

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]

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## 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

been that loan cotton was stored outside for extended periods both years. In response to this shortage of approved cotton storage, on May 13, 2005, the CCC informed cotton warehouse operators through Notice to the Trade BCD-97 that they could apply for approval of short-term temporary storage subject to placing any 2004-crop cotton loan collateral in conventional space by June 1, 2005 (later extended to June 27, 2005). In early March, 2005, the quantity of loan cotton stored outside exceeded 118,000 bales.

In response to storage shortages that began in December, 2005, CCC, on January 18, 2006, issued Notice to the Trade BCD-117, allowing warehouse operators to again request temporary use of yard storage for 2005-crop cotton loan collateral, to be limited to the earlier of 90 days from the original storage date or April 1, 2006. This deadline was subsequently extended to May 1, 2006. By early March, 2006, the quantity of loan cotton stored outside topped 435,000 bales, equal to 93 percent of the Texas crop increase for the year.

These recent authorizations by CCC of outside storage for upland cotton are viewed by some industry entities as counterproductive to CCC's interests. The traditional requirement for inside storage of loan cotton has wide support for being essential to prevent quality losses from sun, dust, and moisture. This view has been bolstered by complaints from cotton buyers regarding U.S. cotton quality. In the end, CCC has strived to provide a balance between the practical needs for storing back-to-back bumper crops with the need for reasonable crop protection to protect the quality and reputation of U.S. cotton for domestic and export buyers.

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 in good condition and not be false-packed or water-packed. False-packed cotton is defined by regulations at 7 CFR 1427.3 as containing damaged cotton in the interior with or without any indication of the damage on the exterior; or cotton composed of good cotton on the exterior and decidedly inferior cotton in the interior, but not detectable by customary examination. Water-packed cotton is defined by 7 CFR 28.40(h) as cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

The incidence of water damage in cotton loan collateral has historically

been minimal. The wet bales that have occasionally been produced at gins have, most commonly, occurred as a result of the variability of moisture in seed cotton. It is common practice for cotton gins to dry excessively moist seed cotton, if required, before ginning, or to add some moisture if the cotton is too dry. The moisture restoration systems at cotton gins use humidified air, liquid water sprays, or a combination of both systems. These systems may be employed before the gin stand, at the battery condenser, or at the lint slide before the cotton is pressed. Generally, cotton is thought to gin best at 6 to 7 percent moisture content (wet basis) which minimizes breakage and allows for fiber separation. Moisture in this range also aids in the bale compression by reducing the amount of needed pressure.

During the 2005 marketing year for cotton, CCC determined that the cotton produced at two gins was water damaged and, therefore, ineligible as collateral for a loan. The damage to the bales was discovered after the cotton had been accepted by CCC as loan collateral, and some cotton merchants had been designated as agents for the cotton, implying that the cotton had figured into their marketing plans. Still other cotton from the gins had already been sold. Both of the gins employed direct liquid water spray systems. As a result of the losses and marketing disruptions resulting from these bales being water damaged, CCC has received comments with respect to whether policy changes are needed in this matter. One national organization commented that cotton lint exposed to direct liquid water spray at a gin should not be eligible to be used as collateral for CCC loans. Others have commented that direct liquid spray equipment has been used by many gins without damaging the cotton.

#### Discussion of Comments

CCC published an advance notice of proposed rulemaking on February 13, 2006 at 71 FR 7445. During the 60-day comment period, CCC received 43 comments. Respondents included 4 national organizations, 8 regional organizations, 15 cotton storage warehouses, and 16 individuals or companies. Regarding CCC's overall storage requirements regarding upland loan cotton, the comments received indicate a lack of industry consensus as to appropriate policy. Generally, warehouses support use of outside storage on a temporary, case-by-case basis when justified by extraordinary circumstances, with such storage subject to requirements such as use of dunnage

