

commuting area are limited or nonexistent;

(3) Placement opportunities within the employee's own or other Federal agencies in the local commuting area are limited or nonexistent; or

(4) If eligible for optional retirement, the employee has not filed a retirement application or otherwise indicated in writing an intent to retire.

(c) A certification is to be addressed to each individual eligible employee and must be signed by an appropriate agency official. A certification must contain the expected date of reduction in force, a statement that each factor in paragraph (b) of this section has been satisfied, and a description of Job Training Partnership Act programs, the Interagency Placement Program, and the Reemployment Priority List.

(d) A certification may not be used to satisfy any of the notice requirements elsewhere in this subpart.

(e) An agency determination of eligibility for certification may not be appealed to OPM or the Merit Systems Protection Board.

(f) An agency may also enroll eligible employees in the Interagency Placement Program and the Reemployment Priority List up to 6 months in advance of a reduction in force. For requirements and criteria for these programs, see subparts B and C of part 330 of this chapter.

[FR Doc. 95-643 Filed 1-10-95; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1425

RIN 0560-AD70

Cooperative Marketing Associations; Eligibility Requirements for Price Support

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, the proposed rule published in the **Federal Register** at 59 FR 44947-44952 on August 31, 1994. This rule amends the regulations governing the participation of cooperative marketing associations (CMA) in Commodity Credit Corporation (CCC) price support programs to ensure: the equitable treatment of CMA members and individual producers; the Government does not accept undue risk in providing CMA price support program benefits;

and the efficient delivery of CMA price support program benefits. This rule: changes CMA bylaw requirements to reflect current CMA organizational and operational procedures; requires approved cotton CMA retention of services provided by servicing agent banks; requires approved CMA monitoring of payment they receive on behalf of their members to ensure that member payments do not exceed payment limits; and makes other administrative changes.

EFFECTIVE DATE: January 11, 1995.

FOR FURTHER INFORMATION CONTACT: Richard M. Ackley, Chief, Cooperative and Analysis Branch; Cotton, Grain, and Rice Price Support Division, Consolidated Farm Service Agency, USDA, P.O. Box 2415, Washington, DC 20013-2415.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by Office of Management and Budget (OMB).

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, into **Federal Register** at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed pursuant to Executive Order 12778. To the extent State and local laws are in conflict with these regulatory provisions, it is the intent of CCC that

the terms of the regulations prevail. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

Public reporting burden for all collections is estimated to average from 1 to 2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and competing and reviewing the collection of information. The information collections have previously been cleared under the current regulations by OMB, and assigned OMB No. 0560-0040.

Comments

No comments were received during the comment period which ended on September 30, 1994.

List of Subjects in 7 CFR Part 1425

Cooperatives, Price support programs, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 1425 is amended as follows:

PART 1425—COOPERATIVE MARKETING ASSOCIATIONS

1. The authority citation for 7 CFR part 1425 is revised to read as follows:

Authority: 7 U.S.C. 1421(a), 1441, 1444(a), 1446(d), and 1447; 15 U.S.C. 714b, 714c, and 714j.

- 2. Section 1425.3 is amended.
 - A. Revising paragraph (d),
 - B. Redesignating paragraphs (i) and (j) as paragraphs (j) and (k) respectively,
 - C. Adding a new paragraph (i), and
 - D. Revising redesignated newly redesignated paragraphs (j) and (k):

§ 1425.3 Definitions.

* * * * *

(d) *Authorized commodity* means those commodities for which an approved cooperative may apply for price support, including barley, canola, corn, cotton, flaxseed, honey, shorn mohair, mustard seed, oats, rapeseed, rice, rye, safflower, seed cotton, shorn wool, sorghum, soybeans, sunflower seed, and wheat.

* * * * *

(i) *Participate in a Price Support Program* means the pledging, on behalf of members, of an eligible commodity as collateral for CCC price support loans, entering into purchase agreements, and, when applicable, obtaining loan deficiency payments.

