Until recently, virtually all long type potatoes grown in the production area were either of the Russet Burbank or Centennial Russet variety. Because these two varieties have different physical characteristics, different size requirements were established for each. The Russet Burbank, which is longer and thinner than the Centennial Russet, is required to be at least 1⅞ inches in diameter. Other long varieties, including the Centennial Russet, were required to be at least 2 inches in diameter before the interim final rule went into effect.

In 1988, a number of new varieties of long potatoes were planted in the San Luis Valley, including the Russet Norkotah, Russet Nugget, Nooksack, and Targhee. During harvest of the crop, it was found that these other long varieties are more similar in size and shape to the Russet Burbank than the Centennial Russet. The committee therefore recommended that these varieties be subject to the 1⅞-inch minimum diameter size requirement established for Russet Burbanks rather than the 2-inch minimum set for other long varieties.

The industry estimated that absent this change, about 15 to 18 percent of these new variety potatoes would have been precluded from being shipped to fresh outlets. This action is expected to increase the amount of marketable potatoes and improve returns to growers. This change is not expected to adversely affect the market for larger potatoes.

Section 8e of the Act requires that when certain domestically produced commodities, including Irish potatoes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Section 8e also provides that whenever two or more marketing orders regulating a commodity produced in different areas of the United States are concurrently in effect, the Secretary shall determine which of the areas produces the commodity in most direct competition with the imported commodity. Imports then must meet the quality standards set for that particular area.

Because the current import regulation (§ 980.1), specifies that import requirements for long types be based on those in effect for potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon (7 CFR Part 945) during each month of the marketing year, this change in the handling regulation for Colorado Area 2 potatoes will not affect potato import requirements.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other available information, it is found that the rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 948.

Marketing agreements and orders, Potatoes, Colorado.

For the reasons set forth in the preamble, the interim final rule amending 7 CFR Part 948 which was published at 54 FR 961–962 on January 11, 1989, is adopted as a final rule without change.

Dated: March 16, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–6619 Filed 3–20–89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 985

[FV-89-023FR]

Expenses and Assessment Rate for Far West Spearmint Oil

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 985 for the 1989–90 marketing year established for the spearmint oil marketing order. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: June 1, 1989, through May 31, 1990.

FOR FURTHER INFORMATION CONTACT: Jacquelyn R. Schlatter, Marketing Specialist, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 985 (7 CFR Part 985), regulating the handling of spearmint oil produced in the Far West. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 9 handlers of Far West spearmint oil subject to regulation under the spearmint oil marketing order, and approximately 253 producers of Far West spearmint oil in the production area. Small agricultural procedures have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of Far West spearmint oil producers and handlers may be classified as small entities.

The spearmint oil marketing order requires that the assessment rate for a particular marketing year shall apply to all assessable spearmint oil handled from the beginning of such year. An annual budget of expenses is prepared by the Spearmint Oil Administrative Committee (SOAC) and submitted to the U.S. Department of Agriculture for approval. The members of the SOAC are handlers and producers of regulated spearmint oil. They are familiar with the SOAC's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the SOAC is derived by dividing anticipated expenses by the expected amount of spearmint oil to be handled. Because that rate is applied to the actual volume of spearmint oil handled, it must be established at a rate which will produce sufficient income to pay the SOAC's expected expenses. The recommended budget and rate of assessment are usually acted upon by the SOAC shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the SOAC will have funds to pay its expenses.

The SOAC met on January 26, 1989, and unanimously recommended 1989–90 marketing order expenditures of $176,800, and an assessment rate of $0.10 per pound of Far West spearmint oil. In comparison, 1988–89 marketing year budgeted expenditures were $182,500 and the assessment rate was $0.09 per pound. Expenditure categories in the 1989–90 budget are $67,200 for program administration, $83,600 for salaries, and $26,000 for expenses, which includes travel and compensation. Assessment income for 1988–89 is expected to total $160,968.50 based on shipments of 1,609,685 pounds of spearmint oil. Interest and incidental income is estimated at $5,000. The SOAC may expend operational reserve funds of $10,831.50 to meet budgeted expenses. Additional reserve funds may be used to meet any deficit in assessment income.

While this final action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds new § 985.309 and is based on the SOAC's recommendation and other information. A proposed rule was published in the February 24, 1989, issue of the **Federal Register** (54 FR 7937). Comments on the proposed rule were invited from interested persons until March 6, 1989. No comments were received.

After consideration of the information and recommendation submitted by the SOAC and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 985:

Far West, Marketing agreements and orders, Spearmint Oil.

For the reasons set forth in the preamble, 7 CFR Part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 985.309 is added as follows:

Note: This section will not appear in The Code of Federal Regulations.

§ 985.309 Expenses and assessment rate.

Expenses of $176,800 by the Spearmint Oil Administrative Committee are authorized, and an assessment rate payable by each handler in accordance wtih § 985.41 is fixed at $0.10 per pound of salable spearmint oil for the 1989–90 marketing year ending May 31, 1990. Unexpended funds may be carried over as a reserve.

Dated: March 16, 1989.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–6617 Filed 3–20–89; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1250

[Docket No. PY–89–001]

Egg Research and Promotion Order Amendments

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is adopting as a final rule the provisions of an interim final rule published January 4, 1989, which amended the Egg Research and Promotion Order. These changes eliminate producer refunds and limit the total costs that may have incurred by the American Egg Board (AEB) in collecting egg producer assessments and having an administrative staff. These changes are required by the Egg Research and Consumer Information Act amendments, which became effective October 31, 1988.

EFFECTIVE DATE: March 21, 1989.

FOR FURTHER INFORMATION CONTACT: Janice L. Lockard, 202–447–3506.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be non-major because it does not meet the criteria contained therein for major regulatory actions.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The purpose of the RFA is to fit regulatory action to the scale of businesses subject to such action in order that small businesses will not be unduly or disproportionately burdened. The majority of producers and handlers under the Egg Research and Consumer Information Act may be characterized as small entities.

