

**PART 1447—1999 PEANUT MARKETING ASSISTANCE PROGRAM**

19. Revise the heading for part 1447 to read as follows:

**PART 1447—2000 PEANUT MARKETING ASSISTANCE PROGRAM**

20. The authority citation for 7 CFR part 1447 is revised to read as follows:

**Authority:** Pub. L. 106-78, 113 Stat 1135; Sec. 204(a), Pub. L. 106-224; 15 U.S.C. 714b, 714c.

21. Revise § 1447.101 to read as follows:

**§ 1447.101 Applicability.**

This part sets out provisions related to the 2000 crop of peanuts as authorized and in accordance with the applicable provisions of Public Law 106-224, the Agricultural Risk Protection Act of 2000 (the 2000 Act). Under section 204(a) of the 2000 Act, the Secretary of Agriculture is required to make certain payments available to eligible producers of 2000-crop quota and additional peanuts.

22. Amend § 1447.105 by revising paragraph (a) to read as follows:

**§ 1447.105 Time for filing application.**

(a) Applications for benefits under this part must be filed on or after October 2, 2000, but not later than the close of business on February 1, 2001, in the county FSA office serving the county where the producer's farm is located for administrative purposes.

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23. Revise § 1447.106 to read as follows:

**§ 1447.106 Payment rate.**

(a) *Payment rate for quota peanut production.* The payment rate for quota peanuts under this part is \$30.50 per ton.

(b) *Payment rate for additional peanut production.* The payment rate for additional peanuts under this part is \$16.00 per ton.

24. Amend § 1447.107 by revising paragraphs (a)(3)(ii) and (a)(3)(iii) to read as follows:

**§ 1447.107 Calculation of Payment.**

(a) \* \* \*

(3) \* \* \*

(ii) The actual yield for any of the 1997, 1998 or 1999 crop years,

(iii) The actual yield for the 2000 crop year.

\* \* \* \* \*

Signed in Washington, DC, on October 25, 2000.

**Keith Kelly,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 00-27793 Filed 10-27-00; 10:26 am]

**BILLING CODE 3410-05-P**

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**Farm Service Agency**

**7 CFR Parts 718, 1427, 1464, and 1469**

**RIN 0560-AG19**

**Farm Reconstitutions and Market Assistance for Cottonseed, Tobacco, and Wool and Mohair**

**AGENCIES:** Commodity Credit Corporation, Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule implements provisions of the Agricultural Risk Protection Act of 2000 (ARPA) related to the market assistance programs for cottonseed, tobacco, and wool and mohair. Other provisions of the Act will be implemented under separate rules.

**EFFECTIVE DATE:** October 27, 2000.

**FOR FURTHER INFORMATION CONTACT:** Tom Witzig, Chief, Regulatory Review and Foreign Investment Disclosure Branch, USDA/FSA/ORAS/RRFIDB/STOP 0540, 1400 Independence Avenue, SW, Washington, DC, 20250-0540, telephone (202)205-5851, or by e-mail to: tom\_witzig@wdc.fsa.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Notice and Comment**

Section 263 of the ARPA requires that these regulations be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These regulations are thus issued as final.

**Executive Order 12866**

This final rule has been determined to be economically significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment was completed and is summarized after the background section explaining the actions this rule will take.

**Regulatory Flexibility Act**

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because USDA 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 this rule.

**Environmental Evaluation**

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

**Executive Order 12372**

The programs administered under the regulations contained in this rule are not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

**Unfunded Mandates**

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA 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 this rule.

**Small Business Regulatory Enforcement Act of 1996**

Section 263 of the ARPA requires that the regulations necessary to implement the Act be issued as soon as practicable after the date of enactment and without regard to the notice and comment provision of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to the notice of proposed rulemaking and public participation in rulemaking. It also requires the Secretary to use the provisions of 5 U.S.C. 808 (the Small Business Regulatory Enforcement Act (SBREFA)), which provide that a rule may take effect at such time as the agency may determine if the agency finds for good cause that public notice is impracticable, unnecessary, or contrary to the public purpose, and thus does not have to meet the requirements of § 801 of SBREFA requiring a 60-day delay for Congressional review of a major regulation before the regulation can go into effect. This final rule is considered major for the purposes of SBREFA. However, these regulations

affect a large number of agricultural producers who have been significantly impacted by natural disasters and poor market conditions. Accordingly, and because Section 263 explicitly sets out Congress' intent that the waiting period of SBREFA should not apply, it has been determined that it would be contrary to the public interest and the relevant public laws to delay implementation of this rule. This rule is therefore made effective immediately.

#### Executive Order 13132

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of Government.

#### Paperwork Reduction Act

Section 263 of the ARPA requires that these regulations be promulgated and the programs administered without regard to the Paperwork Reduction Act. This means that the information to be collected from the public to implement these programs and the burden, in time and money, the collection of the information would have on the public does not have to be approved by the Office of Management and Budget or be subject to the normal requirement for a 60-day public comment period.

#### Background

This rule will implement the requirements of the Agricultural Risk Protection Act of 2000 (Pub. L. 106-224) related to the market assistance programs for tobacco, wool and mohair, and cottonseed.

##### 1. 7 CFR Part 718—Farm Reconstitutions For Burley Tobacco

Section 204 of the ARPA changes the rules for reconstitution of farms with burley tobacco quotas to allow, on the division of such a farm by sale, the quota to be divided in such manner as the buyer and seller agree. Previously, the buyer and seller were not allowed that option. Rules contained in 7 CFR Part 718 have been modified accordingly.

##### 2. 7 CFR Part 1427—Cottonseed Payment Program

Section 204(e) of the ARPA directs the Secretary of Agriculture to use \$100 million of funds of the Commodity Credit Corporation (CCC) to provide assistance to producers and first handlers of the 2000 crop of cottonseed.

A similar program for the 1999 crop of cottonseed, authorized under section 104(a) of Pub. L. 106-113, was codified in subpart F of 7 CFR 1427 by publication of a final rule on June 8, 2000 (65 FR 36550). Under the 1999-crop program, payments were provided to gins who, almost universally, obtain the cottonseed from producers as partial or full payment for their ginning services. Program payments compensated gins for seed prices that were so low that their ginning costs were not fully covered by the seed market value. As that program seems to have been successful in accomplishing its intended goals and there is no indication that Congress was dissatisfied with the prior program, it has been decided to operate the new program in the same manner as the old.

The major provisions of this program are as follows. The CCC will announce a period during which U.S. cotton gins may apply for cottonseed payments. To participate, cotton gins must complete an application form including: (1) Applicant name, address, and a contact person and telephone number; (2) bank account identifying information for payees electing to have payments made by direct account deposit; (3) the gin's 5-digit identifying code; (4) the number of bales of cotton ginned from the 2000 cotton crop; and, (5) the weight (in pounds) of cotton lint of the reported bales for which payment is requested. CCC must receive the application within the announced application period.

