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7 CFR Ch. XIV (1-1-14 Edition)

(d) *Country allocations and program announcements.* From time to time, CCC will issue a Program Announcement to announce a GSM-102 and/or GSM-103 program allocation for a specific country. The Program Announcement for a country allocation will designate specific allocations for U.S. agricultural commodities or products thereof. Exporters may negotiate export sales to buyers in that country for one of the commodities specified in the Program Announcement and seek payment guarantee coverage within the dollar amounts of specified coverage for that commodity. The Program Announcement will contain a requirement that the exporter's sales contract contain a shipping deadline within the applicable program year. The final date for a contractual shipping deadline will be stated in the Program Announcement. Program Announcements may also contain a specified "undesigned" or "unallocated" dollar amount for the purpose that if dollar amounts specified for a specific commodity for a country become fully used, an additional allocation from the "unallocated" or "undesigned" portion of the total country allocation may then be designated for a specific commodity. Program Announcements that include an "allocated" or "undesigned" dollar amount will contain further information on the "unallocated" or "undesigned" portion of the country allocation.

§ 1493.20 Definition of terms.

Terms set forth in this part, in CCC Program Announcements and Notices to Participants, and in any CCC-originated documents pertaining to the GSM-102 and GSM-103 programs will have the following meanings:

(a) *Assignee.* A financial institution in the United States which, for adequate consideration given, has obtained the legal rights to receive the payment of proceeds under the payment guarantee.

(b) *CCC.* The Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture, authorized pursuant to the Commodity Credit Corporation Charter Act of 1948 (15 U.S.C. 714 *et seq.*), and subject to the general

supervision and direction of the Secretary of Agriculture.

(c) *Contacts P/R.* A notice issued by FAS/USDA by public press release which contains specific names, addresses, and telephone and facsimile numbers of contacts within FAS/USDA and CCC for use by persons interested in obtaining information concerning the operations of the GSM-102 or GSM-103 program. The Contacts P/R also contains details about where to submit information required to qualify for program participation, to apply for payment guarantees, to request amendments of payment guarantees, to submit evidence of export reports, and to give notices of default and file claims for loss.

(d) *Date of export.* One of the following dates, depending upon the method of shipment: the on-board date of an ocean bill of lading or the on-board ocean carrier date of an intermodal bill of lading; the on-board date of an airway bill; or, if exported by rail or truck, the date of entry shown on an entry certificate or similar document issued and signed by an official of the Government of the importing country.

(e) *Date of sale.* The earliest date on which a contractual obligation exists between the exporter, or an intervening purchaser, if applicable, and the importer under which a firm dollar-and-cent price for the sale of agricultural commodities to the importer has been established or a mechanism to establish such price has been agreed upon.

(f) *Discounts and allowances.* Any consideration provided directly or indirectly, by or on behalf of the exporter or an intervening purchaser, to the importer in connection with a sale of an agricultural commodity, above and beyond the commodity's value, stated on the appropriate FOB, FAS, CFR or CIF basis. Discounts and allowances include, but are not limited to, the provision of additional goods, services or benefits; the promise to provide additional goods, services or benefits in the future; financial rebates; the assumption of any financial or contractual obligations; the whole or partial release of the importer from any financial or contractual obligations; or settlements

made in favor of the importer for quality or weight.

(g) *Eligible interest.* The maximum amount of interest, based on the interest rate indicated in CCC's payment guarantee or any amendments to such payment guarantee, which CCC agrees to pay the exporter or the exporter's assignee in the event that CCC pays a claim for loss. The maximum interest rate stated in the payment guarantee, when determined or adjusted by CCC, will not exceed the average investment rate of the most recent Treasury 52-week bill auction in effect at that time.

(h) *Exported value.* (1) Where CCC announces coverage on a FAS or FOB basis and:

(i) Where the commodity is sold on a FAS or FOB basis, the value, FAS or FOB basis, U.S. point of export, of the export sale, reduced by the value of any discounts or allowances granted to the importer in connection with such sale; or

(ii) Where the commodity was sold on a CFR or CIF basis, point of entry, the value of the export sale, FAS or FOB, point of export, is measured by the CFR or CIF value of the agricultural commodity less the cost of ocean freight, as determined at the time of application and, in the case of CIF sales, less the cost of marine and war risk insurance, as determined at the time of application, reduced by the value of any discounts or allowances granted to the importer in connection with the sale of the commodity; or

(2) Where CCC announces coverage on a CFR or CIF basis, and where the commodity is sold on a CFR or CIF basis, point of entry, the total value of the export sale, CFR or CIF basis, point of entry, reduced by the value of any discounts or allowances granted to the importer in connection with the sale of the commodity.

