

**DEPARTMENT OF AGRICULTURE****Farm Service Agency****7 CFR Part 718****Commodity Credit Corporation****7 CFR Parts 1400, 1421, 1425, 1427, 1434, and 1435**

RIN 0560-A128

**Marketing Assistance Loans, Loan Deficiency Payments, and Sugar Loans**

**AGENCY:** Commodity Credit Corporation and Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Farm Service Agency (FSA) is revising regulations on behalf of the Commodity Credit Corporation (CCC) as required by the Agricultural Act of 2014 (2014 Farm Bill) to update the Marketing Assistance Loan (MAL) and Loan Deficiency Payments (LDP) Programs for wheat, feed grains, soybeans, oilseeds, peanuts, pulse crops, cotton, honey, wool and mohair. In general, the 2014 Farm Bill extends the existing programs with the minor changes that are implemented in this rule, including a revised formula for upland cotton loan rates. This rule also amends the regulations for the Economic Adjustment Assistance for Users of Upland Cotton Program, the Extra Long Staple (ELS) Cotton Competitiveness Payment Program, and the Sugar Program to reflect that the programs were extended by the 2014 Farm Bill. Most of the provisions in this rule have already been implemented, beginning with the 2014 crop year.

**DATES:** *Effective Date:* January 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** DeAnn Allen; phone (202) 720-9889. Persons with disabilities who require alternative means of communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice).

**SUPPLEMENTARY INFORMATION:****Background**

FSA administers the MAL and LDP Programs for CCC. The 2014 Farm Bill (Pub. L. 113-79), extends the existing MAL and LDP programs for the 2014 through 2018 crop years with the minor changes that are implemented by this rule. Sections 1201 through 1210 and 1301 of the 2014 Farm Bill authorize the continuation of the MAL and LDP programs, the related assistance programs for cotton, and the Sugar Program. The changes required by the 2014 Farm Bill include a new formula

for upland cotton base loan rates, removing the option to use commodity certificates to repay a MAL, and setting the payment rate for Economic Adjustment Assistance for Users of Upland Cotton Program at 3 cents per pound. This rule also makes discretionary changes to clarify the regulations and to remove expired provisions.

This rule updates 7 CFR parts 718, 1400, 1421, 1425, 1427, 1434, and 1435 to implement the mandatory changes required by the 2014 Farm Bill and the discretionary clarifying changes and technical corrections. All applicable handbooks and forms are also being updated with conforming changes. An Extension of Authorization was published in the **Federal Register** on March 28, 2014 (79 FR 17388-17390), announcing the continuation of the MAL, LDP, and Sugar Programs for the 2014 crop year.

The 2014 Farm Bill changes in this rule have already been implemented for the 2014 crop year.

**Existing MAL and LDP Program**

Producers of eligible commodities can apply for MALs or LDPs, subject to terms and conditions as specified in applicable regulations; application deadlines are specified in FSA handbooks. MALs are 9-month loans with the commodity pledged as collateral for the loan. A producer who is eligible for MAL may choose to receive LDP in lieu of receiving a MAL. LDPs allow the producer to receive a payment when the county-level price for that commodity is below the loan rate, instead of pledging the commodity as collateral for MAL. The general structure of the MAL and LDP Programs are not changing with this rule. The 2014 Farm Bill does not change core eligibility requirements for producers or commodities, and it changes the loan rate only for upland cotton.

MALs and LDPs are available beginning with harvest or shearing season for each commodity and extend through the marketing year for that particular commodity. Nearly all MALs are nonrecourse loans, meaning that the commodity is collateral for MALs and may be delivered at maturity as full payment for an outstanding MAL. (Recourse loans are available for a few commodities for which long term storage is not readily available, meaning that the collateral cannot be delivered as full payment for MALs.) MALs and LDPs must be requested on or before the final loan availability date for the applicable commodity. Producers may repay the MAL at a rate that is the lesser of the loan rate plus interest or an

alternative repayment rate as determined and announced by the U.S. Department of Agriculture (USDA). The repayment rate is based on average market prices for the preceding 30 days, or an alternative rate set by a similar method established by the Secretary. If the market price as reflected in the repayment rate falls below a loan rate specified in the 2014 Farm Bill for that commodity, producers can redeem a MAL at the repayment rate, or deliver the MAL commodity to CCC.

As an alternative to receiving a MAL, a producer can forgo a MAL, and instead, may obtain an LDP on their crop, if LDP is currently available for the applicable commodity and the producer is eligible for MAL. LDPs allow the producer to receive a payment when the repayment rate posted for a commodity is below the loan rate for that commodity.

**Upland Cotton National Loan Rate Change**

The 2014 Farm Bill specifies the national loan rates for the 2014 through 2018 crop years for the eligible loan commodities. Except for upland cotton, these loan rates are unchanged from the most recent rates for the 2013 crop year that were authorized by the Food, Conservation, and Energy Act of 2008 (commonly referred to as the 2008 Farm Bill), as amended by the American Taxpayer Relief Act, (Pub. L. 112-240).

Section 1202(a)(6) of the 2014 Farm Bill (7 U.S.C. 9032(a)(6)) sets the base loan rate for upland cotton at no less than \$0.45/lb. or more than \$0.52/lb. based on the average of the adjusted prevailing world price for the two immediately preceding marketing years. This change is designed to make the loan rate more reflective of prevailing market prices, and serves to limit the impact of elevated market prices on the loan rate while allowing any price declines below 52 cents to be reflected in lower future base loan rates.

The average upland cotton adjusted world price in recent years has been well above 52 cents per pound, so the new formula that uses a moving average of previous year prices results in a base loan rate for cotton MALs of 52 cents per pound for 2014 and 2015.

**Commodity Certificate References Removed**

The 2014 Farm Bill does not include commodity certificates as an option for repaying MALs. Therefore, this rule removes all references to commodity certificates in the regulations and removes §§ 1421.110 and 1427.22, which included the provisions for commodity certificates.

The use of commodity certificates was previously authorized through 2009, so this change should not impact any current MAL or LDP program participants.

#### **Sugar Program**

The 2014 Farm Bill reauthorizes the Sugar Program without change. This rule removes references to specific dates and previous legislation in 7 CFR part 1435, "Sugar Program."

#### **Payment Limitations and Adjusted Gross Income**

Section 1605 of the 2014 Farm Bill establishes payment and income limitations that apply to 2014 and subsequent crop, program, or fiscal year benefits. FSA previously implemented the payment and income limitations through the final rule published on April 14 (79 FR 21086–21118). The payment and income limitations are specified in 7 CFR part 1400.

For the 2014 through 2018 crop years, the payment limit on the total amount of payments received, directly or indirectly, from market loan gains and LDPs, together with Price Loss Coverage and Agriculture Risk Coverage Program payments, is \$125,000 per person or legal entity for all commodities except peanuts. Peanuts have a separate payment limit of \$125,000 per person or legal entity for these same programs. Attribution of payments under 7 CFR part 1400 applies in administering the payment limitation. The average Adjusted Gross Income (AGI) limit for most FSA and CCC programs is \$900,000. The \$900,000 limit is for total average AGI, as opposed to the prior multiple limits for farm and non-farm income, and the separate limit for conservation programs. Producers exceeding payment limits or AGI can apply for and receive a MAL, but the MAL must be repaid at principal and interest and the producer must forfeit the commodity to CCC in satisfaction of the loan debt.

This rule makes conforming changes to AGI and payment limitation references throughout 7 CFR parts 1421, 1425, 1427, and 1434. It also makes a technical correction to 7 CFR part 1400 to correctly specify which programs require a person to be actively engaged in farming for program eligibility.

#### **Summary of Discretionary and Clarifying Changes in This Rule**

In addition to implementing the 2014 Farm Bill changes, FSA is making changes resulting from our retrospective review of the regulations. Most of the changes are clarifying changes to make the regulations clear and consistent.

Many of the changes in this rule are to 7 CFR part 1421, "Grains and Similarly Handled Commodities—Marketing Assistance Loans and Loan Deficiency Payments for 2008 through 2012." This rule removes references to the DCP and ACRE programs that are no longer authorized, removes references to specific crop years and certain legislation, clarifies a number of provisions, and removes the option of delivering an additional 10 percent of the commodity when transferring farm-stored MAL collateral into warehouse storage. This rule also removes the option of determining a reasonable yield by using the yields from 3 similar farms. This rule amends other parts primarily to be consistent with part 1421, and with the current part 1400 regulations.

In 7 CFR part 1425, "Cooperative Marketing Associations," (CMA) this rule clarifies market loan gain and LDP distribution to CMA members.

In 7 CFR part 1427, "Cotton," this rule removes references to obsolete programs and clarifies dates for the cotton programs that the 2014 Farm Bill reauthorizes.

The 2014 Farm Bill reauthorizes the Economic Adjustment Assistance for Users of Upland Cotton Program and continues the payment rate of 3 cents per pound, which it has been since August 1, 2012. This rule removes the references to the previous 4 cents per pound rate.

In 7 CFR part 1434, "Nonrecourse Marketing Assistance Loan and LDP Regulations for Honey," this rule removes all references to specific forms.

#### **New and Revised Definitions**

This rule amends §§ 1421.3 and 1434.3, "Definitions," to add a definition for "calling a loan" to clarify the process of accelerating or moving forward the maturity date of an outstanding MAL. This is the process CCC uses when the terms and conditions of the MAL note and security agreement are violated, such as when a producer incorrectly certifies a loan quantity or makes any fraudulent representation with respect to obtaining a loan, or removes or disposes of a farm-stored commodity pledged as collateral for a loan without authorization. A loan is also called to protect CCC's interest or in emergency situations when there is physical damage to the storage structure putting the loan collateral at risk.

FSA is adding definitions for "market loan gain" and "locked in repayment rate" to § 1421.3 to clarify their meaning. Market loan gain is the sum of loan rate, minus the repayment rate, on loans repaid at an amount that is less than the loan rate. The total of market

loan gains cannot exceed the producer's applicable payment limitation according part 1400 of this chapter. Locked in repayment rate means an announced repayment rate on a disbursed MAL. The repayment rate can only be locked in one time for a designated quantity; if multiple locked in rates were in effect for different loan quantities, the oldest rate is always applied first.

The definition of "Control or Recording FSA County Office" is changed to "Recording FSA County Office." FSA now refers to the FSA county offices that control a multi county producer's files as the "recording FSA county office."

In 7 CFR part 1425, "Cooperative Marketing Associations," this rule adds definitions for "LDP" and for "market loan gain." These definitions add consistency with 7 CFR part 1421.

In 7 CFR part 1427, "Cotton," this rule clarifies the definition for "cooperative marketing association," and "warehouse receipt," and removes a definition for "commodity certificate exchange." These changes are being made to add consistency with 7 CFR part 1421 and with current practice.

In 7 CFR part 1434, "Nonrecourse Marketing Assistance Loan and LDP Regulations for Honey," this rule adds definitions for "LDP" and "calling a loan," to add clarity and for consistency with 7 CFR part 1421.

All of these changes are being made to add clarity and to add consistency within the regulations.

#### **Requesting MALs and LDPs**

Currently, all MAL and LDP applications must be submitted to the FSA county office where the farm is located or to the producer's administrative county. This amendment to § 1421.7 clarifies that producers may now submit a MAL or LDP application at any FSA county office. This rule amends § 1421.7 to specify that a producer may submit a request for a MAL or LDP at any FSA county office. The receiving FSA county office will forward the MAL or LDP request to the administrative county office that is responsible for administering programs for the farm on which the commodity is produced. The administrative county office will process and approve the MAL or LDP. This is expected to provide better service to producers.

#### **MAL Service Fees**

A service fee is subtracted from the MAL principal at the time of disbursement. The service fee is used to pay for administrative costs including security filings and lien searches. This rule does not change the amount of the

service fee. There is no service fee for LDPs.

This rule makes a small editorial change to reflect that the service fee may be paid to either FSA or to the loan servicing agent. Therefore, in order to allow flexibility in depositing the proceeds of these fees, the words “to CCC” have been removed from §§ 1421.104, 1427.13, 1427.169, and 1434.11. This is a technical correction that clarifies how the funds may be deposited, which is consistent with current policy.

### Changes to Production Calculations

For production calculations, this rule removes references to using production from three similar farms in the same county to determine an eligible commodity production. Instead there will be an option to use production as determined reasonable by the county committee. The option of using “similar farms in the same county” to determine an eligible commodity production in § 1421.5(e), and “3 similar farms” in § 1421.304 have been removed to implement this change. Section 1421.304(c) has also been amended to include the methods for determining the production for a graze-out payment and is applicable to subpart D of part 1421.

Specifically, § 1421.304(c) is being revised to specify that the payment yield will be:

(1) The yield for the loan commodity on the farm in effect for the calculation of Price Loss Coverage as specified in 7 CFR part 1412;

(2) For a farm for which Agricultural Risk Coverage is elected, the payment yield that would otherwise be in effect for that loan commodity on the farm in the absence of such election as specified in 7 CFR part 1412; or

(3) In the case of a farm for which no payment yield is established for the loan commodity on the farm, an appropriate yield as determined by the COC.

### Maturity Dates and Repayment Using Collateral

This rule revises the maturity date provisions for MALs to specify that maturity dates are no later than the last day of the 9th calendar month following the month in which the loan was approved. This change to §§ 1421.101 and 1427.7 is needed so that the regulations reflect the current way that MALs are made.

Prior to this change, the MAL maturity date was determined by the date of disbursement. When all MALs were disbursed by checks from the FSA county offices, the date of approval and date of disbursement were generally the same. That is no longer the case. All

FSA disbursements are now made through the National Payment System for Electronic Funds Transfers or the U.S. Department of Treasury, if a check is needed, and are available between 2 and 7 days following approval.

Section 1203(b) of the 2014 Farm Bill prohibits the Secretary from extending the MAL term for any loan commodity. Although this provision has been in previous farm bills, and is current policy, it was not in the regulations. This rule adds a provision to specify that the maturity date of a MAL may not be extended.

This rule also clarifies how CCC will take possession of collateral if MALs are not repaid by the maturity date. Warehouse stored loan collateral is forfeited to CCC on the day following maturity if the loan is not repaid. Farm-stored loan collateral is handled differently because the producer still holds the collateral. This rule clarifies the procedure for farm-stored MALs to specify that if the loan is not repaid, CCC has the right to acquire title of the MAL collateral and to sell or otherwise take possession of such collateral without any further action by the producer. The producer may deliver the MAL collateral in accordance with instructions issued by FSA. CCC will not accept delivery of any quantity in excess of 110 percent of the outstanding farm-stored MAL quantity.

### Commingle Eligible and Ineligible Commodities

It will no longer be a requirement that FSA verify loan quantity, at the producer's expense, when MAL commodities are co-mingled with ineligible commodities. The service has rarely been required and there are other processes in place to verify the loan quantity. This rule amends § 1421.105 to no longer make this a mandatory requirement, although the producer may still request this service.

### Electronic Warehouse Receipts

This rule revises multiple sections of the regulations to clarify the use of electronic warehouse receipts (EWRs). Many commodity warehouses have moved away from paper warehouse receipts and use EWRs issued through a provider approved by FSA's Deputy Administrator for Commodity Operations (DACO) as provided for in the regulations for the United States Warehouse Act in 7 CFR part 735. The use of EWRs is accepted by most financial institutions, and meets current commodity marketing industry standards. EWRs have been approved and used for MALs and LDPs for cotton, peanuts, and rice for a number of years.

DACO has approved a provider of EWRs for soybeans and a number of grains with the possibility of additional MAL and LDP commodities moving towards EWRs in the future. Benefits to utilizing EWRs for MALs include eliminating the storage of paper receipts, improving and simplifying the tracking of price support benefits, eliminating the mailing of paper receipts following loan repayment or loan forfeiture, eliminating the possibility of losing a paper receipt in the mail, and improving turnaround time from application to disbursement. CCC must be the holder of EWRs for any commodity under MAL. EWRs are also acceptable production evidence for LDPs.

### Transfers of MAL Collateral

The applicable loan rate for MALs is based on the loan rate where the commodity is stored when the loan is initially disbursed. During the loan term, a producer may request authorization to move the MAL commodity to another storage location. A MAL commodity moved from one farm location for farm stored MALs to another farm location will maintain the original loan rate. In the past, commodities transferred from farm stored to warehouse stored also acquired the loan rate to match the rate for the new storage location, in addition to allowing the producer to transfer up to an additional 10 percent and receive an additional disbursement of the MAL commodity.

This rule removes the provisions allowing a 10 percent extra quantity for transfers of collateral from farm to warehouse storage during the loan term in § 1421.108. This simplifies the regulations and will not impact most producers; for the 2013 crop year, FSA processed 3 farm to warehouse transfers out of 30,311 total loans. A producer can still obtain a new, separate MAL or LDP on any amount delivered that is over the loan quantity if it is not beyond the MAL or LDP availability date for the specific commodity as specified in § 1421.7.

For example, if the collateral for a disbursed farm stored MAL for 10,000 bushels (Bu.) is moved to a warehouse, the loan rate applicable to the warehouse loan will be the same as the original loan rate no matter which county the warehouse is in, and the loan quantity of the warehouse loan cannot be over 10,000 Bu. If the warehouse stored quantity is 9,950 Bu., the producer will owe CCC for the difference applicable to the 50 Bu. times the loan rate. If the warehouse stored is more than 10,000, the producer can request a new MAL for the additional

quantity or, if applicable, LDP on any amounts over the 10,000 Bu., if the new MAL request is within the MAL or LDP availability date for the commodity.

This change which will have minimal impact due to the small number of farm to warehouse MAL transfers requested.

#### **Producer Liability**

This rule clarifies that the producer is liable for the amount of the MAL. As currently stated in 7 CFR 1421.105(e)(5), CCC will not assume any loss in quantity or quality of the MAL collateral for farm-stored MALs. This applies to all MALs and therefore this rule adds that provision to the regulations for honey and cotton loans. This is not a change in policy, but FSA is adding to the regulations to add clarity and consistency. For example, weather related damages to a grain bin does not exclude the responsibility on the producer to repay loan collateral that can no longer be safely stored for MAL.

#### **MAL Settlement**

Commodities that are collateral for MALs must be delivered to a warehouse with a CCC storage agreement. If a warehouse with a CCC storage agreement is not locally available, then CCC may offer the commodity for local sale. This includes isolated farm stored lots where a local elevator is not available and it is not cost effective for CCC to pay excess haul. In these situations, CCC deposits the sales proceeds but settles with the producer using the quantity and quality factors of the commodity sold. This rule amends 7 CFR part 1421 to clarify that for both non-recourse and recourse local sales, the producer will be responsible for any costs incurred by CCC, which will be deducted from the sales proceeds. Specific changes are being made in 7 CFR 1421.111. If after the settlement or the local sale of a recourse loan is finalized, the value is greater than the amount owed, that extra will be paid to the producer. If an amount is still owed CCC, a receivable for such difference will be established. These changes are consistent with current policy and merely add clarification to the regulations.

#### **CMAs**

CMAs can obtain MALs and LDPs on behalf of their members. The regulations for CMAs are specified in 7 CFR part 1425. This rule revises the regulations to be consistent with the new payment limitation and AGI requirements for market loan gains and LDPs. Specifically, this rule clarifies that CMAs are required to monitor LDPs they receive on behalf of their members

for payment limitation and AGI amounts applied to market loan gains and LDPs.

#### **Cotton**

The 2014 Farm Bill reauthorizes and extends existing cotton MAL and LDP provisions, which are located at 7 CFR part 1427. It also extends the authorization for the Economic Adjustment Assistance for Users of Upland Cotton Program and ELS Cotton Competitiveness Payment Program.