The Egg Research and Promotion Order (7 CFR Part 1250) authorizes AEB to collect assessments at the rate of 5 cents per 30-dozen case of commercial eggs marketed or the equivalent thereof. However, effective September 1, 1987, the 5-cent rate of assessment was decreased to 2.5 cents by revising the Egg Research and Promotion Rules and Regulations in §1250.514 (7 CFR 1250.514). AEB collects approximately $3.7 million annually from the 2.5-cent assessment. The assessment is refundable upon demand and presently is at the rate of 43 percent of assessments collected. According to AEB statistics, 1,967 producers pay assessments under the amended Rules and Regulations. Approximately 79 percent of such producers currently do not request refunds; therefore, the implementation of a mandatory assessment would have no additional impact on these producers.

A mandatory assessment of 2.5 cents per 30-dozen case of eggs would be equivalent to approximately 0.14 percent of the wholesale price of a 1-dozen carton of Large eggs. This is based on the Economic Research Service's latest annual average wholesale price of 60.6 cents per dozen. The amendment to the Order would impose additional costs on approximately 21 percent of the producers and any other producers who might request refunds in the future. It is estimated that the AEB would collect $3.7 million annually from a mandatory 2.5-cent assessment. This would represent an increase of 43 percent over the current amount retained after refunds. It is anticipated that any additional costs will be offset by the benefits derived from strengthened research and promotion programs as a result of participation by all producers.

Paperwork Reduction

There is no change in the reporting or recordkeeping requirements imposed on producers and handlers as a result of this action. The Office of Management and Budget approval of these requirements (No. 0581–0098) was renewed for use through August 31, 1989.

Background

The Egg Research and Promotion Order in § 1250.349 [7 CFR § 1250.349] currently provides that any producer, whose eggs are assessed under authority of the Egg Research and Consumer Information Act (7 U.S.C. 2701–2718) and who is not in favor of supporting the programs authorized thereunder, may request refunds of such assessments. The Egg Research and Consumer Information Act Amendments of 1988 (Pub. Law 100–575, effective October 31, 1988) require the Secretary to amend the Egg Research and Promotion Order to eliminate the producer refund provision. Such an amendment would not be subject to a producer referendum until after the end of an 18-month period from the effective date of the amendment, January 1, 1989.

A poll was conducted by AEB of all commercial egg producers, which disclosed that 69 percent of producers voting, representing 79 percent of egg production voting, were in favor of eliminating refunds of producer assessments.

In the House of Representatives' report on the 1988 amendments to the Act (H.R. Rep. No. 1024, 100th Cong. 2nd Sess. 3 (1988)), it was stated that the Act, as enacted in 1974, contains many of the tools needed to address the issues facing the egg industry today. However, there is not sufficient funding for an effective program of research, consumer and producer education, advertising, and promotion. The report states further that the hallmark of an effective and continuous program must be the contribution by all commercial egg producers of their fair share.

The amended Act requires the Secretary to issue an amendment to the Order to eliminate the refund provision. During the period beginning with the effective date of the amendment until approval by referendum of the amendment, the Board is required to place into an escrow account 10 percent of the assessments received from egg producers. If the amendment to the Order is not approved in the referendum, the escrow account will be used to pay refunds to eligible egg producers who requested a refund pursuant to regulations to be promulgated by the Secretary. If the escrow account does not contain sufficient amounts to refund all eligible producers demanding a refund, then the Board will prorate the amount of refunds demanded by eligible producers. If the amendment to the Order is approved, the amount in the escrow account will be used by the Board in accord with the purposes set forth in the Act. Sections 1250.336 and 1250.349 are amended accordingly.

The 1988 amendments also contain a provision limiting the total costs that may be incurred by the Egg Board in collecting producers assessments and for administrative costs to the amount of the projected total assessments to be collected by the AEB as the Secretary determines to be reasonable. Section 1250.336 of the Order is amended to contain such a provision.

The interim final rule establishing these changes was published in the **Federal Register** on January 4, 1989 [54 FR 98], with an effective date of January 1, 1989. Comments were solicited from interested persons through February 3, 1989. One comment in support of the rule was received during the comment period. No opposing comments were received. Accordingly, the amendments made by that interim final rule are adopted without change.

It is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This final rule adopts the provisions issued January 1, 1989; (2) the Egg Research and Consumer Information Act Amendments of 1988 require that the Secretary make these amendments to the Order eliminating producer refunds and limiting costs incurred by AEB; (3) interested persons were afforded a 30-day comment period to submit written comments—one comment was received; and (4) producers will be afforded an opportunity to vote in a referendum to be conducted at a future date, in accordance with the 1988 amendments.

List of Subjects in 7 CFR Part 1250

Egg research and promotion.

PART 1250—EGG RESEARCH AND PROMOTION

1. The authority citation for 7 CFR Part 1250 continues to read as follows:

Authority: Pub. L. 93–428, 88 Stat. 1171, as amended; 7 U.S.C. 2701 *et seq.*

2. Accordingly, for reasons and purposes stated above and in the interim final rule published January 4, 1989 (54 FR 98), the amendments made to § 1250.336, § 1250.346, and § 1250.349 of Part 1250, Title 7, Code of Federal Regulations, by the said interim rule are hereby adopted as a final rule without change.

Done at Washington, D.C. on March 16, 1989.

J. Patrick Boyle,
Administrator.

[FR Doc. 89–6616 Filed 3–20–89; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Parts 1421, 1427, and 1434

Price Support and Production Adjustment Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The regulations at 7 CFR Parts 1421, 1427, and 1434 set forth the terms and conditions of the Commodity Credit Corporation (CCC) price support loan programs for grain and similarly handled commodities; upland and extra long staple cotton; and honey, respectively. The amendments made by this interim rule will provide greater clarity, enhance the administration of CCC programs by providing uniformity between CCC price support programs, and eliminate obsolete provisions.

DATE: Effective: March 21, 1989. Comments must be received on or before April 20, 1989 in order to be assured of consideration.