(j) *Person* means an individual, joint stock company, corporation, estate or

trust, association, or other legal entity, except that two or more entities shall be combined as one person in accordance with:

(1) The regulations found at part 1497 of this chapter for the purpose of administering maximum payment limitation provisions of the Food Security Act of 1985;

(2) The regulations found at part 796 of this title for the purpose of administering the provisions of the Food Security Act of 1985 with respect to the production of controlled substances; and

(3) The regulations found at part 12 of this title pertaining to the highly erodible land and wetland provisions (commonly know as "sodbuster and swampbuster" provisions) of the Food Security Act of 1985.

(k) *Producer* means a person who, as owner, landlord, tenant, or sharecropper, shares in the risk of producing the crop, and is entitled to share in the crops available for marketing from the farm, or would have shared had the crops been produced.

3. In § 1425.4, paragraphs (a), (b)(7), and paragraph (c) introductory text are revised and paragraphs (e) and (f) are added to read as follows:

§ 1425.4 Approval.

(a) *Application*. In order for a cooperative to participate in a price support program with respect to the 1994 and subsequent crops of authorized commodities, a cooperative must submit an application for approval with respect to such authorized commodities to CCC.

(b) * * *

(7) A detailed description of the method by which proceeds from a pool of eligible commodities for which price support is obtained will be distributed as provided for in § 1425.18.

* * * * *

(c) *Annual recertification*. An approved cooperative must submit, on an annual basis, the following information to CCC:

* * * * *

(e) *Reapplication*. Approved cooperatives must submit revised applications as required by this section instead of an annual recertification every 5 years, or more often if CCC determines that such application is necessary to determine if a cooperative has implemented an organizational or operational change that would affect compliance with the provisions of this part.

(f) *Form CCC-Cotton G*. Cooperative marketing associations applying for approval to participate in the price

support program for cotton shall execute Form CCC-Cotton G, Cotton Cooperative Loan Agreement, with CCC.

4. Section 1425.6 (b)(2) is revised to read as follows:

§ 1425.6 Approved cooperatives.

* * * * *

(b) * * *

(2) *Conditionally approved*. (i) A cooperative may be conditionally approved if CCC determines that it has substantially met all the requirements of this part, and the failure to meet the remaining requirements is due to reasons beyond the control of the cooperative and not due to the cooperative's negligence; and

(ii) Such cooperative must agree in writing to meet all requirements for approval set forth in this part within the time period specified by CCC. When a cooperative can only comply with the regulations by amending its articles of incorporation or bylaws at a membership meeting, CCC may accept a board of directors' resolution agreeing to recommend to the members at the next meeting of the members the required changes to the articles of incorporation or bylaws as compliance with the requirements for approval for purposes of this section.

Board resolutions in which the cooperative agrees to comply with other provisions of this part may be accepted by CCC as compliance with the requirements for approval for purposes of this section.

* * * * *

5. Section 1425.7 (a) is revised to read as follows:

§ 1425.7 Suspension and termination of approval.

(a) *Suspension*. An approved cooperative may be suspended by CCC from further participation in a price support program if CCC determines that the cooperative or a member cooperative, as specified in § 1425.19:

- (1) Has not operated in accordance with the conditions specified in such cooperative's application for approval;
- (2) Has not complied with applicable regulations; or
- (3) Has failed to correct deficiencies noted during an administrative review or an audit of the cooperative's operations with respect to a price support program. Such suspension may be lifted upon the receipt of documents indicating that the cooperative has complied with all requirements for approval. If such documents are not received within one year from the date of the suspension, the cooperative's

approval for participation in a price support program shall be terminated.

* * * * *

6. In § 1425.8, paragraphs (b)(2) and (e) are revised to read as follows:

§ 1425.8 Ownership and control.

* * * * *

(b) * * *

(2) The allocated equity of any active member that has acquired equity as a result of a loan from the cooperative unless such member is obligated to repay the loan within one year.

* * * * *

(e) *Approved plan*. An applicant or an approved cooperative not under the ownership or control, or both, of its active members, may be approved by CCC to participate in a price support program if the cooperative is able to establish that, by retiring the equity of its inactive members or by obtaining new members, the cooperative can vest ownership and control in its active members, as required by this section, by a date specified by CCC.