This rule amends 7 CFR part 1427 to remove outdated references, and to clarify definitions consistent with the changes being made to part 1421.

Current FSA policy instructs county offices to not issue payments for less than \$10 unless requested by the producer, and, in most instances, debts of less than \$25 are disregarded. FSA is revising § 1427.20, which specified a limit of \$9.99 to disregard debts, to be consistent with this policy.

As specified in section 1207 of the 2014 Farm Bill, the value of assistance provided for the Economic Adjustment Assistance to users of upland cotton will be 3 cents per pound effective beginning on August 1, 2013. Therefore, this rule amends the beginning date of the program in §§ 1427.100(a) and 1427.101(a) from "August 1, 2008", to "August 1, 2013".

The regulations in 7 CFR 1427 subpart E provide the regulations for the approval of cotton warehouses. This rule amends the subpart to remove specific form numbers and OMB control numbers for those forms.

The regulations for the ELS Cotton Competitiveness Payment Program are revised to remove specific dates for the program. The ELS Program is reauthorized by the 2014 Farm Bill without change.

#### **Honey**

The 2014 Farm Bill reauthorizes and extends existing honey MAL and LDP provisions. This rule makes conforming changes to make part 1434 consistent with other MAL and LDP regulations, and to remove specific form numbers.

This rule also clarifies how producers and CCC will be paid if a MAL is not repaid by the maturity date. There are no CCC approved warehouses for honey and all nonrecourse marketing assistance loans not repaid by the loan maturity date are therefore disposed of through local sale. The value of the settlement for eligible honey will be made on the basis of the color of the unprocessed honey as determined by an official Agricultural Marketing Service grade. If the value of the honey at settlement is less than the amount due,

the producer will pay CCC the amount of the difference plus interest on the difference. If the value is greater, the excess will be paid to the producer.

#### **Other Miscellaneous Changes**

This rule removes references to specific crop years. This rule also removes references to the ACRE program, which was not reauthorized by the 2014 Farm Bill.

FSA now uses the term "receivable" instead of "claim" as the term for amounts owed. The term "claim" is therefore replaced with "receivable" in this rule.

In addition, nonsubstantive housekeeping changes are being made to the regulations to fix typographical errors and add to the clarity, readability, and consistency of the regulations. These changes do not represent substantive policy or administrative changes. For example, these changes include replacing the words "marketing assistance loan" with the acronym "MAL," replacing the words "loan deficiency payment" with the acronym "LDP," replacing references to "service center" with "county office," and replacing "shall."

#### **Technical Correction**

In addition to the specific MAL and LDP changes, this rule is making a technical correction for a minor organizational error that relates to MAL and other FSA administered programs. The correction will renumber paragraphs that were published incorrectly in the Agriculture Risk Coverage (ARC) and Price Loss Coverage (PLC) Programs final rule, which was published on September 26, 2014 (79 FR 57703–57721). In 7 CFR 718.8, "Administrative County," paragraph (f) should be paragraph (e)(3) and paragraph (g) should be paragraph (f). This rule corrects those inadvertent errors.

#### **Notice and Comment**

In general, the Administrative Procedure Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. The regulations to implement the provisions of Title I and the administration of Title I of the 2014 Farm Bill are exempt from the notice and comment provisions of 5 U.S.C. 553

and the Paperwork Reduction Act (44 U.S.C. chapter 35), as specified in section 1601(c)(2) of the 2014 Farm Bill.

#### Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides generally that before rules are issued by Government agencies, the rule is required to be published in the **Federal Register**, and the required publication of a substantive rule is to be not less than 30 days before its effective date. One of the exceptions is when the agency finds good cause for not delaying the effective date. Subsection 1601(c)(2) of the 2014 Farm Bill makes this final rule exempt from notice and comment. Therefore, using the administrative procedure provisions in 5 U.S.C. 553, FSA finds that there is good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This rule allows FSA to make the changes to the MAL and LDP regulations in time for the new loan rates to be effective for 2015. Therefore, this final rule is effective when published in the **Federal Register**.

#### Executive Orders 12866 and 13563

Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review," direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866 and, therefore, OMB has not reviewed this final rule.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because as noted above, this rule is exempt from notice and comment rulemaking requirements of the APA

and no other law requires that a proposed rule be published for this rulemaking initiative.

#### Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), 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). The 2014 Farm Bill reauthorizes the MAL and LDP Programs and they are to be continued with no changes to the loan rates except for cotton, and there are no other changes to the basic structure of the programs. This rule will remove the references to the program years that previously limited the programs to 2008 through 2012, and make some other minor discretionary changes to add clarity to the regulations. As such, FSA has determined that the discretionary provisions identified in this final rule are minor and administrative in nature, intended to clarify the mandatory requirements of the programs, as defined in the 2014 Farm Bill, and do not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

#### Executive Order 12372

Executive Order 12372, "Intergovernmental Review of Federal Programs," requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities in this rule are excluded from the scope of Executive Order 12372.

#### Executive Order 12988

This rule has been reviewed under Executive Order 12988, "Civil Justice Reform." This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. This rule has retroactive effect for the

2014 crop year, and as specified by the 2014 Farm Bill and explained in this rule, certain provisions are effective beginning August 1, 2013. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

#### Executive Order 13132

This rule has been reviewed under Executive Order 13132, "Federalism." The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore consultation with the States is not required.

#### Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

FSA has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by the 2014 Farm Bill.

#### Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final

rules with Federal mandates that may result in expenditures of \$100 million or more in any 1 year for State, local or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

#### SBREFA

SBREFA normally requires that an agency delay the effective date of a major rule for 60 days from the date of publication to allow for Congressional review. This rule is not a major rule under SBREFA (Pub. L. 104–121). Therefore, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Accordingly, this rule is effective on the date of publication in the **Federal Register**.

#### Federal Assistance Programs

The title and number of the Federal Domestic Assistance Program in the Catalog of Federal Domestic Assistance, to which this rule applies is the Commodity Loans and Loan Deficiency Payments—10.051.

#### Paperwork Reduction Act

The regulations in this rule are exempt from requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in Section 1601(c)(2)(B) of the 2014 Farm Bill, which provides that these regulations be promulgated and administered without regard to the Paperwork Reduction Act.

#### E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### List of Subjects

##### 7 CFR Part 718

Acreage allotments, Drug traffic control, Loan programs-agriculture, Marketing quotas, Price support programs, Reporting and recordkeeping requirements.

##### 7 CFR Part 1400

Agriculture, Loan programs-agriculture, Conservation, Price support programs.

##### 7 CFR Part 1421

Barley, Feed grains, Grains, Loan Programs-agriculture, Oats, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses and Wheat.

##### 7 CFR Part 1425

Agricultural commodities, Confidential business information, Cooperatives and Reporting and recordkeeping requirements.

##### 7 CFR Part 1427

Cotton, Cottonseeds, Loan programs-agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds and Warehouses.

##### 7 CFR Part 1434

Honey, Loan programs-agriculture, Price support programs and Reporting and recordkeeping requirements.

##### 7 CFR part 1435

Loan programs-agriculture, Penalties, Price support programs, Reporting and recordkeeping requirements, Sugar.

For the reasons discussed above, CCC and FSA amend 7 CFR parts 718, 1400, 1421, 1425, 1427, 1434, and 1435 as follows:

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

- 1. The authority citation continues to read as follows:

**Authority:** 7 U.S.C. 1501–1531, 1921–2008v, 7201–7334, and 15 U.S.C. 714b.

##### Subpart A—General Provisions

- 2. Amend § 718.8 as follows:
  - a. In paragraph (e)(1), remove the word “and”;
  - b. In paragraph (e)(2), remove the period and add the word and punctuation “; and” in its place; and
  - c. Redesignate paragraph (f) as paragraph (e)(3) and redesignate paragraph (g) as paragraph (f).

#### PART 1400—PAYMENT LIMITATION AND PAYMENT ELIGIBILITY

- 3. The authority citation for part 1400 continues to read as follows:

**Authority:** 7 U.S.C. 1308, 1308–1, 1308–2, 1308–3, 1308–3a, 1308–4, and 1308–5.

##### § 1400.1 [Amended]

- 4. Amend § 1400.1 as follows:
  - a. Redesignate paragraphs (a)(2) and (3) as paragraphs (a)(3) and (2), respectively;

- b. In redesignated paragraph (a)(2), remove “1421 and” and add “1421, 1427, and” in their place;
- c. In paragraphs (a)(8) and (b)(2), remove the reference to “(a)(2)” and add a reference to “(a)(3)” in its place; and
- d. In paragraph (b)(1), remove the reference to “(3)” and add a reference to “(2)” in its place.

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

- 5. Revise the authority citation for part 1421 to read as follows:

**Authority:** 7 U.S.C. 7231–7237, 7931–7936, and 9031–40, 15 U.S.C. 714b and c.

- 6. Revise the part heading to read as shown above.

##### Subpart A—General

- 7. Amend § 1421.1 as follows:
  - a. Revise paragraph (a);
  - b. In paragraph (b)(1), remove the words “marketing assistance” and add the word “MAL” in their place and remove the words “loan deficiency payment programs” and add the words “LDP Programs” in their place;
  - c. In paragraph (b)(2), remove the words “Loan deficiency payments shall” and add the words “LDPs will” in their place;
  - d. In paragraph (c), remove the words “Marketing assistance loans” and add the word “MALs” in their place;
  - e. In paragraph (d), remove the words “marketing assistance loans” and add the word “MALs” in their place;
  - f. In paragraphs (c) and (d), remove the words “loan deficiency payments” and add the words “LDPs” in their place; and
  - g. Add paragraph (e).

The revisions and addition read as follows:

##### § 1421.1 Applicability and interest.

(a) The regulations in this subpart are applicable to crops of barley, small and large chickpeas, corn, grain sorghum, lentils, oats, dry peas, peanuts, rice, wheat, wool, mohair, oilseeds and other crops designated by Commodity Credit Corporation (CCC). These regulations specify the general provisions under which Marketing Assistance Loans (MALs) and Loan Deficiency Payments (LDPs) will be administered by CCC. Additional terms and conditions are in the additional documents required to receive MALs and LDPs. In any case in which money must be refunded to CCC in connection with this part, interest will be due to run from the date of disbursement of the sum to be refunded.

This provision will apply, unless waived by the Deputy Administrator, irrespective of any other rule.

\* \* \* \* \*

(e) Adjusted Gross Income (AGI) and payment limitation provisions specified in part 1400 of this chapter apply to this part.

§ 1421.2 [Amended]

■ 8. Amend 1421.2 as follows:

■ a. In paragraph (a), remove the words "marketing assistance loan" and add the word "MAL" in their place and remove the words "loan deficiency payment program" and add the words "LDP Programs" in their place and remove the word "shall" both times it appears and add the word "will" in its place;

■ b. In paragraph (e), remove the words "marketing assistance loan" and add the word "MAL" in their place and remove the words "loan deficiency payment program" and add the words "LDP Programs" in their place; and

■ c. In paragraph (f), remove the words "marketing assistance loan" and add the word "MAL" in their place and remove the words "loan deficiency payment" and add the word "LDP" in their place and remove the word "shall" and add the word "will" in its place.

■ 9. Amend § 1421.3 as follows:

■ a. Add, in alphabetical order, definitions for "Calling a loan", "Locked in repayment rate", "Market loan gain", and "Recording FSA county office";

■ b. Remove the definitions "Commodity certificate exchange" and "Control or recording FSA County office" and "Crop year";

■ c. Revise the definitions of "Crop", "Incorrect certification", and "Loan deficiency payment (LDP)";

■ d. In the definition of "Charges", remove the word "loan" and add the words "a MAL" in its place;

■ e. In the definition of "Designated Marketing Association", remove the words "marketing assistance loans" and add the word "MALs" in their place and remove the words "loan deficiency payments" and add the word "LDPs" in their place;

■ f. In the definition of "Loan settlement", remove the words "effective with the 2009 through 2012" and add the words "for the applicable" in their place;

■ g. In the terms "Unauthorized disposition" and "Unauthorized removal", remove the word "loan" each time it appears and add the word "MAL" in its place; and

■ h. In the definition of "Warehouse receipt", paragraph (2), add the word and punctuation "(EWR)" after the word "receipt".

The revisions and additions read as follows:

§ 1421.3 Definitions.

\* \* \* \* \*

*Calling a loan* is accelerating or moving forward the maturity date of an outstanding MAL. A MAL can be called when, as determined by CCC, the terms and conditions of the MAL note and security agreement are violated, a producer incorrectly certifies a loan quantity or makes any fraudulent representation with respect to obtaining a loan, removing or disposing of a farm-stored commodity pledged as collateral for a loan without authorization, to protect CCC's interest, or in emergency situations.

\* \* \* \* \*

*Crop* means with respect to a year, commodities harvested in that year. Therefore, the referenced crop year of a commodity means commodities that when planted were intended for harvest in that calendar year.

\* \* \* \* \*

*Incorrect certification* means the certifying of a quantity of a commodity for the purpose of obtaining a MAL or LDP in excess of the quantity eligible for such MAL or LDP or the making of any fraudulent representation with respect to obtaining MALs or LDPs.

*Locked in repayment rate* means an announced repayment rate on a disbursed MAL that the producer has locked in for 60 calendar days. All locked in repayment rates expire within 14 calendar days before the loan maturity date. MAL can be repaid either at principal plus interest or the repayment rate in effect on the date the repayment is made. The repayment rate can only be locked in one time for a designated quantity and, if multiple locked in repayment rates are in effect for quantities under MAL that have not had a locked in repayment rate, the oldest rate is always applied first.

\* \* \* \* \*

*Loan deficiency payment (LDP)* means a payment made in lieu of a MAL when the CCC-determined value, which is based on the current local price in a county, is below the applicable county loan rate. The payment is the difference between the two rates times the eligible quantity.

\* \* \* \* \*

*Market loan gain* is the loan rate, minus the repayment rate on loans repaid at a rate that is less than the loan rate. The total of all market loan gains received by a producer for an applicable crop year cannot exceed the producer's applicable payment limitation as specified in part 1400 of this chapter. A

producer's adjusted gross income must also be below the limit as specified in part 1400 of this chapter to receive a market loan gain.

\* \* \* \* \*

*Recording FSA County Office* is the FSA County Office that records eligibility data for producers designated as multi-county producers.

\* \* \* \* \*

■ 10. Amend § 1421.4 as follows:

■ a. In paragraph (a)(2)(v), remove the words "for 2009 and Subsequent Crops, Programs, or Fiscal Years";

■ b. Revise paragraph (a)(2)(ix);

■ c. In paragraph (b), remove the words "shall be" both times they appear and add the word "is" in their place, remove the words "marketing assistance loans" and add the word "MALs" in their place, and remove the words "loan deficiency payment" and add the word "LDP" in their place;

■ d. In paragraph (c) introductory text, remove the words "marketing assistance loans" and add the word "MALs" in their place, and remove the words "loan deficiency payments" and add the words "LDPs" in their place;

■ e. In paragraph (c)(2), remove the words "marketing assistance loan" and add the word "MAL" in their place, and remove the words "loan deficiency payment" and add the words "LDP" in their place;

■ f. Revise paragraph (d);

■ g. Revise paragraphs (e)(1)(ii) and (f);

■ h. In paragraphs (e)(1)(iii) and (2) remove the word "loan" each time it appears and add the word "MAL" in its place;

■ i. In paragraph (g), remove the word "shall" and add the word "will" in its place, remove the words "marketing assistance loan" both times it appears and add the word "MAL" in their place, and remove the words "loan deficiency payment" both times it appears and add the word "LDP" in their place; and

■ j. Add paragraph (h).

The revisions and addition read as follows:

§ 1421.4 Eligible producers.

(a) \* \* \*

(2) \* \* \*

(ix) 7 CFR part 1412—Agriculture Risk Coverage, Price Loss Coverage, and Cotton Transition Assistance Programs; and

\* \* \* \* \*

(d) If more than one producer executes a note and security agreement with CCC, each such producer is jointly and severally liable for any violation of the terms and conditions of the note and security agreement and the regulations in this part. Each such producer also

remains liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to such producer's claimed share in the commodity pledged as collateral for the MAL. In addition, such producer may not amend the note and security agreement with respect to the producer's claimed share in such commodities, or MAL proceeds, after execution of the note and security agreement by CCC.

(e) \* \* \*

(1) \* \* \*

(ii) Not allowed an FSA representative access to the site where commodities pledged as collateral for MALs were stored, or otherwise failed to cooperate in the settlement of MAL; or

\* \* \* \* \*

(f) A CMA may obtain a MAL and LDP on eligible production of a MAL commodity on behalf of its members who are eligible to receive MALs or LDPs with respect to a crop of a commodity. For purposes of this subpart, the term "producer" includes a CMA.

\* \* \* \* \*

(h) A producer must meet the requirements of actively engaged in farming, cash rent tenant, and member contribution as specified in part 1400 of this chapter to be eligible for LDPs and market loan gains.

■ 11. Amend § 1421.5 as follows:

■ a. In paragraph (a) introductory text, remove the word "loan" and add the word "MAL" in its place;

■ b. In paragraph (c)(1), remove the words "for a loan" and add the words "for a MAL" in its place and remove the words "marketing assistance loan" and add the word "MAL" in their place;

■ c. In paragraph (c)(5), remove the words "marketing assistance loans" and add the word "MALs" in their place and remove the words "loan deficiency payments" and add the word "LDPs" in their place;

■ d. In paragraph (d)(2), remove the word "loan" and add the word "MAL" in its place;

■ e. In paragraph (e), remove the words "or similar farms in the same county; or" and add the word "or" in their place; and

■ f. Revise paragraph (f).

The revision reads as follows:

**§ 1421.5 Eligible commodities.**

\* \* \* \* \*

(f) A commodity that is purchased, substituted, or acquired by sale, gift, or exchange of an existing harvested, sheared, or slaughtered commodity, or through any other transaction is ineligible to be pledged as collateral for

a MAL; in addition an LDP will not be made with respect to such commodities.

**§ 1421.6 [Amended]**

■ 12. Amend § 1421.6 as follows:

■ a. In paragraph (a), remove the words "marketing assistance loans" and add the word "MALs" in their place, remove the words "marketing assistance loan" both times they appear and add the word "MAL" in their place, and remove the words "loan deficiency payment" both times they appear and add the word "LDP" in their place;

■ b. In paragraph (b), introductory text, remove the words "marketing assistance loan" and add the word "MAL" in their place; and remove the words "the loan" and add the words "the MAL" in its place;

■ c. In paragraph (b)(2) and (b)(3) remove the word "loan" each time it appears and add the word "MAL" in its place;

■ d. In paragraph (c) introductory text, remove the words "a loan commodity" and add the words "an eligible commodity" in their place;

■ e. In paragraph (c)(3), remove the words "loan deficiency rate" and add the words "LDP rate" in their place;

■ f. In paragraph (f), remove the words "cooperative marketing association" each time they appear and add the acronym "CMA" in their place;

■ g. In paragraph (h)(2), remove the words "CCC loan" and add the word "MAL" in their place; and

■ h. Revise paragraph (i) introductory text.

The revision reads as follows:

**§ 1421.6 Beneficial interest.**

\* \* \* \* \*

(i) Commodities produced under a contract in which the title to the seed remains with the entity providing the seed to the producer, including contracts for the production of hybrid seed, genetically modified commodities, and other specialty seeds as approved in writing by CCC, are eligible to be pledged as collateral for a MAL or a LDP may be made with respect to such production if, at the time of the request for such a MAL or LDP, the producer has not:

\* \* \* \* \*

■ 13. Amend § 1421.7 as follows:

■ a. Revise the heading; and

■ b. Revise paragraphs (a), (b), and (c) introductory text.

