

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

RIN 0560-AG47

Non-Recourse Cotton Loan and Loan Deficiency Payment Programs; Upland Cotton First Handler Marketing Certificate Program; Seed Cotton Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: Changes are proposed to regulations for the upland cotton non-recourse loan and loan deficiency payment programs and the seed cotton loan program. Specifically, the proposed changes would: require that lists of cotton bales provided to the Commodity Credit Corporation (CCC) as the basis for loan deficiency payments be submitted in an electronic format provided by CCC; require that cotton classification information be provided to CCC as a condition of eligibility for a marketing assistance loan or loan deficiency payment for such cotton; change the effective time of the announced world market price for upland cotton from 5 p.m. eastern time each Thursday to 12:01 a.m. eastern time each Friday; provide for CCC to use Electronic Agent Designations when authorized by a producer as the basis for loan redemptions and release of loan collateral; establish that any quantity of cotton for which a seed cotton loan is requested cannot be subject at the same time to a request for a loan deficiency payment or lock-in of the adjusted world price; establish that for a bale of cotton to be eligible for a loan or loan deficiency payment it shall not be compressed to a density defined as a flat or modified flat bale by the Joint Cotton Industry Bale Packaging Committee; and, remove and reserve all regulations that provide for the Upland Cotton First Handler Marketing Certificate Program.

Additionally, a number of editorial changes are incorporated to improve the precision of the regulations.

DATES: Submit comments on this regulation on or before July 8, 2002 to be assured of consideration. Comments on the information collection must be received on or before July 8, 2002 to be assured of consideration.

ADDRESSES: Address all comments concerning this proposed rule to Gene S. Rosera, USDA/Farm Service Agency, 1400 Independence Avenue, SW, STOP 0512; Washington, DC 20250-0512. Comments may be submitted by e-mail to: *gene_rosera@wdc.fsa.usda.gov*. All comments received in connection with this rule will be available for public inspection 7:30 a.m.-4:00 p.m., eastern time, except holidays, at 1400 Independence Avenue, SW., Room 4089, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera at (202) 720-8481 or e-mail at *gene_rosera@wdc.fsa.usda.gov*.

SUPPLEMENTARY INFORMATION

Executive Order 12866

This rule is issued in conformance with Executive Order 12866 and has been determined to be significant and has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Farm Service Agency (FSA) 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 program, as a whole, will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement for the program is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any legal action may be brought regarding determinations of this

Federal Register

Vol. 67, No. 90

Thursday, May 9, 2002

rule, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

Executive Order 12372

This program is 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 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

The Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

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

This proposed rule would require that cotton bale identity and classification information currently provided in support of applications for loans and loan deficiency payments be provided by electronic media (diskette or electronic submission) in the format established by CCC. Currently, this required information is submitted electronically by virtually all cotton ginners or providers of warehouse receipts. However, a few submissions of this information still occur by paper copy. CCC proposes, starting with the 2002 crop, that all such bale identity and classification information be submitted electronically. This rule further proposes establishment and use of an industry-maintained electronic record as an alternative to the use of the CCC-605, Designation of Agent-Cotton. Therefore, the Farm Service Agency is proposing to revise the information collections currently approved in support of the cotton loan and loan deficiency payment programs under the

Office of Management and Budget (OMB) control numbers 0560-0074 and 0560-0129.

Title: Loan Deficiency Payments.

OMB Control Number: 0560-0129.

Expiration Date of Approval: March 31, 2004.

Type of Request: Revision of Currently Approved Information Collection.

Abstract: The information collection under OMB Control Number 0560-0129 includes requirements for processing applications for cotton loan deficiency payments. Some of this information identifies the cotton by ginner or warehouse receipt numbers, location, and weight and classification information. This proposal does not add to any current information collection requirements but would establish a requirement that, starting with the 2002 crop, the identifying and classification information be provided solely by electronic media (diskette or electronic submission) in a format prescribed by CCC. For the 2000 crop, about 99 percent of all 970 cotton ginners used CCC's prescribed electronic format to submit this required bale information (commonly referred to as gin-tag lists) on behalf of producers. The adoption of electronic media by the few remaining ginners is occurring due to industry demands for improved records management and recent developments of electronic trading of cotton. This proposal for CCC to accept only electronic bale information complements this industry trend and will greatly increase the speed and accuracy of CCC's benefits delivery. For the 1998 through 2000 crops, the average number of loan deficiency payment requests was about 74,100 per year, but those applications required the entry of bale-specific information for an average 5.7 million bales each year. Depending on the marketing position of their cotton, producers submit applications using either CCC-Cotton AA, Upland Cotton Producer's Loan Deficiency Payment Application and Certification, or CCC-709, Direct Loan Deficiency Payment Agreement.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Cotton producers and designated agents of cotton producers.