7. Section 1425.9 is amended by revising the introductory text and paragraphs (d) and (g) to read as follows:

§ 1425.9 Charter and bylaw provisions.

The articles of incorporation, articles of association, or the bylaws of the cooperative shall comply with each of the following requirements:

* * * * *

(d) *Nominations*. (1) Nominations for election of delegates and directors shall be made by members.

(2) Nominations for officers shall be made by elected directors or by members when nomination by members is authorized in the cooperative's articles of incorporation or bylaws.

(3) Nominations may be made by balloting, nominating committee, petition of members, or from the floor, provided that nominations from the floor shall be requested in addition to nominations made by a nominating committee or by petition.

* * * * *

(g) *Proxy*. (1) Except as provided in paragraph (g)(2) of this section, voting by proxy shall be prohibited.

(2) Voting by proxy may be permitted if a cooperative:

(i) Determines that it is necessary to amend the cooperative's articles of incorporation, articles of association, or bylaws, and

(ii) Establishes to the satisfaction of CCC that the law of the State in which the cooperative is incorporated permits voting by proxy, but does not permit members to vote by mail, with respect to such issue.

* * * * *

8. In § 1425.10, paragraph (b)(3) is revised to read as follows:

§ 1425.10 Financial condition.

* * * * *

(b) * * *

(3)(i) *The net worth of the cooperative.* The cooperative shall be considered to have a sufficient net worth if such net worth is equal to the product of an amount per unit for a commodity (as set forth in table 1) multiplied by the total number of such units of commodity for which the cooperative is approved, or requesting approval, to participate in price support and handled by the cooperative during the preceding marketing year, or, if the cooperative is in its first full marketing year of operations, the estimated quantity of such commodity that it will handle during such year.

(ii) (A) If the amount of the net worth of the cooperative is between 34 and 99 percent of the amount computed in accordance with paragraph (b)(3)(i) of this section and the cooperative is determined by CCC to be otherwise financially sound, CCC may determine that such cooperative meets the requirements of this section. Such a determination by CCC may be made if:

(1) The board of directors of the cooperative agrees to make a capital retain in the amount set forth in table 2 with respect to each unit of the commodity delivered to the cooperative until the net worth of the cooperative is at least equal to the amount computed in accordance with paragraph (b)(3)(i) of this section, and

(2) The cooperative agrees to deduct from pool proceeds the full amount of the estimated expenses of handling the commodities received by the cooperative.

(B) The failure to carry out such agreements shall be grounds for suspending a cooperative's approval.

TABLE 1

Commodity	Unit	Amount per unit
Barley	Bushel	0.13
Canola	Hundredweight ..	0.62
Corn	Bushel	0.13
Cotton	Bale	6.40
Flaxseed	Hundredweight ..	0.62
Honey	Hundredweight ..	1.90
Mustard Seed	Hundredweight ..	0.62
Oats	Bushel	0.13
Rapeseed	Hundredweight ..	0.62
Rice	Hundredweight ..	0.52
Rye	Bushel	0.13
Safflower	Hundredweight ..	0.62
Seed Cotton (lint basis).	Pound	0.008
Shorn Mohair	Pound	0.16
Shorn Wool	Pound	0.38

TABLE 1—Continued

Commodity	Unit	Amount per unit
Sorghum	Hundredweight ..	0.19
Soybeans	Bushel	0.43
Sunflower Seed .	Hundredweight ..	0.62
Wheat	Bushel	0.15

TABLE 2

Commodity	Unit	Amount per unit
Barley	Bushel	0.07
Canola	Hundredweight ..	0.32
Corn	Bushel	0.07
Cotton	Bale	3.20
Flaxseed	Hundredweight ..	0.32
Honey	Hundredweight ..	0.95
Mustard Seed	Hundredweight ..	0.32
Oats	Bushel	0.07
Rapeseed	Hundredweight ..	0.32
Rice	Hundredweight ..	0.26
Rye	Bushel	0.07
Safflower	Hundredweight ..	0.32
Seed Cotton (lint basis).	Pound	0.004
Shorn Mohair	Pound	0.08
Shorn Wool	Pound	0.19
Sorghum	Hundredweight ..	0.10
Soybeans	Bushel	0.22
Sunflower Seed .	Hundredweight ..	0.32
Wheat	Bushel	0.08

* * * * *

9. In § 1425.11, paragraph (c)(3) is revised to read as follows:

§ 1425.11 Operations.