At the close of the application period, based on the number of bales and the weight of cotton lint for which payment is requested, CCC will estimate the national total quantity of cottonseed for payment. The payment rate per ton of cottonseed, and payments to applicants, will then be determined. The resulting payments to cotton gins will not be subject to any payment limitation.

Because outlays for this program are a fixed amount, the national average payment rate and individual payments can be calculated and provided only after the total eligible quantity of cottonseed can be determined from approved applications.

##### 3. 7 CFR 1464—Tobacco Loss Assistance Program 2000 (TLAP00)

Section 204(b) of the ARPA directs the Secretary to use \$340 million of CCC funds to make payments to eligible persons who own or operate, or produce tobacco on, a farm for which the quantity of quota of eligible tobacco allotted to the farm under Part I of subtitle B of Title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) was reduced from the 1999 crop

year to the 2000 crop year and that is used for the production of eligible tobacco during the 2000 crop year. Funds will be paid directly to quota holders, tobacco controllers, growers, producers and tenants whose quota was reduced from the 1999 crop year to the 2000 crop year.

The statute allocates funds in a specific amount to 16 States. CCC shall directly divide the amount allocated to a State among farms in the State based on the quota of eligible tobacco available to each farm of an eligible person for the 2000 crop year. These allocated funds will be paid to the eligible persons who are eligible quota owners, quota lessees, controllers, tenants and tobacco producers on farms in the State. In the case of a State that is a party to the National Tobacco Grower Settlement Trust, the funds, to the extent practicable, will be distributed under this part (that is, under TLAP00) to eligible persons in the State in accordance with formulas established pursuant to the Trust with such adjustments as the Secretary has determined are necessary in order to meet the October 1 to October 20, 2000, statutory window for disbursing payments to eligible persons. In the case of a State that is not a party to the National Tobacco Grower Settlement Trust, the funds will be distributed pursuant to a formula established by the Secretary.

The rule specifies that quotas or allotments which are suspended from production because of a Conservation Reserve Program (CRP) contract with the CCC will not be treated as "considered produced" for the purposes of this program and will not generate payments under this subpart. This is because the program is designed to cover market losses for a particular period whereas the suspended quotas and allotments, because of the suspension, were not expected by the producer to generate income during that period and, consequently, in fact produced the same income as if there had been no reduction in the overall national marketing quota for the kind of tobacco involved. Rather, the income received was the income under the CRP contract which was not diminished by the reduction in the tobacco marketing quota. Also, the rule specifies that for purposes of this program, an eligible person's status, as owner or controller or producer of the tobacco, will be determined as of July 3, 2000, unless the Deputy Administrator shall determine otherwise. The choice of the date is consistent with the State programs that this program is intended to mimic and also consistent with the provisions of

the normal Federal program for tobacco in which July 1 is normally the last date for making permanent transfers of quota. At this point, in addition, persons with an interest in tobacco quotas have a history of payments under the first TLAP program and under the "Phase II" program operated by the States.

Due to the October 20, 2000, payment deadline imposed by the statute, the use of all individual State trust payment formulas would generate a high level of risk in the overall program delivery being delayed, with a subsequent delay in the FSA ability to issue payments for the program. After careful consideration of the various State formulas two formulas were selected and the States will be grouped accordingly to the formula that most closely matched the State's formula.

Accordingly, the funds for all flue-cured (types 11, 12, 13 and 14) and cigar-binder (types 54 and 55) tobaccos will be paid, 50 percent to the quota owner and 50 percent to the producer. The allocated funds for all burley (type 31) and dark fire-cured (type 21) tobaccos will be paid one-third to quota owners; one-third to the farm controller; and one-third to the grower(s)/tenant(s). These payment scenarios most nearly reflect the Phase II payment formulas for these kinds of tobacco in the principal growing areas. The rules provide a special provision for Georgia in that payment in that State will be made only if a specified amount is also contributed by the State to the same persons who are otherwise eligible for Federal payments under this new program. This special provision is required by the authorizing legislation.

4. 7 CFR 1469—Wool and Mohair Market Loss Assistance Program

Section 204(d) of the ARPA provides that the Secretary shall use funds of the Commodity Credit Corporation to make payments to producers of wool and mohair for the 1999 marketing year. Producers of wool and mohair are experiencing the lowest prices in history. The ARPA requires the Secretary of Agriculture to make direct payments to wool and mohair producers at payment rates of 20 cents per pound for wool and 40 cents per pound for mohair. Producers wanting to participate in the new program must file an application for payment by December 29, 2000, or such other date as may be set by the Deputy Administrator for Farm Programs, FSA. Applications will be spot-checked and validated by FSA. Payment will be made only for wool and mohair shorn in the United States in 1999 from live domestic animals owned by the producer for 30 days or more.

These restrictions are intended to insure that coverage is limited to actual wool producers, as opposed to meat producers, for wool actually produced as wool, not a by-product, during the relevant time period allowed for by the statute. Other restrictions will also apply.

Cost-Benefit Assessment

Summary

Outlays under the programs implemented by this rule will total approximately \$450 million. The table summarizes the outlays and a summary of the Cost/Benefit Assessment for each program follows.

SUMMARY OF OUTLAYS

Program	Outlays
Cottonseed Payment Program .....	\$100.0
Tobacco Loss Assistance Program .....	340.0
Wool and Mohair Payment Program .....	10.0
Total .....	450.0

Cottonseed Payment Program

The cottonseed support payment program is designed to provide payments to cotton ginners in response to an expected continuation of low cottonseed prices in the 2000 crop year. The statute authorizes the expenditure of \$100 million in Commodity Credit Corporation funds for payments to first handlers or producers of 2000-crop cottonseed. Normally, the value of the seed covers the cost to cotton producers of ginning their cotton. In 1999, however, the value of the seed was insufficient to pay the full cost of ginning in many locations in the Cotton Belt, and growers were asked to pay additional fees. During the 2000 crop year, prices for cottonseed are projected to be even lower than they were in the 1999 season, but ginning costs are likely to be the same or higher. Thus, losses again are expected in the ginning process.

Last season, the average price of cottonseed, \$90 per ton, was about \$39 per ton (30 percent) below the average level received in 1998, or about \$27 per ton (23 percent) less than the average of 1994 through 1998. Though it is very early in the 2000 ginning season, USDA expects that cottonseed prices will drop further in 2000 and average about \$84 per ton.

Cottonseed prices in 1999 would equate to about \$34 worth of seed per bale of cotton lint produced, on a national average. The national average ginning cost for 1999 is estimated at \$46

per bale. Thus, the national average value of cottonseed likely fell about \$12 short of the cost of ginning a bale of cotton. That is the equivalent of about 2.5 cents per pound of lint.