ADDRESS: Director, Cotton, Grain and Rice Price Support Division, USDA, ASCS, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Garth Bond, Program Specialist, Cotton, Grain and Rice Price Support Division, USDA-ASCS, P.O. Box 2415, Washington, DC 20013. Telephone: (202) 447–8440.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under United States Department of Agriculture (USDA) procedures implementing Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as "not major." It has been determined that the provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises in domestic or export markets.

CCC previously published final rule on March 1, 1988 (53 FR 6131) and November 25, 1988 (53 FR 47658) with respect to CCC price support programs for feed grains, peanuts, rice, soybeans and wheat which are set forth at 7 CFR Part 1421. Those amendments were made to delete obsolete provisions and to provide greater uniformity between the programs. The changes made by this interim rule will, to the maximum extent practicable, provide that the upland and extra long staple cotton and honey programs are administered in the same manner as the aforementioned programs.

The interim rule also deletes in 7 CFR Parts 1421 and 1427 references to specific amounts which are charged by CCC for loan-making and related services. Most of the current fees have been in effect since the 1974 crop year. Fees for sugar processor loans were implemented for the 1982 crop. Since the current fees charged do not recover the cost of either the total loan administration function or the loan-making activity alone, 7 CFR Parts 1421 and 1427 are amended to allow for increases in fees so that CCC may recover a greater portion of the current costs incurred. The interim rule provides that such rates will be as determined by CCC in order that CCC may more accurately determine such rates on a State by State basis by taking into account differences in State laws that affect loan-making activities and actual costs incurred by CCC when providing price support to producers.

This rule also amends the cotton and honey price support loan provisions with respect to lien subordination agreements. Since CCC price support loans are nonrecourse loans, producers may forfeit the loan collateral in total satisfaction of the loan. Therefore, CCC has required all parties which have a lien on the commodity which has been pledged as collateral for such a loan to execute either a lien waiver or lien subordination agreement with respect to such commodity before a CCC price support loan is made to the producer. In order to protect fully CCC's interest in the commodity which may be forfeited upon the maturity of the loan, CCC no longer utilizes lien subordination agreements. Accordingly, 7 CFR Parts 1427 and 1434 are revised by deleting references to such agreements.

Since producers are currently making decisions regarding commodities which may be pledged as collateral for CCC price support loans, the provisions of this interim rule are effective upon publication in the **Federal Register.** Comments are requested, however, and will be taken into consideration when developing the final rule.

It has been determined that the Regulatory Flexibility Act is not applicable to the interim rule since neither the Agricultural Stabilization and Conservation Service (ASCS) nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

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

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

List of Subjects

7 CFR Part 1421

Grains, Loan programs—agriculture, Price support programs.

7 CFR Part 1427

Cotton, Loan programs—agriculture, Price support programs.

7 CFR Part 1434

Honey, Loan programs—agriculture, Price support programs.

Accordingly, Chapter XIV of Title 7 of the Code of Federal Regulations is revised to read as follows:

PART 1427—[AMENDED]

1. The authority citation for 7 CFR Part 1427 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1423 and 1444–1; 15 U.S.C. 714b and 714c; and sec. 501 of Pub. L. 99–198.

Subpart—Cotton Loan Program Regulations

2. Sections 1427.1 through 1427.3 are revised to read as follows:

§ 1427.1 Applicability.

(a) The regulations of this subpart are applicable to the 1989 and subsequent crops of upland cotton and extra long staple cotton and the 1988 crops of such cotton if such cotton is pledged as collateral for a price support loan which is extended in accordance with this Part. These regulations set forth the terms and conditions under which nonrecourse price support loans shall be made available by the Commodity Credit Corporation ("CCC") with respect to upland and extra long staple lint cotton. Additional terms and conditions are set forth in the note and security agreement which must be executed by a producer in order to receive such loans.

(b) Price support rates, the schedule or premiums and discounts, the schedule of micornaire discounts, loan service and related fees and the forms which are used in administering the price support program for a crop of upland and extra long staple cotton are available in State and county Agricultural Stabilization and Conservation Service ("ASCS") offices ("State and county offices," respectively). Price support rates shall be based upon the location of the approved warehouse in which the loan collateral is stored.

(c) Price support loans shall not be available with respect to any commodity produced on land owned or otherwise in the possession of the United States if such land is occupied without the consent of the United States.

§ 1427.2 Administration.

(a) The price support program which is applicable to a crop of cotton shall be administered under the general supervision of the Administrator, ASCS, and shall be carried out in the field by State and county ASC committees.

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

(c) The State committee shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, an action taken by such county committee which is not in accordance with the regulations of this part; or

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

(d) No provision or delegation herein to a State or county committee shall preclude the Administrator, ASCS, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by the State or county committee.

(e) The Deputy Administrator, State and County Operations, ASCS, may authorize State or county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not affect adversely the operation of the price support program.

(f) A representative of CCC may execute price support loans and purchase agreements and related documents only under the terms and conditions determined and announced by CCC. Any such document which is not executed in accordance with such terms and conditions, including any purported execution prior to the date authorized by CCC, shall be null and void.

§ 1427.3 Definitions.

(a) The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in Parts 28, 719 and 1413 of this title shall also be applicable.

"Authorized LSA" means a person or firm that enters into a written agreement with CCC to act as a loan servicing agent for CCC in making and servicing individual Form A cotton loans. The authorized LSA may perform, on behalf of CCC, only those services which are specifically prescribed by CCC including:

(1) Preparing and executing loan documents;

(2) Disbursing loan proceeds;

(3) Handling the extension of loans as authorized by CCC;

(4) Accepting cotton loan repayments;

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

(6) Providing loan data to CCC for statistical purposes.

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

"Cotton" means, as defined in Part 1413 of this chapter, upland cotton and extra long staple cotton as applicable.

"Financial institution" means: (1) A bank in the United States which accepts demand deposits; and (2) an association organized pursuant to Federal or State law and supervised by Federal or State banking authorities.

"Lint cotton" means cotton which has passed through the ginning process.