* * * * *

(c) * * *

(3) Require that all proceeds from the marketing operation be distributed as provided in § 1425.18.

10. In § 1425.14, paragraph (c) is revised to read as follows:

§ 1425.14 Member business.

* * * * *

(c) The cooperative has a plan, approved by CCC, which CCC determines to be in the cooperative members' best interest and will bring the cooperative into compliance with the provisions of this section. Commodities purchased or acquired from CCC and processed products acquired from other processors or merchandisers shall not be considered in determining the volume of member or nonmember business.

§§ 1425.16–1425.21, 1425.22, 1425.23 [Redesignated as §§ 1425.17–1425.22, 1425.24, 1425.25]

11. Sections 1425.16 through 1425.21 and §§ 1425.22 and 1425.23 are redesignated as §§ 1425.17 through 1425.22 and §§ 1425.24 and 1425.25,

respectively, and a new § 1425.16 is added to read as follows:

§ 1425.16 Payment limitation.

Approved cooperatives shall monitor marketing loan gains, loan deficiency payments, and other payments they receive from CCC on behalf of their members and ensure that the sum of the amounts received for each member does not exceed the member's payment limitation determined in accordance with part 1497 of this title that, for purposes of administering such part, is assigned by CCC to the cooperative.

12. Redesignated § 1425.17 is amended by revising paragraphs (a)(2), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(2), (c)(2), and adding paragraph (c)(5) to read as follows:

§ 1425.17 Eligible commodity and pooling.

(a) * * *

(2) Price support will be made available to approved cooperatives with respect to a quantity of an eligible commodity included in an eligible pool as provided in paragraph (c) of this section and the beneficial interest provisions of parts 1421, 1427, 1435, and 1468 of this chapter.

(b) * * *

(1) * * *

(i) All of the commodity included in the pool is eligible for price support, except as provided in paragraph (b)(2) of this section;

(ii) The eligible commodity in such pool was:

(A) Delivered to the cooperative for marketing for the benefit of the members of the cooperative, and

(B) Delivered by members who retain the right to share in the proceeds from the marketing of the commodity in accordance with § 1425.18.

(iii) Except with respect to a quantity of a commodity pledged as collateral for a price support loan and which is redeemed within 15 work days from the date the cooperative receives the proceeds from CCC, all of the commodity placed in such pool was delivered by members who have agreed to accept a payment of the initial advances made available to such producers by the cooperative with respect to such commodity in accordance with § 1425.18(a).

(2) If CCC determines that a cooperative has inadvertently included in a pool a quantity of commodity which is ineligible for price support because of grade, quality, bale weight or repacking in the case of cotton, or other factors, the remaining quantity of commodity shall remain eligible for price support.

(c) * * *

(2) Price support will be available to the cooperative for the quantity of a farm-stored commodity that is, pursuant to such cooperative's marketing agreement with a member, part of the cooperative's pool.

* * * * *

(5) Commodities pledged as collateral for CCC price support loans shall be free and clear of all liens and encumbrances based on an approved cooperative's financial agreements or the cooperative shall obtain a completed Form CCC-679, Lien Waiver. Approved cooperatives shall not take any action to cause a lien or encumbrance to be placed on a commodity after a loan is approved.

* * * * *

13. Redesignated § 1425.18 is amended by revising paragraphs (a) and (a)(1) and adding paragraph (b)(5) to read as follows:

§ 1425.18 Distribution of proceeds.