or additional protection of the cotton. Cotton merchants stated that outside storage contributes to the damage of such cotton and is detrimental to producers and cotton users. Many specific recommendations were provided as to how CCC might restrict the use of such outside storage. Generally, there is no support for CCC to reduce the loan rate for loan cotton that might be stored outside, but some comments are that CCC should reduce or provide no storage credit for outside-stored cotton as an incentive to producers and warehouses to store cotton indoors. Regarding the storage credit provided for outside-stored loan collateral, many comments supported CCC providing the full storage credit, and others commented that the storage costs affect U.S. cotton competitiveness. Other comments are that outside storage has its own unique costs, or that no reduction in the storage credit is warranted because the incidence of damage to loan cotton from the use of outside storage has been minimal. Two national producer or industry organizations support a policy of requiring loan cotton to be stored inside except to accommodate temporary, extraordinary or unforeseen conditions. Although respondents support a storage policy to ensure that cotton is protected, their views differ as to whether outside storage constitutes a risk to the cotton. Some maintain that there are no procedures that can mitigate the incidence of rain, dust, or sun damage, while other comments minimize such risks, or contend that outside storage has been justified due to extraordinary, localized production increases. The comments, in general, support the conclusion that outside storage exposes cotton to specific risks of damage from water, dust, sun bleaching, and possibly mold from water trapped by double bagging. Those supporting use of temporary outside storage generally contend that practices such as use of dunnage and double wrapping or covering of bales provides sufficient protection; other contend that the packaging standards of the Joint Cotton Industry Bale Packaging Committee were not established for outside storage and, thus, there are no materials determined appropriate for outside use.

There were many comments regarding CCC allowing producers or agents of producers to request "re-concentration" of loan cotton. Re-concentration is the term used to describe the movement of CCC loan cotton from one warehouse to another. Two national organizations stated that any reconcentration policy should not affect the integrity of

electronic warehouse receipts, and that CCC should pay accrued storage to warehouses prior to reconcentrations. Other comments supported reconcentrations only under limited circumstances, such as for cotton stored outside or other warehouse violations. Concern was stated that any unlimited opportunities for merchants to relocate loan cotton would benefit a few and possibly add to cotton flow problems.

CCC has concluded from the comments provided that the relocation of loan cotton, at the expense of the producer or producer's agent, is a reasonable course of action regardless of whether the original storing warehouse consents to the movement of the cotton. The transfer of loan collateral should ameliorate the risks of quality deterioration of the cotton, relieve regional shortage congestion, and facilitate more efficient marketing of cotton.

Regarding the existing 4.5 percent weekly minimum shipping standard, several comments suggested that the standard should be amended to be based on the higher of approved capacity or the quantity of bales on hand. A few commented that the weekly minimum standard is inadequate and should be raised to meet needs of the growing export-oriented market. Other comments suggested that USDA should enforce the existing standard or support steps to improve warehouse shipping performance through weekly performance reporting or new standards. At this time, and based on its current statutory authorities, CCC is not proposing any new warehouse performance or reporting requirements related to the 4.5 percent weekly shipping requirement. CCC continues to examine warehouse performance against this current standard and has not completed its review. However, CCC understands the importance of the enforcement of a standard to the efficient flow of cotton, and is receptive to support any improvements in the standard, or enforcement procedures, that may be developed and recommended by a consensus of industry representatives.

#### **Proposed Changes**

CCC proposes to revise regulations at 7 CFR part 1427 to: Provide cotton loan eligibility consistent with any short-term needs for outside storage of upland cotton loan collateral; improve the flow of cotton by removing excessive incentives to store cotton; and protect CCC from assuming losses that result from accepting upland cotton as collateral for a loan that has unpaid charges.

#### *A. Outside Storage of Upland Loan Cotton*

Based on the comments received, and consistent with CCC objectives in administering the marketing assistance loan program for upland cotton, CCC has concluded that, in spite of the inherent risk of increasing the damage to cotton by storing it outside, the use of outside storage may be unavoidable under some circumstances beyond the control of the producer. Depriving the producer of eligibility for marketing assistance loan benefits based on circumstances that may arise after the production of the crop would raise concerns over the fairness of policy and could disrupt the marketing of the cotton. However, CCC is mindful that a relaxed storage policy may also increase the use of outside storage when inside storage may be available nearby or within economically practicable distances. CCC, therefore, concludes that its policy regarding the storage of cotton needs to accommodate special circumstances without creating incentives that might indirectly increase the use of outside storage when it may not be warranted. Accordingly, CCC proposes to amend the cotton loan eligibility requirements to amend the storage requirements for a bale of cotton to be eligible as collateral for a marketing assistance loan. Generally, CCC will continue to require that a bale of cotton must be stored inside a cotton storage warehouse but will annually determine in which counties outside storage for cotton pledged as collateral for a CCC loan may be used subject to the following special provisions: (1) As part of the application for approval of the use of outside storage, the warehouse must agree to implement special storage requirements, including but not limited to, additional packaging, dunnage, security, and insurance coverage with CCC named as the loss payee, and (2) the loan repayment amount will not be reduced by any storage credit as would apply to loan cotton stored inside.