For the 2000 crop year, the expected value of cottonseed is only about \$32 per bale of lint, while ginning costs are again expected to average about \$46 per bale. The average loss over the entire 19-million-bale crop now expected to be harvested would be about \$14 per bale, or almost 2.9 cents per pound.

For ginning services in 1999, some farmers were initially asked to pay the ginner an additional 2 or 3 cents per pound of cotton lint beyond the value of the seed. Later in the season, as the 1999 cottonseed program began to be publicized, some ginners merely held these ginning bills, knowing they would receive the program payment. In 2000, it is likely that ginners will hold bills against the payment they are expecting from this year's program.

Cottonseed prices are influenced heavily by soybean prices. Prices for soybeans in 1999 fell from the depressed level of \$4.93 they averaged in 1998 to \$4.65 per bushel. A further stock build-up is projected for the 2000 crop year, and prices are projected at \$4.35 per bushel, even lower than they were in 1999. The prices for other oilseeds, including canola, sunflower seed, and cottonseed are all projected to be down substantially from last year's level.

The most viable option to assist cotton producers is a direct payment program in which payments are made to ginners. There are between 1000 and 1100 gins in the United States. About 25 percent are co-operatives. Another 50 percent are owned as corporations by farmers who gin their own and their neighbors' cotton. About 25 percent are independent gins.

Thus, farmers have a direct interest in about 75 percent of the gins and can be expected to receive nearly the full benefit of any payments made to the gins. In the other 25 percent of gins where farmers do not directly operate or share in the ownership, farmers still may be expected to receive a substantial portion of the program benefits because: (1) The gins may have held the ginning bills pending the implementation of this program; (2) gins may rebate farmers any ginning bill already paid by farmers; or (3) competition among gins may dictate that any payments beyond those needed to cover the shortfall in seed prices will be rebated to the gins' customers.

In 1999, total cottonseed production was estimated at 6,422,400 tons. Total losses associated with ginning in 1999

are estimated at \$190 million. Total funding available for the 1999 program was \$79 million, and payments were \$12.23 per ton of seed produced, or about \$4.77 per bale of lint pressed. Payments were made to 1015 gins and covered about 41 percent of the losses.

For 2000, given the current projection of cotton lint production of 19,159,000 bales, cottonseed production should total about 7.38 million tons. At \$84 per ton, the seed would be valued at \$622 million. Ginning costs are expected to average a little over \$46 per bale, so the cost of ginning the 2000 crop should be about \$885 million. The projected loss on ginning costs would be \$263 million, or about \$13.75 per bale of lint pressed. The payments will cover about 38 percent of the loss.

#### *Tobacco Loss Assistance Program*

On September 20, 1998, the major cigarette manufacturers agreed to pay \$246 billion to the various states to settle their medicare lawsuits. To defray these costs, the manufacturers raised cigarette prices substantially. The increased cost of cigarettes, along with adverse publicity surrounding smoking has curtailed cigarette use—and therefore leaf use—substantially.

As a result, marketing quota for flue-cured and burley tobaccos continue to decline. The 2000 crop quotas were reduced 18.4 percent and 45.3 percent respectfully. In addition, producers of Virginia fire-cured (type 21) tobacco and cigar filler and binder (types 42–44; 53–55) tobacco suffered declines of 15 percent and 17½ percent respectively, in 2000 allotments, for reason's unrelated to the settlement.

Most tobacco operations are small family-owned farms. There are few, if any, alternatives for tobacco. With no crop alternatives and little diversification in tobacco growing regions, economic hardship is particularly harsh during downturns in tobacco production. Thus, the tobacco loss assistance provisions of the ARPA appropriated \$340 million to lessen economic hardships in specific tobacco communities.

The \$340 million will assist quota holders and growers to defray income lost in crop year 2000 due to quota reductions. The program will pay producers roughly \$1 for each pound of quota lost in crop year 2000. This amount of payment will more than cover producers' and quota holders' lost profit for crop year 2000.

#### *Wool and Mohair Payment Program*

Both wool and mohair production in the United States have been on the decline in recent years. The number of

head of sheep estimated to have been shorn for wool production has declined every marketing year since 1981. The number of goats clipped for mohair production has declined annually for about the last 10 years. Wool production has been cut in half since 1988 and is estimated for 1999 at 46.5 million pounds. Mohair production in 1999 is estimated at only 3.2 million pounds, only one-fifth of the production in 1991.

Wool prices in 1995 averaged over \$1 per pound, but by the end of the 1999 marketing year they were averaging about 60 cents. Average prices for mohair were about \$2.50 per pound for 2 years and then increased to \$3.50 per pound in 1999. Because of reduced production, as well as low prices, the value of wool produced in 1999 is estimated at about \$17.9 million, a decline of 85 percent from the value 10 years ago and down 40 percent from the value in 1998. The value of mohair produced in 1999 is estimated at \$10 million, about half of the value 10 years ago and down 20 percent from the already depressed value in 1998.

Wool consumption by domestic textile mills also has declined steadily in recent years and is projected for 1999 at only 85 million pounds, the lowest in at least 25 years and down 30 million pounds from 1998's level.

A recourse loan program was implemented for mohair in the 1998 and 1999 marketing years, but only about 40 percent of the 5.5 million pounds of hair placed under loan in 1998 and about 10 percent of the 1.2 million pounds placed under loan in 1999 has been redeemed.

Given these discouraging production, price, and consumption figures, Congress has provided direct Market Loss Assistance (MLA) payments for producers of mohair and wool in 1999.

Two options were considered for determining the quantity of a producer's wool or mohair eligible for payment. The first option limited the eligible quantity to marketings of wool or mohair during marketing year 1999. The second option allowed producers to certify the quantity they produced during marketing year 1999 and subject them to spot checks by CCC.

The second option was selected for two reasons. First, the program administration would be much simpler if paper documentation of marketings were not required. Spot checks can be accomplished by local FSA personnel. Penalties for inaccurate certifications by producers can be easily assessed and will inhibit false reports.

Second, many producers have not yet marketed their wool or mohair because of the very low prices this program was

designed to address. To deny those producers payments on the grounds they had no 1999 marketings would be contrary to the objective of the program.

Payments of 20 cents per pound on 1999 wool production would amount to about \$9 million, more than doubling proceeds from wool production. However, payments will not actually be made to producers until almost the end of the 2000 marketing year, so it is difficult to envision significant near-term impacts on the U.S. wool situation. Some additional production may be stimulated in early 2001 for producers who otherwise lack financing. However, continued heavy textile imports likely will mean stagnant mill demand for wool. MLA payments may contribute to continued depressed prices in the future to the extent that they stimulate additional production.

Mohair producers are to receive 40 cents per pound. MLA payments will amount to about \$1 million, or 10 percent of sales receipts in 1999. The income impact of this program on mohair producers is not as significant as it is on wool producers, and its impact on the supply/use situation for mohair should be even less than its impact on the wool situation.

