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(2) The subrecipient is prohibited from using sale proceeds, CCC-provided funds, interest, or program income to acquire goods and services, either directly or indirectly through another party, in a manner that violates a U.S. Government economic sanction program, as specified in the agreement.

(3) The subrecipient must pay to the recipient the value of any donated commodities, sale proceeds, CCC-provided funds, interest, or program income that are not used in accordance with the subagreement, or that are lost, damaged, or misused as a result of the subrecipient's failure to exercise reasonable care.

(4) In accordance with § 1499.18 and 2 CFR 200.501(h), a description of the applicable compliance requirements and the subrecipient's compliance responsibility. Methods to ensure compliance may include pre-award audits, monitoring during the agreement, and post-award audits.

(c) A recipient must monitor the actions of a subrecipient as necessary to ensure that donated commodities, sale proceeds, CCC-provided funds, and program income provided to the subrecipient are used for authorized purposes in compliance with applicable U.S. Federal laws and regulations and the subagreement and that performance indicator targets are achieved for both activities and results under the agreement.

[81 FR 62605, Sept. 12, 2016, as amended at 84 FR 45060, Aug. 28, 2019]

§ 1499.15 Noncompliance with an agreement.

If a recipient fails to comply with a Federal statute or regulation or the terms and conditions of the agreement, and CCC determines that the non-compliance cannot be remedied by imposing additional conditions, CCC may take one or more of the actions set forth in 2 CFR 200.338, including initiating a claim as a remedy. CCC may also initiate a claim against a recipient if the donated commodities are damaged or lost, or the sale proceeds, goods received through barter, CCC-provided funds, interest, or program income are misused or lost, due to an action or omission of the recipient.

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§ 1499.16 Suspension and termination of agreements.

(a) An agreement or subagreement may be suspended or terminated in accordance with 2 CFR 200.338 or 200.339. CCC may suspend or terminate an agreement if it determines that:

(1) One of the bases in 2 CFR 200.338 or 200.339 for termination or suspension by CCC has been satisfied;

(2) The continuation of the assistance provided under the agreement is no longer necessary or desirable; or

(3) Storage facilities are inadequate to prevent spoilage or waste, or distribution of the donated commodities will result in substantial disincentive to, or interference with, domestic production or marketing in the target country.

(b) If an agreement is terminated, the recipient:

(1) Is responsible for the security and integrity of any undistributed donated commodities and must dispose of such commodities only as agreed to by CCC;

(2) Is responsible for any sale proceeds, CCC-provided funds, interest, or program income that have not been disbursed and must use or return them only as agreed to by CCC; and

(3) Must comply with any closeout and post-closeout provisions specified in the agreement and 2 CFR 200.343 and 200.344.

[81 FR 62605, Sept. 12, 2016, as amended at 84 FR 45060, Aug. 28, 2019]

§ 1499.17 Opportunities to object and appeals.

(a) CCC will provide an opportunity to a recipient to object to, and provide information and documentation challenging, any action taken by CCC pursuant to § 1499.15. CCC will comply with any requirements for hearings, appeals, or other administrative proceedings to which the recipient is entitled under any other statute or regulation applicable to the action involved. For example, if the action taken by CCC pursuant to § 1499.15 is to initiate suspension or debarment proceedings as authorized under 2 CFR parts 180 and 417, then the requirements in 2 CFR parts 180 and 417 will apply instead of the requirements in this section. In the absence of other applicable statutory or

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regulatory requirements, the requirements set forth in this section will apply.

(b) The recipient must submit its objection in writing, along with any documentation, to the official specified in the agreement within 30 days after the date of CCC's written notification to the recipient of the CCC action being challenged. This official will endeavor to notify the recipient of his or her determination (the initial determination) within 60 days after the date that CCC received the recipient's written objection.

(c) The recipient may appeal the initial determination to the Administrator, FAS. An appeal must be in writing and be submitted to the Office of the Administrator within 30 days after the date of the initial determination. The recipient may submit additional documentation with its appeal.

(d) The Administrator will base the determination on appeal upon information contained in the administrative record and will endeavor to make a determination within 60 days after the date that CCC received the appeal. The determination of the Administrator will be the final determination of CCC. The recipient must exhaust all administrative remedies contained in this section before pursuing judicial review of a determination by the Administrator.

[81 FR 62605, Sept. 12, 2016, as amended at 84 FR 45060, Aug. 28, 2019]

§ 1499.18 Audit requirements.

(a) Subpart F, Audit Requirements, of 2 CFR part 200 applies to recipients and subrecipients under this part other than those that are for-profit entities, foreign public entities, or foreign organizations.

(b) A recipient or subrecipient that is a for-profit entity or a foreign organization, and that expends, during its fiscal year, a total of at least the audit requirement threshold in 2 CFR 200.501 in Federal awards, is required to obtain an audit. Such a recipient or subrecipient has the following two options to satisfy this requirement:

(1)(i) A financial audit of the agreement or subagreement, in accordance with the Government Auditing Standards issued by the United States Gov-

ernment Accountability Office (GAO), if the recipient or subrecipient expends Federal awards under only one CCC program during such fiscal year; or

(ii) A financial audit of all Federal awards from CCC, in accordance with GAO's Government Auditing Standards, if the recipient or subrecipient expends Federal awards under multiple CCC programs during such fiscal year; or

(2) An audit that meets the requirements contained in subpart F of 2 CFR part 200.

(c) A recipient or subrecipient that is a for-profit entity or a foreign organization, and that expends, during its fiscal year, a total that is less than the audit requirement threshold in 2 CFR 200.501 in Federal awards, is exempt from requirements under this section for an audit for that year, except as provided in paragraphs (d) and (f) of this section, but it must make records available for review by appropriate officials of Federal agencies.

(d) CCC may require an annual financial audit of an agreement or subagreement when the audit requirement threshold in 2 CFR 200.501 is not met. In that case, CCC must provide funds under the agreement for this purpose, and the recipient or subrecipient, as applicable, must arrange for such audit and submit it to CCC.

(e) When a recipient or subrecipient that is a for-profit entity or a foreign organization is required to obtain a financial audit under this section, it must provide a copy of the audit to CCC within 60 days after the end of its fiscal year.

(f) CCC, the USDA Office of Inspector General, or GAO may conduct or arrange for additional audits of any recipients or subrecipients, including for-profit entities and foreign organizations. Recipients and subrecipients must promptly comply with all requests related to such audits. If CCC conducts or arranges for an additional audit, such as an audit with respect to a particular agreement, CCC will fund the full cost of such an audit, in accordance with 2 CFR 200.503(d).

§ 1499.19 Paperwork Reduction Act.

The information collection requirements contained in this regulation