#### *B. Reconcentration of Cotton*

The changes in domestic cotton marketing caused by strong export market demand have altered domestic cotton marketing channels and, as a result, have created more urgency to move cotton efficiently through marketing channels. The 9-month loan term for marketing assistance loans, coupled with crediting the repayment of the loan for accrued storage charges, may create incentives to maintain the upland cotton in the loan program and adversely delay marketings. In order to

ameliorate risks of quality deterioration to CCC marketing loan collateral, relieve regional storage congestion, and facilitate more efficient cotton marketing, CCC proposes to amend regulations at 7 CFR 1427.16, Reconcentration of Cotton, to allow the transfer of 2006 and subsequent crop cotton under loan from one CCC-approved warehouse to another CCC-approved warehouse. Under the proposed process, upon receipt of a transfer application from the producer or producer's authorized agent, CCC will enter into a transfer agreement providing that: (1) CCC will continue to be holder of the negotiable electronic warehouse receipts from the original storing warehouse during the period of the transfer; (2) the cotton will be moved at the expense of the producer to another CCC-approved cotton storage warehouse (the receiving warehouse) which must have signed the transfer application to indicate its ability to accept the cotton; (3) the receiving warehouse will issue a non-negotiable electronic warehouse receipt in coverage of the depositor obligation represented by the negotiable electronic warehouse receipts for the transferred cotton; (4) the receiving warehouse will, when requested, cancel and replace the non-negotiable electronic warehouse receipt with negotiable electronic warehouse receipts; (5) the original storing warehouse operator must agree to cancel the negotiable electronic warehouse receipts and deliver the non-negotiable electronic warehouse receipt to the receiving warehouse operator promptly upon notice by the producer or CCC; and (6) all CCC loan servicing, including, but not limited to the loan and repayment rates and warehouse charges, will be based on the terms and conditions of the original storage location. The producer or the requestor of any transfer of loan cotton is responsible for all costs associated with relocating loan cotton, regardless of the circumstances prompting the relocation. This includes any costs of moving loan cotton to inside storage for its delivery to CCC in satisfaction of a loan obligation. CCC assumes responsibility only for the costs of relocating cotton it owns.

#### *C. Ginner Agreement and Certification*

Existing regulations at 7 CFR 1427.5, General eligibility requirements, provide that as a condition for loan eligibility, a bale must be ginned by a ginner that has entered into a Cooperating Ginners' Bagging and Bale Ties Certification and Agreement on a form prescribed by CCC, or certified that the bale is wrapped with bagging and

bale ties meeting the requirements of 7 CFR 1427.5(b)(10). All U.S. commercial cotton gins have entered into this agreement with CCC. This agreement remains in effect until terminated by either the gin or by CCC.

CCC proposes to amend this regulation to provide that, effective for the 2006 and subsequent crops, cotton must be ginned by a ginner that additionally certifies that the bale, upon ginning, meets the quality requirements for loan eligibility of 7 CFR 1427.5(b) that provide for the bale to be in good condition and not false-packed, water-packed, mixed-packed, re-ginned, or repacked. To administer this new agreement and certification for the 2006 and subsequent cotton crops, CCC proposes to notify all U.S. gidders that previous agreements are terminated. A revised agreement providing the additional certifications explained above will be made available for gidders to sign prior to the 2006-crop harvest.

#### D. Repayment of Loans

Current regulations at 7 CFR 1427.19(h) provide that at the time of an upland cotton loan repayment, if the repayment rate is less than the loan level and charges, plus interest, CCC will pay to the producer or agent of the producer the warehouse storage charges that have accrued during the period the cotton was pledged for loan. The amount of this payment may be reduced at times when the adjusted world price is 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's payment of the accrued warehouse storage charges under this regulation has, in all cases, been based upon the tariff rate for the cotton storage warehouse where the loan cotton has been stored. CCC has not provided for a uniform storage payment rate to producers or their agents designated to repay the producer's loan obligation even though the loan gain or LDP rate is uniform and provided regardless of location. The tariff rates established by warehouses vary considerably, from below \$2.00 to over \$5.00 per bale per month. The tariff rates generally appear to be unrelated to the approved capacity of the individual warehouse, with the highest rates occurring in California and Arizona. For the 2005 crop, the average warehouse tariff rate, weighted by quantity of loan bales, is \$2.61 per bale per month. About 52 percent of 2005-crop loan cotton was placed into storage in states where the tariff rate, weighted by loan volume, averages \$2.15 per bale per month or less. Tariff rates in storage-

deficit areas of Texas, including warehouses that recently stored loan cotton outside, fall below the \$2.15 per bale level and are among the lowest rates being charged nationwide.