The revisions read as follows:

**§ 1421.7 Requesting MALs and LDPs.**

(a) A producer may apply for a MAL or LDP at any FSA county office. The receiving FSA county office will forward the MAL or LDP request to the

administrative county office, as specified in part 718 of this title, that is responsible for administering programs for the farm on which the commodity was produced. The administrative county office will process and approve the MAL or LDP.

(b) A MAL or LDP may be requested in person, by mail, or by electronic format designated by CCC. Forms prescribed by CCC may be obtained from the FSA Web site.

(c) To receive a MAL or LDP for an eligible commodity, a producer must execute a note and security agreement or LDP application on or before the applicable final loan availability date, as follows:

\* \* \* \* \*

■ 14. Amend § 1421.8 as follows:

■ a. Revise paragraphs (a), (b)(1) introductory text, and (b)(2);

■ b. Remove paragraph (b)(1)(i) and redesignate (b)(1)(ii) and (iii) as (b)(1)(i) and (ii), respectively;

■ c. Revise paragraph (c).

The revisions read as follows:

**§ 1421.8 Eligible quantity.**

(a) With respect to MALs and LDPs for:

(1) Farm-stored commodities, all determinations of weight and quality, except as otherwise agreed to or required by CCC, will be determined at the time of delivery of the commodity to CCC or at the time the LDP application is filed for measured requests, if applicable, or selected for spot-check for certified requests.

(2) Warehouse-stored commodities, all determinations of grade, weight and quality, except as otherwise agreed to or required by CCC, will be determined at the time the MAL is forfeited to CCC.

(b)(1) A producer may, before the final MAL availability date for obtaining a MAL for a commodity, repledge as collateral for securing a MAL any commodity that had been previously pledged as collateral for a MAL, except with respect to:

\* \* \*

(2) The commodity repledged as security for the subsequent MAL will have the same maturity date, under § 1421.101 as the original MAL.

(c)(1) The MAL documents will not be presented for disbursement unless the commodity subject to the note and security agreement is an eligible harvested commodity, is in existence, and is in authorized farm or warehouse storage, as determined by CCC. If the commodity was not either an eligible commodity, in existence, or in authorized storage at the time of disbursement, the total amount

disbursed under the MAL and charges plus interest must be refunded promptly by the producer.

(2) CCC will limit the total quantity for MAL or LDP disbursement to 100 percent of the quantity of such MAL or LDP application. A producer may obtain a separate MAL or LDP before the final loan availability date for the commodity for quantities in excess of 100 percent of such quantity if such quantities are otherwise eligible.

- 15. Amend § 1421.9 as follows;
  - a. Revise paragraphs (c) and (f); and
  - b. Remove paragraph (g).
- The revisions read as follows:

**§ 1421.9 Basic loan rates.**

\* \* \* \* \*

(c) Subject to adjustment as specified in paragraph (f) of this section, in case of forfeiture, for all commodities except rice and peanuts, warehouse-stored MALs will be disbursed at levels based on the basic county MAL rate for the county where the commodity is stored.

(1) For rice, subject to adjustment as specified in paragraph (f) of this section, in case of forfeiture, warehouse-stored MALs will be disbursed at levels based on the milling yields times the whole and broken kernel MAL rates.

(2) For peanuts, warehouse-stored MALs will be disbursed at levels based on National loan rates by peanut type, adjusted for the schedule of premiums and discounts on the basis of grade, quality, and other factors specified on warehouse receipts.

\* \* \* \* \*

(f) For all crop years, premiums and discounts will not apply for all eligible loan commodities at loan disbursement, except for peanuts. However, premiums and discounts will apply if the eligible loan commodities are forfeited or delivered to CCC and any deficiency must be repaid to CCC.

- 16. Amend § 1421.10 as follows:
- a. Revise paragraphs (a) introductory text, (c)(1), and (d);
- b. Revise paragraphs (h)(5)(i), (ii), and (iii);
- c. In paragraph (j)(1), (j)(2), (m) introductory text, and (p)(2) remove the word “loan” each time it appears and add the word “MAL” in its place;
- d. Revise paragraphs (j)(7) through (j)(10) and add paragraph (j)(11); and
- e. Revise paragraphs (k) introductory text, (l), and (m)(2).

The revisions and additions read as follows:

**§ 1421. 10 Loan repayment rates.**

(a) For the applicable crop years of barley, corn, grain sorghum, oats, wheat, dry peas, lentils, chickpeas, oilseeds, wool, mohair, and other crops as

designated by CCC (other than peanuts, long grain rice, medium grain rice, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)), a producer may repay a nonrecourse MAL at a rate that is the lesser of:

\* \* \* \* \*

(c) \* \* \*

(1) A producer may repay a nonrecourse MAL for peanuts at a rate that is the lesser of:

\* \* \* \* \*

(d) For peanuts, the Secretary will require the repayment of handling and other associated costs paid under § 1421.104 for all peanuts pledged as collateral for a MAL that are redeemed under this section.

\* \* \* \* \*

(h) \* \* \*

(5) \* \* \*

(i) The last Wednesday of July in the calendar year following the year the rice crop was harvested, or in which the rice MAL matures,

(ii) The last Wednesday of the latest month the rice MAL matures, or

(iii) If Tuesday is not a normal business day, the price determination may be made on the next work day and announced the following day, on or after 7 a.m. Eastern Standard Time.

\* \* \* \* \*

(j) \* \* \*

(7) For multiple locked in requests, the oldest unexpired locked in repayment rate is applied first.

(8) The completed and signed form can be submitted in person, by facsimile, or electronically.

(9) The requests cannot be canceled, terminated, or changed after approval.

(10) The locked in applicable repayment rate will transfer to any MAL disbursed outside of the originating county where the commodity was stored.

(11) Once a repayment rate is locked in it cannot be extended.

(k) If a producer fails to repay a MAL within the time prescribed by CCC under the terms and conditions of the request to lock in a market loan repayment rate, the producer may repay the MAL:

\* \* \* \* \*

(l) When the proceeds of the sale of the commodity are needed to repay all or a part of a farm-stored MAL, the producer must request and obtain prior written approval on a CCC-approved form and comply with the terms and conditions of such form, to remove a specified quantity of the commodity from storage. Approval does not constitute release of CCC’s security interest in the commodity or release of

producer liability for amounts due CCC for the MAL indebtedness if payment in full is not received by the FSA county office. Failure to repay a MAL within the time period prescribed by CCC in the case of a farm-stored loan and delivery of the pledged collateral to a buyer is a violation of the agreement. In the case of such violation, the producer must repay the loan principal and interest or another amount as determined by the Deputy Administrator, FSA, as specified in § 1421.109.

(m) \* \* \*

(2) An amount less than the principal amount of the MAL and charges plus interest under the terms and conditions specified by CCC at the time the producer redeems the collateral for such MAL.

\* \* \* \* \*

- 17. Revise § 1421.11(a) and (b) to read as follows:

**§ 1421.11 Spot checks.**

(a) CCC may inspect the collateral for MALs, and producers with such MALs must allow CCC reasonable access to the farm and storage facility as necessary to conduct “spot check” collateral inspections. Spot checks are intended to verify that the quality and quantity of farm-stored commodities pledged as collateral for MALs are maintained by the producer.

(b) LDPs are selected for spot check to ensure that all eligibility requirements, as required by CCC, are met in order to receive such LDP.

\* \* \* \* \*

- 18. Revise § 1412.12(a) introductory text, (a)(1)(i) through (x), and (b) to read as follows:

**§ 1421.12 Production evidence.**

(a) Producers who redeem MAL collateral at the prevailing world market price for rice, or the alternative repayment rate for all other commodities, as CCC determines or receives an LDP may be required to provide CCC with:

(1) \* \* \*

- (i) Evidence of sales;
- (ii) Delivery evidence;
- (iii) Load summaries from warehouse, processor, or buyer;
- (iv) Warehouse receipts including EWRs;
- (v) Paid measurement service;
- (vi) Spot check measurements with paid measurement service;
- (vii) Cleaning tickets for seed;
- (viii) Scale tickets, if not issued by the producer for the producer’s own production;
- (ix) Core tests for wool and mohair; or

(x) Maximum eligible quantity as determined by CCC.

\* \* \* \* \*

(b) A producer who fails to provide acceptable evidence of production is be required to repay the market loan gain or LDP and charges, plus interest, as determined by CCC.

■ 19. Amend § 1421.14 as follows:

■ a. Revise the section heading;

■ b. In paragraph (a) introductory text, remove the word “loans” and add the word “MALs” in its place; and

■ c. Revise paragraph (b).

The revision reads as follows:

**§ 1421.14 Obtaining peanut MALs.**

\* \* \* \* \*

(b) The MAL documents will not be presented for disbursement unless the peanuts pledged as collateral for the MAL are eligible as specified in § 1421.8. If the peanuts were ineligible at the time of the disbursement, the total amount disbursed under MAL, or as an LDP, plus charges and interest will be refunded promptly.

**Subpart B—Marketing Assistance Loans**

■ 20. Amend § 1421.101 as follows:

■ a. Revise paragraph (a)(1); and

■ b. Add paragraph (b).

The revision and addition read as follows:

**§ 1421.101 Maturity dates.**

(a)(1) All MALs will mature on demand by CCC and no later than the last day of the 9th calendar month following the month in which the note and security agreement is filed and approved except for transferred MAL collateral. The maturity date for transferred MAL collateral will be the maturity date applicable to the original MAL that was transferred.

\* \* \* \* \*

(b) The maturity date of any MAL may not be extended.

■ 21. Revise § 1421.102(a)(2)(i), (ii), (3), and (5) to read as follows.

**§ 1421.102 Adjustment of basic loan rates.**

(a) \* \* \*

(2) \* \* \*

(i) Crop year specific schedules of premiums and discounts, the MAL rate will be adjusted for the higher of the discount for test weight or grade based on test weight.

(ii) Additional schedule of discounts, the MAL rate will be reduced to 20 percent of the county loan rate.

(3) With respect to commodities harvested, excluding silage or hay, as other than grain and pledged as collateral for a nonrecourse MAL, the

MAL rate will be discounted to 30 percent of the county loan rate.

\* \* \* \* \*

(5) With respect to Segregation 2 and 3 peanuts as determined by CCC, the MAL rate will be discounted to 35 percent of the applicable loan rate.

■ 22. Revise § 1421.103(b) to read as follows:

**§ 1421.103 Authorized storage.**

\* \* \* \* \*

(b) CCC may reduce the quantity of a commodity pledged as collateral for a MAL made available under paragraph (a)(2) of this section to not more than 75 percent of such otherwise eligible quantity in order to protect the interests of CCC. CCC may also limit the length of time the commodity may be stored on-ground or in temporary structures to not more than 90 days. A MAL made with respect to such commodity that is not moved to a structure specified in (a)(2) within 90 days of the date the MAL was disbursed may be called by CCC.

\* \* \* \* \*

■ 23. Amend § 1421.104 as follows:

■ a. Revise the section heading and paragraphs (a)(2), (3), and (c);

■ b. In paragraph (b), remove the words “to CCC”; and

■ c. Remove paragraph (d).

The revisions read as follows:

**§ 1421.104 Making MALs.**

(a) \* \* \*

(2) The cost for terminating the financing statement for MALs disbursed under this part before the end of the term will be paid by the producer.

(3) If there are any liens or encumbrances on the commodity pledged as collateral for a MAL made under this part, waivers that fully protect CCC's interest must be obtained even though the liens or encumbrances are satisfied from MAL proceeds disbursed under this part. No additional liens or encumbrances will be placed on the commodity after such a MAL is approved.

\* \* \* \* \*

(c) To ensure proper storage of peanuts for which a MAL is made under this section, the Secretary will pay reasonable handling and other associated costs (other than storage) incurred at the time at which the peanuts are placed in a warehouse stored MAL. Such rates will be available in the State and county FSA offices.

■ 24. Amend § 1421.105 as follows:

■ a. Revise the section heading;

■ b. In paragraph (a) introductory text, remove the words “loan shall and add the word “MAL” in its place;

■ c. Revise paragraphs (a)(1), (b) introductory text, (c)(2), (d)(1)(ii), (2), (e)(1), (3), and (5);

■ d. In paragraph (a)(2), remove the word “Have” and add the word “Has” in its place; and

■ e. Add paragraph (f).

The revisions and addition read as follows:

**§ 1421.105 Farm-stored MALs.**

(a) \* \* \*

(1) Certifies the quantity of such commodity on the MAL application, or;

\* \* \* \* \*

(b) The State committee may establish a MAL percentage not to exceed a percentage CCC establishes or it may apply quality discounts to the loan rate in each year for each commodity on a statewide basis or for specified areas within the State. Before approving a county committee request to establish a different loan percentage, or to apply quality discounts, the State committee will consider conditions in the State or areas within a State to determine if the MAL percentage should be reduced below the maximum MAL percentage or the quality discounts should be applied to the basic county MAL rate to provide CCC with adequate protection. MALs disbursed based upon loan percentages previously lowered and loan rates adjusted for quality will not be altered if conditions within the State or areas within the State change to substantiate removing such reductions. Percentages established or loan rates adjusted for quality under this section will apply only to new MALs and not to outstanding MALs. In determining loan percentages or the necessity to apply quality discounts, the State committee will consider any factor at its discretion, including the following:

\* \* \* \* \*

(c) \* \* \*

(2) In all other instances, if the producer intends to move MAL collateral from a designated structure to an undesignated structure, the producer must request prior approval from the county committee in writing. The producer may request that the eligible or ineligible commodity be measured by a representative of the county office, at the producer's expense, before commingling, but such measurement is not required. Prior to commingling, with respect to wool and mohair, a representative of the FSA county committee may determine an average production of the wool and mohair in a manner approved by CCC.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) Individual MALs for their share of the commodity that is commingled in a farm storage facility with commodities owned by other producers if such other producers execute an agreement that provides that such producers will obtain the permission of a representative of the county committee before removal of any quantity of the commodity from the storage facility. All producers who store a commodity in a farm storage facility in which commodities that have been pledged as collateral for a MAL will be liable for any damage incurred by CCC for the deterioration or unauthorized removal or disposition of such commodities.

(2) In such cases, each producer must execute a note and security agreement with CCC, and each such producer will be jointly and severally liable for the violation of the terms and conditions of the note and the requirements of this part. Each producer is also liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to their share in the commodity pledged as collateral. In addition, such producer may not amend the note and security agreement for the producer's claimed share in such commodities, or MAL proceeds, after execution of the note and security agreement by CCC.

(e)(1) A producer, when requesting a MAL, will designate in writing specific storage structures.

\* \* \* \* \*

(3) Movement of MAL collateral to any other structures not designated or the disposal of such loan collateral without prior written approval of the county committee, will subject the producer to administrative actions.

\* \* \* \* \*

(5) CCC will not assume any loss in quantity or quality of the MAL collateral for farm-stored MALs.

(f) If the producer does not pay CCC the total amount due in accordance with a MAL by the maturity date, CCC has the right to acquire title to the MAL collateral and to sell or otherwise take possession of such collateral without any further action by the producer. With respect to farm-stored MALs, the producer may, as CCC determines, deliver the MAL collateral in accordance with instructions issued by CCC. CCC will not accept delivery of any quantity of a commodity in excess of 110 percent of the outstanding farm-stored MAL quantity. If a quantity in excess of 110 percent of the outstanding farm-stored MAL quantity is shown on the warehouse receipt or other documents, the producer must provide replacement warehouse receipts and delivery documents. If the warehouse

receipt and such other documents applicable to the settlement are not replaced to reflect the excess amount, CCC will provide for such corrected documents and apply charges for such service, if any, to the producer's account as charges for settlement on the MAL.

■ 25. Revise § 1421.106 section heading, and paragraphs (a), (c), and (d) introductory text to read as follows:

**§ 1421.106 Warehouse-stored MAL collateral.**

(a) A commodity may be pledged as collateral for a warehouse-stored MAL in the quantity delivered to CCC for storage at a warehouse that meets standards for approval at part 1423 of this chapter. Such quantity is the net weight specified on the warehouse receipt or supplemental certificate.

\* \* \* \* \*

(c) If more than one producer executes a note and security agreement with CCC, each such producer is jointly and severally liable for the violation of the terms and conditions of the note and the regulations in this part. Each such producer also remains liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to such producer's claimed share in the commodity pledged as collateral for the MAL. In addition, such producer may not amend the note and security agreement with respect to the producer's claimed share in such commodities, or MAL proceeds, after execution of the note and security agreement by CCC.

(d) Storage rates that CCC has approved to be deducted from MAL proceeds are available in FSA State and county offices and other USDA service centers. Deductions are based upon entries on the warehouse receipt or supplemental certificate, but the storage rate is not to exceed the storage rate CCC has approved. No storage deduction is to be made if written evidence acceptable to CCC is submitted indicating that:

\* \* \* \* \*

■ 26. Amend § 1421.107 as follows:

- a. Revise paragraphs (a), (c), (h) introductory text, (h)(2)(ii), and (i)(2);
- b. In paragraph (h)(2)(iii), remove the words "shall represent" and add the word "represents" in their place;
- c. In paragraphs (h)(2)(i) and (iv), remove the word "shall" and add the word "must" in its place; and
- d. Add paragraph (k).

The revision and addition read as follows:

**§ 1421.107 Warehouse receipts.**

(a) Warehouse receipts for MALs tendered to CCC as specified in § 1421.3

may either be paper or electronic. All receipts, whether paper or electronic, must meet all the applicable provisions of this section and this part, and CCC program document requirements. EWRs must be issued by a provider approved by CCC.

\* \* \* \* \*

(c) If the receipt is issued for a commodity that is owned by the warehouse operator either solely, jointly, or in common with others, the fact of such ownership is to be stated on the receipt. In States where the pledge of warehouse receipts issued by a warehouse operator on the warehouse operator's commodity is invalid, the warehouse operator may offer the commodity to CCC for a MAL if such warehouse is licensed under the U.S. Warehouse Act.

\* \* \* \* \*

(h) If a warehouse receipt indicates that the commodity tendered for MAL grades "infested" or "contains excess moisture," or both, the receipt must be accompanied by a supplemental certificate in order for the commodity to be eligible for a MAL. The grade, grading factors, and quantity to be delivered must be shown on the certificate as follows:

\* \* \* \* \*

(2) \* \* \*

(i) When a supplemental certificate is issued under paragraphs (g)(1) and (h)(2)(i) of this section, the grade, grading factors, and the quantity shown on such certificate will supersede the entries for such items on the warehouse receipt.

\* \* \* \* \*

(i) \* \* \*

(2) Warehouse receipts and the commodities represented by such receipts may be subject to a lien for warehouse charges. For all commodities except peanuts, the producer who pledged such a receipt as collateral for a MAL under this part pays to CCC all costs incurred by CCC as result of the existence of the lien. In no event is a warehouse operator entitled to satisfy such a lien by sale of the commodities when CCC is the holder of such receipt.

\* \* \* \* \*

(k) If the warehouse issues an EWR for the commodity, the producer must notify the EWR provider to make CCC the holder of the EWR and to secure an affirmation verifying that CCC has been made the holder of the EWR.

■ 27. Amend § 1421.108 as follows:

- a. In paragraph (a), introductory text, remove the word "loan" and add the word "MAL" in its place both times it appears; and

- b. Revise paragraphs (a)(1), (b), and (c) introductory text.