#### **List of Subjects**

##### *Part 718*

Acres allotments, Loan program—agriculture, Marketing quotas, Price support programs, Reporting and recordkeeping requirements.

##### *Part 1427*

Cotton, Cottonseed, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

##### *Part 1464*

Imports, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements, Tobacco.

##### *Part 1469*

Loan programs—agriculture, Mohair, Price support programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR Chapters VII and XIV are amended as set forth below.

#### **PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS**

1. The authority citation for 7 CFR part 718 continues to read as follows:

**Authority:** 7 U.S.C. 1373, 1374, 7201, et seq.; 15 U.S.C. 714b and 714c; and 21 U.S.C. 889.

2. Amend § 718.205 by removing paragraphs (c)(5)(i) and (c)(5)(ii) and

revising paragraph (c)(5) to read as follows:

**§ 718.205 Rules for determining farms, allotments, quotas, and acreages when reconstitution is made by division.**

\* \* \* \* \*

(c) \* \* \*

(5) The designation by landowner method is not applicable to crop allotments or quotas which are restricted to transfer within the county by lease, sale, or by owner, when the land on which the farm is located is in two or more counties.

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**PART 1427—COTTON**

3. The authority citation for 7 CFR part 1427 is revised to read as follows:

**Authority:** 7 U.S.C. 7231–7235–7237; 15 U.S.C. 714b and 714c; Sec. 813, Pub. L. 106–78; Sec.204(e), Pub. L. 106–224.

4. Revise subpart F of part 1427 to read as follows:

**Subpart F—Cottonseed Payment Program**

- Sec.
- 1427.1100 Applicability.
- 1427.1101 Administration.
- 1427.1102 Definitions.
- 1427.1103 Eligible cottonseed.
- 1427.1104 Eligible first handlers.
- 1427.1105 Payment application.
- 1427.1106 Total available program funds.
- 1427.1107 Applicant payment quantity.
- 1427.1108 Total payment quantity.
- 1427.1109 Payment rate
- 1427.1110 Payment calculation and form.
- 1427.1111 Liability of first handler.

**§ 1427.1100 Applicability.**

(a) The regulations in this subpart are applicable to the 2000 crop of cottonseed. These regulations set forth the terms and conditions under which the Commodity Credit Corporation (CCC) shall provide payments to first handlers of cottonseed who have applied to participate in the Cottonseed Payment Program in accordance with Section 204(e) of Public Law 106–224. Additional terms and conditions may be set forth in the payment application that must be executed by participants to receive cottonseed payments.

(b) Payments shall be available only for cottonseed produced and ginned in the United States.

**§ 1427.1101 Administration.**

(a) The Cottonseed Payment Program shall be administered under the general supervision of the Executive Vice President, CCC (Administrator, FSA), or a designee, and shall be carried out by FSA's Price Support Division (PSD) and

Kansas City Management Office (KCMO).

(b) The PSD and KCMO and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.

(c) No provision or delegation of this subpart to PSD or KCMO shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by PSD or KCMO .

(d) The Executive Vice President, CCC, or a designee, may waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements do not affect adversely the operation of the cottonseed payment program.

(e) A representative of CCC may execute cottonseed payment program applications and related documents only under the terms and conditions determined and announced by CCC.

(f) Payment applications and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution outside of the dates authorized by CCC, shall be null and void unless the Executive Vice President, CCC, shall otherwise allow.

**§ 1427.1102 Definitions.**

The definitions set forth in this section shall be applicable for purposes of administering the 2000 Cottonseed Payment Program. The terms defined in §§ 1427.3, 1427.52, and 1427.102 shall also be applicable to this subpart.

*Application period* means a period, to be announced by CCC, during which applications for payments under the Cottonseed Payment Program must be received to be considered for payment.

*Cottonseed* means the seed from any variety of upland cotton and extra long staple (ELS) cotton produced and ginned in the United States.

*Gin* means a person (i.e., an individual, partnership, association, corporation, cooperative marketing association, estate, trust, State or political subdivision or agency thereof, or other legal entity) that removes cotton seed from cotton lint.

*Lint* means cotton lint as contained in bales of cotton ordinarily marketed as cotton and excludes any linters, raw notes, re-ginned notes, cleaned notes, and any other gin waste or by product not traditionally defined as cotton lint.

*Number of bales* means the number of running bales of cotton based on individual bale weights unadjusted to a uniform bale weight.

*Olympic average* means the average for the stated period after excluding the highest and lowest values.

*Running bale* means a bale of cotton lint that has a minimum weight of 425 pounds.

*Ton* means a unit of weight equal to 2000 pounds avoirdupois (907.18 kilograms).

**§ 1427.1103 Eligible cottonseed.**

To be eligible for payments under this subpart, cottonseed must:

(a) Have been grown in the United States during the 2000-crop production period.

(b) Have been ginned by the applicant from 2000-crop cotton.

(c) Not have been destroyed or damaged by fire, flood, or other events such that its loss or damage was compensated by other local, State, or Federal Government or private or public insurance or disaster relief payments.

**§ 1427.1104 Eligible first handlers.**

(a) For the purpose of this subpart, an eligible first handler of cottonseed shall be a gin that ginned 2000-crop cotton.

(b) Applicants must comply with the terms and conditions set forth in this subpart and instructions issued by CCC, and sign and submit an accurate, legible and complete Cottonseed Payment Program Application/Certification.

(c) Applicants, in signing the Cottonseed Payment Program Application/Certification, must agree to share any payment received with the producer of the cotton that was the basis of the payment to the extent that the revenue from cottonseed sale is shared with the producer.

**§ 1427.1105 Payment application.**

(a) Payments in accordance with this subpart shall be made available to eligible first handlers of cottonseed based on information provided on a Cottonseed Payment Program Application/Certification.

(b) Payment applications must be received within the program application period announced by CCC. Applications received after such application period may not be accepted for payment.

(c) Cottonseed Payment Program Applications/Certifications may be obtained from the CCC as announced by press release. In order to participate in the program authorized by this subpart, first handlers of cottonseed must execute the Cottonseed Payment Program Application/Certification and forward the completed original to CCC as announced and directed on the application.

**§ 1427.1106 Total available program funds.**

The total available program funds shall be \$100 million as provided by Section 204(e) of Public Law 106-224.

**§ 1427.1107 Applicant payment quantity.**

(a) The applicant's payment quantity of cottonseed will be determined by CCC based on the number of eligible ginned cotton bales and cotton lint weight submitted on the Cottonseed Payment Application/Certification and/or obtained by CCC, with the agreement of the applicant, from the Agricultural Marketing Service.

(b) The applicant's payment quantity of cottonseed shall be calculated by multiplying:

(1) The applicant's weight of lint for which payment is requested, as approved by CCC, by

(2) The 1995-99 Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint for all domestic ginners.