"Loan clerk" means a person approved by CCC to assist producers in preparing loan documents.

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

3. In § 1427.4 paragraph (a) is revised and paragraphs (d), (e), (f), and (g) are added to read as follows:

§ 1427.4 Eligible producer.

(a) An eligible producer of a crop of cotton shall be an individual, partnership, association, corporation, estate, trust, State or political subdivision or agency thereof, or other legal entity which:

(1) Produces such a crop as a landowner, landlord, tenant, or sharecropper;

(2) Meets the requirements of this Part; and

(3) Meets the requirements of Parts 12, 718, and 1413 of this title.

* * * * *

(d)(1) Two or more producers may obtain a single joint loan with respect to cotton which is stored in an approved warehouse if the warehouse receipt which is pledged as collateral for the loan is issued jointly to such producers. The cotton in bale may have been produced by two or more eligible producers on one or more farms if the bale is not a repacked bale.

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

(e) Loans may be made to a warehouseman who, in the capacity of a producer, tenders to CCC warehouse receipts issued by such warehouseman on cotton produced by such warehouseman only in those States where the issuance and pledge of such warehouse receipts are valid under State law.

(f) A cooperative marketing association which has been approved in accordance with Part 1425 of this chapter may obtain price support on behalf of the members of the cooperative who are eligible to receive price support with respect to a crop of cotton. For purposes of this subpart, the term "producer" includes an approved cooperative marketing association.

(g) Except as may otherwise be provided in this part, a producer shall not delegate to any person (or any agent or representative of such person), except to a farm manager, who has an interest in storing, processing, or merchandising cotton which is eligible to receive price support in accordance with this part the authority to exercise on behalf of the producer any of the producer's rights which arise in accordance with this subpart.

4. In section 1427.5, paragraphs (a) through (c) are revised to read as follows:

§ 1427.5 General eligibility requirements.

(a) A producer must, unless otherwise authorized by CCC, request price support at the county office which, in accordance with Part 719 of this title, is responsible for administering programs for the farm on which the cotton was produced. An approved cooperative marketing association must, unless otherwise authorized by CCC, request price support at a servicing agent bank approved by CCC. All note and security agreements and related documents necessary for the administration of the price support programs shall be determined by CCC and are available at State and county offices. In order to receive price support for a crop of cotton, a producer must execute a note and security agreement on or before May 31 of the year following the year in which such crop is normally harvested. A Form CCC Cotton A must be signed by the producer or the producer's agent and mailed or delivered to the county office or an authorized LSA within 15 days after the producer signs the Form CCC Cotton A and within the period of loan availability.

(b)(1) Cotton must be tendered to CCC by an eligible producer and must:

(i) Be in existence and in good condition at the time of disbursement of loan proceeds;

(ii) Be a grade and staple length specified in:

(A) The schedule of premiums and discounts for upland cotton or

(B) The schedule of loan rates for extra long staple cotton and must be represented by a warehouse receipt meeting the requirements of § 1427.12;

(iii) Not be false-packed, water-packed, mixed-packed, reginned, or repacked and:

(A) Upland cotton must not have been reduced more than two grades because of preparation; and

(B) Extra long stable cotton must have been ginned on a roller gin, must have been produced in a county designated as suitable for the production of such cotton, must not have a micronaire reading of 2.6 or less, and must not have been reduced in grade for any reason;

(iv) Not be compressed to universal density where side pressure has been applied or to high density at a warehouse;

(v) Not have been sold, nor any sales option on such cotton granted, to a buyer under a contract which provides that the buyer may direct the producer to pledge the cotton to CCC as collateral for a price support loan; and

(vi) Not have been previously sold and repurchased; or pledged as collateral for a CCC price support loan and redeemed.

(2) Each bale of cotton must:

(i) Weigh not less than 325 pounds net weight;

(ii) If compressed to standard or higher density either at warehouse or at a gin, have not less than eight bands;

(iii) Be packaged in materials which meet specifications adopted and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC), sponsored by the National Cotton Council of America, for bale coverings and bale ties which are identified and approved by the JCIBPC as experimental packaging materials. Heads of bales must be completely covered. Copies of the 1989 Specifications for Cotton Bale Packaging Materials published by the JCIBPC which are incorporated by reference are available upon request at the county ASCS office and at the following address: Joint Cotton Industry Bale Packaging Committee, National Cotton Council of America, P.O. Box 12285, Memphis, Tennessee 38112. Information with respect to experimental packaging material may be obtained from JCIBPC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a);

(iv) Be ginned by a ginner:

(A) Who has entered the tare weight of the bale (bagging and ties used to wrap the bale) on the gin bale tag, and

(B) Who has entered into CCC–809, Cooperating Ginners' Bagging and Bale Ties Certification and Agreement, or certified that the bale is wrapped with bagging and bale ties meeting the requirements of paragraph (b)(2)(iv)(A) of this section.

(c)(1) To be eligible to receive price support, a producer must have the beneficial interest in the cotton which is pledged as collateral. The producer must always have had the beneficial interest in the cotton unless, before the cotton was harvested, the producer and a former producer whom the producer tending the cotton to CCC has succeeded had such an interest in the cotton. Heirs who succeed to the beneficial interest of a deceased producer or who assume such producer's obligations under an existing loan shall be eligible to receive price support whether succession to the cotton occurs before or after harvest as long as the heir otherwise complies with the provisions of this Part. Such succeeding producer must assume a substantial interest in, and responsibility for, the production of the cotton. Mere purchase or inheritance of a crop prior to harvest without acquisition of any additional interest in the farm on which the crop is produced shall not constitute succession of a beneficial interest.

(2) A producer shall not be considered to have divested the beneficial interest in the cotton if the producer enters into a contract to sell or gives an option to buy the cotton, if under the contract or option the producer retains control, risk of loss and title to the cotton subject to such agreement, and retains control of the production of the cotton. Cotton obtained by purchase shall not be eligible to be tendered to CCC for price support.