The revisions read as follows:

**§ 1421.108 Transfers and reconciliations.**

(a) \* \* \*

(1) Transfer of all or part of the farm-stored MAL collateral to an authorized warehouse will be made through the pledge of warehouse receipts for the commodity placed under a warehouse-stored MAL. The loan rate of the transferred MAL will be the same as the loan rate of the original MAL. The MAL quantity for the warehouse-stored MAL cannot exceed the loan quantity transferred from the farm-stored MAL.

\* \* \* \* \*

(b) The producer must request county committee approval before the transfer of a warehouse-stored MAL to a farm-stored MAL. The county committee may approve the transfer of part or all of a warehouse-stored MAL at any time during the MAL period. Quantities pledged as collateral for a farm-stored MAL will be based on a measurement or a calculation of average production of wool and mohair, by a representative of the county office before approving the farm-stored MAL. The producer must immediately repay the amount by which the farm-stored MAL is less than the warehouse-stored MAL and charges plus interest on the shortage. The maturity date of the farm-stored MAL is the maturity date applicable to the warehouse-stored MAL that was transferred.

(c) Upon the filing of the Reconciliation Agreement and Trust Receipt by the producer and warehouse operator, CCC may, during the MAL period, approve the reconcentration in another authorized warehouse for all or part of a commodity that is pledged as collateral for a warehouse-stored MAL. Any such approval will be subject to the terms and conditions in the Reconciliation Agreement and Trust Receipt. A producer may, before the new warehouse receipt is delivered to CCC, pay CCC:

\* \* \* \* \*

- 28. Amend § 1421.109 as follows:

- a. Revise paragraphs (a)(1), (2), and (3), (d), and (e)(2);

- b. In paragraphs (e)(1)(i) and (ii) remove the word “loan” and add the word “MAL” in its place;

- c. Revise paragraphs (f)(1) and (2), (g), (h), (j), (l) introductory text, and (l)(1);

- d. In paragraphs (k), and (l)(2) remove the word “loan” and add the word “MAL” in its place each time it appears;

- e. In paragraph (m), remove the words “shall be” and add the word “is” in their place; and

- f. Revise paragraphs (n), (o), and (p).

The revisions read as follows:

**§ 1421.109 Personal liability of the producer.**

(a) \* \* \*

(1) Provide an incorrect certification of the quantity or make any fraudulent or erroneous representation for the MAL;

(2) Remove or dispose of a quantity of commodity that is collateral for a CCC farm-stored MAL without prior written approval from CCC in accordance with § 1421.10; or

(3) Violate the terms and conditions of the note and security agreement, which will cause harm or damage to CCC in that funds may be disbursed to the producer for a quantity of a commodity that is not actually in existence or for a quantity on which the producer is not eligible. If CCC determines that the producer has violated the terms and conditions of the applicable forms prescribed by CCC, liquidated damages will be assessed on the quantity of the commodity that is involved in the violation.

\* \* \* \* \*

(d) Liquidated damages assessed in accordance with this section will be determined by multiplying the quantity involved in the violation by 10 percent of the MAL rate applicable to the MAL note.

(e) \* \* \*

(2) Did not act in good faith when the violation was committed, liquidated damages will be assessed in accordance with paragraph (d) of this section, and administrative actions will be taken in accordance with paragraph (h) of this section. The MAL is required to be redeemed at the rate at which the MAL was disbursed, plus interest and any other charges assessed under the note and security agreement.

(f) \* \* \*

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed according to paragraph (d) of this section, and the commodity involved in the violation must be redeemed at the rate at which the MAL was disbursed, plus interest and any other charges assessed under the note and security agreement.

(2) Did not act in good faith about the violation, liquidated damages will be assessed in accordance with paragraph (d) of this section and administrative actions will be taken in accordance with paragraph (h) of this section. The MAL must be redeemed at the rate at which the MAL was disbursed, plus interest and any other charges assessed under the note and security agreement.

(g) If the producer fails to pay such amount within 30 days from the date of notification of violations as provided in paragraphs (e)(1) and (f)(1) of this section, the producer must immediately repay the MAL at the rate at which the MAL was disbursed plus interest, and any other charges assessed under the note and security agreement.

(h) For violations as specified in paragraphs (e)(2) and (f)(2) of this section, the producer must immediately repay the MAL at the rate at which the MAL was disbursed plus interest, and any other charges assessed under the note and security agreement. If the MAL has already been repaid, any market loan gain previously realized on the MAL, plus interest, is immediately due to CCC. CCC will demand delivery of any remaining MAL collateral if the MAL and any other charges and interest are not repaid within the 30 calendar day notification period specified in paragraph (g) of this section.

\* \* \* \* \*

(j) If the MAL is accelerated, the producer may not repay the MAL at the alternative loan repayment rate, unless authorized by CCC.

\* \* \* \* \*

(l) The MAL plus other charges are payable to CCC upon demand if a producer:

(1) Makes any fraudulent representation in obtaining a MAL, maintaining, or settling a MAL; or

\* \* \* \* \*

(n) If the amount disbursed under a MAL or in settlement of the MAL, exceeds the amount authorized by this part, the producer is liable for repayment of the excess and charges, plus interest.

(o) If the amount collected from the producer in satisfaction of the MAL is less than the amount required under this part, the producer is personally liable for repayment of the amount of such difference and charges, plus interest.

(p) In the case of joint MALs, the personal liability for the amounts specified in this section is joint and several on the part of each producer signing the note.

\* \* \* \* \*

**§ 1421.110 [Removed and Reserved]**

- 29. Remove and reserve § 1421.110.

- 30. Amend § 1421.111 as follows:

- a. Revise the section heading;

- b. Revise paragraphs (a) and (f); and

- c. Add paragraphs (g) and (h).

The revisions and additions read as follows:

**§ 1421.111 MAL settlement.**

(a) The value of MALs at settlement will be determined by CCC on the following basis:

(1) For nonrecourse MALs, the schedule of premiums and discounts for the commodity, provided that if the value of the eligible delivered collateral at settlement is:

(i) Less than the amount due, the producer will pay to CCC the amount of such deficiency and charges, plus interest on such deficiency; or

(ii) More than the amount due, the amount of such excess will be paid to the producer or, if applicable, to the producer and applicable secured creditors of the producer.

(2) For recourse MALs, full repayment of principal plus interest is required. As specified in § 1421.113, recourse MAL collateral may not be delivered or forfeited to CCC in satisfaction of indebtedness.

(3) If CCC sells the commodity described in paragraph (a)(1) and (a)(2) of this section in settlement of the MAL, the sales proceeds will be applied to the amount owed as follows:

(i) For nonrecourse MALs, CCC will in all instances retain all proceeds obtained from the sale of the eligible commodity and will not make any payment of any amount of such proceeds to any party, including the producer who has satisfied their obligation under the MAL through delivery of the commodity to CCC. CCC will settle with the producer based on the quality and quantity of the commodity; or

(ii) For recourse MALs, the sales proceeds from the eligible collateral will be applied to the amount owed CCC by the producer. The producer will be responsible for any costs incurred by CCC in completing the sale and CCC will deduct the amount of these costs from the sale proceeds. If:

(A) The amount received from the sale of the collateral is less than the amount due, the producer will pay to CCC the amount of such deficiency and costs, plus interest on the remaining amount owed; or

(B) The amount received from the sale of the collateral is greater than the sum of the amount due, the amount of such excess will be paid to the producer or, if applicable, to the producer and applicable secured creditor of the producer.

\* \* \* \* \*

(f) Premiums and discounts will apply to all eligible loan commodities that are forfeited and delivered to CCC. There will not be any additional adjustments for peanuts at settlement, because such

premiums and discounts will be accounted for when a peanut MAL is made.

(g) If a deficiency exists after the collateral securing a nonrecourse MAL has been delivered to CCC or a recourse MAL sold under a local sale, a receivable for such deficiency will be established as specified in part 1403 of this chapter.

(h) CCC will not assume any loss in quantity or quality of the loan collateral for any farm-stored MALs.

■ 31. Amend § 1421.112 as follows:

■ a. Revise paragraph (a);

■ b. In paragraph (b) introductory text, remove the word “loan” and add the word “MAL” in its place; and

■ c. In paragraph (b)(2), remove the word “claim” and add the word “receivable” in its place.

The revisions read as follows:

**§ 1421.112 Foreclosure.**

(a)(1) Upon maturity and nonpayment of a warehouse-stored MAL, title to the unredeemed collateral securing the MAL will immediately vest in CCC.

(2) Upon maturity and nonpayment of a farm-stored MAL, title to the unredeemed collateral will automatically transfer to CCC upon CCC demand.

(3) When CCC acquires title to the unredeemed collateral, CCC will not pay for any market value that such collateral may have in excess of the MAL indebtedness, (the unpaid amount of the note and charges plus interest).

\* \* \* \* \*

■ 32. Amend § 1421.113 as follows:

■ a. Revise the section heading and paragraph (a); and

■ b. In paragraph (b), remove the word “must” and add the words “is required to” in its place.

The revisions read as follows:

**§ 1421.113 Recourse MALs.**

(a) CCC will make recourse MALs available to eligible producers of high moisture corn, high moisture grain sorghum and other eligible loan commodities as determined by the Deputy Administrator, Farm Programs.

\* \* \* \* \*

**Subpart C—Loan Deficiency Payments**

■ 33. Amend § 1421.200 as follows:

■ a. Revise paragraph (a);

■ b. In paragraph (b) introductory text, remove the words “loan deficiency payments” and add the word “LDPs” in their place;

■ c. In paragraph (b)(2), remove the word “loan” and add the word “MAL” in its place; and

■ d. Add paragraph (e).

The revision and addition read as follows:

**§ 1421.200 Applicability.**

(a) During the MAL availability period, LDPs will be made available to eligible producers when the alternative repayment rate is less than the applicable county loan rate.

\* \* \* \* \*

(e) AGI and payment limitation requirements apply as specified in part 1400 of this chapter.

■ 34. Revise § 1421.201(a) and (c) to read as follows:

**§ 1421.201 LDP rate.**

(a) The LDP rate for a crop will be the amount by which the loan rate for the crop exceeds the rate at which CCC has announced that producers may repay their MALs as specified in § 1421.10.

\* \* \* \* \*

(c) The LDP applicable to such crop will be computed by multiplying the LDP rate, as determined under paragraph (b) of this section, by the quantity of the crop the producer is eligible to pledge as collateral for a nonrecourse MAL for which the LDP is requested.

■ 35. Revise § 1421.202(b) to read as follows:

**§ 1421.202 LDP quantity.**

\* \* \* \* \*

(b) Two or more producers may obtain a single joint LDP for commodities that are stored in the same storage facility. Two or more producers may obtain individual LDPs for their share of the commodity that is stored commingled in a farm storage facility with commodities for which an LDP has been requested and will be liable for any damage incurred by CCC for incorrect certification of such commodities under § 1421.203.

\* \* \* \* \*

■ 36. Amend § 1421.203 as follows:

■ a. Revise paragraphs (a)(2), and (e)(1);

■ b. In paragraph (e)(2) remove the word “loans” and add the word “MALs” in its place; and

■ c. Revise paragraphs (e)(3), (g), and (h).

The revisions read as follows:

**§ 1421.203 Personal liability of the producer.**

(a) \* \* \*

(2) That violation of the terms and conditions of the LDP request, as applicable, will cause harm or damage to CCC in that funds may be disbursed to the producer for a quantity of a commodity that is not actually in existence or for a quantity on which the

producer is not eligible. If CCC determines that the producer has violated the terms and conditions of the applicable forms prescribed by CCC, liquidated damages will be assessed on the quantity of the commodity that is involved in the violation.

\* \* \* \* \*

(e) \* \* \*

(1) Accelerate the maturity date on the producer's outstanding farm-stored MALs;

\* \* \* \* \*

(3) Deny LDPs for the current and 2 following crop years unless production evidence is presented to CCC. Depending on the severity of the violation, the county committee may deny future farm-stored MALs and LDPs without production evidence.

\* \* \* \* \*

(g) If the amount disbursed under LDPs exceeds the amount authorized by this part, the producer is liable for repayment of such excess and liquidated damages, plus interest.

(h) In the case of joint LDPs, the personal liability for the amounts specified in this section is joint and several on the part of each producer signing the LDP application.

\* \* \* \* \*

■ 37. Revise the heading for subpart D to read as follows:

**Subpart D—Grazing Payments for Wheat, Barley, Oats, and Triticale**

■ 38. Revise § 1421.300(a) to read as follows:

**§ 1421.300 Applicability.**

(a) The regulations in this subpart are applicable to the eligible acreage planted to wheat, barley, oats, or triticale that is grazed by livestock and not harvested in any other manner. This subpart specifies the terms and conditions under which a grazing payment will be made by CCC in lieu of an LDP.

\* \* \* \* \*

**§ 1421.301 [Amended]**

■ 39. Amend § 1421.301, in paragraph (a), by removing the “shall” both times it appears and adding the word “will” in its place and by removing the words “the Farm Service Agency (FSA)” and adding the word “FSA” in their place.

■ 40. Amend § 1421.302 as follows:

■ a. In paragraph (a), remove the words “2008 through 2012” and add the word “applicable” in their place; and

■ b. Revise paragraphs (d)(1) and (f).

The revisions read as follows:

**§ 1421.302 Eligible producer and eligible land.**

\* \* \* \* \*

(d)(1) A producer must, at the time the LDP agreement is signed, meet all other eligibility criteria for obtaining LDPs including AGI and payment limitation requirements as specified in part 1400 of this chapter.

\* \* \* \* \*

(f) Producers who elect to graze their wheat, barley, oats, or triticale will not be eligible for an indemnity under the Federal Crop Insurance Program provisions of Chapter IV of this title or a payment under the Noninsured Crop Assistance Program authorized under part 1437 of this chapter.

■ 41. Revise § 1421.303 to read as follows:

**§ 1421.303 Time and method for application.**

(a) Application for the program provided in this subpart must be received, at the FSA county office that is responsible for administering programs for the farm, no earlier than the date on which eligible crops would normally be harvested and no later than the final loan availability date as determined in accordance with § 1421.5.

(b) The application must describe the land to be grazed and, in accordance with standards set by CCC, the tract or field location.

(c) The COC will determine the first harvest date, taking into account the date on which such crops are normally harvested locally for any purpose.

(d) Where multiple producers are involved, the application must specify each producer's share in the crop.

(1) A producer may only receive payments under this subpart that are commensurate with that producer's share in the crop as specified on the application.

(2) Should a person who is entitled to receive a payment under this subpart die, that payment, as earned, may be made to other persons as provided for in the rules specified in part 707 of this title.

(3) Third parties may also receive payments to the extent provided for in part 707 of this title for other situations involving an incapacitation of the producer.

(e) Refusals to allow CCC to verify information on any application or report used for this subpart can result in program ineligibility and producers must provide CCC, FSA, and its agent access to the property involved and to all records as may be relevant to the making of payments under this subpart.

(f) False statements will disqualify the producer from the program and may be

subject to other sanctions including criminal sanctions.

■ 42. Revise § 1421.304(a), (c), and (d) to read as set forth below:

**§ 1421.304 Payment amount.**

(a) The grazing payment rate will be the LDP in effect for the farm on the date which the producer submits a complete program application to CCC. For triticale, the grazing rate will be equal to the LDP rate in effect for the predominant class of wheat in the county where the farm is located as of the date the application is filed.

\* \* \* \* \*

(c) The payment yield will be:

(1) The yield for the loan commodity on the farm in effect for the calculation of Price Loss Coverage as specified in part 1412 of this chapter;

(2) For a farm for which Agriculture Risk Coverage is elected, the payment yield that would otherwise be in effect for that loan commodity on the farm in the absence of such election as specified in part 1412 of this chapter; or

(3) In the case of a farm for which no payment yield is established for the loan commodity on the farm, an appropriate yield as determined by the COC.

(d) No payment may be received or retained under this subpart to the extent that the payment, were they considered to be LDPs, would place that person over the per person per year payment limit that applies to LDPs. The producer agrees that the CCC may collect any payment considered to be an overpayment by reason of this subsection by withholding LDPs until the matter is resolved, by treating the LDP as being not payable to the extent that a grazing refund would otherwise be due, by setoff, or by any other means available to CCC.

\* \* \* \* \*

**§ 1421.305 [Amended]**

■ 43. Amend § 1421.305(a) introductory text, by removing the words “shall be” and adding the word “is” in their place.

■ 44. Amend § 1421.306 as follows:

■ a. Revise paragraph (a);

■ b. In paragraph (b), remove the words “shall be” and add the word “are” in their place; and

■ c. Revise paragraph (c).

The revisions read as follows:

**§ 1421.306 Refunds; joint and several liability.**

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under this application, of this subpart, and if any refund of a payment to CCC becomes due for that or other reason in

connection with the application, of this subpart, all payments made under this subpart to any producer are to be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late-payment charges as provided for in part 1402 of this chapter.

\* \* \* \* \*

(c) Interest is applicable to refunds required from the producer. Interest will be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available. Interest will accrue from the date such benefits were made available to the date of repayment but the interest rate will increase to reflect any increase in the rate charged to CCC by Treasury for any percent of time for which the interest assessment is collected. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the producer.

\* \* \* \* \*

**Subpart E—Designated Marketing Associations for Peanuts**

■ 45. Revise § 1421.400 to read as follows:

**§ 1421.400 Applicability.**

(a) This subpart specifies the terms and conditions under which an entity that is a DMA of peanut producers, or a subsidiary of such an entity, may qualify as a DMA, as defined in § 1421.3. DMAs may process peanut MALs and LDPs on behalf of producers.

(b) This subpart only applies with respect to peanut MALs and peanut LDPs.

■ 46. Amend § 1421.401 as follows:

■ a. In paragraph (a) introductory text, remove the words “marketing loans” and add the word “MALs” in their place and remove the words “loan deficiency payments” and add the word “LDPs” in their place;

■ b. In paragraph (a)(2), remove the word “shall”;

■ c. Revise paragraph (a)(7);

■ d. In paragraph (b) introductory text, remove the word “shall”; and

■ e. In paragraph (b)(1), remove the words “program regulations” and add the words “MAL and LDP regulations” in their place.

The revision reads as follows:

**§ 1421.401 DMA responsibilities.**

(a) \* \* \*

(7) Collect MAL repayments from producers or buyers and transmit those funds to CCC;

\* \* \* \* \*

■ 47. Revise § 1421.402 section heading and paragraphs (a) introductory text and (4), and (b) to read as follows:

**§ 1421.402 DMA eligibility to process MALs and LDPs.**

(a) A DMA is eligible to process any MAL or LDPs only if approved in advance to handle such matters by the Farm Service Agency pursuant to this part; and

\* \* \* \* \*

(4) The DMA does not take title at any time to any peanuts for which it processes MALs or LDPs, irrespective of whether such title is taken before or after those activities are performed. If such title or interest is taken, the DMA is required to return to CCC the full amount of the CCC proceeds disbursed with respect to the peanuts; and

\* \* \* \* \*

(b) The DMA’s activities under this part are to be conducted only with respect to peanuts and only for producers and peanuts that meet all the eligibility requirements of this part. Such requirements include, but are not limited to, the requirement of § 1421.6 that the producer must have the beneficial interest in the peanuts while the peanuts are under MAL or when the LDP is received and must be the only person that has had such an interest in the peanuts prior to that time except as allowed by § 1421.6.

