months after such expiration date.