The storage credits provided by CCC have been provided so that as storage charges accrue on un-sold cotton, the cost of the cotton and charges does not become uncompetitive relative to the adjusted world price level. However, if the tariff charges levied by the warehouse are especially profitable, the credits provided by CCC will induce producers and gidders to ship their cotton to locations that maximize their storage returns or warehouse rebates. In these cases, the warehouse may be chosen without regard to whether the cotton will be stored inside, or because it is at a location that provides timely load-out when requested by a merchant. For these reasons, CCC has concluded that providing unrestricted storage credits may have a negative impact on both the maintenance of bale quality and on the flow of cotton pledged under the CCC loan program.

To improve the equity of program benefits among all producers, to reduce incentives for cotton to be held in storage to maximize CCC-storage payments, and to improve cotton flow, CCC proposes, effective for the 2006 and subsequent crops of upland cotton, to amend the regulations at 7 CFR 1427.19(h), Repayment of Loans, to provide that any storage credit that may be provided by CCC shall be: (1) Based on a maximum monthly storage-credit payment rate that will not exceed the rate used in 2005 at the location where the 2006 and 2007 crops are stored, not to exceed \$2.15, for all loan cotton stored inside an approved cotton storage warehouse; and (2) zero, for a cotton loan, for which one or more bales are stored outside during the period of the loan, even if these bales are later moved to inside storage. Comments are specifically requested as to whether the proposed maximum rate of \$2.15 per bale per month will promote the flow of cotton and provide more equitable program benefits compared to use of individual warehouse tariff rates.

#### E. Liens

Current regulations at 7 CFR 1427.12, Liens, provide that if there are any liens or encumbrances on cotton provided as collateral for a marketing assistance loan CCC must obtain waivers that fully protect the interest of CCC before disbursement of the loan even though the liens or encumbrances are satisfied from the loan proceeds. Additionally, no liens or encumbrances shall be

placed on the cotton after the loan is approved.

Additionally, 7 CFR 1427.19(h) provides that, depending on the level of the adjusted world price determined under 7 CFR 1427.25, CCC may pay to the producer or producer's agent, at the time of the loan repayment, all or a portion of the warehouse storage charges that have accrued during the period the cotton was pledged for loan.

Loan cotton stored in approved warehouses also accrues receiving, storage and load-out charges that are paid by the buyer before taking delivery of the cotton from the warehouse. For cotton delivered to CCC in satisfaction of the loan obligation, and to minimize the administrative burden of receiving lien waivers for these charges, CCC has paid the receiving and accrued storage charges to the storing warehouse and then billed the producer for both the receiving charges and any amount of storage that accrued up to the date the cotton was pledged for loan.

CCC proposes to revise 7 CFR 1427.12 to establish consistency between these two requirements, and to clarify that CCC shall not be responsible for any charges attached to a bale other than for the storage charges as provided in 7 CFR 1427.19(h).

#### Notice and Comment

Section 1601(c) of the 2002 Act provides that the regulations needed to implement Title I of the 2002 Act, which include those involved here, may 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 relating to notices of proposed rulemaking and public participation in rulemaking.

#### Executive Order 12866

This rule is issued in conformance with Executive Order 12866, was determined to be not significant and has not been reviewed by the Office of Management Budget.

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the CCC is not required by 5 U.S.C. 533 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

#### Environmental Assessment

The environmental impacts of this rule have been considered consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the

regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799. FSA concluded that the rule requires no further environmental review because it is categorically excluded. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement.

**Executive Order 12988**

This rule has been reviewed in accordance with Executive Order 12988. This rule will preempt State laws that are inconsistent with it. Before any legal action may be brought regarding a determination under this rule, the administrative appeal provisions set forth at 7 CFR parts 11 and 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).

**Unfunded Mandates Reform Act of 1995**

The 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.

**Paperwork Reduction Act**

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be made without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed to administer the program authorized by these regulations are not subject to review by OMB under the Paperwork Reduction Act.

**Executive Order 12612**

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 substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

**Government Paperwork Elimination Act**

CCC is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in the program are available electronically through the USDA eForms Web site at <http://www.sc.egov.usda.gov> for downloading. The regulation is available at FSA's Price Support Division Internet site at <http://www.fsa.usda.gov/dafp/psd>. Applications may be submitted at the FSA county offices, by mail or by FAX. At this time, electronic submission is not available. Full development of electronic submission is underway.