■ 48. Revise § 1421.403(a) introductory text, to read as follows:

**§ 1421.403 DMA approval.**

(a) Entities wishing to apply to be a DMA enabled to perform MAL and LDP functions under this part for peanuts must submit an application for such approval to FSA in a form approved by CCC. That application will include the following:

\* \* \* \* \*

■ 49. Revise § 1421.404 to read as follows:

**§ 1421.404 Financial security.**

(a) In order to be approved to handle MALs and LDPs, a DMA must:

(1) Have a current net worth ratio of at least 1:1; and

(2) Provide security equal to \$100,000 or a greater amount as determined by CCC.

(b) [Reserved]

■ 50. Revise § 1421.405 to read as follows:

**§ 1421.405 Liability.**

(a) DMAs must indemnify CCC against any claim or loss by CCC in connection with the processing of any MALs or LDPs or other activity carried

out by the DMA. If CCC pays any claim or suffers a loss as a result of the actions of DMA, or if a refund otherwise becomes due to CCC, payment in the amount of such losses or refund, plus interest, may be set-off by CCC from the financial security provided by DMA as required by this subpart. If the amount of the loss exceeds the amount of the financial security, such amount is paid to CCC by DMA with interest. Interest and other charges may be assessed consistent with § 1403.9 of this chapter. Remedies provided in this section or part are in addition to other remedies or penalties, whether civil, criminal or otherwise, as may apply.

(b) If a DMA becomes liable to CCC under paragraph (a) of this section or otherwise in connection with this subpart, such DMA is not eligible to process an LDP or MAL until the receivable amount owed CCC is paid in full, and the full amount of financial security required by this subpart has been restored.

**§ 1421.406 [Amended]**

■ 51. Amend § 1421.406 as follows:

■ a. In paragraph (a) introductory text, remove the word “shall” and add the word “must” in its place;

■ b. In paragraph (a)(2), remove the word “loan” and add the word “MAL” in its place;

■ c. In paragraph (b), remove the word “loans” and add the word “MALs” in its place, and remove the word “shall” and add the word “must” in its place; and

■ d. In paragraphs (d)(2) and (e), remove the word “shall” and add the word “must” in its place.

■ 52. Revise § 1421.407(b) to read as follows:

**§ 1421.407 Suspension and termination.**

\* \* \* \* \*

(b) *Termination.* The DMA agreement may be terminated by the DMA upon 30 calendar days’ written notice to CCC. CCC may cancel the agreement at any time. Upon termination DMA must immediately cease processing MAL or LDP requests and documents except as needed to preserve CCC’s position with respect to existing MALs or LDPs.

**§ 1421.408 [Amended]**

■ 53. Amend § 1421.408 as follows:

■ a. In paragraph (a) introductory text, remove the word “loans” and add the words “MALs and LDPs” in its place; and

■ b. In paragraph (a)(8) remove the word “peanuts” and add the word “peanut” in its place.

■ 54. Revise § 1421.409 to read as follows:

**§ 1421.409 Monitoring AGI and payment limitations.**

(a) DMAs are required to monitor their producers' AGIs and may not permit repayments with a market loan gain on peanut MALs or process peanut LDPs for those producers with annual AGI over the allowable limit as specified in part 1400 of this chapter.

(b) DMAs are required to monitor their producers' payment limit and not process market loan gains on peanut MALs or peanut LDPs that would produce a gain over the payment limit as specified in part 1400 of this chapter.

**§ 1421.410 [Amended]**

■ 55. Amend § 1421.410 by removing the word "shall" and adding the word "must" in its place.

**§ 1421.411 [Amended]**

■ 56. Amend § 1421.411 by removing the word "shall" and adding the word "may" in its place.

■ 57. Revise § 1421.413 to read as follows:

**§ 1421.413 Liens and waivers.**

(a) DMAs performing MAL-related functions pursuant to the authority in this subpart must determine, to the same extent as required for MALs handled by FSA county offices, whether a lien on the peanuts exists by performing or obtaining a lien search for all peanuts to be pledged for each MAL, except that the cost associated with such lien search and any necessary lien waivers is borne by the DMA. If a lien exists, the DMA must obtain, on an approved CCC form, a signed waiver from each lienholder with an interest in any such lien.

(b) [Reserved]

■ 58. Amend § 1421.415 as follows:

■ a. Redesignate paragraphs (a) through (e) as paragraphs (a)(1) through (a)(5), redesignate the introductory text as paragraph (a), and reserve paragraph (b);

■ b. In newly redesignated paragraph (a) introductory text, remove the word "shall" and add the word "must" in its place;

■ c. Revise newly redesignated paragraph (a)(1); and

■ d. In newly redesignated paragraph (a)(2), remove the words "electronic warehouse receipt" both times they appear and add the word "EWR" in their place.

The revision reads as follows:

**§ 1421.415 Processing marketing assistance loans.**

(a) \* \* \*

(1) Make all the determinations that are a precondition for a MAL, including all producer eligibility requirements,

lien determinations, and if requested by the producer, enter into a power of attorney agreement with the producer.

\* \* \* \* \*

■ 59. Amend § 1421.416 as follows:

■ a. In paragraph (a) introductory text, remove the word "shall" and add the word "must" in its place;

■ b. Revise paragraph (a)(1); and

■ c. In paragraph (a)(4) remove the word "loan" and add the word "MAL" in its place.

The revision reads as follows:

**§ 1421.416 Processing loan deficiency payments.**

(a) \* \* \*

(1) In addition to other determinations that are required, the DMA must determine whether the producer exceeds the AGI limits and has sufficient eligibility under the applicable payment limit to allow the receipt of the LDP. If the producer is over the AGI limit or there is not sufficient payment limitation eligibility, the DMA cannot process the request.

\* \* \* \* \*

**§ 1421.417 [Amended]**

■ 60. Amend § 1421.417 as follows:

■ a. In paragraph (c), remove the words "shall be" in both places and add the words "are to be" in their place; and

■ b. In paragraph (d), remove the word "shall" and add the words "is to" in their place.

■ 61. Amend § 1421.418 as follows:

■ a. Revise paragraph (a) introductory text; and

■ b. In paragraph (b) introductory text, remove the word "shall" and add the word "must" in its place.

The revision reads as follows:

**§ 1421.418 Submitting MAL and LDP documentation to FSA.**

(a) Until such time as an alternative FSA MAL- or LDP-making system is made available to DMAs, within 3 business days of any DMA prepared disbursement, the DMA must separately group and submit to FSA:

\* \* \* \* \*

**§ 1421.419 [Amended]**

■ 62. Amend § 1421.419(a) introductory text, by removing the words "shall be" and adding the word "is" in their place.

■ 63. Revise § 1421.420 to read as follows:

**§ 1421.420 Inspections and reviews.**

The books, documents, papers, and records of the DMA and parent company must be maintained for 6 years after the applicable crop year and be made available to CCC for inspection

and examination at all reasonable times. At any time after an application is received, CCC has the right to examine all books, documents, papers, and determine whether the DMA is operating or has operated in accordance with the regulations in this part, any articles of incorporation, articles of association, partnership documents, agreements with producers, the representations made by the DMA in its application for approval, and, where applicable, its agreements with CCC. If the DMA is determined to be not complying with this part or any of its agreements, CCC will take appropriate action as provided in elsewhere in this subpart or other action CCC determines appropriate.

**§§ 1421.4, 1421.9, 1421.10, 1421.13, 1421.101, 1421.102, 1421.103, 1421.105, 1421.106, 1421.108, 1421.109, 1421.111, 1421.113, 1421.200 [Amended]**

■ 64. In addition to the amendments set forth above, in 7 CFR part 1421, remove the words "marketing assistance loan" and add, in their place, the word "MAL" wherever they appear in the following places:

- a. In § 1421.4 (e)(1) introductory text and (e)(1)(i);
- b. In § 1421.9 (a) and (b);
- c. In § 1421.10 (e) introductory text and (i) introductory text;
- d. In § 1421.13(a)(2);
- e. In § 1421.101(a)(2);
- f. In § 1421.102(a)(1);
- g. In § 1421.103(a)(1);
- h. In § 1421.105 (c) introductory text, (c)(1), and (d)(1)(i) ;
- i. In § 1421.106(b);
- j. In § 1421.108 (c)(1) and (2);
- k. In § 1421.109 (a) introductory text, (e) introductory text, and (f) introductory text;
- l. In § 1421.111(b)(2);
- m. In § 1421.113(c); and
- n. In § 1421.200(b)(1).

**§§ 1421.3, 1421.100 [Amended]**

■ 65. In addition to the amendments set forth above, in 7 CFR part 1421, remove the words "marketing assistance loans" and add, in their place, the word "MALs" wherever they appear in the following places:

- a. In § 1421.3 in the definition of "high moisture state"; and
- b. In § 1421.100.

**§§ 1421.8, 1421.13, 1421.200, 1421.201, 1421.202, 1421.203 [Amended]**

■ 66. In addition to the amendments set forth above, in 7 CFR part 1421, remove the words "loan deficiency payment" and add, in their place, the word "LDP" wherever they appear in the following places:

- a. In § 1421.8 in newly redesignated paragraph (b)(1)(ii);
- b. In § 1421.13(a)(1);
- c. In § 1421.200(c)(1), (2), and (d);
- d. In § 1421.201(b);
- e. In § 1421.202 (a) and (c); and
- f. In § 1421.203 (a) introductory text, (a)(1), (b), (c)(1) and (2).

**§§ 1421.2, 1421.102, 1421.106, 1421.107, 1421.108, 1421.109, 1421.111, 1421.112, 1421.203, 1421.300, 1421.301, 1421.304, 1421.305, 1421.306, 1421.417, 1421.418, 1421.419 [Amended]**

- 67. In addition to the amendments set forth above, in 7 CFR part 1421, remove the word “shall” each time it appears and add, in its place, the word “will” wherever they appear in the following places:
  - a. § 1421.2(c);
  - b. § 1421.102(a)(4);
  - c. § 1421.106(e) introductory text and (f);
  - d. § 1421.107(g)(2);
  - e. § 1421.108(a)(2);
  - f. § 1421.109(c), (e)(1), and (i) introductory text;
  - g. § 1421.111(c) introductory text and (c)(1);
  - h. § 1421.112(b)(1);
  - i. § 1421.203(e) introductory text and (f) introductory text;
  - j. § 1421.300(b);
  - k. § 1421.301(c) introductory text and (d);
  - l. § 1421.304(b);
  - m. § 1421.305(b);
  - n. § 1421.306(d) and (e);
  - o. § 1421.417(e);
  - p. § 1421.418(d); and
  - q. § 1421.419(b).

**PART 1425—COOPERATIVE MARKETING ASSOCIATIONS**

- 68. The authority citation for part 1425 continues to read as follows:
 

**Authority:** 7 U.S.C. 1441 and 1421, 7 U.S.C. 7931–7939; and 15 U.S.C. 714b, 714c, and 714j.
- 69. Revise § 1425.1 to read as follows:

**§ 1425.1 Applicability.**

(a) This part specifies the terms and conditions an approved Cooperative Marketing Association (CMA) must meet to obtain marketing assistance loans (MALs) and loan deficiency payments (LDPs) from CCC on behalf of its members.

(b) A CMA meeting the requirements of this part may obtain MALs and LDPs for any eligible commodity for which a MAL and LDP program is in effect.

- 70. Revise § 1425.2 to read as follows:

**§ 1425.2 Administration.**

(a) On behalf of the Commodity Credit Corporation (CCC), the Farm Service

Agency (FSA) will administer the provisions of this part under the general direction and supervision of the Deputy Administrator for Farm Programs.

(b) In the field, the provisions of this part will be administered by the State and county FSA committees.

- 71. Amend § 1425.3 as follows:

- a. Revise the introductory text;
- b. In the definition of “Approved cooperative marketing association”, remove the word “loan” and add the word “MAL” in its place;
- c. In the definition of “Authorized commodity”, remove the words “marketing assistance loans” and add the word “MALs” in their place and remove the words “Loan deficiency payments” and add the word “LDPs” in their place;
- d. In the definition of “Eligible commodity”, remove the word “loan” and add the word “MALs” in its place, and remove the word “LDP” and add the word “LDPs” in its place;
- e. Add, in alphabetical order, a definition for “Loan deficiency payment”;
- f. In the definition of “Loan pool”, remove the word “loans” and add the word “MALs” in its place, and remove the word “LDPs” and add the word “LDPs” in its place;
- g. Remove the definition of “Market gain”; and
- h. Add, in alphabetical order, a definition of “Market loan gain”.

The revisions and addition read as follows:

**§ 1425.3 Definitions.**

The definitions in this section are applicable for all purposes of program administration. The terms defined in parts 718 of this title and parts 1421 and 1427 of this chapter are also applicable, except where those definitions conflict with the definitions in this section.

*Loan deficiency payment (LDP)* means a payment made in lieu of a MAL when the CCC-determined value, which is based on the current local price in a county, is below the applicable county loan rate. The payment is the difference between the two rates times the eligible quantity.

*Market loan gain* is the loan rate, minus the repayment rate on loans repaid at a rate that is less than the loan rate. The total of all market loan gains received by a producer for an applicable crop year cannot exceed the producer’s applicable payment limitation as specified in part 1400 of this chapter. A producer’s adjusted gross income must also be below the limit as specified in

part 1400 of this chapter to receive a market loan gain.

\* \* \* \* \*

- 72. Amend § 1425.4 as follows:

- a. Revise paragraph (a), introductory text;
- b. In paragraph (a)(6), remove the word “loan” and add the word “MAL” in its place;
- c. In paragraph (a)(7), remove the words “CCC loan” and add the word “MAL” in their place;
- d. In paragraph (b)(1), remove the words “shall disclose” and add the word “discloses” in their place;
- e. In paragraph (c) introductory text, remove the word “shall” and add the word “must” in its place; and
- f. In paragraph (c)(2), remove the word “loan” and add the word “MAL” in its place.

The revision reads as follows:

**§ 1425.4 Approval.**

(a) For a cooperative to be eligible to participate in the MAL and LDP Programs as an approved CMA, the cooperative must submit an application to CCC. The application must include:

\* \* \* \* \*

- 73. Revise § 1425.6 to read as follows:

**§ 1425.6 Approved CMAs.**

(a) CCC may approve a CMA to participate in the MAL and LDP program as:

- (1) Unconditionally approved; or
- (2) Conditionally approved.

(b) If CCC determines a CMA is in substantial but not total compliance with the requirements of this part, CCC may make the approval conditional on the CMA achieving full compliance within a reasonable period of time, as specified in the notification of conditional approval.

(c) A CMA is approved to participate in the MAL and LDP program until the CMA’s approval is suspended or terminated by CCC.

- 74. Amend § 1425.7 as follows:

- a. Revise paragraphs (a) and (d); and
- b. In paragraph (e), remove the word “shall” and add the word “will” in its place wherever it appears.

The revision reads as follows:

**§ 1425.7 Suspension and termination of approval.**

(a) CCC may suspend a CMA from obtaining MALs and LDPs when CCC determines the CMA has violated any of its agreements with CCC or the CMA has not:

- (1) Operated according to the CMA’s application for approval or its last recertification submission;
- (2) Complied with applicable regulations; or

(3) Corrected deficiencies of the CMA's operation as noted by CCC.

\* \* \* \* \*

(d) If a CMA does not have any MALs outstanding, it may voluntarily terminate its participation in the MAL and LDP program through written notice to CCC.

\* \* \* \* \*

#### § 1425.9 [Amended]

■ 75a. Amend § 1425.9(a) by removing the word "shall" and adding the word "must" in its place.

#### § 1425.10 [Amended]

■ 75b. Amend § 1425.10 by removing the word "shall" and adding the word "must" in its place.

#### § 1425.14 [Amended]

■ 76. Amend § 1425.14(a) introductory text, by removing the word "loan" and adding the word "MAL" in its place.

#### § 1425.15 [Amended]

■ 77. Amend § 1425.15, by removing the word "shall" and adding the word "will" in its place.

■ 78. Revise § 1425.16 to read as follows:

#### § 1425.16 Payment limitation and adjusted gross income provisions.

(a) CMAs must apply any market loan gains received on behalf of members to the loan pool for distribution. However, CMAs must also monitor market loan gains they receive from CCC on behalf of their members and must not obtain market loan gains for a member above the member's payment limitation determined as specified in part 1400 of this chapter.

(b) CMAs must monitor LDPs they receive from CCC on behalf of their members and not obtain LDPs for a member whose AGI is above the limit specified in part 1400 of this chapter.

■ 79. Amend § 1425.17 as follows:

■ a. Revise paragraphs (c) introductory text, (1), and (3);

■ b. Add paragraph (c)(6);

■ c. In paragraph (d)(2), remove the words "a loan" and add the words "a MAL" in their place;

■ d. Revise paragraph (e) ;

■ e. In paragraphs (f) remove the word "loan" and add the word "MAL" in its place.

■ f. In paragraph (g) remove the word "Loans" and add the word "MALs" in its place;

■ g. Revise paragraphs (h) through (m);

■ h. In paragraph (n) introductory text, remove the word "loan" and add the word "MAL" in its place; and

■ i. Add paragraph (o).

The revisions and additions read as follows:

#### § 1425.17 Eligible commodity and pooling.

\* \* \* \* \*

(c) A loan pool is eligible for MALs and LDPs if:

(1) All of the commodity in the loan pool is eligible for MALs or LDPs, except as provided in paragraphs (d) and (e) of this section;

\* \* \* \* \*

(3) The commodity was delivered and the members are eligible for MALs and LDPs;

\* \* \* \* \*

(6) Members agree to refund to the CMA, if requested by the CMA, any denied market loan gain or LDP benefit realized when the proceeds from the loan pool are distributed to the CMA members.

\* \* \* \* \*

(e) A CMA may include a commodity in a pool that is ineligible based on FSA records if the producer has certified to the CMA the commodity is eligible. (For example, an otherwise eligible commodity that is not reflected on a timely filed FSA acreage report.) CCC will specify a time period during which CMAs may obtain MALs or LDPs on the applicable quantity while the eligibility status is resolved. If the final resolution is that the commodity was ineligible, the CMA must repay any MALs outstanding with principal plus interest and any market loan gains obtained plus interest from the date of receiving the market loan gain through the repayment date.

\* \* \* \* \*

(h) A CMA must have identity-preserved loan pool commodities stored in approved warehouses while the commodities are pledged as collateral for MAL.

(i) Comingled commodities with MAL eligibility stored on a farm or in a warehouse may be transferred to an authorized warehouse.

(j) Commodities pledged as collateral for MALs must be free and clear of all liens and encumbrances based on a CMA's financial agreements or the CMA must obtain and complete a lien waiver form. When liens are applicable based on CMA financial agreements, the CMA must provide CCC the completed lien waiver form. CMAs must not take any action to cause a lien or encumbrance to be placed on a commodity after a MAL is approved.

(k) If a MAL or LDP is obtained for any quantity in a loan pool, allocations of costs and expenses among separate pools for the commodity in the pool will

be made according to generally accepted accounting principles.

(l) A CMA must not apply marketing losses from a commodity not used to obtain a MAL or LDP against the marketing proceeds of a commodity used to obtain a MAL or LDP.

(m) CMAs will not carry forward losses from one loan pool and apply them against a subsequent loan pool without CCC's authorization. CCC may grant authorization when it determines that carrying forward the loss complies with the MAL or LDP Program intent.

\* \* \* \* \*

(o) Denied market loan gain or denied LDP benefits will be based on payment limitation attribution as specified in part 1400 of this chapter, and must be repaid to CCC by the CMA receiving the MAL or LDP proceeds.