Estimated Number of Respondents: 2,035,000.

Estimated Number of Responses: 6,105,000.

Estimated Total Annual Burden on Respondents: 4,198,750 hours.

Title: Regulations Governing CCC Nonrecourse Cotton Loan Program for 1996 and Subsequent Crops.

OMB Control Number: 0560-0074.

Expiration Date of Approval: January 31, 2005.

Type of Request: Revision of Currently Approved Information Collection.

Abstract: The information collection under OMB Control Number 0560-0074 addresses a number of application and other forms related to loans for seed and lint cotton. This proposed revision would establish an electronic alternative to the use of CCC-605, Designation of Agent—Cotton. Producers use the CCC-605 to authorize and designate an entity to redeem all or a portion of the collateral of a specified loan on behalf of the producer. This CCC-605 is subsequently presented by the agent to CCC in order to redeem and receive any loan collateral. Starting with the 2002 crop, CCC expects to accept requests to exchange commodity certificates for cotton loan collateral through the Cotton Online Processing System (COPS). This process will be nearly paperless except that the producer's agent must still present the CCC-605 to the appropriate county FSA office for verification. To eliminate the delay created by the delivery of the paper CCC-605, FSA proposes to establish use of an Electronic Agent Designation (EAD). An EAD is an electronic record that: (1) Designates the entity authorized by a producer to redeem all of the cotton pledged as collateral for a specified loan, (2) is maintained by providers of electronic warehouse receipts, and (3) a producer may authorize CCC to use as the basis for the redemption and release of loan collateral. Use of the EAD by any producer will be optional but it is proposed that CCC must have the producer's written request and authorization to use this electronic record as the basis for accepting repayment from an agent and releasing the loan collateral. The designated agents of producers who provide CCC with such authorizations will not need to present paper CCC-605's for verification. The agent-designation in the EAD will be established or revised according to provisions established by each provider of cotton warehouse receipts. Because use of the EAD eliminates use of the CCC-605 by the producers' agents, CCC estimates substantial reductions to the information collection estimate of OMB Control Number 0560-0074.

Estimate of Burden: The Public reporting burden for this collection of information is estimated to average 0.036 hours per response.

Respondents: Cotton producers and designated agents of cotton producers.

Estimated Number of Respondents: 85,000.

Estimated Number of Responses: 306,282.

Estimated Total Annual Burden on Respondents: 11,002 hours.

Comments are sought on these revisions to currently approved information collections including: (a) The accuracy of the agency's estimate of burden including the validity of the assumptions used; (b) whether requiring electronic submission of bale information will generate improvements in the speed and accuracy of delivering loans and loan deficiency payments to cotton producers; (c) whether this proposal generates any additional or unreasonable burden on the respondents compared with the existing option of submitting the required information by a paper record; and (d) any comments regarding the appropriateness and use of the EAD.

These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Gene S. Rosera, USDA/Farm Service Agency, 1400 Independence Avenue, SW., STOP 0512; Washington, DC 20250-0512. Comments may be submitted by e-mail to: gene_rosera@wdc.fsa.usda.gov. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection.

Background

In this notice, a number of changes are proposed to 7 CFR part 1427, which provides for the administration of the upland cotton non-recourse loan and loan deficiency payment programs. Many of the proposed changes are of an editorial nature to improve the precision of the regulations and, as such, do not affect information collection, producer eligibility or benefit levels, or program outlays.

There are three proposals to amend regulations in Subpart A that would affect the benefit application process. These changes are being proposed to improve the accuracy and timeliness of producer transactions, to reduce delays associated with loan collateral release, and to reduce costs associated with loan redemptions borne by the Commodity Credit Corporation (CCC) and the cotton industry.

The first of these proposals would provide that all lists of cotton bales delivered to CCC must be presented in the CCC-designated electronic format.

CCC proposes to implement this requirement starting with the 2002 crop.

Bale lists are usually provided to CCC by ginners on behalf of the producer and are the production evidence upon which loan deficiency payments are calculated. Virtually all ginners currently provide such lists on a diskette or by e-mail in a format defined by CCC. However, out of an estimated 970 ginners for the 2000 crop, about 30 submitted lists that were not in the CCC electronic format. Such non-formatted lists must be manually entered into the CCC computer system before benefits can be computed. This manual entry process is prone to error compared with use of electronic lists, and the time needed to enter such lists delays payments to the producer of that cotton as well as others.