**Federal Assistance Programs**

The title and number of the Federal assistance program found in the Catalog of Federal Domestic Assistance to which this final rule applies are Commodity Loans and Loan Deficiency Payments, 10.051.

**List of Subjects in 7 CFR Part 1427**

Agricultural commodities, Cotton, Loan programs-agriculture, Price support programs, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR part 1427 is proposed to be amended 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 7931–7939; and 15 U.S.C. 714b and 714c.

**Subpart A—Nonrecourse Cotton Loan and Loan Deficiency Payments**

2. Amend § 1427.5 by revising paragraph (b)(2) and adding paragraph (b)(11)(iii) to read as follows:

**§ 1427.5 General eligibility requirements.**

\* \* \* \* \*

(b) \* \* \*

(2) Be in existence and good condition, be covered by fire insurance, and at the time of disbursement of the loan proceeds, be stored inside an approved storage warehouse unless, as determined under § 1427.10, CCC has approved a warehouse to use outside storage for cotton loan collateral for the period of the loan.

\* \* \* \* \*

(11) \* \* \*

(iii) For the 2006 and subsequent crops has provided a certification to CCC on a form prescribed by CCC, that upon ginning, the bales meet the condition and quality requirements for loan eligibility as provided in § 1427.5(b) and;

\* \* \* \* \*

3. Amend § 1427.10 by revising paragraph (b), redesignating paragraphs (c), (d), and (e) as (d), (e), and (f), and adding a new paragraph (c) to read as follows:

**§ 1427.10 Approved storage.**

\* \* \* \* \*

(b) When the operator of a warehouse receives notice from CCC that a loan has been made by CCC on a bale of cotton, the operator shall, if such cotton is not stored within the warehouse, as directed by CCC place such cotton within such warehouse.

(c) CCC will annually determine and announce geographic areas where approved cotton storage warehouses may apply for approval to store cotton pledged as collateral outside. The application for approval to use outside storage shall be on a form prescribed by CCC that provides all applicable outside storage requirements related to the duration of such storage, use of dunnage, insurance, packaging, or other storage and handling requirements as determined by CCC. As a condition for approval to store loan cotton outside, CCC may require the warehouse to consent to reconcentration and transfer orders approved by CCC applicable to any cotton stored at the applicant's warehouse.

\* \* \* \* \*

4. Revise § 1427.12 to read as follows:

**§ 1427.12 Liens.**

Notwithstanding provisions in § 1427.19(h) that provide that CCC may pay for some or all of the warehouse storage charges that accrued for the cotton during the period the cotton was pledged for loan, if there are any liens or encumbrances on the cotton tendered as collateral for a loan, waivers that fully protect the interest of CCC must be obtained before disbursement even though the liens or encumbrances are satisfied from the loan proceeds, except that CCC may elect to accept as loan collateral cotton that has warehouse receiving, compression, load-out or other charges if the producer, at the time of loan application, agrees to reimburse CCC for any such charges that CCC may pay on behalf of the producer or that reduce the value of the cotton delivered to CCC.

5. Amend § 1427.16 by adding paragraph (b)(3) as follows:

**§ 1427.16 Reconciliation of cotton.**

\* \* \* \* \*

(b) \* \* \*

(3) Effective for the 2006 and subsequent crops of cotton, CCC may approve a request for relocation of cotton loan collateral, submitted by a producer or a properly designated agent of the producer, and approved by the receiving warehouse operator. Such relocation shall be based on, but are not limited to, the original loan rate, repayment rate, and other terms and conditions of the original loan storage location. Any charges, fees, costs, or expenses incident to such reconcentration or transfer shall be paid by the requestor of such transfer.

6. Amend § 1427.19 by revising paragraphs (h)(1) and (h)(2) to read as follows:

**§ 1427.19 Repayment of loans.**

\* \* \* \* \*

(h) \* \* \*

(1) Below the national average loan rate for upland cotton, CCC will pay at the time of loan repayment to the producer of agent or subsequent agent authorized by the producer in the manner prescribed by CCC, for the period the cotton was pledged as collateral for such loan:

(i) The warehouse storage charges which have accrued, and

(ii) With respect to the 2006 and subsequent-crops of upland cotton, if the entire quantity of the loan was stored inside an approved cotton warehouse during the entire period of the loan, the storage charges that accrued based on a maximum monthly storage-credit payment rate will not exceed the rate used in 2005 at the location where the 2006 and 2007 crops are stored, not to exceed \$2.15. With respect to those producers who store cotton at a warehouse that was not in existence in 2005, CCC will assign the county average credit that was used in 2005. CCC shall not pay any storage charges if at any time while pledged as collateral for such loan the cotton was stored outside.