■ 80. Amend § 1425.18 as follows:

■ a. In paragraph (a)(1) introductory text, remove the word "shall" and add the word "must" in its place;

■ b. In paragraph (a)(1)(ii), remove the word "loans" and add the word "MALs" in its place and remove the word "LDPs" and add the word "LDPs" in its place;

■ c. In paragraphs (a)(1)(iii) and (2), remove the word "loan" each time it appears and add the word "MAL" in its place;

■ d. In paragraph (b)(1), remove the word "shall" both times it appears and add the word "must" in its place and remove the reference to "§ 1425.4(b)(7)" and add a reference to "§ 1425.4(a)(5)" in its place;

■ e. In paragraph (b)(3), remove the word "Loan" and add the word "MAL" in its place; and remove the word "loans" and add the word "MALs" in its place;

■ f. Revise paragraph (b)(4); and

■ g. Add paragraph (c).

The revision and addition read as follows:

#### § 1425.18 Distribution of proceeds.

\* \* \* \* \*

(b) \* \* \*

(4) When notified by CCC that MAL and LDP distributions to a member are required to be reduced for a program year, farm, or crop, a CMA must not make subsequent pool distributions and must reimburse CCC for distributions previously issued, if applicable.

(c) CMAs must apply market loan gains to the payment limit that is earned on date of redemption for their members when the CMA distributes the pool funds.

■ 81. Revise § 1425.19 to read as follows:

§ 1425.19 Member cooperatives.

(a) A CMA may obtain MALs or LDPs on behalf of a member cooperative when the member cooperative is itself a CMA operating in accordance with this part. For example, a cooperative of producers may be a member of a CMA that markets a commodity.

(b) If the CMA is approved according to § 1425.6, and otherwise meets all the requirements of this part, the MALs and LDPs submitted by members of that CMA will be eligible.

§ 1425.21 [Amended]

■ 82. Amend § 1425.21 as follows:

■ a. In paragraph (a) introductory text, remove the word “loan” and add the word “MAL” in its place;

■ b. In paragraph (a)(2), remove the words “loans and LDP’s” and add the words “MALs and LDPs” in its place; and

■ c. In paragraph (b) introductory text, (1), and (2), remove the word “shall” and add the word “must” in its place.

■ 83. Amend § 1425.22 as follows:

■ a. In paragraph (a), remove the word “shall” both times it appears and add the word “must” in its place;

■ b. In paragraph (b), remove the words “shall have” and add the word “has” in its place; and

■ c. Add paragraph (c).

The addition reads as follows:

§ 1425.22 Inspection and investigation.

\* \* \* \* \*

(c) CCC reserves the right to determine examinations of CMAs based on:

(1) A 3-year rotation; or

(2) The previous crop year MAL or LDP activity if market loan gain and LDP activity increases substantially.

§ 1425.23 [Amended]

■ 84. In § 1425.23(a) and (b), remove the word “shall” and add the word “must” in its place.

§ 1425.24 [Removed and Reserved]

■ 85. Remove and reserve § 1425.24.

PART 1427—COTTON

■ 86. The authority citation for part 1427 is revised to read as follows:

Authority: 7 U.S.C. 7231–7237, 7931–7936, 9011, and 9031–40, 15 U.S.C. 714b and c.

■ 87. Amend § 1427.1 as follows:

■ a. Revise paragraphs (a), (b), and (d);

■ b. In paragraph (c), remove the words “Marketing assistance loans and loan deficiency payments” and add the words “MALs and LDPs” in their place; and

■ c. Remove paragraph (e).

The revisions read as follows:

§ 1427.1 Applicability.

(a) The regulations in this subpart are applicable to crops of upland cotton and extra long staple cotton. This part specifies the general provisions under which the Marketing Assistance Loans (MAL) and Loan Deficiency Payment (LDP) Programs will be administered by the Commodity Credit Corporation (CCC). Eligibility to receive MALs and LDPs is subject to additional terms and conditions that are in the MAL note and security agreement and the LDP application. The provisions in this part apply to the 2014 and subsequent crops.

(b) The basic loan rate, the schedule of premiums and discounts, and forms applicable to the cotton MAL and LDP Programs are available from FSA offices. The forms for use in connection with the programs in this subpart will be prescribed by CCC.

\* \* \* \* \*

(d) Adjusted gross income (AGI) and payment limitation provisions specified in part 1400 of this chapter are applicable to MALs and LDPs.

■ 88. Amend § 1427.2 as follows:

■ a. Revise paragraph (a);

■ b. In paragraph (c) introductory text, remove the word “shall” both times it appears and add the word “will” in its place;

■ c. In paragraph (e), remove the words “marketing assistance and loan deficiency payment programs” and add the words “MAL and LDP Programs” in their place; and

■ d. In paragraph (f), remove the words “marketing assistance loan and loan deficiency payment” and add the words “MAL and LDP” in their place.

The revision reads as follows:

§ 1427.2 Administration.

(a) The MAL and LDP Programs will be administered under the general supervision of the Executive Vice President, CCC, or a designee and will be carried out by FSA employees, and state and county committees.

\* \* \* \* \*

■ 89. Amend § 1427.3 as follows:

■ a. Revise the introductory text;

■ b. Remove the definitions for “Approved cooperative marketing association”, “Commodity certificate exchange”, and “Loan deficiency payment”;

■ c. Add, in alphabetical order, definitions for “Cooperative marketing association”, and “Loan deficiency payment (LDP)”;

■ d. Revise the definition of “Warehouse receipt”.

The revisions and additions read as follows:

§ 1427.3 Definitions.

The definitions in this section apply for all purposes of program administration regarding the cotton loan and LDP programs. The terms defined in part 718 of this title and parts 1412, 1421, 1423, 1425, and 1434 of this chapter also apply, except where they conflict with definitions in this section.

\* \* \* \* \*

Cooperative marketing association (CMA) means a cooperative marketing association, approved as specified in part 1425 of this chapter, that has executed a Cotton Cooperative Loan Agreement.

\* \* \* \* \*

Loan deficiency payment (LDP) means a payment made in lieu of a MAL when the CCC-determined value, which is based on the current local price in a county, is below the applicable county loan rate. The payment is the difference between the two rates times the eligible quantity.

\* \* \* \* \*

Warehouse receipt means a receipt containing the required information specified in this part that may or may not be certificated for delivery for a futures-pricing contract, and is an electronic warehouse receipt record issued by such warehouse recorded in a central filing system or systems maintained in one or more locations that are approved by FSA to operate such system.

\* \* \* \* \*

■ 90. Amend § 1427.4 as follows:

■ a. In paragraph (a)(1) remove the words and punctuation “trust,or” and add the words and punctuation “trust, or” in their place;

■ b. In paragraph (b) remove the words “shall be” both times it appears and add the word “is” in their place;

■ c. Revise paragraphs (d)(1), (e), and (f); and

■ d. Add paragraph (g).

The revisions and addition read as follows:

§ 1427.4 Eligible producer.

\* \* \* \* \*

(d)(1) If more than one producer executes a note and security agreement with CCC, each such producer is jointly and severally liable for the violation of the terms and conditions of the note and the regulations in this part. Each such producer also remains liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to such producer’s claimed share in the commodity pledged as collateral for the MAL. In addition, such producer may not amend the note and security agreement with respect to the

producer's claimed share in such commodities, or loan proceeds, after execution of the note and security agreement by CCC.

\* \* \* \* \*

(e) A CMA may obtain MALs and LDPs on eligible cotton on behalf of its members who are eligible to receive loans or LDPs for a crop of cotton. For purposes of this subpart, the term "producer" includes a CMA.

(f) In case of death, incompetency, or disappearance of any producer who is entitled to the payment of any sum in settlement of a MAL or LDP, payment will, upon application to CCC, be made to the person(s) who would be entitled to the producer's payment under the regulations in part 707 of this title.

(g) Adjusted gross income (AGI) and payment limitation provisions specified in part 1400 of this chapter apply to producer eligibility for MALs and LDPs.

■ 91. Amend § 1427.5 as follows:

■ a. In paragraph (a) introductory text, remove the words "loan deficiency payments" and add the word "LDPs" in their place, and remove the words "loan deficiency payment" and add the word "LDP" in their place;

■ b. In paragraph (a)(1) introductory text, remove the words "loan deficiency payment" and add the word "LDP" in their place, and remove the words "loan deficiency payments" and add the word "LDPs" in their place;

■ c. In paragraph (a)(1)(i), add the word "FSA" immediately before the word "county";

■ d. Revise paragraph (b) introductory text;

■ e. In paragraph (b)(2), remove the words "a loan deficiency payment" and add the words "an LDP" in their place;

■ f. Revise paragraph (b)(5);

■ g. In paragraphs (b)(6) and (b)(8), remove the words "a loan deficiency payment" and add the words "an LDP" in their place;

■ h. Revise paragraph (b)(10);

■ i. Revise paragraph (e);

■ j. In paragraph (g) introductory text, remove the words "a loan deficiency payment" and add the words "an LDP" in their place;

■ k. Revise paragraphs (g)(3), the undesignated quoted text following paragraph (j)(2), and (l) introductory text;

■ l. Remove paragraph (n) and redesignate paragraph (o) as paragraph (n); and

■ m. Revise newly redesignated paragraph (n).

The revisions read as follows:

**§ 1427.5 General eligibility requirements.**

\* \* \* \* \*

(b) For a bale of cotton to be eligible to be pledged as collateral for a MAL or a subject of an LDP application, the bale must:

\* \* \* \* \*

(5) Not be compressed to universal density at a warehouse where side pressure has been applied and not be a flat or modified flat bale; \* \* \*

(10) Be packaged in materials that meet the specifications adopted by the Joint Cotton Industry Bale Packaging Committee sponsored by the National Cotton Council of America for the applicable year or that are identified and approved by the Joint Industry Bale Packaging Committee as experimental packaging materials for the applicable crop year, except that producers approved for the outside storage of ELS cotton as provided for in § 1427.10(e) must assure that the packaging materials used for bales stored outside must meet the materials, sealing, and humidity specifications contained in the outside-storage addendum to their ELS cotton MAL agreement.

\* \* \* \* \*

(e) To be eligible to receive MALs and LDPs, a producer must have beneficial interest in the cotton that is tendered to CCC for a MAL or LDP. For the purposes of this part, the term "beneficial interest" refers to a determination by CCC that a person has the requisite title to and control of cotton that is tendered to CCC as collateral for a MAL or is the cotton that will be used to determine an LDP. A determination of whether a person has beneficial interest in cotton is made by CCC in accordance with this part and is not based upon a determination under any State law or any other regulation of a Federal agency.

\* \* \* \* \*

(g) \* \* \*  
(3) Have control of the cotton from the time of planting through the date the producer has elected to determine the LDP rate. To have control of the cotton, such person must have complete decision making authority regarding whether an LDP will be requested with respect to the cotton; when the loan deficiency rate will be selected; and where the cotton will be maintained prior to the date on which the LDP rate will be determined;

\* \* \* \* \*

(j) \* \* \*

(2) \* \* \*

Notwithstanding any other provision of this option to purchase or any other contract, title and control of the cotton and beneficial interest in the cotton as specified in 7 CFR 1427.5 will remain with the producer until the buyer exercises this option to purchase the

cotton. This option to purchase will expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of:

\* \* \* \* \*

(l) Commodities produced under a contract in which the title to the seed remains with the entity providing the seed to the producer, including contracts for the production of hybrid seed, genetically modified commodities, and other specialty seeds as approved in writing by CCC, are eligible to be pledged as collateral for a MAL and an LDP may be made with respect to such production if at the time of the request for such a loan or payment the producer has not:

\* \* \* \* \*

(n) If MALs or LDPs are made available to producers through a CMA under part 1425 of this chapter, the beneficial interest in the cotton must always have been held by the producer-member who delivered the cotton to the CMA or its member, except as otherwise provided in this section. Cotton delivered to such a CMA will not be eligible to receive a MAL or an LDP if the producer-member who delivered the cotton does not retain the right to share in the proceeds from the marketing of the cotton as provided in part 1425 of this chapter.

■ 92. Revise the heading for § 1427.6 to read as follows:

**§ 1427.6 Disbursement of MALs.**

\* \* \* \* \*

■ 93. Amend § 1427.7 as follows:

■ a. Revise the section heading;

■ b. In paragraph (a)(1), remove the words "filed under" and add the words "approved as specified in" in their place, and

■ c. Add paragraphs (d) and (e).

The revision and additions read as follows:

**§ 1427.7 Maturity of MALs.**

\* \* \* \* \*

(d) CCC will not assume a loss on MAL collateral stored in a warehouse for any reason.

(e) The maturity date of any MAL may not be extended.

■ 94. Amend § 1427.8 as follows:

■ a. Revise the section heading;

■ b. In paragraph (a), add the word "FSA" before the word "State"; and

■ c. Remove paragraph (e).

The revision reads as follows:

**§ 1427.8 Amount of MALs.**

\* \* \* \* \*

**§ 1427.9 [Amended]**

■ 95. Amend § 1427.9, in paragraph (a), by removing the words "loan deficiency

payment” and adding the words “LDP” in their place and removing the words “an AMS” and adding the words “an Agricultural Marketing Service (AMS)” in their place.

- 96. Amend § 1427.10 as follows:
  - a. In paragraph (a)(2), add the word “FSA” immediately before the word “State”;
  - b. Revise paragraph (e); and
  - c. In paragraph (f), remove the word “tocrops” and add the words “to crops” in its place.

The revision reads as follows:

**§ 1427.10 Approved storage.**

\* \* \* \* \*

(e) The approved storage requirements provided in this section may be waived by CCC if the producer requests an LDP pursuant to the LDP provisions in § 1427.23.

- \* \* \* \* \*
- 97. Revise § 1427.13(a), (d) introductory text, and (d)(2) to read as follows:

**§ 1427.13 Fees, charges and interest.**

(a) A producer must pay a nonrefundable loan service fee to CCC at the time of loan disbursement or, if applicable, to a loan servicing agent, at a rate determined by CCC. The fee is in addition to a cotton clerk fee specified in paragraph (b) of this section. The fee amounts are available in FSA State and county offices and are shown on the note and security agreement. Fees will be deducted from the loan proceeds.

\* \* \* \* \*

(d) For each crop of upland cotton, the producer, as defined in the Cotton Research and Promotion Act (7 U.S.C. 2101), must remit to CCC an assessment that will be transmitted by CCC to the Cotton Board and will be deducted from the:

\* \* \* \* \*

(2) LDP proceeds for a crop of cotton and will be at a rate equal to up to one percent of the LDP amount.

- \* \* \* \* \*
- 98. Amend § 1427.15 as follows:
    - a. Revise paragraphs (a) and (b)(1);
    - b. In paragraph (b)(2) introductory text, remove the words “marketing assistance loan or loan deficiency payment” and add the words “MAL or LDP” in their place;
    - c. Revise paragraph (c)(1) introductory text;
    - d. In paragraph (c)(1)(ii), remove the words “marketing assistance loan or loan deficiency payment” and add the words “MAL or LDP” in their place;
    - e. Revise paragraphs (c)(2), (3), and (d); and
    - f. In paragraph (e), remove the words “marketing assistance loan or loan

deficiency payment” and add the words “MAL or LDP” in their place.

The revisions read as follows:

**§ 1427.15 Special procedure where funds are advanced.**

(a) The special procedure in this section is provided to assist persons or firms that, in the course of their regular business of handling cotton for producers, have made advances to eligible producers on cotton eligible to be pledged as collateral for a MAL or to receive an LDP. A person, firm, or financial institution that has made advances to eligible producers on eligible cotton may also obtain reimbursement for the amounts advanced under this procedure.

(b) \* \* \*

(1) If such person or firm is entitled to reimbursement from the proceeds of the MALs or LDPs for the amounts advanced and has been authorized by the producer to deliver the loan or LDP documents to a FSA county office for disbursement of the loans or LDPs; and

\* \* \* \* \*

(c)(1) All MAL or LDP documents will be mailed, sent electronically, or delivered to the appropriate FSA county office and will show the entire proceeds of the MALs or LDPs, except for CCC loan service charges and research and promotion fees, for disbursement to:

\* \* \* \* \*

(2) The documents will be accompanied by a Transmittal Schedule of Loan and LDP Documents (Transmittal) on a form prescribed by CCC, in original and two copies, numbered serially for each FSA county office by the person, firm, or financial institution that made the MAL or LDP advance. The Transmittal will show the amounts invested by the person, firm, or financial institution in the MALs or LDPs.

(3) Upon receipt of the MAL or LDP documents and Transmittal, the FSA county office will stamp one copy of the Transmittal to indicate receipt of the documents and return this copy to the person, firm, or financial institution.

(d) The person, firm, or financial institution will be deemed to have invested funds in the loans or LDP as of the date MAL or LDP documents acceptable to CCC were delivered to a FSA county office or, if received by mail, the date of mailing as indicated by postmark or the date of receipt in a FSA county office if no postmark date is shown. Patron postage meter date stamp will not be recognized as a postmark date.

- \* \* \* \* \*
- 99. Amend § 1427.18 as follows:

- a. Revise paragraph (a)(1) introductory text;
- b. In paragraph (a)(1)(i), remove the words “marketing assistance loan or loan deficiency payment” and add the words “MAL or LDP” in their place;
- c. Add paragraph (a)(1)(vii); and
- d. Revises paragraph (b), (c), (d), (e), (g)(2), (k)(1), and (k)(2) introductory text.

The revisions and addition read as follows:

**§ 1427.18 Liability of the producer.**

(a)(1) If a producer makes any fraudulent representation in obtaining a MAL or LDP or in maintaining or settling a loan, or disposes of or moves the loan collateral without the prior written approval of CCC, such loan or LDP will be payable upon demand by CCC. The producer will be liable for:

\* \* \*

(vii) CCC will not assume any loss pertaining to cotton stored in a warehouse for any reason.

\* \* \* \* \*

(b) If the amount disbursed under a MAL, or in settlement thereof, or LDP exceeds the amount authorized by this subpart, the producer will be liable for repayment of the difference, plus interest. In addition, the commodity pledged as collateral for the loan will not be released to the producer until the difference is repaid.

(c) If the amount collected from the producer in satisfaction of the MAL or LDP is less than the amount required under this subpart, the producer will be personally liable for repayment of the amount of the difference plus applicable interest.

(d) If more than one producer executes a note and security agreement or LDP application with CCC, each producer is jointly and severally liable for the violation of the terms and conditions of the note and security agreement or LDP application and this subpart. Each producer also remains liable for repayment of the entire loan or LDP amount until the loan is fully repaid without regard to their share in the cotton pledged as collateral for the loan or for which the LDP was made. In addition, the producer may not amend the note and security agreement or LDP application for the producer’s claimed share in the cotton after execution of the note and security agreement or LDP application by CCC.

(e) The producer and CCC agree that it will be difficult, if not impossible, to prove the amount of damages to CCC if a producer makes any fraudulent representation in obtaining a loan or LDP, in maintaining or settling a loan, or disposing of or moving the loan

collateral without the prior written approval of CCC. Accordingly, if CCC determines that the producer has violated the terms or conditions of their requests for a loan or any applicable form required by CCC, liquidated damages will be assessed on the quantity involved in the violation. Liquidated damages assessed in accordance with this section will be determined by multiplying the quantity involved in the violation by 10 percent of the MAL rate applicable to the loan note.

\* \* \* \* \*

(g) \* \* \*

(2) Call the applicable MAL involved in the violation and require repayment of any market loan gain previously realized for the applicable loan, plus any interest previously waived and any storage paid by CCC, and for an LDP, require repayment of the LDP and charges plus interest from the date the LDP was made.

