

evidence that the claim period was preserved in accordance with § 551.702 and of the liability of the agency and the claimant's right to payment.

(2) *Requesting confidentiality.* If the claimant wishes the claim to be treated confidentially, the claim must specifically request that the identity of the claimant not be revealed to the agency. Witnesses or other sources may also request confidentiality. OPM will make every effort to conduct its investigation in a way to maintain confidentiality. If OPM is unable to obtain sufficient information to render a decision and preserve the requested confidentiality, OPM will notify the claimant that the claim will be cancelled with no further action by OPM unless the claimant voluntarily provides written authorization for his or her name to be revealed.

(b) *Agency.* (1) In FLSA exemption status determination claims, the burden of proof rests with the agency that asserts the FLSA exemption.

(2) The agency must provide the claimant with a written acknowledgment of the date the claim was received.

(3) Upon a claimant's request, and subject to any Privacy Act requirements, an agency must provide a claimant with information relevant to the claim.

(4) The agency must provide any information requested by OPM within 15 workdays after the date of the request, unless the agency requests additional time and OPM grants a longer period of time in which to provide the requested information.

#### **§ 551.707 Withdrawal or cancellation of an FLSA claim.**

(a) *Withdrawal.* OPM may grant a request from the claimant or claimant's representative to withdraw an FLSA claim at any time before OPM issues its decision. The claimant or the claimant's representative must submit the request in writing to OPM.

(b) *Cancellation.* OPM may, at its discretion, cancel an FLSA claim if the claimant or the claimant's representative fails to provide requested information within 15 workdays after the date of the request, unless the claimant or the claimant's representative requests additional time and OPM grants a longer period of time in which to provide the requested information. OPM may, at its discretion, reconsider a cancelled claim on a showing that circumstances beyond the claimant's control prevented pursuit of the claim.

#### **§ 551.708 Finality and effect of OPM FLSA claim decision.**

(a) OPM will send an FLSA claim decision to the claimant or the claimant's representative and the agency. An FLSA claim decision made by OPM is final. There is no further right of administrative appeal. However, at its discretion, OPM may reconsider its FLSA claim decision when material information was not considered or there was a material error of law, regulation, or fact in the original decision. The request must be submitted in writing and received by OPM within 45 calendar days after the date of the decision. At its unreviewable discretion, OPM may waive the time limit.

(b) A decision by OPM under the Act is binding on all administrative, certifying, payroll, disbursing, and accounting officials of agencies for which OPM administers the Act.

(c)(1) Upon receipt of a decision, the agency employing the claimant during the claim period must take all necessary steps to comply with the decision, including adherence to compliance instructions provided with the decision. All compliance actions must be completed within the time specified in the decision, unless an extension of time is requested by the agency and granted by OPM.

(2) The agency should identify all similarly situated current and former employees to ensure that they are treated in a manner consistent with the decision on FLSA coverage, informing them in writing of their right to file an FLSA claim with the agency or OPM.

#### **§ 551.709 Availability of information.**

(a) Except when the claimant has requested confidentiality, the agency and the claimant must provide to each other a copy of all information submitted with respect to the claim.

(b) When a claimant has not requested confidentiality, OPM will disclose to the parties concerned the information contained in an FLSA claim file. When a claimant has requested confidentiality, OPM will delete any information identifying the claimant before disclosing the information in an FLSA claim file to the parties concerned. For the purposes of this subpart, *the parties concerned* means the claimant, any representative designated in writing, and any representative of the agency or OPM involved in the proceeding.

(c) Except when the claimant has requested confidentiality or the disclosure would constitute a clearly unwarranted invasion of personal privacy, OPM, upon a request which identifies the individual from whose file the information is sought, will disclose

the following information from a claim file to a member of the public:

- (1) Confirmation of the name of the individual from whose file the information is sought and the names of the other parties concerned;
- (2) The remedy sought;
- (3) The status of the claim;
- (4) The decision on the claim; and
- (5) With the consent of the parties concerned, other reasonably identified information from the file.

#### **§ 551.710 Where to file an FLSA claim with OPM.**

An FLSA claim must be filed with the OPM Classification Appeals and FLSA Program, 1900 E Street, NW., Washington, DC 20415-0001.

[FR Doc. 06-4886 Filed 5-25-06; 8:45 am]

BILLING CODE 6325-39-P

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 1218**

[Doc. No. FV-06-702-Notice]

#### **Blueberry Promotion, Research, and Information Order; Continuance Referendum**

**AGENCY:** Agricultural Marketing Service, Agriculture.

**ACTION:** Notice of a Continuance Referendum.

**SUMMARY:** This notice directs that a referendum be conducted among the eligible producers and importers of blueberries to determine whether they favor continuance of the Blueberry Promotion, Research, and Information Order (Order).

**DATES:** This referendum will be conducted from August 1, 2006 through August 22, 2006. To vote in this referendum, producers and importers must have paid assessments on blueberries produced or imported during the representative period of November 1, 2004 through October 31, 2005.

**ADDRESSES:** Copies of the Order may be obtained from: Referendum Agent, Research and Promotion Branch (RP), Fruit and Vegetable Programs (FV), AMS, USDA, Stop 0244, Room 2535-S, 1400 Independence Avenue, SW., Washington, DC 20250-0244, telephone 888-720-9917 (toll free). Fax 202-205-2800, e-mail [deborah.simmons@usda.gov](mailto:deborah.simmons@usda.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to the Commodity Promotion, Research, and Information Act of 1996 (Pub. L.