(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 by the producer in the manner prescribed by CCC, without regard to any warehouse charges that accrued before the cotton was pledged for loan:

(i) 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; and

(ii) With respect to the 2006 and subsequent crops of upland cotton, CCC shall not pay any storage charges if at any time while pledged as collateral for such loan the cotton was stored outside. If the entire quantity of the loan was stored inside an approved cotton warehouse during the entire period of the loan, that portion of the warehouse storage charges that accrued during the period the cotton was pledged for loan based on a maximum monthly storage-credit payment rate will not exceed the rate used in 2005 at the location where the 2006 and 2007 crops are stored, not to exceed \$2.15. With respect to those producers who store cotton at a warehouse that was not in existence in 2005, CCC will assign the county average credit that was used in 2005; or

Signed in Washington, DC, on May 18, 2006.

**Teresa C. Lasseter,**

*Executive Vice President, Commodity Credit Corporation.*

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**SMALL BUSINESS ADMINISTRATION**

**13 CFR Part 120**

**RIN 3245-AF23**

**Business Loan Programs; Premier Certified Lenders Program Alternative Loan Loss Reserve Pilot Program**

**AGENCY:** Small Business Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Small Business Administration (“SBA” or “the Administration”) proposes to amend its Premier Certified Lenders Program (“PCLP”) in accordance with recent statutory amendments to the PCLP. Presently, under the PCLP, participating Certified Development Companies (“CDCs”) have increased authority in connection with making and servicing loans made under SBA’s development company loan program (“504 Program”). One PCLP requirement relates to a loan loss reserve fund (“LLRF”) which a CDC participating in the PCLP (“PCLP CDC”) must maintain to cover losses it may incur in connection with the 504 Program loans (“504 Loans”) it has made under the PCLP (“PCLP loans”). Recent statutory

changes to the PCLP include two pilot programs related to PCLP LLRF requirements. One pilot (“Pilot 1”) changes LLRF requirements by requiring the value of an LLRF to equal 1 percent of the combined outstanding balances of each debenture issued by a PCLP CDC to fund a PCLP loan (“PCLP Debenture”), instead of the combined original face value of those PCLP Debentures. Another pilot (“Pilot 2”) authorizes certain PCLP CDCs with significantly large LLRFs to elect to meet alternative LLRF requirements in lieu of certain existing PCLP LLRF requirements. The proposed regulations would implement requirements, procedures, and guidelines relating to Pilot 1 and Pilot 2.

**DATES:** SBA must receive comments on or before July 25, 2006.

**ADDRESSES:** You may submit comments, identified by RIN number, by any of the following methods: (1) Federal eRulemaking Portal: <http://www.regulations.gov>; (2) E-mail: [Charles.Thomas@SBA.gov](mailto:Charles.Thomas@SBA.gov). Include RIN Number in the subject line of the message; (3) Fax: (202) 205-7722; (4) Mail: Charles Thomas, Director, Program Development Division, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416; (5) Hand Delivery/Courier: 409 3rd Street, SW., Washington, DC 20416, c/o Charles Thomas.

**FOR FURTHER INFORMATION CONTACT:** Charles Thomas, Director, Program Development Division, Office of Financial Assistance, Small Business Administration, 409 Third Street, SW., Washington, DC 20416, (202) 205-6656, [Charles.Thomas@SBA.gov](mailto:Charles.Thomas@SBA.gov).

**SUPPLEMENTARY INFORMATION:**

**Statutory Basis for This Proposed Rulemaking**

SBA must amend the PCLP LLRF regulatory requirements established pursuant to Title V (“Title V”) of the Small Business Investment Act of 1958, as amended (the “Act”), to conform with amendments to Title V contained in Public Law 108-232, enacted on May 28, 2004 (“Pilot 1 and Pilot 2”). Pilot 1 and Pilot 2 were enacted with the ultimate goal of having each PCLP LLRF more accurately correspond to the risk of loss it secures.

**Overview of the PCLP and the Basis for Pilot 1 and Pilot 2**

While access to capital is vital to the success of small businesses, many find it difficult to access financing, particularly long term financing. SBA’s lending programs address these