(a) *CCC loans, purchases, and loan deficiency payments.* (1) If CCC makes available price support loans, purchases, or loan deficiency payments with respect to any quantity of the eligible commodity in a pool, the proceeds from such loans, purchases, or loan deficiency payments shall be distributed to members participating in such pool on the basis of the quantity and quality of the commodity delivered by each member which is included in the pool less any authorized charges for services performed or paid by the cooperative which are necessary to condition the commodity or otherwise make the commodity eligible for price support. Except with respect to commodities which are pledged as collateral for a price support loan and which are redeemed within 15 work days from the date the cooperative receives the loan proceeds from CCC, such proceeds shall be distributed within 15 work days from such date. Loan deficiency payments received from CCC shall be distributed within 15 work days of receipt from CCC.

* * * * *

(b) * * *

(5) When notified by CCC that pool distributions to a member of any eligible pool must be reduced for a program year, farm, or crop, cooperatives shall refrain from making such pool distributions and shall, if appropriate, reimburse CCC for such distributions.

* * * * *

14. Redesignated § 1425.20 is revised to read as follows:

§ 1425.20 Nondiscrimination.

The cooperative shall not, on the basis of race, color, age, sex, religion, marital

status, national origin, physical disability, or mental disability, deny any producer participation in, or otherwise subject any producer to discrimination with respect to any benefits resulting from its approval to obtain price support and shall comply with the provisions of Title VI of the Civil Rights Act of 1964 and the Secretary's regulations issued thereunder, appearing in §§ 15.1 through 15.12 of this title; section 504 of the Rehabilitation Act of 1973, as amended by the Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978; and provisions of the Age Discrimination Act of 1975, as amended. The cooperative shall not discriminate against employees under Title VII of the Civil Rights Act of 1964, as amended, or the Equal Pay Act of 1963 or Title VI of the Civil Rights Act of 1964 as administered by the Equal Employment Opportunity Commission, and shall handle employee discrimination complaints as provided for in 28 CFR part 42 and 29 CFR part 1691. The United States shall have the right to enforce compliance with such statutes and regulations by suit or by any other action authorized by law. The cooperative shall submit a certification with its application that the regulations cited in this section have been read and understood and that the cooperative will abide by them.

15. A new § 1425.23 is added to read as follows:

§ 1425.23 Reports.

(a) Approved cooperatives shall annually provide CCC with a PSL-86R report to applicable county Consolidated Farm Service Agency offices. The report shall include all eligible and ineligible commodity receipts by Farm Service Agency farm number for each member.

(b) Approved cooperatives shall at least annually report by commodity and by crop the marketing loan gains, loan deficiency payments, and any other CCC program payments received on behalf of each producer member.

Signed in Washington, DC, on December 23, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95-560 Filed 1-10-95; 8:45 am]

BILLING CODE 3410-05-P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 618

RIN 3052-AB51

Loan Policies and Operations; General Provisions; Collateral Evaluation Requirements, Actions on Applications, Review of Credit Decisions, and Releasing Information

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date; technical amendment.

SUMMARY: The Farm Credit Administration (FCA) published an interim rule with request for comments on September 12, 1994 (59 FR 46725), amending 12 CFR parts 614 and 618 to change collateral evaluation requirements for Farm Credit System (FCS or System) institutions. The rule also made conforming changes related to Board of Governors of the Federal Reserve (FRB) regulations interpreting the Equal Credit Opportunity Act (ECOA). In accordance with 12 U.S.C. 2252, the effective date of the rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is January 4, 1995.

DATES: The regulations amending 12 CFR parts 614 and 618, published on September 12, 1994 (59 FR 46725) are effective January 4, 1995.

FOR FURTHER INFORMATION CONTACT:

Dennis K. Carpenter, Senior Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444, or James M. Morris, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. General

The amendments to 12 CFR parts 614 and 618, as published (59 FR 46725), address issues raised by recent regulatory revisions by the other Federal financial institutions' regulatory agencies (Federal regulatory agencies),¹ comments received in response to the FCA's published request for "regulatory burden" comments (58 FR 34003, June 23, 1993), and amendments made to

¹ The Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), and the Office of Thrift Supervision (OTS).