

Commodity Credit Corporation, USDA

§ 1429.111

(b) If adequate proof of marketed production and supporting documentation in support of any application for payment is not presented to the satisfaction of CCC or the FSA county office requesting information, the application and the producers on that application will be determined ineligible for payment.

§ 1429.107 Maximum and final payment rates.

(a) Subject to the funding limits that may apply to the program, the estimated maximum per pound payment rates for fresh market asparagus and for processed market asparagus are:

(1) \$1.06 per pound (\$106.00 per hundredweight) for 2003 crop quantities of asparagus marketed to fresh markets; and

(2) \$1.08 per pound (\$108.00 per hundredweight) for 2003 crop quantities of asparagus marketed for processing.

(b) This program will be administered to assure that total payments do not exceed the available funding. If the total value of payments claimed calculated using the maximum payment rates specified in paragraph (a) of this section exceeds the funding available for each marketing category, less any reserve that may be created as specified in §1429.109, the payment quantities will be paid at a lower rate determined by dividing the funds available in each marketing category of asparagus, by the payment quantity from applications received by the end of the application period in each marketing category.

(c) In no event will the payment rate exceed the maximum payment rate for each marketing category of asparagus determined in paragraph (a) of this section.

§ 1429.108 Calculation of individual payments.

(a) Producers will be eligible for payment for both fresh and processed asparagus. CCC will calculate the payment quantity of 2003 fresh and processed asparagus for an asparagus farm operation based on the lower of:

(1) Reported production reflected on the application, or

(2) If applicable, determined production.

(b) The payment quantity will be multiplied by the following:

(1) Each asparagus producer's share, and

(2) The payment rate for the fresh or processed asparagus determined as specified in §1429.107.

(c) If the total value of payments claimed exceeds the available funding, payments to producers are subject to a \$100,000 cap per each of the two program marketing categories (fresh and processed) per asparagus producer as defined in this part, not per "person" or "legal entity" as those terms might be defined in part 1400 of this title.

§ 1429.109 Availability of funds.

(a) Payments specified in this part are subject to the availability of funds. The total available program funds will be \$15,000,000 as provided by section 10404 of Public Law 110-246.

(b) Of the available funds, \$7,500,000 are allocated for fresh market asparagus production and \$7,500,000 are allocated to processed market asparagus.

(c) CCC will prorate the available funds by a national factor to ensure that payments do not exceed \$15,000,000. CCC will prorate the payments in such manner as it, in its sole discretion, finds fair and reasonable.

(d) A reserve will be created to handle appeals and errors. Claims will not be payable once the available funding is expended. Any amount of funds reserved for such purposes that are not disbursed for the purpose of correcting errors or omissions, or for the payment of appeals, will not otherwise be distributed to any payment applicants and will be refunded to the U.S. Department of Treasury.

§ 1429.111 Misrepresentation and scheme or device.

(a) In addition to other penalties, sanctions, or remedies as may apply, an asparagus producer will be ineligible to receive assistance through the Asparagus Revenue Market Loss Assistance Payment Program if the asparagus producer is determined by CCC to have:

(1) Adopted any scheme or device that tends to defeat the purpose of this program;

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(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this part to any person or operation engaged in a misrepresentation, scheme, or device, must be refunded with interest together with such other sums as may become due and all charges including interest will run from the date of the disbursement of the CCC funds. Any asparagus farm operation, asparagus producer, or person engaged in acts prohibited by this section and any asparagus farm operation, asparagus producer, or person receiving payment as specified in this part will be jointly and severally liable with other persons or operations involved in such claim for payment for any refund due as specified in this section and for related charges. The remedies provided in this part will be in addition to other civil, criminal, or administrative remedies that may apply.

§ 1429.112 Death, incompetence, or disappearance.

(a) In the case of death, incompetence, disappearance, or dissolution of a person or an entity that is eligible to receive payment as specified in this part, an alternate person or persons as specified in part 707 of this title may receive such payment, as determined appropriate by CCC.

(b) Payment may be made for asparagus market losses suffered by an otherwise eligible asparagus producer who is now deceased or is a dissolved entity if a representative who currently has authority to enter into an application for the producer or the producer's estate signs the application for payment. Proof of authority to sign for the deceased producer's estate or a dissolved entity must be provided. If an asparagus producer is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly-authorized representatives must sign the application for payment.

§ 1429.113 Maintaining records.

Producers applying for payment through the Asparagus Revenue Mar-

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ket Loss Assistance Payment Program must maintain records and accounts to document all eligibility requirements specified in this part. Such records and accounts must be retained for 3 years after the date of payment.

§ 1429.114 Refunds; joint and several liability.

(a) Excess payments, payments provided as the result of erroneous information provided by any person, or payments resulting from a failure to comply with any requirement or condition for payment in the application or this part, must be refunded to CCC.

(b) A refund required as specified in this section will be due with interest from the date of CCC disbursement and determined in accordance with paragraph (d) of this section and late payment charges as provided in part 1403 of this chapter.

(c) Persons signing an ALAP Program application as having an interest in the asparagus farm operation will be jointly and severally liable for any refund and related charges found to be due as specified in this section.

(d) Interest will be applicable to any refunds required as specified in parts 792 and 1403 of this title. Such interest will be charged at the rate that the U.S. Department of the Treasury charges CCC for funds, and will accrue from the date CCC made the erroneous payment to the date of repayment.

(e) CCC may waive the accrual of interest if it determines that the cause of the erroneous determination was not due to any action of the person, or was beyond the control of the person committing the violation. Any waiver is at the discretion of CCC alone.

§ 1429.115 Miscellaneous provisions and appeals.

(a) *Offset.* CCC may offset or withhold any amount due CCC as specified in this part in accordance with the provisions of part 1403 of this chapter.

(b) *Claims.* Claims or debts will be settled in accordance with the provisions of part 1403 of this chapter.

(c) *Other interests.* Payments or any portion thereof due under this part will be made without regard to questions of title under State law and without regard to any claim or lien against the