**§ 1427.1108 Total payment quantity.**

(a) The total quantity of 2000-crop cottonseed produced in the United States is eligible for payment under this subpart. The total payment quantity of cottonseed will be the total of eligible cottonseed for which applications for payment are received within the application period announced by CCC.

(b) The total payment quantity of cottonseed (ton-basis) shall be calculated by multiplying:

(1) The weight of cotton lint (ton-basis) for which payment is requested by all applicants, as approved by CCC, by

(2) The 1995-99 Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint.

**§ 1427.1109 Payment rate.**

The payment rate (dollars per ton) for the purpose of calculating payments made available in accordance with this subpart shall be determined by CCC by dividing the total available program funds by the total payment quantity of 2000-crop cottonseed.

**§ 1427.1110 Payment calculation and form.**

(a) Payments in accordance with this subpart shall be determined for individual applicants by multiplying:

(1) The payment rate, determined in accordance with § 1427.1109, by

(2) The payment quantity of the applicant, determined in accordance with § 1427.1107.

(b) After receipt of the application for payment, together with required supporting documents and the determination of the payment rate, CCC will issue payments to the applicant by

electronic deposit to the applicant's account. Applicants may request that payment be made by mailed check. If a payment is not made within 30 days of the close of the announced application period, CCC will pay interest at the prompt payment interest rate.

**§ 1427.1111 Liability of first handler.**

(a) If a first handler makes any fraudulent representation in obtaining a cottonseed payment, such payment shall be refunded upon demand by CCC. The first handler shall be liable for the amount of the payment and applicable interest on such payment, as determined by CCC.

(b) If more than one person executes a payment application with CCC, each such person shall be jointly and severally liable for any violation of the terms and conditions of the application and the regulations set forth in this subpart. Each such person shall also remain liable for the repayment of the entire payment amount until the payment is fully repaid without regard to such person's claimed share in the cottonseed payment.

(c) If the payment recipient is suspected by CCC to have knowingly:

(1) Adopted any scheme or device which violates this Application;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a determination under this Application, CCC will notify the appropriate investigating agencies of the United States and take steps deemed necessary to protect the interests of the government.

(d) If the payment applicant receives a payment in excess of the entitled payment in accordance with the application, the applicant shall refund to CCC an amount equal to the excess payment, plus interest thereon, as determined by CCC.

(e) From the date of the payment application until the earlier of 3 years after the date of the application or July 31, 2004, the applicant shall keep records and furnish such information and reports relating to the application as may be requested by CCC. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received, plus interest thereon, as determined by CCC. Nothing in this section shall, however, authorize the destruction of any records where there is an on-going dispute or where the party involved has

reason to know that such records remain material to the operation of the program.

(f) No Member or Delegate of Congress or Resident Commissioner shall be admitted to any share or part of payments provided under this Application or to any benefit to arise therefrom, except that this provision shall not be construed to extend to their interest in any incorporated company, if this Application is for the general benefit of such company, nor shall it be construed to extend to any benefit that may accrue to such official in their capacity as a producer.

**PART 1464—TOBACCO**

5. The authority citation for part 1464 is revised to read as follows:

**Authority:** 7 U.S.C. 1421, 1423, 1441, 1445, 1445-1; 1445-2; 15 U.S.C. 714b, 714c; Pub. L. 106-78, 113 and 224; Sec. 204(b), Pub. L. 106-224.

6. Revise the heading for subpart C to read as follows:

**Subpart C—Tobacco Loss Assistance Program 1999**

7. Add subpart E to read as follows:

**Subpart E—Tobacco Loss Assistance Program 2000**

Sec.

1464.401	Applicability and basic terms for payments.
1464.402	Administration.
1464.403	Eligibility.
1464.404	Definitions.
1464.405	Sign up.
1464.406	[Reserved]
1464.407	Payment benefits.
1464.408	Offsets and assignments.
1464.409	Misrepresentation and scheme or device.
1464.410	Refunds to CCC.
1464.411	Cumulative liability.
1464.412	Estate, trusts, and minors.
1464.413	Death, incompetence, or disappearance.
1464.414	Appeals.

**§ 1464.401 Applicability and basic terms for payments.**

(a) This subpart sets forth the terms and conditions of the Tobacco Loss Assistance Program 2000 (TLAP00) authorized by section 204(b) of the Agricultural Risk Protection Act of 2000 (Public Law 106-224). That section provides that \$340 million of funds of the Commodity Credit Corporation (CCC) shall be made available to make direct payments to eligible persons, on a farm:

(1) For which the quantity of quota of eligible tobacco allotted to the farm was reduced from the 1999 crop year to the 2000 crop year; and

(2) That is used for the production of eligible tobacco during the 2000 crop year.

(b) The amounts made available to farms in a State shall be divided based on the quota of eligible tobacco available to each farm of an eligible person for the 2000 crop year.

(c) The amounts made available to farms in a State under paragraph (b) of this section shall be divided among eligible persons who are quota owners, quota lessees, controllers, growers, tenants and producers on farms in the State but only to the extent that is otherwise provided for in this subpart.

(d) The funds made available for "eligible persons" shall be allocated among States in the following dollar amounts:

Alabama .....	\$100,000
Arkansas .....	1,000
Florida .....	2,500,000
Georgia .....	13,000,000
Indiana .....	5,400,000
Kansas .....	23,000
Kentucky .....	140,000,000
Missouri .....	2,000,000
North Carolina .....	100,000,000
Ohio .....	6,000,000
Oklahoma .....	1,000
South Carolina .....	15,000,000
Tennessee .....	35,000,000
Virginia .....	19,000,000
West Virginia .....	1,300,000
Wisconsin .....	675,000

**§ 1464.402 Administration.**

(a) This subpart shall be administered by CCC under the general supervision of the Executive Vice President of the CCC and the Deputy Administrator for Farm Programs of the Farm Service Agency (FSA) of the Department of Agriculture (who shall be hereafter referred to in this part as the "Deputy Administrator"). The program shall be carried out in the field by State and county FSA committees (State and county committees).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part.

(c) The State committee shall take any action required by this part that has not been taken by the county committee. The State committee shall also:

- (1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with this part; or
- (2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No delegations in this part to a State or county committee shall preclude the Executive Vice President,

CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee. The Deputy Administrator may modify or revise deadlines and requirements contained in this subpart as determined needed or appropriate to accomplish the goals of this program.

**§ 1464.403 Eligibility.**

For a person to be considered an "eligible person" for purposes of this part, such person must own, operate or produce eligible tobacco on a farm for which a quota reduction from the 1999 crop year to the 2000 crop year occurred and that was used for the production of tobacco during the 2000 crop year.