104-427, 7 U.S.C. 7401-7425) (Act), a referendum is to be conducted not later than seven years after assessments first begin under an order to ascertain whether continuance of the Order is favored by producers and importers of blueberries. The Order is authorized under the Act.

The initial referendum was conducted during the period of March 13 through April 14, 2000. The final results of the initial referendum were that 67.84 percent of the voters in the referendum favored implementation of the Order. Those voting in favor represented 73.15 percent of the volume represented in the referendum. Therefore, the Order became effective July 17, 2000.

Under § 1218.71 of the Order, the Department of Agriculture (Department) is authorized to conduct a referendum every five years or when 10 percent or more of the eligible voters petition the Secretary of Agriculture to hold a referendum to determine if persons subject to assessment favor continuance of the Order. The Department would continue the Order if continuance of the Order is approved by a majority of the producers and importers voting in the referendum who also represent a majority of the volume of blueberries produced or imported during the representative period determined by the Secretary.

The representative period for establishing voter eligibility for the referendum shall be the period from November 1, 2004 through October 31, 2005. Persons who are producers and importers of blueberries and paid assessments during the representative period are eligible to vote. Persons who received an exemption from assessments for the entire representative period are ineligible to vote. The referendum shall be conducted by mail from August 1, 2006 through August 22, 2006.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0093. It is estimated that there are approximately 1,586 producers and 135 importers who will be eligible to vote in the referendum. It will take an average of 25 minutes for each voter to read the voting instructions and complete the referendum ballot.

#### Referendum Order

Deborah S. Simmons, Marlene M. Betts and Margaret B. Irby, RP, FV, AMS, USDA, Stop 0244, Room 2535-S, 1400 Independence Avenue, SW., Washington, DC 20250, are designated

as the referendum agents to conduct this referendum. The referendum procedures 7 CFR 1218.100 through 1218.107, which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agents will mail the ballots to be cast in the referendum and voting instructions to all known producers and importers prior to the first day of the voting period. Persons who are producers and importers and who paid assessments during the representative period are eligible to vote. Ballots must be received by the referendum agent beginning August 1, 2006, through 4:30 p.m., Eastern Daylight Savings Time, August 22, 2006, in order to be counted.

**Authority:** 7 U.S.C. 7401-7425.

Dated: May 22, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E6-8101 Filed 5-25-06; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1427

**RIN 0560-AH48**

#### Storage, Handling, and Ginning Requirements for Cotton Marketing Assistance Loan Collateral

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule proposes amending regulations governing the cotton Marketing Assistance Loan Program of the Commodity Credit Corporation (CCC) that is authorized by the Farm Security and Rural Investment Act of 2002 (2002 Act). The major proposed regulatory changes would impact the administration of the program by amending regulations governing: The outside storage of upland cotton pledged as collateral for CCC loans; the certification provided by approved ginners to produce bales that are compliant with CCC loan eligibility requirements; the reconcentration and transfer of upland cotton pledged as collateral for CCC loans; and the storage credit provided to producers when an upland cotton marketing assistance loan is repaid.

**DATES:** Comments should be received on or before June 26, 2006.

**ADDRESSES:** CCC invites interested persons to submit comments on this

proposed rule and on the collection of information required to administer the affected regulations. Comments may be submitted by any of the following methods:

- E-Mail: Send comments to [gene.rosera@wdc.usda.gov](mailto:gene.rosera@wdc.usda.gov).
- Fax: Submit comments by facsimile transmission to: (202) 690-1536.
- Mail: Send comments to: Director, Price Support Division, Farm Service Agency, United States Department of Agriculture (USDA), Rm. 4095-S, 1400 Independence Avenue, SW., Washington, DC 20250-0512.
- Hand Delivery or Courier: Deliver comments to the above address.
- Federal Rulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

All written comments will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday.

#### FOR FURTHER INFORMATION CONTACT:

Gene Rosera; phone: (202) 720-8481; e-mail: [gene.rosera@wdc.usda.gov](mailto:gene.rosera@wdc.usda.gov); or fax: (202) 690-1536.

#### SUPPLEMENTARY INFORMATION:

##### Background

CCC regulations generally require that cotton loan collateral must be stored inside a warehouse for the cotton to be eligible for marketing assistance loan. Cotton regulations at 7 CFR 1427.5 provide that for a bale of cotton to be eligible to be pledged as collateral for a marketing assistance loan, the bale must be stored inside a warehouse approved by CCC. An exception to this general requirement is provided by regulations at 7 CFR 1427.10 that provide that a commercial entity involved in handling or storage of cotton in a county or area determined and announced by CCC may be approved for outside storage of 2003 and subsequent crops of extra long staple (ELS) cotton. Such outside storage is subject to site requirements and terms and conditions regarding collateral identification and location as provided in an appendix to the ELS cotton note and security agreement.

According to the January 2006 Crop Production Summary of the USDA Agricultural Statistics Board, total cotton production in Texas, estimated at 4.374 million bales in 2003, increased to 7.778 million bales in 2004 (about a 78 percent increase) and to 8.245 million bales in 2005 (a 6 percent increase from the prior year.) The available approved cotton storage warehouse capacity in West Texas has not kept pace with these production increases, and the result has