\* \* \* \* \*

(k)(1) Notwithstanding any other provision of this part, for ELS cotton stored as provided in § 1427.10(f), the producer is liable for all costs associated with the storage of the cotton while it is stored outside. CCC will make no storage payment or any other payment with respect to ELS cotton stored as provided in § 1427.10(f).

(2) The producer of ELS cotton that is stored as provided in § 1427.10(f) must:

\* \* \* \* \*

- 100. Amend § 1427.19 as follows:
  - a. Revise the section heading;
  - b. In paragraph (c)(1)(ii), add the word “FSA” immediately before the word “county”;
  - c. In paragraph (e) remove the words “market gain” both times they appear and add the words “market loan gain” in their place;
  - d. Revise paragraph (h)(1), remove paragraph (h)(2), and redesignate paragraphs (h)(3) and (4) as paragraphs (h)(2) and (3);
  - e. In newly redesignated paragraph (h)(3)(i), remove the words “Farm Service Agency” and add the word “FSA” in their place;
  - f. In newly redesignated paragraph (h)(3)(ii), remove the words “Cooperative Marketing Association” and add the word “CMA” in their place; and
  - g. Add paragraph (l).

The revisions and addition read as follows:

#### § 1427.19 Repayment of MALs.

\* \* \* \* \*

(h) \* \* \*

(1) The warehouse storage rates for cotton crops under loan will be the lower of:

(i) The tariff storage rate for the warehouse for the 2005 crop or, for any warehouse not in existence in 2005, a CCC-assigned average 2005 crop tariff rate for the county or area; or

(ii) The storage rate for 2006 crop cotton reduced by 10 percent.

\* \* \* \* \*

(l) A producer who receives a market loan gain or LDP and later is determined to have been ineligible must refund the market loan gain or LDP to CCC.

■ 101. Revise § 1427.20 to read as follows:

#### § 1427.20 Handling payments of \$9.99 or less and collections not exceeding \$24.99.

(a) Amounts of \$9.99 or less will be paid to the producer only upon request.

(b) Deficiencies of \$24.99 or less, including interest, may be disregarded unless CCC demands in writing that they be paid.

■ 102. Revise § 1427.21(e) to read as follows:

#### § 1427.21 Settlement.

\* \* \* \* \*

(e) If CCC sells the commodity described in paragraph (a) of this section in settlement of the recourse loan, the sales proceeds will be applied to the amount owed CCC by the producer. The producer is responsible for any costs incurred by CCC in completing the sale and CCC will deduct the amount of these costs from the sales proceeds. When CCC sells any cotton obtained by forfeiture under a MAL, CCC will, in all instances, retain all proceeds obtained from the sale of the cotton and will not make any payment of any amount of such proceeds to any party, including the producer who had satisfied their obligation under the loan through forfeiture of the cotton to CCC.

\* \* \* \* \*

#### § 1427.22 [Removed and Reserved]

■ 103. Remove and reserve § 1427.22.

■ 104. Amend § 1427.23 as follows:

- a. Revise the section heading;
- b. In paragraph (a)(2), remove the words “a loan deficiency payment” and add the words “an LDP” in their place;
- c. In paragraph (a)(3) introductory text, remove the words “Service Center” and add the words “county office” in their place;
- d. In paragraphs (a)(3)(i) and (ii), remove the words “a loan deficiency payment” and add the words “an LDP” in their place; and
- e. Revise paragraphs (b), (c), (d), and (e) introductory text.

The revisions read as follows:

#### § 1427.23 Cotton LDPs.

\* \* \* \* \*

(b) The LDP applicable to a crop of cotton will be computed by multiplying the applicable LDP rate, as determined under paragraph (c) of this section, by the quantity of the crop the producer is eligible to pledge as collateral for a loan, excluding any quantity for which the producer obtains a MAL.

(c) The LDP rate for a crop of upland cotton will be the amount by which the loan rate determined for a bale of such crop exceeds the adjusted world price, as determined by CCC under § 1427.25, in effect on the day the request is received by the FSA county office, loan servicing agent, or cotton commercial bank. In no case will the LDP rate for a bale exceed the value of the bale had it been pledged as collateral for a MAL.

(d) The total amount of any LDPs that a person may receive is subject to AGI and payment limitation requirements specified in part 1400 of this chapter.

(e) 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 specified under § 1427.5(c) on the date the cotton was ginned, and the producer meets all the other requirements in paragraph (a) of this section on or before the final date to apply for an LDP under § 1427.5, the LDP rate applicable to such cotton will be:

\* \* \* \* \*

#### § 1427.25 [Amended]

■ 105. Amend § 1427.25 as follows:

- a. In paragraph (b), remove the words “the 2008 through 2012 crops of upland cotton and to the 2007 crop to the extent provided in § 1427.1” and add the words “crops of upland cotton” in their place; and
- b. In paragraph (d), remove the words “continuing through the last Thursday of March 2014 (March 27, 2014)”.

#### Subpart C—Economic Adjustment Assistance to Users of Upland Cotton

■ 106. Revise § 1427.100 to read as follows:

#### § 1427.100 Applicability.

(a) These regulations specify the terms and conditions under which CCC will make payments to eligible domestic users who have entered into an Upland Cotton Domestic User Agreement with CCC to participate in the upland cotton domestic user program.

(b) CCC will specify the forms to be used in administering the Economic

Adjustment Assistance to Users of Upland Cotton program.

§ 1427.101 [Amended]

■ 107. Amend § 1427.101, in paragraph (a) introductory text, by removing the words “on or after August 1, 2008”.

§ 1427.104 [Removed and Reserved].

■ 108. Remove and reserve § 1427.104.

■ 109. Amend § 1427.105 as follows:

■ a. Redesignate paragraphs (a) through (d) as paragraphs (b) through (e) and add new paragraph (a);

■ b. In newly designated paragraph (b) introductory text, remove the words “as specified in § 1427.104” and add the words “of 3 cents per pound” in their place; and

■ c. Revise newly redesignated paragraph (e).

The addition and revision read as follows:

§ 1427.105 Payment.

(a) The payment rate for purposes of calculating payments as specified in this subpart is 3 cents per pound.

\* \* \* \* \*

(e) All payments received by the eligible domestic user of upland cotton must be used for purposes specified in 7 U.S.C. 9037(c)(3), which include but are not limited to, acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery. Such capital expenditures must be directly attributable and certified as such by the user for the purpose of manufacturing upland cotton into eligible cotton products in the United States.

Subpart D—Recourse Seed Cotton Loans

■ 110. Revise § 1427.160(a) and (c) to read as follows:

§ 1427.160 Applicability.

(a) This subpart is applicable to crops of upland and extra long staple seed cotton. This subpart specifies the terms and conditions under which recourse seed cotton loans will be made available by CCC. Such loans will be available through March 31 of the year following the calendar year in which such crop is normally harvested. CCC may change the loan availability period to conform to State or locally imposed quarantines. Additional terms and conditions are in the note and security agreement that must be executed by a producer in order to receive such loans.

\* \* \* \* \*

(c) A producer must, unless otherwise authorized by CCC, request the loan at

the FSA county office that, under part 718 of this title, is responsible for administering programs for the farm on which the cotton was produced. All note and security agreements and related documents necessary for the administration of the recourse seed cotton loan program will be prescribed by CCC and will be available at FSA State and county offices.

\* \* \* \* \*

■ 111. Revise § 1427.161(a) to read as follows:

§ 1427.161 Administration.

(a) The Recourse Seed Cotton Loan Program that is applicable to a crop of cotton will be administered under the general supervision of the Executive Vice President, CCC, or a designee and will be carried out in the field by FSA State and county committees.

\* \* \* \* \*

■ 112. Revise § 1427.163 to read as follows:

§ 1427.163 Disbursement of loans.

(a) A producer or the producer’s agent must request a loan at the FSA county office for the county that, under part 718 of this title, is responsible for administering programs for the farm on which the cotton was produced and which will assist the producer in completing the loan documents, except that CMAs designated by producers to obtain loans on their behalf may, unless otherwise authorized by CCC, obtain loans through a central FSA county office designated by the State committee.

(b) Disbursement of each loan will be made by the FSA county office of the county that is responsible for administering programs for the farm on which the cotton was produced, except that CMAs designated by producers to obtain loans in their behalf may, unless otherwise authorized by CCC, obtain disbursement of loans at a central FSA county office designated by the State committee. Service charges will be deducted from the loan proceeds.

(1) The producer or the producer’s agent must not present the loan documents for disbursement unless the cotton is in existence and in good condition.

(2) If the cotton is not in existence and in good condition at the time of disbursement, the producer or the agent must immediately return the check issued in payment of the loan or, if the check has been negotiated, the total amount disbursed under the loan, and charges plus interest must be refunded promptly.

■ 113. Revise § 1427.165(b) to read as follows:

§ 1427.165 Eligible seed cotton.

\* \* \* \* \*

(b) The quality of cotton that may be pledged as collateral for a loan is the estimated quality of lint cotton in each lot of seed cotton as determined by the FSA county office, except that if a control sample of the lot of cotton is classed by an AMS Cotton Classing Office or other entity approved by CCC, the quality for the lot is the quality shown on the applicable documentation issued for the control sample.

\* \* \* \* \*

■ 114. Revise § 1427.169(a) to read as follows:

§ 1427.169 Fees, charges, and interest.

(a) A producer must pay a non-refundable loan service fee at a rate determined by CCC.

\* \* \* \* \*

■ 115. Revise § 1427.170(a) to read as follows:

§ 1427.170 Quantity for loan.

(a) The quantity of lint cotton in each lot of seed cotton tendered for loan will be determined by the FSA county office by multiplying the weight or estimated weight of seed cotton by the lint turnout factor determined under paragraph (b) of this section.

\* \* \* \* \*

■ 116. Revise § 1427.171 to read as follows:

§ 1427.171 Approved storage.

Approved storage consists of storage located on or off the producer’s farm (excluding public warehouses) that is determined by a county committee representative to afford adequate protection against loss or damage and is located within a reasonable distance, as determined by CCC, from an approved gin. If the cotton is not stored on the producer’s farm, the producer must furnish satisfactory evidence that the producer has the authority to store the cotton on such property and that the owner of the property has no lien for such storage against the cotton. The producer must provide satisfactory evidence that the producer and any person having an interest in the cotton including CCC, have the right to enter the premises to inspect and examine the cotton and permit a reasonable time to such persons to remove the cotton from the premises.

■ 117. Amend § 1427.172 as follows:

■ a. Revise paragraphs (b)(1) introductory text and (b)(4) introductory text;

■ b. In paragraph (b)(4)(i), add the word “FSA” immediately before the word “county”;

■ c. Revise paragraphs (b)(5), (c), and (d); and

■ d. Add paragraph (e).

The revisions and addition read as follows:

**§ 1427.172 Settlement.**

\* \* \* \* \*

(b)(1) A producer or the producer's agent must not remove from storage any cotton that is pledged as collateral for a loan until prior written approval has been received from CCC for removal of the cotton. If a producer or the producer's agent obtains CCC approval, they may remove the cotton from storage, sell the seed cotton, have it ginned, and sell the resulting lint cotton and cottonseed. The ginner must inform the FSA county office in writing immediately after the seed cotton removed from storage has been ginned and furnish the county office the loan number, producer's name, and applicable gin bale numbers. If the seed cotton is removed from storage, the loan principal plus interest and charges must be paid not later than the earlier of:

\* \* \* \* \*

(4) A CMA must repay the seed cotton loan principal, interest, and charges before pledging the cotton for a nonrecourse loan or before an LDP can be approved under subpart A of this part, on the lint cotton. If a CMA, which is authorized by producers to obtain loans in their behalf, removes seed cotton from storage before obtaining approval to move the cotton, the removal will constitute conversion of the cotton unless the CMA:

\* \* \* \* \*

(5) Any removal from storage will not be deemed to constitute a release of CCC's security interest in the seed cotton or to release the producer or CMA from liability for the loan principal, interest, and charges if full payment of such amount is not received by the FSA county office.

(c) If, either before or after maturity, the producer discovers that the cotton is going out of condition or is in danger of going out of condition, the producer must immediately notify the FSA county office and confirm such notice in writing. If the county committee determines that the cotton is going out of condition or is in danger of going out of condition, the county committee will accelerate the maturity date and request repayment of the loan principal, plus interest and charges on or before a specified date. If the producer does not repay the loan or have the cotton ginned

and obtain a nonrecourse loan under subpart A of this part on the resulting lint cotton within the period specified by the county committee, the cotton will be considered abandoned.

(d) If the producer has control of the storage site and if the producer subsequently loses control of the storage site or there is danger of flood or damage to the seed cotton or storage structure making continued storage of the cotton unsafe, the producer must immediately either repay the loan or move the seed cotton to the nearest approved gin for ginning and must, at the same time, inform the FSA county office. If the producer does not do so, the seed cotton will be considered abandoned.

(e) CCC will not assume any loss in quantity or quality of the loan collateral for recourse seed cotton loans.

■ 118. Revise § 1427.173 to read as follows:

**§ 1427.173 Foreclosure.**

Any seed cotton pledged as collateral for a loan that is abandoned or has not been ginned and pledged as collateral for a nonrecourse loan under subpart A of this part by the seed cotton loan maturity date may be removed from storage by CCC and ginned and the resulting lint cotton warehoused for the account of CCC. The lint cotton and cottonseed may be sold at such time, in such manner and upon such terms as CCC may determine, at public or private sale. CCC may become the purchaser of the whole or any part of such cotton and cottonseed. If the proceeds received from the sales of the cotton are less than the amount due on the loan (including principal, interest, ginning charges, and any other charges incurred by CCC), the producer is liable for such difference. If the proceeds received from sale of the cotton are greater than the sum of the amount due plus any cost incurred by CCC in conducting the sale of the cotton, the amount of such excess will be paid to the producer or, if applicable, to any secured creditor of the producer.

■ 119. Amend § 1427.175 as follows:

■ a. Revise paragraphs (a)(1) introductory text and (b);

■ b. In paragraph (c), remove the words “shall be” and add the word “is” in their place; and

■ c. Revise paragraphs (d) and (e).

The revision reads as follows:

**§ 1427.175 Liability of the producer.**

(a)(1) If a producer makes any fraudulent representation in obtaining a loan, maintaining a loan, or settling a loan or if the producer disposes of or moves the loan collateral without the prior approval of CCC, such loan

amount must be refunded upon demand by CCC. The producer will be liable for:

\* \* \* \* \*

(b) If the amount disbursed under a loan, or in settlement thereof, exceeds the amount authorized by this subpart, the producer is liable for repayment of such excess, plus interest. In addition, seed cotton pledged as collateral for such loan will not be released to the producer until such excess is repaid.

\* \* \* \* \*

(d) If more than one producer executes a note and security agreement with CCC, each such producer is jointly and severally liable for the violation of the terms and conditions of the note and security agreement and the regulations in this subpart. Each such producer also remains liable for repayment of the entire loan amount until the loan is fully repaid without regard to such producer's claimed share in the seed cotton pledged as collateral for the loan. In addition, such producer may not amend the note and security agreement for the producer's claimed share in such seed cotton, after execution of the note and security agreement by CCC.

(e) If a producer makes any fraudulent representation in obtaining a loan, in maintaining or settling a loan, or disposing of or moving the collateral without the prior approval of CCC, that is a violation of the terms or conditions of the note and security agreement. If CCC or the county committee determines that the producer has violated the terms or conditions of the note and security agreement, liquidated damages will be assessed on the quantity of the seed cotton that is involved in the violation by multiplying the quantity involved in the violation by 10 percent of the loan rate applicable to the loan note. This amount will apply for both good faith and not good faith determinations.

\* \* \* \* \*

**Subpart E—Standards for Approval of Warehouse for Cotton and Cotton Linters**

■ 120. Amend § 1427.1081 as follows:

■ a. In paragraph (b), remove the number “205” and add in its place the number “419205”;

■ b. In paragraph (d) introductory text, remove the word “shall” and add the word “must” in its place;

■ c. In paragraph (d)(1), remove the words “Form CCC-49,”; and

■ d. Revise paragraph (d)(2).

The revision reads as follows:

**§ 1427.1081 General statement and administration.**

\* \* \* \* \*

(d) \* \* \*

(2) A current financial statement on a “Financial Statement” form, supported by such supplemental schedules as CCC may request. Financial statements may be submitted on forms other than a “Financial Statement” form with approval of the Director, KCCO, or the Director’s designee. Financial statements must show the financial condition of the warehouseman as of a date no earlier than 90 days prior to the date of the warehouseman’s application, or such other date as CCC may prescribe. Additional financial statements must be furnished annually and at such other times as CCC may require. CCC also may require that financial statements prepared by the warehouseman or by a public accountant be examined by an independent certified public accountant in accordance with generally accepted auditing standards. Only one financial statement is required for a chain of warehouses owned or operated by a single business entity. If approved by the Director, KCCO, or the Director’s designee, the financial statement of a parent company, which includes the financial position of a wholly-owned subsidiary, may be used to meet the CCC standards for approval for the wholly-owned subsidiary.

\* \* \* \* \*

**§ 1427.1082 [Amended]**

■ 121. Amend § 1427.1082 as follows:  
 ■ a. Redesignate paragraphs (a) introductory text through (d)(3) as follows:

Old paragraph	New paragraph
(a) introductory text ...	(a)(1) introductory text.
(a)(1) .....	(a)(1)(i).
(a)(2) .....	(a)(1)(ii).
(a)(3) .....	(a)(1)(iii).
(a)(4) .....	(a)(1)(iv).
(a)(5) .....	(a)(1)(v).
(a)(6) .....	(a)(1)(vi).
(a)(7) .....	(a)(1)(vii).
(a)(8) .....	(a)(1)(viii).
(a)(9) .....	(a)(1)(ix).
(b) .....	(a)(2).
(c) introductory text ...	(a)(3) introductory text.
(c)(1) .....	(a)(3)(i).
(c)(2) .....	(a)(3)(ii).
(d) introductory text ...	(a)(4) introductory text.
(d)(1) .....	(a)(4)(i).
(d)(2) .....	(a)(4)(ii).
(d)(3) .....	(a)(4)(iii).

■ b. Redesignate the introductory text as paragraph (a) introductory text;  
 ■ c. In newly designated paragraphs (a) introductory text, (a)(1) introductory text, (a)(1)(i), (a)(2), (a)(3) introductory

text, and (a)(4), remove the word “shall” and add the word “must” in its place; and

■ d. Add and reserve paragraph (b).

**§ 1427.1083 [Amended]**

■ 122. Amend § 1427.1083 as follows:  
 ■ a. Redesignate paragraphs (a) introductory text through (e) as follows:

Old paragraph	New paragraph
(a) introductory text ...	(a)(1) introductory text.
(a)(1) .....	(a)(1)(i).
(a)(2) .....	(a)(1)(ii).
(b) introductory text ...	(a)(2) introductory text.
(b)(1) .....	(a)(2)(i).
(b)(2) .....	(a)(2)(ii).
(b)(3) .....	(a)(2)(iii).
(c) .....	(a)(3).
(d) .....	(a)(4).
(e) .....	(a)(5).