CCC calculated loan and repayment rates, or loan deficiency payments, for about 17.3 million individual bales of 2000-crop cotton. During the post-harvest period, the administrative burden associated with loan and loan deficiency payments ordinarily delays benefits delivery, in some counties for weeks, even when bale lists are received electronically. The manual entry of a bale list during this period further delays payments to many producers. CCC proposes to require all gins to submit bale lists using the CCC electronic format to reducing these delays. To comply with this requirement, the few ginners that are not using the electronic format may need additional software, or have electronic bale lists transmitted by other entities. Comments are specifically requested as to the reasonableness of this proposal to require bale lists in electronic format.

The second proposal would amend 7 CFR 1427.5, general eligibility requirements, to require cotton to be represented by classification information provided by the producer, in a format provided by CCC, for the cotton to be eligible for either a loan or loan deficiency payment. The requirement for classification information for loan deficiency payments is already included in 7 CFR 1427.23(b)(5), but is not explicitly stated as an eligibility requirement for loans. CCC proposes to implement this change starting with the 2002 crop.

Classification information is generated in an electronic format by the Agricultural Marketing Service (AMS) and is available to producers by several means, including a printed record or diskette. Most commonly, the data are obtained by the producer's ginner or warehouse as an electronic file from the central AMS database and then entered

onto either the warehouse receipt or bale list presented to CCC for a loan or loan deficiency payment. Although this information is commonly transferred electronically, it is available to producers in printed form from either AMS, the ginner, or from CCC. When such information is omitted from a warehouse receipt or a bale list, CCC's process for providing the requested benefit is significantly delayed by the time required to obtain the information from AMS and to make manual entries. The manual process increases data entry errors and erroneous payments. To speed the delivery of benefits to all producers and to reduce errors, CCC proposes that all loan and loan deficiency payment applications be supported by bale identification and classing information in an electronic format. Because the use and transfer of electronic records is a common cotton industry practice, the use of electronic records for CCC benefits applications seems appropriate and not burdensome to producers or ginners. Extending this requirement for classification information to all cotton is also consistent with CCC's policy of requiring grading information for warehouse-stored wheat, feed grains, rice, and oilseeds. Comments are requested as to any particular burdens for cotton producers or ginners that may result from establishing this requirement for electronic identity and classification information for all cotton presented to CCC for either a loan or loan deficiency payment.

The third proposal would change the effective time of the adjusted world price (AWP) from 5 p.m. eastern time each Thursday to 12:01 a.m. eastern time each Friday. The announcement time of the AWP would remain unchanged at 5 p.m. each Thursday but a single cotton AWP would be effective from start of business each Friday through the close of business each Thursday. CCC proposes to implement this proposal upon publication of a final rule change, meaning that this proposal would be implemented during the 2002-crop marketing year.

This change in effective time is being proposed due to the benefits to CCC and the cotton industry of having only one price effective each day of the week. Under existing rules for upland cotton, two different world prices are effective each Thursday, one for business hours up to 3:59 p.m. eastern time and the second price beginning at 5 p.m. eastern time for the remainder of the day. Current rules further provide that loan repayments or requests for loan deficiency payments are not accepted by CCC during the hour preceding the

AWP announcement. This practice was originally established in 1992 as an effort to reduce administrative pressures that occurred at county Farm Service Agency offices after the AWP increases. Over time, as cotton producers have become informed of daily changes to the world price level, those pressures have largely been eliminated, but the inefficiencies that result from having two prices effective on a single day remain.

Under the current rules, merchants must arrange for all Thursday loan repayments to be delivered by the midday deadline that varies by time zone. Pacific-time transactions are subject to a 1 p.m. deadline and bankers' hours may further restrict transactions. Cooperatives unable to transfer payments during morning hours are now required to separately submit notifications of pending loan redemptions to FSA. These submissions should be reduced if not eliminated under this proposal and merchants repaying loans in multiple counties should benefit from having a full work day for such transactions. The current policy of having identical announcement and effective times for the AWP was partly based on the concern that unfair advantages might result for businesses in western time zones if the announcement and effective times were different or if the AWP were based on the discretionary "Step 1" adjustment that could not be anticipated. These concerns should be resolved with the advent of centralized certificate redemptions through the Cotton Online Processing System (COPS) that will become available before this proposal to change the effective AWP time would be implemented. COPS will be available during uniform hours regardless of time zones. This proposed change in the effective time of the AWP is not estimated to change program outlays. Comments are requested as to whether this proposal should be implemented and as to an appropriate period of time for advance notification of such change.