**§ 1464.404 Definitions.**

The definitions set forth in this section shall be applicable for all purposes of administering the program ("TLAP00") of this subpart. The definitions in 7 CFR 718.2 and 723.104 also apply to the program. To the extent that the definitions in this section differ from the definitions in 7 CFR 718.2 and 723.104, the definitions in this section apply rather than the definitions in 7 CFR 718.2 and 723.104. The following terms shall have the following meanings:

*Controller* means that person or entity who, as determined by the Deputy Administrator, controls the land used to produce eligible tobacco and share in the risk of production.

*Eligible person* means, with respect to payments under this part, a person who owns or operates, or produces eligible tobacco on a farm for which the quantity of quota of eligible tobacco allotted to the farm under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 was reduced from the 1999 crop year to the 2000 crop year and that will be used for the production of eligible tobacco during the 2000 crop year. For these purposes, the quota will be considered produced if it "considered produced" under the normal rules that apply with respect to tobacco under this part and under 7 CFR part 723; however any such actual production, production that is considered under this part and under 7 CFR part 723 to have occurred, will suffice to qualify the parties associated with that quota for payments under this part to which they would otherwise be entitled. That is, the amount of payment will not be tied to the amount of production which qualifies the party for participation under this program except as might otherwise be specified in this subpart. However, tobacco quotas or allotments which are suspended from production

because of a Conservation Reserve Contract with the CCC will not be treated as "considered produced" for these purposes and will not generate payments under this subpart. For purposes of this subpart, further, an eligible persons's status, as owner or controller or producer of the tobacco, will be determined as of July 3, 2000.

*Eligible tobacco* means each of the following kinds of tobacco: flue-cured tobacco (types 11, 12, 13 and 14), dark fire-cured tobacco (type 21), burley tobacco (type 31), and cigar-binder tobacco (types 54 and 55).

*Grower/tenant* means person(s) or entities who provide labor to produce tobacco and share in the risk of production.

*Payment pounds* means the pounds of tobacco for which a person is eligible to be paid under this subpart.

*Producer* means person(s) or entity(s) actively engaged in planting, growing, harvesting, and/or marketing of tobacco, or who shares in the risk of producing the crop.

*Quota owner* means the person(s) or entities who own the land for which quota is established under the Agricultural Adjustment Act of 1938, as amended.

*Share in the risk of production* means having a direct financial stake in the success of the crop through a direct share in the actual proceeds from the actual marketing of the crop which share is conditional upon the success of that marketing. Farm owners who cash-lease their farm land to a tobacco producer for the right to grow tobacco on that land and receive payment for such right regardless of whether or not a tobacco crop is marketed are not considered to share in the risk of production. Farm laborers who provide service in exchange for a wage and whose payment is not subject to the marketing of the tobacco crop are not considered to be sharing in the risk of production.

*TLAP00* means the Tobacco Loss Adjustment Program, for the 2000 crop, which is provided for in this subpart.

**§ 1464.405 Sign up.**

(a) Eligible persons who wish to apply for TLAP00 funds, must file an application with the county FSA office by the date established by the Deputy Administrator. However, a late filed application filed late because of hardship may be accepted. Acceptance of such applications must be approved by the Deputy Administrator, subject to the availability of funds.

(b) Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is

voluntary; however, without it program benefits will not be provided.

**§ 1464.406 [Reserved]**

**§ 1464.407 Payment benefits.**

(a) TLAP00 payments shall be made to "eligible persons" not later than October 20, 2000 on the basis of two formulas.

(1) All flue-cured and cigar-binder funds in a State will distribute 50 percent to eligible quota owners and 50 percent to eligible producers.

(2) All burley and dark fire-cured tobacco funds in a State will be distributed one-third to quota owners; one-third to the controller; and one-third to grower(s)/tenant(s).

(b) As provided in paragraph (a) of this section the formulas shall be applied to the kinds of tobacco as follows:

(1) The allocated funds for cigar-binder (types 54 and 55) will be disbursed with 50 percent being paid to quota owners based on basic allotment times NASS yield and 50 percent being paid to producers based on basic allotment times the NASS yield. The NASS yield for cigar-binder (types 54 and 55) is 2,054 pounds per acre.

(2) The allocated funds for dark fire-cured (type 21) will be disbursed with one-third being paid to quota owners based on the 2000 crop year basic allotment times NASS yield, one-third being paid to the controller based on the 2000 crop year effective allotment times NASS yield, and one-third being paid to grower(s)/tenant(s) based on the 2000 crop year effective quota times NASS yield. The NASS yield for dark fire-cured (type 21) is 2,139 pounds per acre.

(3) The allotted funds for flue-cured tobacco (types 11, 12, 13 and 14) will be disbursed with 50 percent paid to quota owners on the 2000 crop year basic quota and 50 percent being paid to producers on the 2000 crop year basic quota.

(4) The allotted funds for burley tobacco (type 31) will be disbursed with one-third being paid to quota owners based on the 2000 crop year basic quota; one-third being paid to the farm controller based on the 2000 crop year effective quota before any disaster lease and transfer pounds; and one-third being paid to grower(s)/tenant(s) based on the 2000 crop year effective quota before any disaster lease and transfer pounds.

(c) The Secretary shall use the amount allocated to the State of Georgia to make payments to eligible persons in the State of Georgia only if the State of Georgia agrees to use an equal amount (not to

exceed \$13,000,000) to make payments at the same time, or subsequently, to the same eligible persons in the same manner as provided for in this section.

(d) The payment amount shall be determined by apportioning the allocated funds for each State on a poundage basis among the timely applications that are filed, with an allowance for a reserve to handle hardships and appeals.

(e) All payments under this part are subject to the eligibility of funds; further, terms used in this part may be further refined and applied as will more closely align the payments made under this subpart with payments made under the various State programs which have preceded it. In the case where a payment to a farm is disputed the Deputy Administrator may require that all interested parties agree to the resolution of the dispute before any payment is made and may delay payments to the farm until any such disputes are resolved. Also, as determined appropriate to accomplish the desire that program payments be made expeditiously in a manner that is administratively efficient, the Deputy Administrator may properly exclude payments to a person who does not file a timely claim and all payments may be made to those parties whose claim to the payment is not challenged. Nothing in this section shall, however, be construed to prevent the agency from denying any payment to any person based upon a failure of that person to meet any eligibility criteria set forth in this part.

**§ 1464.408 Offsets and assignments.**

(a) Except as provided in paragraph (b) of this section, any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor, except that the regulations governing offsets and withholdings found at 7 CFR part 1403 shall be applicable to payments made under this part and such offsets and withholdings may be taken against such payments.

(b) Any producer entitled to any payment may assign the right to receive such payments, in whole or in part, as provided in 7 CFR part 1404.

**§ 1464.409 Misrepresentation and scheme or device.**

(a) A producer who is determined to have erroneously represented any fact affecting a program determination made in accordance with this part shall not be entitled to payments and must refund

all payments, plus interest determined in accordance with 7 CFR part 1403.