(3) When a CFR or CIF commodity export sale involves the performance of non-freight services to be performed outside the United States (e.g., services such as bagging bulk cargo) which are not normally included in ocean freight contracts, the value of such services and any related materials not exported from the U.S. with the commodity must also be deducted from the CFR or

CIF sales price in determining the exported value.

(i) *Exporter.* A seller of U.S. agricultural commodities or products thereof that has qualified in accordance with the provisions of §1493.30.

(j) *FAS/USDA.* The Foreign Agricultural Service, U.S. Department of Agriculture.

(k) *Foreign bank letter of credit.* An irrevocable commercial letter of credit, subject to the current revision of the Uniform Customs and Practices for Documentary Credits (International Chamber of Commerce Publication No. 500, or latest revision), providing for payment in U.S. dollars against stipulated documents and issued in favor of the exporter by a CCC-approved foreign banking institution.

(l) *GSM.* The General Sales Manager, FAS/USDA, acting in his capacity as Vice President, CCC, or his designee.

(m) *GSM-102.* A CCC program, also referred to as the "Export Credit Guarantee Program," under which payment guarantees are approved for a credit period not exceeding 3 years from the date(s) of export or from the date interest begins to accrue, whichever is earlier.

(n) *GSM-103.* A CCC program, also referred to as the "Intermediate Export Credit Guarantee Program," under which payment guarantees are approved for a credit period no less than 3 years but not exceeding 10 years from the date(s) of export or from the date interest begins to accrue, whichever is earlier.

(o) *Guaranteed value.* The maximum amount, exclusive of interest, that CCC agrees to pay the exporter or assignee under CCC's payment guarantee, as indicated on the face of the payment guarantee.

(p) *Importer.* A foreign buyer that enters into a contract with an exporter, or with an intervening purchaser, for an export sale of agricultural commodities to be shipped from the U.S. to the foreign buyer.

(q) *Incoterms.* The following customary terms, as defined by the International Chamber of Commerce, Incoterms (current revision):

- (1) Free Alongside Ship (FAS),
- (2) Free on Board (FOB),

(3) Cost and Freight (CFR, or alternatively, C&F, C and F, or CNF), and

(4) Cost Insurance and Freight (CIF).

(r) *Intervening purchaser.* A party that agrees to purchase U.S. agricultural commodities from an exporter and sell the same agricultural commodities to an importer.

(s) *Late interest.* Interest, in addition to the interest due under the payment guarantee, which CCC agrees to pay in connection with a claim for loss, accruing during the period beginning on the first day after receipt of a claim which CCC has determined to be in good order and ending on the day on which payment is made on such claim for loss.

(t) *Payment guarantee.* An agreement under which CCC, in consideration of a fee paid, and in reliance upon the statements and declarations of the exporter, subject to the terms set forth in the written guarantee, this subpart, and any applicable Program Announcements or Notices to Participants, agrees to pay the exporter or the exporter's assignee in the event of a default by a foreign bank on its payment obligation under the foreign bank letter of credit issued in connection with a guaranteed sale or under the foreign bank's related obligation.

(u) *Notice to participants.* A notice issued by CCC by public press release which serves one or more of the following functions: to remind participants of the requirements of the program; to clarify the program requirements contained in these regulations in a manner which is not inconsistent with the regulations; to instruct exporters to provide additional information in applications for payment guarantees under specific country and/or commodity allocations; and to supplement the provisions of a payment guarantee, in a manner not inconsistent with these regulations, before the exporter's application for such payment guarantee is approved.