This proposed rule would also define and establish regulations for use of an Electronic Agent Designation (EAD). An EAD is an electronic record established and maintained by providers of electronic warehouse receipts that identifies the agent designated by a producer to have authority to redeem specific loan collateral on behalf of the producer. This proposed regulation would provide the basis for a producer to authorize CCC to use this electronic record as the basis for accepting loan repayments from their agents. It is proposed that CCC would implement

use of the EAD for the 2002 crop of cotton pending finalization of needed software and training.

It is common practice for agents authorized by producers to repay cotton loans on behalf of those producers. Current regulations allow producers to voluntarily designate agents using CCC-605, Designation of Agent-Cotton. This form must be presented to the County FSA Service Center for the designated agent to repay the loan. For the EAD to be used, cotton producers would authorize CCC to use the EAD as the basis for accepting loan repayments from the producer's agent. Producers would be able to cancel this authorization by providing written notice to CCC.

FSA has developed a web-based process within COPS that will greatly streamline loan repayments starting with the 2002 crop. Under this system, and with the use of EAD's, agents will be able to redeem loan collateral without having to physically deliver funds and copies of the CCC-605 to multiple FSA offices. The authorization to use EAD's will allow CCC to speed loan redemptions and collateral release. The speed of fund transfers and release of loan collateral will be greatly increased, and county FSA offices will have fewer loan repayment transactions to manually process. The value of cotton marketed under this procedure may be enhanced due to the speed of collateral release by CCC compared to current procedures. Over time, the loan redemption process within COPS by agents is expected to become the preferred process for loan redemptions because of its reduced administrative costs to merchants and the quicker release of loan collateral compared to current repayment procedures.

The designation of agents and the use of the EAD will be entirely voluntary. Producers who elect to designate agents but who do not want to authorize use of the EAD will continue to have the option of using the CCC-605 for that purpose. In such cases, as under current procedures, the CCC-605 will have to be returned to CCC before the loan can be repaid by an agent.

Implementing the EAD will not affect the level of loans or net loan outlays. FSA will benefit due to the reduced county-office workload associated with loan redemptions. Comments are requested on the implementation of the EAD. Specifically, comments are requested as to any problems that may arise if its use becomes available after the start of the 2002 cotton marketing year.

This proposed rule would delete regulations at 7 CFR part 1427, subpart

B, because regulations of this subpart no longer apply to the cotton program. When the cotton marketing loan program started, the minimum loan repayment rate was initially established at no less than 70 percent of the loan level. If the world price fell below that minimum level, then the difference between the world price and the minimum loan repayment level was payable by the first handler marketing certificates provided by regulations at subpart B. There is no longer any statutory minimum to the loan repayment rate and, accordingly, the regulations at 7 CFR part 1427, subpart B can be removed. Comments are requested regarding the removal of these regulations.

This proposed rule would establish in subpart D an additional requirement for eligibility for the seed cotton loan program. The proposed rule would establish that cotton for which a loan deficiency payment has been requested would be ineligible for a seed cotton loan. This proposal is consistent with the eligibility requirements of other cotton and commodity programs to assure that duplicate benefits are not provided for an eligible commodity. CCC proposes to make this change effective upon publication of a final regulation during the 2002 cotton marketing year. Comments are requested regarding this additional eligibility requirement for the seed cotton loan.

This proposed rule would establish as a condition of eligibility for a loan or loan deficiency payment that cotton not be compressed to a density defined as a "flat" or "modified flat" bale by the Joint Cotton Industry Bale Packaging Committee. Such bales are generally not acceptable to most cotton buyers and ordinarily must be re-compressed to standard dimensions and densities to be marketable. As a result, CCC bears the expense of moving, re-compressing, and re-identifying such cotton to make it merchantable if it is delivered to CCC in satisfaction of a loan obligation. Because such bales are not commonly merchantable "as is", it is appropriate that any such bales are not provided loan eligibility. Comments are requested regarding discontinuing loan eligibility for flat and modified flat bales.

List of Subjects in 7 CFR Part 1427

Cotton, Loan program-agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements.

Accordingly, FSA proposes to amend 7 CFR part 1427 as follows.

PART 1427—COTTON

1. The authority citation for part 1427 continues to read as follows:

Authority: 7 U.S.C. 7231–7237; and 15 U.S.C. 714b and 714c.

2. Revise § 1427.3 to read as follows:

§ 1427.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration regarding the cotton loan and loan deficiency payment programs. The terms defined in parts 718 of this title and 1412 of this chapter shall also be applicable.