(b) A producer who is determined to have knowingly:

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

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination shall refund to CCC all payments, plus interest determined in accordance with 7 CFR part 1403, received by such producer with respect to all applications. The producer's interest in all applications shall be terminated.

**§ 1464.410 Refunds to CCC.**

Persons who are party to the TLAP00 application must refund to CCC any excess payments made by CCC with respect to such application with interest.

**§ 1464.411 Cumulative liability.**

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

**§ 1464.412 Estates, trusts, and minors.**

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such persons furnish evidence of the authority to execute such documents.

(b) A minor who is a producer shall be eligible for assistance under this subpart only if such person meets one of the following requirements:

(1) The right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and has executed the applicable program documents; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

**§ 1464.413 Death, incompetence, or disappearance.**

In the case of death, incompetence, or disappearance of any person who is eligible to receive assistance in accordance with this part, such person or persons as are specified in 7 CFR part 707 may receive such assistance.

**§ 1464.414 Appeals.**

Appeals of determinations made under this part shall be heard under the provisions appearing in 7 CFR parts 11 and 780. Provisions of general applicability are not appealable and likewise matters committed to agency discretion may not be appealable. Nothing in this section shall be taken to expand the scope of review of any determination or make a determination appealable that would otherwise not be appealable.

**PART 1469—RECOURSE LOAN REGULATIONS FOR MOHAIR**

8. The authority citation for part 1469 is revised to read as follows:

**Authority:** Pub. L. 105–277, 112 Stat. 2681; Sec. 801, Pub. L. 106–78, 113 Stat. 1135; Sec. 204(d), Pub. L. 106–224.

9. Revise the heading for part 1469 to read as follows:

**PART 1469—WOOL AND MOHAIR PRICE SUPPORT PROGRAMS**

10. Redesignate §§ 1469.1 through 1469.17 as subpart A and add a heading for subpart A to read as follows:

**Subpart A—Recourse Loan Regulations for Mohair**

11. Add subpart B to read as follows:

**Subpart B—Wool and Mohair Market Loss Assistance Program**

Sec.	
1469.101	Applicability.
1469.102	Administration.
1469.103	Definitions.
1469.104	Time and method of application.
1469.105	Eligibility.
1469.106	Payment rate and amount.
1469.107	Offsets.
1469.108	Appeals.
1469.109	Misrepresentation.
1469.110	Maintaining records.
1469.111	Estate, trust, and minors.
1469.112	Death, incompetency, or disappearance.
1469.113	Refunds; joint and several liability.

**§ 1469.101 Applicability.**

The regulations of this subpart provide the terms and conditions under which the Commodity Credit Corporation (CCC) may make payments to wool and mohair producers for production from the 1999 marketing year.

**§ 1469.102 Administration.**

(a) The Wool and Mohair Market Loss Assistance Program shall be administered under the general supervision of the Executive Vice President, CCC, or designee and shall be

carried out in the field by State and county Farm Service Agency committees (State and county committees) and FSA employees.

(b) State and county committees, and FSA employees, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.

(c) The State committee shall take any action required by the regulations of this subpart that has not been taken by the county committee. The State committee shall also:

(1) Correct, or require the county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this subpart; and

(2) Require a county committee to withhold taking any action that is not in accordance with the regulations of this subpart.

(d) No provision or delegation of this subpart to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, or the Administrator, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by the State or county committee.

(e) The Deputy Administrator, Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the Wool and Mohair Market Loss Assistance Program and does not violate statutory limitations on the program.

**§ 1469.103 Definitions.**

The definitions set forth in this section shall be applicable for all purposes of administering the Wool and Mohair Market Loss Assistance Program established by this subpart.

*Administrator* means the FSA Administrator.

*Application* means Form CCC–1155, the Wool and Mohair Market Loss Assistance Program Application.

*Application period* means October 10, 2000, through December 29, 2000.

*CCC* means the Commodity Credit Corporation.

*County committee* means the FSA county committee.

*County office* is the local FSA office.

*Farm Service Agency or FSA* means the Farm Service Agency of the United States Department of Agriculture.

*Goat* means an adult Angora goat or the kid of an Angora goat.

*Grease mohair* means mohair as it comes from the Angora goat or the kid of an Angora goat before applying any

process to remove the natural oils or fats.

*Grease wool* means wool as it comes from the sheep or lambs before applying any process to remove the natural oils or fats.

*Hide* means thick tough skin of the animal.

*Lamb* means a young ovine animal that has not cut the second pair of permanent teeth. The term includes animals referred to in the livestock trade as lambs, yearlings, or yearling lambs.

*Marketing year* means a period beginning January 1, and ending the following December 31, both dates inclusive.

*Mohair* means the hair sheared from a live Angora goat before applying any process that removes the natural oils or fats or produces a mohair product. Mohair does not include grease mohair shorn from pelts or hides.

*Pelt* means the skin of the animal with wool still attached to the skin.

*Person* means any individual, group of individuals, partnership, corporation, estate, trust, association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen or citizens of, or legal resident alien or aliens, in the United States.

*Producer* means any person or group of persons who as a single unit produce wool or mohair and whose production and facilities are located in the United States.

*Pulled mohair* means mohair obtained from the pelts or hides of dead goat.

*Pulled wool* means wool obtained from the pelts or hides of dead sheep.

*Shorn mohair* means grease mohair sheared from a live Angora goat or the kid of an Angora goat. Shorn mohair does not include pelts, hides, or pulled mohair.

*Shorn wool* means grease wool sheared from live sheep or lambs. Shorn wool does not include pelts, hides, or pulled wool.

*State committee* is the FSA committee so designated for the applicable State.

*United States* means the 50 United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

*Wool* means the hair sheared from a live sheep before applying any process that removes the natural oils or fats or produces a wool product. Wool does not include grease wool shorn from pelts or hides.

**§ 1469.104 Time and method of application.**

(a) Wool and mohair producers may obtain an application, Form CCC–1155 (Wool and Mohair Market Loss Assistance Program Application), in

person, by mail, by telephone, or by facsimile from any county FSA office. In addition, applicants may download a copy of Form CCC-1155 at <http://www.fsa.usda.gov/dafp/psd/>.

(b) A request for payments under this part must be submitted on a completed Form CCC-1155. Form CCC-1155 should be submitted to the FSA county office servicing the county where the producer is located but, in any case, must be received by the FSA county office by the close of business on December 29, 2000. Applications not received by the close of business on December 29, 2000, will be returned as not having been timely filed and the producer will not be eligible for payments under this program.

(c) The wool and mohair producer requesting payments under this part must certify with respect to the accuracy and truthfulness of the information provided in their application for payments. All information provided is subject to a spot check by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility. Data furnished by the applicant will be used to determine eligibility for program payments. Furnishing the data is voluntary; however, without it program payments will not be approved. Providing a false certification to the Government is punishable by imprisonment, fines and other penalties.