(3) If price support is made available to producers through an approved marketing cooperative in accordance with Part 1425 of this chapter, the beneficial interest in the cotton must always have been in the producer-member who delivered the cotton to the cooperative except as otherwise provided in this subsection. Cotton delivered to such a cooperative shall not be eligible to receive price support 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.

§ 1427.5 [Amended]

5. In § 1427.5, paragraphs (d) through (o) are removed and paragraphs (p) and (q) are redesignated as paragraphs (d) and (e), respectively.

§ 1427.6 [Amended]

6. In § 1427.6, paragraph (d) is removed.

7. Section 1427.8 is amended by removing paragraphs (b), (c) and (g); reserving paragraphs (b) and (c); and revising paragraphs (a) and (d) to read as follows:

§ 1427.8 Amount of loan.

(a) Loans will be made on the net weight of the cotton as shown on the warehouse receipt, except that in the case of a bale which has a net weight of more than 600 pounds, the weight to be used in determining the amount of the loan on the bale shall be 600 pounds. Cotton pledged as collateral for loans on the basis of reweights will not be accepted if CCC determines that such reweights reflect an increase in weight due to the absorption of moisture. CCC will deduct from the current weight of the bale any estimated weight gained while in storage.

(b) and (c) [Reserved]

(d) The amount of the loan for each bale will be determined by multiplying the net weight of the bale, as determined under paragraph (a) of this section, by the applicable loan rate and subtracting any unpaid warehouse receiving charges, any warehouse storage charges in excess of 60 days as of the date of tender to CCC, as provided in § 1427.12(c), and any unpaid charge for furnishing new bale ties as prescribed in § 1427.12(c). CCC will not increase the amount of the loan made with respect to any bale of cotton as a result of a redetermination of the quality of the bale after it is tendered to CCC, except that if it is established to the satisfaction of CCC that a bona fide error was made with respect to the weight of the bale or the loan rate for the bale as specified on the Form A–1, such error may be corrected.

(e) * * *

§ 1427.8 [Amended]

8. In § 1427.8(f) the reference to "Part 770" is amended to read "Part 1470".

§ 1427.11 [Removed and reserved]

9. Section 1427.11 is removed and reserved.

10. Section 1427.13 is revised to read as follows:

§ 1427.13 Liens.

If there are any liens or encumbrances on the commodity, waivers that fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan proceeds. No additional liens or encumbrances shall be placed on the commodity after the loan is approved.

11. Section 1427.14 is revised to read as follows:

§ 1421.14 Fees, charges and interest.

(a) A producer shall pay a nonrefundable loan service fee to CCC or, if applicable, to an authorized LSA, at a rate determined by CCC. Any such fee shall be in addition to any loan clerk fee paid to a loan clerk in accordance with paragraph (b) of this section.

(b) Loan clerks may only charge fees for the preparation of loan documents at the rate determined by CCC.

(c) Interest which accrues with respect to a loan shall be determined in accordance with Part 1405 of this chapter. Except with respect to called loans, loans which have not been repaid by the maturity date shall accrue interest in accordance with Part 1403 of this chapter beginning the day after the maturity date of the loan. With respect to called loans, interest shall accrue in accordance with Part 1403 of this chapter beginning on the required settlement date.

§§ 1427.15 and 1427.16 [Removed and Reserved]

12. Sections 1427.15 and 1427.16 are removed and reserved.

13. The first sentence of § 1427.18(c) is amended by removing the phrase "as required by § 1427.11" and paragraph (g) is revised to read as follows:

§ 1427.18 Special procedure where note amount advanced.

* * * * *

(g) Interest will be paid at the rate in effect for CCC loans as provided in Part 1405 of this chapter.

* * * * *

14. Section 1427.21 is revised to read as follows:

§ 1427.21 Liability of the producer.

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

(i) The amount of the loan;

(ii) Any additional amounts paid by CCC with respect to the loan;

(iii) All other costs which CCC would not have incurred but for the fraudulent representation or the unauthorized disposition or movement of the loan collateral; and

(iv) The payment of such amounts may not be satisfied by the forfeiture of loan collateral to CCC of commodities with a settlement value that is less than the total of such amounts.

(2)(i) If a producer has made any such fraudulent representation or if the producer has disposed of, or moved, the loan collateral, the value of such collateral shall be determined by CCC, and shall be the lower of:

(A) The market value of the commodity at the close of the market on the final date for repayment; or

(B) The loan settlement value of the commodity.

(ii) Notwithstanding the provisions of paragraphs (a)(2) of this section, if CCC sells the loan collateral in order to determine the market value of the commodity, the lower of:

(A) The sales price of the commodity less any costs incurred by CCC in completing the sale; or

(B) The loan settlement value of the commodity.

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

(c) If the amount collected from the producer in satisfaction of the loan is less than the amount required according to this Part, the producer shall be personally liable for repayment of the amount of such deficiency.

(d) In the case of joint loans, the personal liability for the amounts specified in this section shall be joint and several on the part of each producer signing the note.

15. Section 1427.22 is revised to read as follows:

§ 1427.22 Repayment of loans.

(a)(1) If a producer desires to redeem one or more bales of cotton pledged as collateral for a loan, the producer may receive the warehouse receipts (and the classification memoranda applicable to such cotton, if requested) at the local county ASCS office upon payment of the loan, interest, and charges applicable to the bales of cotton being redeemed. The producer may also request that the warehouse receipts (and classification memoranda) be forwarded to a bank for payment, in which case the amount of the loan, interest, and charges must be paid to the bank within 5 business days after the documents are received by the bank. Repayments will not be accepted after CCC acquires the cotton. All charges assessed by the bank to which the receipts are sent must be paid by the producer.

(2) Notwithstanding the provisions of paragraph (a)(1) of this section, CCC may allow producers to redeem one or more bales of cotton pledged as collateral for a loan by paying to CCC an amount less than the total of the principal amount of the loan, interest and other charges as may be set forth under the terms and conditions specified by CCC at the time the producer redeems the commodity pledged as collateral for such loan.

(3) The producer may request that the warehouse receipts and classification memoranda be forwarded to a bank for payment, in which case the principal amount of the loan, together with any applicable interest and other charges, must be paid after the documents are received by the bank. All charges assessed by the bank to which the receipts are sent must be paid by the producer.

(4) Repayment of loans will not be accepted after CCC acquires title to the cotton.

(b)(1) A producer, by filing with ASCS an ASC Form-211 or other power of attorney document approved by CCC, may designate another person to act on behalf of the producer for the purpose of:

(i) Redeeming the producer's cotton which is pledged as collateral,

(ii) Selling the producer's equities in the cotton pledged as loan collateral, or

(iii) Executing Forms CCC-813, release of Warehouse Receipts "Form 813".

(2) In order to redeem cotton pledged as collateral for a loan or to execute a Form 813 a person designated by the producer in accordance with the subsection must file with the county ASCS office, or the authorized LSA, whichever disbursed the loan, the original or facsimile of the power of attorney or a copy certified by a notary public as a true and correct copy.

(3) The attorney-in-fact redeeming a producer's cotton under authority of a power of attorney, including a person who has a power of attorney through execution of a Form 813, shall not:

(i) Purchase any such cotton redeemed from a CCC cotton loan or purchase the producer's equity in such cotton for the attorney-in-fact's own account or as agent for others; or

(ii) Sell any such cotton or equities in such cotton to any person by whom the attorney-in-fact is employed or who has the right to control or direct the attorney-in-fact's sale of such redeemed cotton or the equities in such cotton.

(4) The attorney-in-fact shall not adopt any scheme or device which tends to defeat the purpose of these regulations or the cotton program.

(5) If the attorney-in-fact holds power of attorney from more than one producer, the attorney-in-fact may not:

(i) Pool the producer's cotton or the proceeds therefrom; or

(ii) Make settlement with such producers on a pool basis upon sale of the cotton or the equities therein.

(6) The attorney-in-fact shall make an accounting to each producer for the proceeds of each bale of the producer's cotton which the attorney-in-fact redeems and sells and each equity which the attorney-in-fact has a valid annual marketing agreement with such producers authorizing the attorney-in-fact to pool the cotton or the proceeds therefrom.

(c)(1) A producer or the producer's authorized agent may enter into an agreement with a person or persons to redeem the producer's cotton and may authorize the release of the applicable warehouse receipts to such person or transferee (the "buyer") by executing a Form 813. If the buyer executes and files the Form 813 with the loan originating office, the buyer shall be obligated to redeem the cotton specified on such form on or before the maturity date of the loan. CCC will deliver to the buyer the warehouse receipts and, if requested, the classification memoranda covering the cotton upon the repayment of the loan principal together with any applicable interest and other charges at the loan originating office.

(2) If the loan documents are sent to a bank for collection, repayment of the loan, together with any applicable interest and other charges, must be made within 5 business days after the documents are received by the bank. All charges assessed by the bank to which the documents are sent must be paid by the buyer. Redemptions will not be permitted after the maturity date of the loan. Upon the failure of the buyer to redeem all such cotton pledged as loan collateral:

(i) Title to the cotton shall, at CCC's election and without a sale thereof, immediately vest in CCC, and there shall be no obligation on the part of CCC to pay for any market value which such cotton may have in excess of the principal amount of the loan thereon, together with any applicable interest and other charges. The buyer shall be personally liable for any amount by which the amount due on the loan on such cotton exceeds the market value of the cotton as of the date title to the cotton vests in CCC, as determined by CCC.

(ii) CCC may, at CCC's election and without notice to the buyer, sell, transfer and deliver the cotton or documents evidencing title thereto, at such time, and in such manner, and upon such terms and conditions as CCC may determine, at any cotton exchange or elsewhere, or through any agency, at public or private sale, for immediate or future delivery, and without demand, advertisement, or notice of the time and place of sale or adjournment thereof or otherwise. Upon such sale, CCC may become the purchaser of the whole or any part of such cotton at its market value, as determined by CCC. If the proceeds from the sale do not cover the principal amount of the loan on such cotton, together with any applicable interest and other charges, the buyer shall be liable to CCC for any difference.

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

16. Section 1427.23 is revised to read as follows:

§ 1427.23 Settlement.

(a) The settlement of loans shall be made by CCC on the basis of the grade, quality, and quantity of the commodity delivered to CCC by the producer.

(b) Settlements made by CCC with respect to eligible commodities which are acquired by CCC which are stored in an approved warehouse shall be made on the basis on the entries set forth in the applicable warehouse receipt and other accompanying documents.

(c) If a producer does not pay to CCC the total amount due in accordance with a loan, CCC shall have the right to acquire title to the loan collateral and to sell or otherwise take possession of such collateral.

(d) On or after maturity and nonpayment of the note, title to the cotton shall, at CCC's election, without a sale thereof, vest in CCC, and CCC shall have no obligation to pay for any market value which such cotton may have in excess of the amount of the loan, plus interest and charges.

(e) In the event the producer has made a fraudulent representation in the loan documents or in obtaining the loan:

(1) The producer shall be personally liable for any amount by which the amount due on the loan exceeds the market value of the cotton pledged as collateral for the loan as of the date title vests in CCC, as determined by CCC; and

(2) The proceeds received from the sale of the cotton shall be credited by CCC against the amount due on the loan, and the producer shall be personally liable for any balance due on the loan.

(f) To avoid administrative costs of making small payments and handling small accounts, amounts of $9.99 or less will be paid to the producer only upon the producer's request. Deficiencies of $9.99 or less, including interest, may be disregarded unless demand for payment is made by CCC.

§ 1427.25 [Removed and Reserved]

17. Section 1427.25 is removed and reserved.

Subpart—Inventory Protection Payment [Removed]

18. Part 1427 is amended by removing the following obsolete subpart: "Subpart—Inventory Protection Payment" and §§ 1427.75–1427.79.