Approved cooperative marketing association (CMA) means a cooperative marketing association approved in accordance with part 1425 of this chapter and which has executed Form CCC-Cotton G, Cotton Cooperative Loan Agreement.

Charges means all fees, costs, and expenses incurred by CCC in insuring, carrying, handling, storing, conditioning, and marketing the cotton tendered to CCC for loan. Charges also include any other expenses incurred by CCC in protecting CCC's or the producer's interest in such cotton.

Cotton means upland cotton and extra loan staple cotton meeting the definition set forth in the definitions of "upland cotton" and "extra long staple (ELS) cotton" in this section, respectively, and excludes cotton not meeting such definitions.

Cotton clerk means a person approved by CCC to assist producers in preparing loan and loan deficiency documents.

Cotton commercial bank means the bank designated as the financial institution for a CMA or loan servicing agent.

Electronic Agent Designation is an electronic record that: (1) Designates the entity authorized by a producer to redeem all of the cotton pledged as collateral for a specified loan, (2) is maintained by providers of electronic warehouse receipts, and (3) A producer may authorize CCC to use as the basis for the redemption and release of loan collateral.

Extra long staple cotton (ELS) means any of the following varieties of cotton which is produced in the United States and is ginned on a roller gin:

(1) American-Pima;

(2) All other varieties of the Barbadian species of cotton, and any hybrid thereof; and

(3) Any other variety of cotton in which one or more of these varieties predominates.

False Packed Cotton means cotton in a bale: Containing substances entirely

foreign to cotton; containing damaged cotton in the interior with or without any indication of the damage on the exterior; composed of good cotton on the exterior and decidedly inferior cotton in the interior, but not detectable by customary examination; or, containing pickings or linters worked into the bale.

Financial institution means:

(1) A bank in the United States which accepts demand deposits; and

(2) An association organized pursuant to Federal or State law and supervised by Federal or State banking authorities.

Form A loan means a non-recourse loan executed on Form CCC—Cotton A, Cotton Producer's Note and Security Agreement.

Form G loan means a non-recourse loan to a CMA on eligible cotton delivered to the CMA by eligible members of the CMA.

Lint cotton means cotton that has passed through the ginning process.

Loan servicing agent means a legal entity that enters into a written agreement with CCC to act as a loan servicing agent for CCC in making and servicing Form A cotton loans. The loan servicing agent may perform, on behalf of CCC, only those services which are specifically prescribed by CCC including, but not limited to, the following:

(1) Preparing and executing loan and loan deficiency payment documents;

(2) Disbursing loan and loan deficiency payment proceeds;

(3) Handling re-concentration of cotton in accordance with § 1427.16;

(4) Accepting loan repayments;

(5) Handling documents involved with forfeiture of loan collateral to CCC; and

(6) Providing loan, loan deficiency payment, and accounting data to CCC for statistical purposes.

Seed cotton means cotton which has not passed through the ginning process.

Upland cotton means planted and stub cotton which is produced in the United States from other than pure strain varieties of the Barbadense species, any hybrid thereof, or any other variety of cotton in which one or more of these varieties predominates.

Warehouse receipt means a receipt issued with respect to a bale of cotton by a warehouse with an existing cotton storage agreement, approved by CCC, in accordance with §§ 1427.1081 through 1427.1089, which is:

(1) A negotiable, machine card type warehouse receipt that is pre-numbered and pre-punched;

(2) An electronic warehouse receipt record issued by such warehouse recorded in a central filing system or

systems maintained in one or more locations which are approved by FSA or CCC to operate such system; or

(3) Other such acceptable evidence of title, as determined by CCC.

3. Amend § 1427.5 by revising paragraphs (a)(1), (b)(5), (b)(6), (b)(9), (b)(10)(i), (b)(11)(ii), (b)(12), (c), (d), (e)(2)(iii)(E), (e)(2)(iii)(F), and adding paragraph (b)(13) to read as follows:

§ 1427.5 General eligibility requirements.

(a) * * *

(1) Form A loan documents or loan deficiency payment applications must be signed by the producer and delivered with acceptable production evidence to applicable county office or loan servicing agent. Such delivery, in the case of submissions by cotton clerks, must occur within 15 calendar days after the producer signs such documents and within the period of loan availability. A producer must request loans and loan deficiency payments:

* * * * *

(b) * * *

(5) Not be compressed to a density defined as a "flat" or "modified flat" bale by the Joint Cotton Industry Bale Packaging Committee;

* * * * *

(9) Weigh at least 325 pounds net weight; bales of more than 600 pounds may be pledged for loan at 600 pounds;

* * * * *

(10) * * *

(i) Copies of the applicable crop year specifications for cotton bale packaging materials published by the Joint Cotton Industry Bale Packaging Committee are available upon request at the county office and at the following address: Joint Cotton Industry Bale Packaging Committee, National Cotton Council of America, P.O. Box 12285, Memphis, Tennessee 38112. Copies may be inspected at the South Agriculture Building, Room 4089 A, 1400 Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, and at an internet website announced by CCC.

* * * * *

(11) * * *

(ii) Who has entered into CCC-809, Cooperating Ginners' Bagging and Bale Ties Certification and Agreement, or certified that the bale is wrapped with bagging and bale ties meeting the requirements of paragraph (b)(10) of this section;

(12) Be production from acreage that has been reported timely in accordance with part 718 of this title, and

(13) Be represented by identity and classification information provided by

the producer by electronic media, in a format provided by CCC, at the time a loan or loan deficiency payment is requested.

(c) In addition to the requirements of paragraph (b) of this section, for ELS cotton the bale must:

(1) Be a color grade, staple length, and leaf specified in the schedule of loan rates for ELS cotton and of a staple length of not less than 44/32 inch, and

(2) Not have a micronaire reading of 2.6 or less.

(d) In addition to the requirements of paragraph (b) of this section, for upland cotton the bale must:

(1) Have been produced on a farm with a production flexibility contract in accordance with part 1412 of this chapter;

(2) Have been graded by using a High Volume Instrument;

(3) Be a grade, staple length, strength, micronaire and leaf specified in the schedules of premiums and discounts for grade, staple length, strength, micronaire and leaf for upland cotton; and

(4) Have a level of extraneous matter specified in the schedule of discounts for extraneous matter for upland cotton.

* * * * *

(e) * * *

(2) * * *

(iii) * * *

(E) Must be presented with any request to redeem loan collateral at the county office or loan servicing agent where the loan originated, if the agent or subsequent agent exercises any authority granted by the producer, unless the producer provides authorization to CCC to use, in place of the original CCC-605, an electronic agent designation as the basis for accepting redemption of some or all bales of the specified loan; and

(F) May be canceled by the producer by providing the custodial office a written request signed and dated by the producer showing the name of the agent, the loan number, and the bales applicable to the Form CCC-605. The effective date of the cancellation shall be the date the request is received by the custodial office. If CCC has been authorized by a producer to use an electronic agent designation, the producer's cancellation of his authorization for CCC to use such electronic designation of agent shall be effective when CCC receives verification from the provider of the warehouse receipts maintaining the electronic agent designation record that such record has been voided.

* * * * *

4. Amend § 1427.6 by revising paragraph (b) to read as follows:

§ 1427.6 Disbursement of loans.

* * * * *

(b) Loan proceeds may be disbursed by CCC or a cotton commercial bank.

* * * * *

5. Amend § 1427.9 by revising paragraph (a) to read as follows:

§ 1427.9 Classification of cotton.

(a) References made to "classification" in this subpart shall include color grade, staple length, leaf, extraneous matter, and micronaire, and for upland cotton, strength readings. All cotton tendered for loan must be classed by an Agricultural Marketing Service (AMS) Cotton Classing Office or other entity approved by CCC and tendered on the basis of such classification.

* * * * *

6. Amend § 1427.11 as follows:

- a. By adding paragraph (a)(4);
- b. Revising paragraphs (c)(1);
- c. Removing paragraph (c)(2);
- d. Redesignating paragraph (c)(3) as paragraph (c)(2); and
- e. Revising paragraph (f).

The addition and revisions read as follows:

§ 1427.11 Warehouse receipts.

(a) * * *

(4) Contain classification information for the bale.

* * * * *

(c)(1) Each receipt in its written or printed terms may contain the tare weight and must contain the net weight of the bale represented thereby. The net weight shown on the warehouse receipt shall be the difference between the gross weight as determined by the warehouse at the warehouse site and the tare weight. The warehouse receipt may show the net weight established at a gin if:

(i) The gin is in the immediate vicinity of the warehouse and is operated under common ownership with such warehouse, or in any other case in which the showing of gin weights on the warehouse receipts is approved by CCC; and

(ii) Gin weights are permitted by the licensing authority for the warehouse.

* * * * *

(f) In any case where loan collateral is forfeited, any unpaid storage or receiving charges, not to exceed the amount that accrued from the date that all necessary documents were received by CCC to the maturity date, will be paid to the warehouse by CCC after loan maturity or as soon as practicable after the cotton is ordered shipped by CCC.

* * * * *

7. Amend § 1427.13 by revising paragraph (e)(1) to read as follows:

§ 1427.13 Charges and interest.

* * * * *

(e) * * *

(1) All warehouse storage charges associated with the forfeited cotton that accrued before the date that all required documents are provided to CCC; and

(2) Any accrued warehouse receiving charges associated with the forfeited cotton, including, if applicable, charges for new ties as specified in § 1427.11.

* * * * *

8. Section 1427.19 is revised to read as follows:

§ 1427.19 Repayment of loans and certificate exchanges.

(a) Warehouse receipts will not be released except as provided in this section.

(b) A producer or agent or subsequent agent authorized on Form CCC-605 or otherwise may redeem one or more bales of cotton pledged as collateral for a loan by payment to CCC of an amount applicable to the bales of cotton being redeemed determined in accordance with this section. CCC, upon proper payment for the amount due, shall release the warehouse receipts applicable to such cotton.

(c) An agent or subsequent agent whose authorization by a producer to redeem loan collateral is recorded in an Electronic Agent Designation may redeem all bales of cotton pledged as collateral for a loan by payment to CCC of an amount applicable to the bales of cotton being redeemed determined in accordance with this section.

(d) A producer or agent or subsequent agent authorized on Form CCC-605 or whose authorization is recorded in an Electronic Agent Designation, may repay the loan amount for one or more bales of cotton pledged as collateral for a loan:

(1) For upland cotton, at a level that is the lesser of:

(i) The loan level and charges, plus interest determined for such bales; or

(ii) The adjusted world price, as determined by CCC in accordance with § 1427.25, in effect on the day the repayment is received by the county office, loan servicing agent, or servicing agent bank that disbursed the loan.

(2) For ELS cotton, by repaying the loan amount and charges, plus interest determined for such bales.

(e) CCC shall determine and publicly announce the adjusted world price for each crop of upland cotton on a weekly basis.

(f) The difference between the loan level, excluding charges and interest, and the loan repayment level is the market gain. The total amount of any market gain realized by a person is

subject to the payment limitation provided in part 1400 of this chapter.

(g) Repayment of loans will not be accepted after CCC acquires title to the cotton in accordance with § 1427.7.

(h) If the upland cotton pledged as collateral is eligible to be repaid at a rate less than the loan level and charges, plus interest, and the adjusted world price determined in accordance with § 1427.25 is:

(1) Below the national average loan rate for upland cotton, CCC will pay at the time of loan repayment to the producer or agent or subsequent agent authorized on Form CCC-605 the warehouse storage charges which have accrued, with respect to the cotton pledged as collateral for such loan, during the period the cotton was pledged for loan;

(2) Above the national average loan rate by less than the sum of the accrued interest and warehouse storage charges, that accrued during the period the cotton was pledged for loan, CCC will pay at the time of loan repayment to the producer or agent or subsequent agent authorized on Form CCC-605, that portion of the warehouse storage charges, that accrued during the period the cotton was pledged for loan, that are determined to be necessary to permit the loan to be repaid at the adjusted world price without regard to any warehouse charges that accrued before the cotton was pledged for loan; or

(3) Above the national average loan rate by as much as or more than the sum of the accrued interest and warehouse storage charges that accrued during the period the cotton was pledged for loan, CCC shall not pay any of the accrued warehouse storage charges.

9. Section 1427.23 is amended by revising paragraphs (b)(2), (b)(4), (b)(5), (c), and (f) and by removing paragraph (g), to read as follows:

§ 1427.23 Cotton loan deficiency payments.

* * * * *

(b) * * *

(2) Agree to forgo obtaining such loans unless denied a loan deficiency payment due to payment limitation;

* * * * *

(4) Provide warehouse receipts or, as determined by CCC, a list in an electronic format prescribed by CCC of gin bale numbers for such cotton showing, for each bale, the net weight established at the gin and classing information for such quantity in accordance with § 1427.9;

(5) For loan deficiency payment requests and requests for locking-in the adjusted world price for seed cotton prior to ginning, provide identifying

numbers for cotton modules or other storage units that will correspond to the gin-assigned bale numbers for which the loan deficiency payments are requested; and

* * * * *

(c) Subject to the availability of funds and limitations on payments set out elsewhere, the loan deficiency payment applicable to a crop of cotton shall be computed by multiplying the applicable loan deficiency payment rate, as determined in accordance with paragraph (d) of this section, by the quantity of the crop the producer is otherwise eligible to pledge as collateral for a loan in accordance with § 1427.8(b).