#### § 1469.105 Eligibility.

(a) *Producers.* To be eligible to receive a payment under this subpart, a producer must:

(1) Have produced domestic wool and/or domestic mohair during the period of January 1, 1999, through December 31, 1999.

(2) Be engaged in the business of producing and marketing agricultural products at the time of filing the application; and

(3) Apply for payment during the application period.

(b) *Eligible wool and mohair.* (1) Wool and mohair is eligible to generate payments under this subpart only if the wool or mohair was produced by shearing live animals (not wool or mohair which is pulled or which is shorn from hides or pelts) and only if such shearing occurred in 1999 and in the United States.

(2) The producer applying for payment must have owned the wool or mohair at the time of shearing and must have owned in the United States the sheep, lambs, or goats from which the wool or mohair was shorn for 30 days or more at any time prior to shearing

and actually owned the animal at the time of shearing.

#### § 1469.106 Payment rate and amount.

(a) *Payment rate.*

(1) The payment rate for wool is 20 cents per pound.

(2) The payment rate for mohair is 40 cents per pound.

(b) *Payment amount.* The payment amount for wool or mohair will be calculated by multiplying the certified pounds by the payment rate.

#### § 1469.107 Offsets.

Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the wool, the sheep, the mohair or the angora goats thereof, or proceeds thereof, in favor of the producer or any other creditors except agencies of the U.S. Government. The regulations governing offsets and withholdings found at 7 CFR part 1403 shall be applicable to this part.

#### § 1469.108 Appeals.

Any producer who is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at 7 CFR parts 11 and 780.

#### § 1469.109 Misrepresentation.

(a) Whoever issues a false document or otherwise acts in violation of the provisions of this subpart so as to enable a producer to obtain a payment to which such producer is not entitled, shall become liable to CCC for any payment which CCC may have made in reliance on such sales document or as a result of such other action.

(b) The issuance of a false document or the making of a false statement in an application for payment or other document, for the purpose of enabling the producer to obtain a payment to which such producer is not entitled, may subject the person issuing such document or making such statement to liability under applicable Federal civil and criminal statutes.

#### § 1469.110 Maintaining records.

Producers making application for a payment under this subpart must maintain accurate records and accounts that will document that they meet all eligibility requirements specified in this subpart. Such records and accounts must be retained for 3 years after the date of payment to the producer under this subpart.

#### § 1469.111 Estates, trust, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an otherwise eligible producer of wool or mohair shall be eligible for assistance under this part only if such producer meets one of the following requirements:

(1) The minor establishes that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and has executed the applicable program documents; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

#### § 1469.112 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a wool or mohair producer that is eligible to receive benefits in accordance with this part, such person or persons specified in 7 CFR part 707 may receive such benefits.

#### § 1469.113 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application or this part, and if any refund of a payment to FSA shall otherwise become due in connection with the application or this part, all payments made under this part to any producer shall be refunded to FSA together with interest as determined in accordance with paragraph (c) of this section and late payment charges as provided in 7 CFR part 1403.

(b) All producers signing an application for payment as having an interest shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part.

(c) Interest shall be applicable to refunds required of any producer under this part if FSA determines that payments or other assistance were provided to a producer who was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges the Commodity Credit Corporation (CCC) for funds, as of the date FSA made benefits available. Such interest shall accrue from the date of

repayment or the date interest increases as determined in accordance with applicable regulations. FSA may waive the accrual of interest if FSA determines that the cause of the erroneous determination was not due to any action of the producer.

(d) Interest determined in accordance with paragraph (c) of this section may not be waived on refunds required of the producer when there was no intentional misaction on the part of the producer, as determined by FSA.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 792.

(f) Producers must refund to FSA any excess payments made by FSA with respect to such application.

(g) In the event that a benefit under this subpart was provided as the result of erroneous information provided by any producer, the benefit must be repaid with any applicable interest.

Signed in Washington, D.C., on October 25, 2000.

**Keith Kelly,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 00-27794 Filed 10-27-00; 10:26 am]

BILLING CODE 3410-05-P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 94

[Docket No. 00-104-1]

#### Change in Disease Status of KwaZulu-Natal Province in the Republic of South Africa Because of Rinderpest and Foot-and-Mouth Disease

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the regulations governing the importation of certain animals, meat, and other animal products by removing KwaZulu-Natal, a province in the Republic of South Africa, from the list of regions considered to be free of rinderpest and foot-and-mouth disease. We are taking this action because the existence of foot-and-mouth disease has been confirmed there. The effect of this action is to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from KwaZulu-Natal.

**DATES:** This interim rule was effective September 12, 2000. We invite you to comment on this docket. We will consider all comments that we receive by January 2, 2001.

**ADDRESSES:** Please send four copies of your comment (an original and three copies) to: Docket No. 00-104-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 00-104-1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Glen Garris, Supervisory Staff Officer, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera, and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are declared free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD exists in all other regions of the world not listed. Section 94.11 of the regulations lists regions of the world that have been declared to be free of rinderpest and FMD, but are subject to certain restrictions because of their proximity to or trading relationships with rinderpest-or FMD-affected regions.

Prior to the effective date of this interim rule, the Republic of South

Africa, except the FMD-controlled area that includes Kruger National Park, was among the listed regions in §§ 94.1 and 94.11 considered to be free of rinderpest and FMD. However, on September 12, 2000, a suspected outbreak of FMD was detected in the South African province of KwaZulu-Natal; on September 17, 2000, the Republic of South Africa's National Department of Agriculture (National Department of Agriculture) notified the Office International des Epizooties (OIE) with clinical confirmation of the FMD diagnosis.

Therefore, to protect the livestock of the United States from FMD, we are amending the regulations in § 94.1 by removing the province of KwaZulu-Natal from the list of regions considered to be free of rinderpest and FMD. We are also removing KwaZulu-Natal from the list of regions in § 94.11 that are considered to be free of these diseases, but are subject to certain restrictions because of their proximity to or trading relationships with rinderpest-or FMD-affected regions. Other regions of the Republic of South Africa, with the exception of the FMD-controlled area that includes Kruger National Park, will remain on the list of regions considered to be free of rinderpest and FMD. As a result of this action, the importation into the United States of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine that left KwaZulu-Natal on or after September 12, 2000, is prohibited or restricted. We are making these amendments effective on September 12, 2000, because that is the day that FMD was initially detected in KwaZulu-Natal.

Although we are removing the province of KwaZulu-Natal from the list of regions considered to be free of rinderpest and FMD, we recognize that the National Department of Agriculture responded immediately to the detection of the disease by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from the affected area and initiating measures to eradicate the disease. At the time of publication of this interim rule, it appears that the outbreak is well controlled. Because of the National Department of Agriculture's efforts to ensure that FMD does not spread beyond the province of KwaZulu-Natal, we intend to reassess the situation in accordance with the standards of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule. This future reassessment will determine whether it is necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh