

§ 1488.11

7 CFR Ch. XIV (1-1-13 Edition)

(d) If the evidence of entry is in other than the English language, the exporter shall also provide an English translation thereof.

(e) Failure to furnish, within the time specified, evidence of entry of the commodity into the country of destination shall constitute prima facie evidence of failure to enter or to cause the entry of the commodity into such country as required. In such case, the financing agreement may be terminated by the Assistant Sales Manager, and if full payment under the bank obligation or account receivable has not yet been received, the bank obligation and the account receivable shall at the option of CCC, become due and payable and liquidated damages shall be payable in accordance with §1488.11. The remedy herein provided shall not be exclusive of other rights available to the Federal government if the commodity enters a country other than that specified in the financing agreement.

DELIVERY REQUIREMENTS

§ 1488.11 Liquidated damages.

Failure of the exporter to export or cause to be exported, within the period provided therefor, any agricultural commodity financed, when delivery is made before export under the terms of the financing agreement, or failure of the exporter to enter or cause the entry of, such commodity into the country of destination, shall constitute a breach of the financing agreement which will result in serious and substantial damage to CCC and to its program. Since it will be difficult, if not impossible, to prove the exact amount of such damage, the exporter shall pay to CCC promptly on demand, as reasonable compensation and not as a penalty, liquidated damages in lieu of probable actual damages, as follows:

(a) For each day of delay in exportation after the final date for exportation, when delivery is made before export under the terms of the financing agreement, .15 percent of the amount financed under the financing agreement for the commodity not exported; (b) for failure to export or cause exportation, when delivery is made before export under the terms of the financing agreement, 5 percent of the amount fi-

nanced under the financing agreement for the commodity not exported; (c) for failure, after exportation, to enter or cause the entry of the commodity into the country of destination, at the rate of 5 percent a year of the amount financed under the financing agreement for such commodity from the start of the financing period until payment to CCC of the amount financed; *Provided however,* That the aggregate of all amounts assessed under this §1488.11 with respect to the same commodity shall not exceed 5 percent of the amount financed for such commodity. Liquidated damages shall not be assessed: Under paragraph (a) of this section if the Assistant Sales manager determines that the delay was due to such causes as acts of God or government or public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather; under paragraph (b) of this section if the Assistant Sales Manager determines that failure to export was due to loss, damage, destruction or deterioration of the commodity or act of God or government or public enemy; and under paragraph (c) of this section if the Assistant Sales Manager determines that failure to enter or cause the entry of the commodity into the country of destination was due to loss, damage, destruction or deterioration of the commodity or act of God or government or public enemy.

BANK OBLIGATIONS AND REPAYMENT

§ 1488.12 Coverage of bank obligations.

(a) U.S. banks and branch banks shall be liable without regard to risk (1) for payment of bank obligations issued by them or (2) for payment of bank obligations confirmed by them without regard to risk if a requirement for such confirmation is included in the financing agreement or (3) as provided in paragraphs (c) and (d) of this section.

(b) An obligation issued by a foreign bank must be confirmed and advised, as provided in paragraphs (a), (c), (d), (e), and (f) of this section, by a U.S. bank or a branch bank, or may be confirmed by an agency bank when determined by the President or Vice President, CCC after consultation with the