

(2) If a deficiency exists after the collateral is sold, a claim for such deficiency will be established in accordance with part 1403 of this title.

[67 FR 63511, Oct. 11, 2002. Redesignated and amended at 74 FR 15655, Apr. 7, 2009]

**§ 1421.113 Recourse marketing assistance loans.**

(a) CCC shall make recourse marketing assistance loans available to eligible producers of high moisture corn, high moisture grain sorghum and other eligible loan commodities as determined by the Deputy Administrator, Farm Programs.

(b) Repayment must be paid in full at principal plus interest on or before the loan maturity date.

(c) Recourse marketing assistance loan collateral may not be delivered or forfeited to CCC in satisfaction of the loan indebtedness.

[67 FR 63511, Oct. 11, 2002. Redesignated at 70 FR 33799, June 10, 2005. Redesignated and amended at 74 FR 15655, Apr. 7, 2009]

**Subpart C—Loan Deficiency Payments**

SOURCE: 67 FR 63511, Oct. 11, 2002, unless otherwise noted.

**§ 1421.200 Applicability.**

(a) During the loan availability period, loan deficiency payments will be made available to eligible producers when the alternative repayment rate is less than the applicable county loan rate.

(b) To be eligible to receive loan deficiency payments a producer must:

(1) Comply with all marketing assistance loan eligibility including beneficial interest requirements.

(2) Agree to forgo obtaining such loan, if applicable; and

(3) File in person, by mail or electronically a request for payment on a form prescribed by CCC; and

(4) Otherwise comply with all program requirements.

(c)(1) A producer must submit to the FSA Service Center a completed request for a loan deficiency payment on forms prescribed by CCC. This submission must be received on or before the date beneficial interest is lost in the

commodity and before the final loan availability date for the commodity. Such completed and submitted forms indicate the producer's intentions and further provide the terms and conditions of the loan deficiency payment program. If all or any of the provisions of this paragraph are not met by the producer, the producer may not obtain the loan deficiency payment benefit.

(2) With respect to a request for a loan deficiency payment for unshorn pelts, a completed request for such a payment must be submitted on or before the earlier of the date of slaughter of the lamb or the loss of beneficial interest in the lamb or the unshorn pelt produced from the lamb. In addition, the lamb must have been owned for not less than 30 days prior to the date such application is filed with CCC and must have been slaughtered for personal use, or sold for slaughter and slaughtered within 10 calendar days after the sale.

(d) For unshorn pelts, the lamb must be owned for a period of not less than 30 days in advance of the application and sold for immediate slaughter or slaughtered for personal use. Producers must submit acceptable production evidence to CCC under §1421.12 at the time of request. Producers who do not sell lambs for immediate slaughter are ineligible for a loan deficiency payment.

[67 FR 63511, Oct. 11, 2002, as amended at 71 FR 32425, June 6, 2006; 74 FR 15655, Apr. 7, 2009]

**§ 1421.201 Loan deficiency payment rate.**

(a) The loan deficiency payment rate for a crop shall be the amount by which the loan rate for the crop exceeds the rate at which CCC has announced that producers may repay their loans under §1421.10.

(b) The loan deficiency payment rate will be the rate in effect in the county where the commodity was marketed or stored on the date:

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

(2) 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

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FSA Service Center the producer no longer has beneficial interest in the requested quantity.

(3) 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; 74 FR 15655, Apr. 7, 2009]

**§ 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 authorized or unauthorized warehouse if the acceptable documentation representing an eligible commodity for which a loan deficiency payment is requested is completed jointly for such producers.

[67 FR 63511, Oct. 11, 2002, as amended at 74 FR 15656, Apr. 7, 2009]

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**§ 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 when determining eligibility for 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 according to 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 any other charges plus interest.

(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 any other charges plus interest.

(d) CCC may waive the liquidated damages assessed according 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 sufficient 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 liquidated damages, 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; 74 FR 15656, Apr. 7, 2009]

### Subpart D—Grazing Payments for the 2008 Through 2012 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 2008 through 2012 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; 74 FR 15656, Apr. 7, 2009]

#### § 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

(2) Require a county committee to withhold taking any action which is