■ b. Redesignate the introductory text as paragraph (a) introductory text;

■ c. In newly designated paragraph (a)(1) introductory text, remove the word “shall” and add the word “must” in its place;

■ d. Revise newly designated paragraphs (a)(2) introductory text and (a)(5); and

■ e. Add and reserve paragraph (b).  
 The revisions read as follows:

**§ 1427.1083 Bonding requirements for net worth.**

(a) \* \* \*

(2) Such bond must be on the Warehouseman’s Bond form, except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(5) An irrevocable letter of credit may be accepted by CCC in lieu of the required amount of bond coverage provided that the issuing bank is a commercial bank insured by the Federal Deposit Insurance Corporation. Such standby letter of credit must be on the Irrevocable Letter of Credit form, or on such other form as may be specifically approved by the Director, KCCO, or the Director’s designee.

\* \* \* \* \*

■ 123. Revise § 1427.1086(c)(1) to read as follows:

**§ 1427.1086 Approval of warehouse, requests for reconsideration.**

\* \* \* \* \*

(c) \* \* \*

(1) In § 1427.1082, other than the standard specified in § 1427.1082(c)(2),

the warehouseman may, at any time after receiving notice of such action, request reconsideration of the action and present to the Director, KCCO, in writing, information in support of such request. The Director will consider such information in making a determination and notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director’s determination, obtain a review of the determination and an informal hearing by filing an appeal with the Deputy Administrator, Commodity Operations, Farm Service Agency (FSA). The time of filing appeals, forms for requesting an appeal, nature of the informal hearing, determination and reopening of the hearing will be as prescribed in the FSA regulations governing appeals, 7 CFR part 780. When appealing under such regulations, the warehouseman will be considered as a “participant”; and

\* \* \* \* \*

■ 124. Revise § 1427.1088(b) to read as follows:

**§ 1427.1088 Contract fees.**

\* \* \* \* \*

(b) The amount of the contract fee will be determined and announced annually.

**§ 1427.1089 [Removed and Reserved]**

■ 125. Remove and reserve § 1427.1089.

**Subpart G—Extra Long Staple (ELS) Cotton Competitiveness Payment Program**

■ 126. Revise § 1427.1200(a) and (c) to read as follows:

**§ 1427.1200 Applicability.**

(a) This subpart specifies the terms and conditions under which CCC will make payments to eligible domestic users and exporters of extra long staple cotton who have entered into an ELS Cotton Domestic User/Exporter Agreement with CCC.

\* \* \* \* \*

(c) CCC will prescribe the forms and information collections necessary in administering the ELS cotton competitiveness payment program. Additional terms and conditions for the program are specified in the ELS Cotton Domestic User/Exporter Agreement.

**§ 1427.1203 [Amended]**

■ 127. Amend § 1427.1203(a)(1) and (2), by removing the date “June 18, 2008” both times it appears and adding the date “February 7, 2014” in its place.

**§ 1427.1204 [Amended]**

■ 128. Amend § 1427.1204, in paragraph (a)(2), by removing the words “a

cooperative marketing association” and adding the word “CMA” in their place.

**§ 1427.1206 [Removed and Reserved]**

- 129. Remove and reserve § 1427.1206.

**§§ 1427.5, 1427.7, 1427.16, 1427.18, 1427.19, 1427.23 [Amended]**

■ 130. In addition to the amendments set forth above, in 7 CFR part 1427, remove the words “marketing assistance loan” and add, in their place, the word “MAL” in the following places:

- a. In § 1427.5(f);
- b. In § 1427.7(c) introductory text;
- c. In § 1427.16(b)(4);
- d. In § 1427.18(f);
- e. In § 1427.19(c) introductory text; and
- f. In § 1427.23(a)(1).

**§§ 1427.3, 1427.4, 1427.5, 1427.13, 1427.15, 1427.18, 1427.172 [Amended]**

■ 131. In addition to the amendments set forth above, in 7 CFR part 1427, remove the words “loan deficiency payment” and add, in their place, the word “LDP” in the following places:

- a. In § 1427.3 in the introductory text and in the definition of “Loan servicing agent” each time it appears,
- b. In § 1427.4(c)(2) and (3);
- c. In § 1427.5(g)(2);
- d. In § 1427.13(b);
- e. In § 1427.15(c)(1)(i);
- f. In § 1427.18(a)(1)(ii); and
- g. In § 1427.172(b)(3) introductory text and (b)(3)(i).

**§§ 1427.5, 1427.23 [Amended]**

■ 132. In addition to the amendments set forth above, in 7 CFR part 1427, remove the words “loan deficiency payments” and add, in their place, the word “LDPs” in the following places:

- a. In § 1427.5(a)(2); and
- b. In § 1427.23(a) introductory text and (a)(5).

**§§ 1427.2, 1427.5, 1427.6, 1427.7, 1427.8, 1427.9, 1427.10, 1427.13, 1427.13, 1427.15, 1427.18, 1427.19, 1427.21, 1427.160, 1427.161, 1427.169, 1427.170, 1427.175, 1427.1085, 1427.1086, 1427.1207, 1427.1208 [Amended]**

■ 133. In addition to the amendments set forth above, in 7 CFR part 1427, remove the word “shall” each time it appears and add, in its place, the word “will” in the following places:

- a. In § 1427.2(c);
- b. In § 1427.5(m);
- c. In § 1427.6(c);
- d. In § 1427.7(b);
- e. In § 1427.8(b);
- f. In § 1427.9(d);
- g. In § 1427.10(b);
- h. In § 1427.13(c);
- i. In § 1427.13(d)(1);
- j. In § 1427.15(b) introductory text;

■ k. In § 1427.18(g) introductory text, (h) introductory text, and (k)(2)(iv);

- l. In § 1427.19(b) and (d);
- m. In § 1427.21(c) and (d);
- n. In § 1427.160(d);
- o. In § 1427.161(c) introductory text, (d), and (f);
- p. In § 1427.169(b);
- q. In § 1427.170(b) and (c) introductory text;
- r. In § 1427.175 (a)(2), (f) introductory text, and (g) introductory text;
- s. In § 1427.1085(a);
- t. In § 1427.1086(c)(1);
- u. In § 1427.1207(a) introductory text, (a)(1) and (2), (b), (c)(2), and (d); and
- v. In § 1427.1208(a) introductory text, (b) introductory text, and (d).

**PART 1434—NONRECOURSE MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR HONEY**

■ 134. Revise the authority citation for part 1434 to read as follows:

**Authority:** 7 U.S.C. 7231–7237, 7931–7936, and 9031–40; and 15 U.S.C. 714b and c.

■ 135. Revise the heading for part 1434 to read as shown above.

■ 136. Revise § 1434.1(a) to read as follows:

**§ 1434.1 Applicability.**

(a) This part specifies the terms and conditions of Commodity Credit Corporation (CCC) nonrecourse marketing assistance loan (MAL) and loan deficiency payment (LDP) Programs for honey. MAL gains and LDPs for honey are limited by the payment limitation and adjusted gross income provisions specified in part 1400 of this chapter.

\* \* \* \* \*

■ 137. Amend § 1434.2(a) to read as follows:

**§ 1434.2 Administration.**

(a) The regulations of this part will be administered under the general supervision of the Executive Vice President, CCC, and are carried out in the field by Farm Service Agency (FSA) State and county committees.

\* \* \* \* \*

■ 138. Amend § 1434.3 as follows:

- a. Revise the introductory text;
- b. Add, in alphabetical order, definitions for “Calling a loan” and “Loan deficiency payment”; and
- c. Revise the definition for “Ineligible honey”.

The revisions and addition read as follows:

**§ 1434.3 Definitions.**

The definitions in this section are applicable for all purposes of program

administration. The terms defined in part 718 of this title are also applicable except where those definitions are inconsistent with the definitions in this section or for purpose of program instruments created under this part.

\* \* \* \* \*

*Calling a loan* is accelerating or moving forward the maturity date of an outstanding MAL. A MAL can be called when the terms and conditions of the MAL note and security agreement are violated, a producer incorrectly certifies a loan quantity or makes any fraudulent representation with respect to obtaining a loan, removing or disposing of a farm-stored commodity pledged as collateral for a loan without authorization, to protect CCC’s interest, or in emergency situations.

\* \* \* \* \*

*Ineligible honey* is honey not eligible for a MAL under this part for which ineligibility will include, but is not limited to, honey from ineligible floral sources regardless of whether the honey meets other eligibility requirements.

\* \* \* \* \*

*Loan deficiency payment (LDP)* means a payment made in lieu of a MAL when the CCC-determined value, which is based on the current local price in a county, is below the applicable county loan rate. The payment is the difference between the two rates times the eligible quantity.

\* \* \* \* \*

**§ 1434.4 [Amended]**

■ 139. Amend § 1434.4 as follows:

- a. In paragraph (a) introductory text, by removing the words “loan deficiency payments” and adding the word “LDP” in their place; and
- b. In paragraph (f) introductory text, by removing the words “shall be” and adding the word “is” in their place.

**§ 1434.6 [Amended]**

■ 140. Amend § 1434.6 as follows:

- a. In paragraph (a), remove the words “marketing assistance loans” and add the word “MALs” in their place; and
- b. In paragraphs (b) introductory text and (c), remove the words “shall not be” and add the words “is not” in their place.

**§ 1434.7 [Amended]**

■ 141. Amend § 1434.7(b) by removing the word “shall” and adding the word “must” in its place.

**§ 1434.8 [Amended]**

■ 142. Amend § 1434.8(b) introductory text by removing the words “shall not be” and adding the words “is not” in their place.

■ 143. Revise § 1434.9 to read as follows:

**§ 1434.9 Determination of quantity.**

The amount of a marketing assistance loan or loan deficiency payment will be based on 100 percent of the net weight in pounds of such quantity that is eligible to be pledged as security for the MAL or LDP and is certified by the producer and verified by the county office representative in the manner prescribed by CCC. Estimates of the quantity of honey will be made on the basis of 12 pounds for each gallon of the rated capacity of the container.

■ 144. Amend § 1434.10 as follows:

- a. Revise paragraphs (a), (c), and (e); and
- b. In paragraph (f), remove the word “shall” and add the word “must” in its place.

The revisions read as follows:

**§ 1434.10 Application, availability, disbursements, and maturity.**

(a) A producer must, unless otherwise authorized by CCC, request MALs and LDPs at the appropriate FSA county office responsible for administering the program as provided under part 718 of this title. To receive MALs and LDPs for honey, a producer must execute a note and security agreement or LDP application on or before March 31 of the year following the year in which the honey was extracted.

\* \* \* \* \*

(c) MALs will be made on the honey as declared and certified by the producer in the manner specified by CCC at the time the honey is pledged as collateral for a MAL. The producer is also required to declare and certify the class of honey (table or non-table) and floral source of the honey in the manner specified by CCC when the honey is pledged as collateral for a MAL.

\* \* \* \* \*

(e) MALs mature on demand, but not later than the last day of the ninth calendar month following the month in which the note and security agreement was approved.

(1) When the maturity date falls on a non-workday for county offices, CCC will extend the final date to the next workday. Before the date specified in paragraph (a) of this section, a producer may re-offer as MAL collateral any eligible honey that has been offered previously for a MAL if the previous MAL has been repaid at principal plus interest only.

(2) The maturity date of any MAL may not be extended.

\* \* \* \* \*

■ 145. Revise § 1434.11(a) to read as follows:

**§ 1434.11 Fees and interest.**

(a) A producer must pay a nonrefundable MAL service fee. The MAL service fee will be the smaller of one-half of 1 percent (.005) times the gross MAL amount or \$45 per MAL plus \$3 for each storage structure over one.

\* \* \* \* \*

■ 146. Revise § 1434.13 to read as follows:

**§ 1434.13 Transfer of producer’s interest prohibited.**

Absent written approval from CCC, the producer may not transfer either the remaining interest in, or right to redeem, the honey pledged as collateral for a MAL on honey nor may anyone acquire such interest or right. Subject to the provisions of § 1434.17, a producer who wishes to liquidate all or part of a MAL by contracting for the sale of the honey must obtain written approval from the county office on a form prescribed by CCC to remove a specified quantity of the honey from storage. Any such approval will be subject to the terms and conditions in the applicable form, copies of which may be obtained by producers at the FSA county office.

■ 147. Amend § 1434.15 as follows:

- a. Revise paragraphs (a) introductory text, (a)(1) introductory text, and (2);
- b. In paragraphs (b)(1) and (2), remove the words “shall include” and add the word “includes” in their place;
- c. In paragraphs (i)(1)(ii), (2), (j), (k), and (l), remove the words “shall be” and add the word “is” in their place; and
- d. Revise paragraph (m).

The revisions read as follows:

**§ 1434.15 Personal liability.**

(a) As part of the application for an individual or joint MAL or LDP, each producer agrees that:

(1) By signing the MAL note and security agreement, the producer must:

\* \* \* \* \*

(2) That violation of the terms and conditions of this part and the MAL note and security agreement will cause harm or damage to CCC in that funds may be disbursed to the producer for a MAL quantity that is not actually in existence or for a quantity for which the producer is not eligible.

\* \* \* \* \*

(m) In the case of joint MALs, the personal liability for the amounts specified in this section are joint and several on the part of each producer signing the MAL note. Further, each producer who is a party to a joint MAL will be jointly and severally liable for any violation of the terms and conditions of the note and security

agreement, and the regulations in this part. Each such producer also remains liable for repayment of the entire MAL amount until the MAL is fully repaid without regard to such producer’s claimed share in the honey, or MAL proceeds, after execution of the note and security agreement by CCC.

\* \* \* \* \*

**§ 1434.16 [Amended]**

■ 148. Amend § 1434.16 as follows:

- a. Revise the section heading;
- b. In paragraph (a)(1), remove the word “shall” and add the word “may” in its place; and
- c. Revise paragraphs (a)(3) and (c).  
The revisions read as follows:

**§ 1434.16 Release of the honey pledged as collateral for a MAL.**

(a) \* \* \*

(3) When the proceeds of a sale of honey are needed to repay all or part of a farm stored MAL, the producer must request and obtain prior written approval of the county office on a form prescribed by CCC in order to remove a specified quantity of the honey from storage. Any such approval will be subject to the terms and conditions in the applicable form, copies of which may be obtained by producers at the county office. Any such approval will not constitute a release of CCC’s security interest in the commodity or release the producer from liability for any amounts due and owing to CCC with respect to any MAL indebtedness if full payment of such amounts is not received by the county office.

\* \* \* \* \*

(c) After satisfaction of a MAL, CCC will release CCC’s security interest in the honey at the producer’s request. The producer is responsible for payment of any fee for such release if such fee can be determined.

**§ 1434.18 [Amended]**

■ 149. Amend § 1434.18 as follows:

- a. In paragraph (a) introductory text, remove the words “marketing assistance loan” and add the word “MAL” in their place; and
- b. In paragraph (a)(3), remove the words “marketing assistance loans” both times they appear and add the word “MALs” in their place.

■ 150. Amend § 1434.19 as follows:

- a. Redesignate paragraphs (a) and (b) as follows:

Old paragraph	New paragraph
(a) introductory text ...	(a)(1) introductory text.
(a)(1) .....	(a)(1)(i).
(a)(2) .....	(a)(1)(ii).

Old paragraph	New paragraph
(b) .....	(a)(2).

- b. Redesignate the introductory text as paragraph (a) introductory text;
- c. In newly redesignated paragraph (a)(1)(i), remove the word “shall” and add the word “must” in its place;
- d. Revise newly redesignated paragraph (a)(1)(ii); and
- e. Add paragraph (b).

The revision and addition read as follows:

**§ 1434.19 Settlement.**

- (a) \* \* \*
- (1) \* \* \*
- (ii) If the value of the collateral at settlement is greater than the amount due, the excess will be paid to the producer or, if applicable, to the producer and any secured creditor of the producer.

\* \* \* \* \*

(b) CCC will not assume any loss in quantity or quality of the loan collateral for honey MALs.

**§ 1434.20 [Amended]**

- 151. Amend § 1434.20(b)(1), by removing the word “shall” and adding the word “must” in its place.
- 152. Amend § 1434.21 as follows:
  - a. Revise paragraph (a) introductory text;
  - b. In paragraph (a)(3) remove the words “Loan deficiency payment” and add the word “LDP” in their place;
  - c. Revise paragraphs (c), (d), and (e); and
  - d. In addition to the amendments set forth above, in paragraphs (b), (f) introductory text, and (f)(1), remove the words “loan deficiency payment” each time they appear and add the word “LDP” in their place.

The revisions read as follows:

**§ 1434.21 Loan deficiency payments.**

- (a) LDPs will be available for honey.

\* \* \* \* \*

(c) The LDP rate for a crop will be the amount by which the MAL rate exceeds the rate at which CCC has announced that producers may repay their MAL as specified in § 1434.18.

(d) The LDP applicable to a crop of honey will be computed by multiplying the LDP rate, as determined as specified in paragraph (c) of this section, by the quantity of honey the producer is eligible to pledge as collateral for a price support MAL for which an LDP is requested.

(e) Notwithstanding any provisions in this section, LDPs may be based on 100 percent of the net quantity specified on acceptable evidence of disposition of the honey certified as eligible for an LDP if CCC determines that such quantity represented the quantity for the number of containers of honey initially certified for the LDP when the payment was made.

\* \* \* \* \*

**§§ 1434.2, 1434.4, 1434.5, 1434.6, 1434.7, 1434.10, 1434.11, 1434.12, 1434.14, 1434.15, 1434.16, 1434.17, 1434.18, 1434.19, 1434.20, 1434.22 [Amended]**

- 153. In addition to the amendments set forth above, in 7 CFR part 1434, remove the word “shall” each time it appears and add, in its place, the word “will” in the following places:
  - a. In § 1434.2(c), (d), and (f);
  - b. In § 1434.4(e) and (g)(2);
  - c. In § 1434.5(c)(3);
  - d. In § 1434.6(d);
  - e. In § 1434.7(a);
  - f. In § 1434.10(d);
  - g. In § 1434.11(b);
  - h. In § 1434.12(b) and (c);
  - i. In § 1434.14;
  - j. In § 1434.15(c) introductory text, (d) introductory text, (e), (f)(2) introductory text, (h) introductory text, and (i)(2);
  - k. In § 1434.16(b);
  - l. In § 1434.17(b);
  - m. In § 1434.18(b);
  - n. In § 1434.19 newly redesignated paragraphs (a) introductory text and (a)(2);

- o. In § 1434.20(a) and (b)(2); and
- p. In § 1434.22 (a) and (b).

**PART 1435—SUGAR PROGRAM**

■ 154. The authority citation for part 1435 continues to read as follows:

**Authority:** 7 U.S.C. 1359aa-1359jj, 7272, and 8110; 15 U.S.C. 714b and 714c.

■ 155. Amend § 1435.1 as follows:

- a. Redesignate paragraphs (a) through (d) as paragraphs (a)(1) through (4), redesignate the introductory text as paragraph (a) introductory text, and reserve paragraph (b); and
- b. Revise newly designated paragraph (a) introductory text.

The revision reads as follows:

**§ 1435.1 Applicability.**

(a) The regulations in this part specify the terms and conditions under which the Farm Service Agency (FSA) will administer the Sugar Program for the Commodity Credit Corporation (CCC) to:

\* \* \* \* \*

■ 156. Amend § 1435.101 by revising paragraphs (a) and (b) to read as follows:

**§ 1435.101 Loan rates.**

(a) The national average loan rate for raw cane sugar produced from domestically grown sugarcane is 18.75 cents per pound.

(b) The national average loan rate for refined beet sugar from domestically grown sugar beets is equal to 128.5 percent of the loan rate per pound of raw cane sugar.

\* \* \* \* \*

Signed on December 23, 2014.

**Val Dolcini,**

*Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 2014–30530 Filed 12–31–14; 8:45 am]

**BILLING CODE 3410–05–P**