(v) *Port value.* (1) Where CCC announces coverage on a FAS or FOB basis and:

(i) Where the commodity is sold on a FAS or FOB basis, U.S. point of export, the value, FAS or FOB basis, U.S. point of export, of the export sale, including the upward tolerance, if any, as provided by the export sales contract,

reduced by the value of any discounts or allowances granted to the importer in connection with such sale; or

(ii) Where the commodity was sold on a CFR or CIF basis, point of entry, the value of the export sale, FAS or FOB, point of export, including the upward tolerance, if any, as provided by the export sales contract, is measured by the CFR or CIF value of the agricultural commodity less the value of ocean freight and, in the case of CIF sales, less the value of marine and war risk insurance, reduced by the value of any discounts or allowances granted to the importer in connection with the sale of the commodity; or

(2) Where CCC announces coverage on a CFR or CIF basis and where the commodity was sold on CFR or CIF basis, point of entry, the total value of the export sale, CFR or CIF basis, point of entry, including the upward tolerance, if any, as provided by the export sales contract, reduced by the value of any discounts or allowances granted to the importer in connection with the sale of the commodity.

(3) When a CFR or CIF commodity export sale involves the performance of non-freight services to be performed outside the United States (e.g., services such as bagging bulk cargo), which are not normally included in ocean freight contracts, the value of such services and any related materials not exported from the U.S. with the commodity must also be deducted from the CFR or CIF sales price in determining the port value.

(w) *Program announcement.* An announcement issued by CCC which provides information on specific country and commodity allocations and may identify eligible agricultural commodities and countries, length of credit periods which may be covered, specify dollar limitations for CCC exposure in particular countries, and include other information and requirements.

(x) *Related obligation.* A contractual commitment by the foreign bank issuing the letter of credit in connection with an export sale to make payment(s) on principal amount(s), plus any contractual interest, in U.S. dollars, to a financial institution in the United States on deferred payment terms consistent with those permitted

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under CCC's credit guarantee programs. The U.S. financial institution is entitled to such payments because it has financed the obligation arising under such letter of credit.

(y) *United States or U.S.* All of the 50 states, the District of Columbia, and the territories and possessions of the United States.

(z) *U.S. agricultural commodity.* (1) An agricultural commodity or product entirely produced in the United States; or

(2) A product of an agricultural commodity—

(i) 90 percent or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and

(ii) That the Secretary determines to be a high value agricultural product. For purposes of this definition, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

(aa) *USDA.* United States Department of Agriculture.

[59 FR 52876, Oct. 19, 1994, as amended at 62 FR 24561, May 6, 1997]

§ 1493.30 Information required for program participation.

Before CCC will accept an application for a payment guarantee under either the GSM-102 program or the GSM-103 program, the applicant must qualify for participation in these programs. Based upon the information submitted by the applicant and other publicly available sources, CCC will determine whether the applicant is eligible for participation in the programs.

(a) *Submission of documentation.* In order to qualify for participation in the GSM-102 and GSM-103 programs, an applicant must submit to CCC, at the address specified in the Contacts P/R, the following information:

(1) The address of the applicant's headquarters office and the name and address of an agent in the U.S. for the service of process;

(2) The legal form of doing business of the applicant, e.g., sole proprietorship, partnership, corporation, etc.

(3) The place of incorporation of the applicant, if the applicant is a corporation;

(4) The name and U.S. address of the office(s) of the applicant, and statement indicating whether the applicant is a U.S. domestic corporation, a foreign corporation or another foreign entity. If the applicant has multiple offices, the address included in the information should be that which is pertinent to the particular GSM-102 or GSM-103 export sale contemplated by the applicant;

(5) A certified statement describing the applicant's participation, if any, during the past three years in U.S. Government programs, contracts or agreements; and

(6) A certification that: "I certify, to the best of my knowledge and belief, that neither [name of applicant] nor any of its principals has been debarred, suspended, or proposed for debarment from contracting with or participating in programs administered by any U.S. Government agency. ["Principals," for the purpose of this certification, means officers; directors; owners of five percent or more of stock; partners; and persons having primary management or supervisory responsibility within a business entity (e.g., general manager, plant manager, head of a subsidiary division, or business segment, and similar positions).] I further agree that, should any such debarment, suspension, or notice of proposed debarment occur in the future, [name of applicant] will immediately notify CCC."

(b) *Previous qualification.* Any exporter that has previously qualified under this section may submit applications for GSM-102 or GSM-103 payment guarantees. Each application must include the statement required by §1493.40(a)(18) incorporating the certifications of §1493.50, including the certification in §1493.50(e) that the information previously provided pursuant to paragraph (a) of this section has not changed. If the exporter is unable to provide such certification, such exporter must update the information required by paragraph (a) of this section which has changed and certify that the remainder of the information previously provided has not changed.