* * * * *

(f) If the producer enters into an agreement with CCC on or before the date of ginning a quantity of eligible upland cotton, and the producer has the beneficial interest in such quantity as determined in accordance with § 1427.5(c), on the date the cotton was ginned, the loan deficiency payment rate applicable to such cotton will be the loan deficiency payment rate:

(1) Based on the date the cotton was ginned if payment application is made using CCC-709;

(2) Based on the date a complete payment request including production evidence is submitted, if the request is made after ginning using CCC-Cotton AA;

(3) Based on the date of request for lock-in of the adjusted world price if the request is made before ginning of the cotton that is identified by gin-supplied module or other storage unit number using CCC-Cotton AA. In such cases, the producer must meet all the other requirements in paragraph (b) on or before the final date to apply for a loan deficiency payment in accordance with § 1427.5.

10. Amend § 1427.25 by revising paragraph (e) to read as follows:

§ 1427.25 Determination of the prevailing world market price and the adjusted world price for upland cotton.

* * * * *

(e) The adjusted world price for upland cotton as determined in accordance with paragraph (c) of this section, and the amount of the additional adjustment as determined in accordance with paragraph (f) of this section, shall be announced, to the extent practicable, at 5 p.m. eastern time each Thursday continuing through the last Thursday of July 2003. The adjusted world price and the amount of the additional adjustment will be effective at 12:01 a.m. eastern time each Friday and will remain in effect for a period as

announced by CCC. In the event that Thursday is a non-workday, the determination will be announced and will be effective, to the extent practicable, at 8 a.m. eastern time the next workday.

§§ 1427.50–1427.58 [Removed and reserved]

11. Remove and reserve subpart B consisting of § 1427.50 through § 1427.58.

12. Amend § 1427.165 by adding new paragraph (a)(8) to read as follows:

§ 1427.165 Eligible seed cotton.

(a) * * *

(8) Not be cotton for which a loan deficiency payment or a lock-in of the adjusted world price has been requested.

* * * * *

Signed at Washington, DC, on April 30, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02-11352 Filed 5-8-02; 8:45 am]

BILLING CODE 3410-05-P

Washington, DC 20536. To ensure proper handling please reference INS No. 1847-97 on your correspondence. You may also submit comments electronically to the Service at insregs@usdoj.gov. When submitting comments electronically please include INS No. 1847-97 in the subject box. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Lisa Batey, Office of the General Counsel, Immigration and Naturalization Service, 425 I Street NW, Room 6100, Washington, DC 20536, telephone (503) 231-4049, or Cristina Hamilton, Office of the General Counsel, at (202) 514-2895. For matters relating to the Executive Office for Immigration Review: Chuck Adkins-Blanch, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, telephone (703) 305-0470.

SUPPLEMENTARY INFORMATION:

I. Background

On September 4, 1998, the Department of Justice (Department) published a proposed rule in the **Federal Register** at 63 FR 47205, providing procedures that must be followed by an alien subject to a final order of removal. After a careful review, the Department is publishing a supplementary proposed rule on these issues. This rule is substantially the same as that proposed by former Attorney General Janet Reno, with some changes discussed herein. One principal change is that the requirements of this rule will not be limited only to aliens who are served with a Notice to Appear after the effective date of this rule; such a limitation, as stated in the 1998 proposed rule, would unnecessarily impair the effectiveness of this rule. Instead, this rule provides that the requirements of this rule shall also be applied to aliens who are currently in immigration proceedings, as long as they receive the requisite notice. Moreover, this supplementary proposed rule reflects a renumbering of the new regulatory provisions in light of other new sections that the Service has added to 8 CFR part 241 after the proposed rule was published.

What Is the Purpose of This Supplementary Proposed Rule?

The purpose of this supplementary proposed rule is to establish procedures requiring aliens who have received a final order of removal to surrender to the Service for removal from the United

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 3, 236, 240, and 241

[INS No. 1847-97; AG Order No. 2579-2002]

RIN 1115-AE82

Requiring Aliens Ordered Removed from the United States To Surrender To the Immigration and Naturalization Service for Removal

AGENCY: Immigration and Naturalization Service, Justice, and Executive Office for Immigration Review, Justice.

ACTION: Proposed rule.

SUMMARY: This supplementary proposed rule would amend the regulations of the Immigration and Naturalization Service (Service) and the Executive Office for Immigration Review (EOIR) by requiring aliens subject to a final order of removal to surrender themselves to the Service. This rule also establishes procedures for surrender and provides that aliens violating those procedures will be denied certain discretionary immigration benefits.

DATES: Written comments must be submitted on or before June 10, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division (HQRFS), Immigration and Naturalization Service, 425 I Street, NW, Room 4034,