Subpart—Seed Cotton Loan Program Regulations [Amended]

19. Sections 1427.160 through 1427.162 are revised to read as follows:

§ 1427.160 General statement.

(a) The regulations in this subpart are applicable to the 1989 and subsequent crops of upland and extra long staple cotton when the Commodity Credit Corporation ("CCC") announces that recourse loans are available with respect to such a crop. If such an announcement is made, such loans will be available through March 31 of the year following the calendar year in which such crop is planted. Additional terms and conditions are set forth in the note and security agreement which must be executed by a producer in order to receive such loans.

(b) Price support rates and the forms which are used in administering the program for a crop of upland and extra long staple cotton are available in State and county Agricultural Stabilization and Conservation Service ("ASCS") offices ("State and county offices", respectively). Price support rates shall be based upon the location at which the loan collateral is stored.

(c) A producer must, unless otherwise authorized by CCC, request price support at the county office which, in accordance with Part 719 of this title, is responsible for administering programs for the farm on which the cotton was produced. An approved cooperative marketing association must, unless otherwise authorized by CCC, request price support at a servicing agent bank approved by CCC. All note and security agreements and related documents necessary for the administration of the price support programs shall be determined by CCC and are available at State and county offices.

(d) Price support loans shall not be available with respect to any commodity produced on land owned or otherwise in the possession of the United States if such land is occupied without the consent of the United States.

§ 1427.161 Administration.

Section 1427.2 of this part shall be applicable to this subpart.

§ 1427.162 Definitions.

Section 1427.3 of this part shall be applicable to this subpart.

20. In § 1427.163, paragraph (b) is revised to read as follows:

§ 1427.163 Disbursement of loans.

* * * * *

(b) Disbursement of each loan will be made by the county office of the county in which the cotton is stored, except that approved cooperatives designated by producers to obtain loans in their behalf may obtain disbusement of loans at a servicing agent bank. Service charges shall be deducted from the loan proceeds. The producer or the producer's agent shall not present the loan documents for disbursement unless the cotton is in existence and in good condition. If the cotton is not in existence and in good condition at the time of disbursement, the producer or the agent shall immediately return the check issued in payment of the loan or, if the check has been negotiated, shall promptly return the proceeds.

* * * * *

21. Section 1427.164 is revised to read as follows:

§ 1427.164 Eligible producer.

Section 1427.4 of this part shall be applicable to this subpart.

22. Section 1427.165 is revised to read as follows:

§ 1427.165 Eligible seed cotton.

(a) Cotton pledged as collateral for a loan must be tendered to CCC by an eligible producer and must be:

(1) In existence and in good condition at the time of disbursement of loan proceeds;

(2) Stored in identity preserved lots in approved storage meeting requirements of § 1427.171; and

(3) Insured at the full loan value against loss or damage by fire.

(b) The quality of cotton which may be pledged as collateral for a loan shall be the estimated quality of lint cotton in each lot of seed cotton as determined by the county office, except that if a control sample of the lot of cotton is classed by a USDA Board of Cotton Examiners, the quality for the lot shall be the quality shown on the form 1 or form 3 classification card issued for the control sample.

(c) To be eligible for price support, the beneficial interest in the commodity must be in the producer who is pledging the commodity as collateral for a loan as provided in § 1427.5(c)(1).

§ 1427.168 [Removed]

§ 1427.175 [Redesignated]

23. Section 1427.168 is removed and § 1427.175 is redesignated as § 1427.168.

24. Section 1427.169 is revised to read as follows:

§ 1427.169 Fees, charges and interest.

(a) A producer shall pay a nonrefundable loan service fee to CCC at a rate determined by CCC.

(b) Interest which accrues with respect to a loan shall be determined in accordance with Part 1405 of this Chapter. Except with respect to called loans, loans which have been repaid by the maturity date shall accrue interest in accordance with 1403 of this chapter beginning the day after the maturity date of the loan. With respect to called loans, interest shall accrue in accordance with Part 1403 of this chapter beginning on the required settlement date.

25. Sections 1427.172 and 1427.173 are revised to read as follows:

§ 1427.172 Settlement.

(a) A producer may, at any time prior to maturity of the loan, obtain release of all or any part of the loan cotton by paying to CCC the amount of the loan, plus interest and charges.

(b)(1) A producer or the producer's agent shall not remove from storage any cotton which is pledged as collateral for a loan until prior written approval has been received from the county committee for removal of such cotton. If a producer or the producer's agent obtains such approval, they may remove such cotton from storage, sell the seed cotton, have it ginned, and sell the lint cotton and cotton seed obtained therefrom. The ginner shall inform the county office in writing immediately after the 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 interest and charges thereon must be satisfied not later than the earlier of:

(i) The date established by the county committee;

(ii) 5 days of the date of the producer received the class cards (and the warehouse receipt, if the cotton is delivered to a warehouse), representing such cotton; or

(iii) The loan maturity date.

(2) If the seed cotton or lint cotton is sold, the loan, interest, and charges must be satisfied immediately.

(3) A producer (except a cooperative) may obtain a warehouse stored loan on the lint cotton, but the loan, interest, and charges on the seed cotton must be satisfied out of the proceeds of the warehouse stored loan.

(4) An approved cooperative must repay the seed cotton loan, interest, and charges before pledging the cotton for a warehouse stored loan. If approved cooperatives and commercial ginning companies authorized by producers to obtain loans in their behalf remove seed cotton from storage prior to obtaining approval to move such cotton, such removal shall constitute conversion of such cotton unless:

(i) The cooperative or commercial ginning company notifies the county office in writing the following morning by mail or otherwise that such cotton has been moved and is on the gin yard;

(ii) Furnished CCC an irrevocable letter of credit if requested; and

(iii) Repays the loan within the time specified by the county committee.

(5) Any removal from storage shall not be deemed to constitute a release of CCC's security interest in the cotton or to release the producer or approved cooperative from liability for the loan, interest, and charges if full payment of such amount is not received by the 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 shall immediately so notify the 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 call for repayment of the loan on or before a specified date. If the producer does not repay the loan or have the cotton ginned and obtain a warehouse-stored loan on the lint cotton produced therefrom within the period as specified by the county committee, the cotton shall 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 cotton or storage structure making continued storage of the cotton unsafe, the producer shall immediately either repay the loan or move the cotton to the nearest approved gin for ginning and shall, at the same time, inform the county office. If the producer does not do so, the cotton shall be considered abandoned.

§ 1427.173 Foreclosure.

Any seed cotton pledged as collateral for a loan which is abandoned or which has not been removed from storage by loan maturity 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 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 are less than the amount due on the loan (including interest, ginning charges, and any other charges incurred by CCC), the producer shall be liable for such difference.

§ 1427.176, 1427.177, 1427.178, 1427.180, 1427.181 [Removed]

26. Sections 1427.176, 1427.177, 1427.178, 1427.180 and 1427.181 are removed.

PART 1421—[AMENDED]

27. The authority citation for 7 CFR Part 1421 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441, 1441-1, 1444b, 1445b-2, 1445c-2, 1445e, 1446 and 1447; 15 U.S.C. 714b and 714c.

28. In § 1421.12, paragraph (a) is revised to read as follows:

§ 1421.12 Fees, charges and interest.

(a) *Loan service fee.* A producer shall pay a nonrefundable loan service fee to CCC at a rate determined by CCC.

* * * * *

PART 1434—[AMENDED]

29. The authority citation for 7 CFR Part 1434 is revised to read as follows:

Authority: 7 U.S.C. 1421 and 1446; 15 U.S.C. 714b and 714c.

§ 1434.12 [Removed and reserved]

30. Section 1434.12 is removed and reserved.

31. Section 1434.13 is revised to read as follows:

§ 1434.13 Liens.

If there are any liens or encumbrances on the honey, waivers that fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan proceeds. No additional liens or encumbrances shall be placed on the honey after the loan is approved.

32. Section 1434.14 is revised to read as follows:

§ 1434.14 Fees, charges and interest.

(a) A producer shall pay a nonrefundable loan service fee to CCC at a rate determined by CCC.

(b) Interest which accrues with respect to a loan shall be determined in accordance with Part 1405 of this chapter. Except with respect to called loans, loans which have not been repaid by the maturity date shall accrue interest in accordance with Part 1403 of this chapter beginning the day after the maturity date of the loan. With respect to called loans, interest shall accrue in accordance with Part 1403 of this chapter beginning on the required settlement date.

§ 1434.18 [Removed and reserved]

33. Section 1434.18 is removed and reserved.

Signed at Washington, DC, on March 10, 1989.

Milton J. Hertz,

Executive Vice President, Commodity Credit Corporation.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

Capital Maintenance; Final Statement of Policy on Risk-Based Capital

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: Since early 1985, the FDIC has employed minimum supervisory leverage ratios of primary and total capital to total assets in assessing the capital adequacy of state-chartered banks that are not members of the Federal Reserve System ("state nonmember banks"). While these ratios of capital to total assets have served as useful tools for assessing capital adequacy, the FDIC has determined that there is a need for a capital measure that is more explicitly and systematically sensitive to the risk profiles of individual banks.

In this regard, the FDIC and the other U.S. Federal banking agencies first proposed in early 1986, and again in 1987 in conjunction with the Bank of England, the adoption of a risk-based capital measure that would take explicit account of broad differences in risks among a bank's assets and off-balance sheet items. The FDIC deferred final action on these earlier proposals in order to participate in the development of a more broadly based capital framework that would be applicable to international banks. As a result of consultations with supervisory authorities from certain major industrial countries, the FDIC, on March 15, 1988, issued for public comment a revised risk-based capital framework that superseded the previous proposals. The revised proposal was based upon a risk-based capital framework developed jointly by supervisory authorities from the 12 countries that are represented on the Basle Committee on Banking Regulations and Supervisory Practices.

The comment period for the FDIC's proposal ended on May 13, 1988. Comments addressing various aspects of its proposal were received from over 150 respondents. Based upon the comments received, discussions with the other U.S. banking agencies, and further consultation with international supervisory authorities, the FDIC has modified its March 1988 proposal and is now issuing in final form its revised risk-based capital framework as a Statement of Policy on Risk-Based Capital.

The FDIC's adoption of this statement of policy achieves important goals long sought by U.S. banking supervisors. First, it establishes a risk-based capital framework that is more sensitive than the current leverage ratios to risk factors, including off-balance sheet exposures. Second, it encourages international banks to strengthen their capital positions. Finally, it mitigates a source of competitive inequity arising from different supervisory capital requirements across countries.

The risk-based capital guidelines represent a major step in the process of coordination with regulatory authorities of other countries to establish appropriate capital standards for banks, in accordance with the International Lending Supervision Act of 1983. In that regard, the FDIC notes that the regulatory authorities of the 12 major industrial countries intend to issue appropriate directives to those banks under their supervision, in order to facilitate implementation of the risk-based capital framework on an international basis.

EFFECTIVE DATE: The framework for calculating risk-based capital ratios will take effect on April 20, 1989. The interim 7.25 percent minimum supervisory ratio reflected in the framework's transitional provisions becomes effective on December 31, 1990. The final 8 percent minimum supervisory ratio will become effective on December 31, 1992, the date on which the transition period ends.

FOR FURTHER INFORMATION CONTACT: Robert F. Miailovich, Assistant Director, Division of Bank Supervision (202/898-6918), or Stephen G. Pfeifer, Examination Specialist, Securities and Accounting Section (202/898-8904).

SUPPLEMENTARY INFORMATION:

In 1986, and again in 1987 in conjunction with the Bank of England, the Federal banking agencies issued for public comment risk-based capital proposals applicable to U.S. banks. The principal objectives of these early proposals were: (1) To develop more systematic procedures for factoring on- and off-balance sheet risks into supervisory assessements of capital adequacy; (2) to reduce disincentives to holding liquid, low-risk assets; and (3) to foster coordination among supervisory authorities from major industrial