monitors their processing. The Clerk of the Board also does the following:

(1) Gives information on the status of cases;

(2) Manages the Board's records, reports, and correspondence style and control programs; and

(3) Answers requests under the Freedom of Information and Privacy Acts at the Board's headquarters.

(j) *Office of the General Counsel.* The General Counsel provides legal advice to the Board and its headquarters and regional offices, represents the Board in court proceedings, manages legislative policy, and performs congressional liaison. The General Counsel reports directly to the Chairman.

(k) *Office of Policy and Evaluation.* The Director, Policy and Evaluation, conducts special reviews and studies of Federal merit systems, including actions of the Office of Personnel Management under 5 U.S.C. 1206.

(l) *Office of Regional Operations.* The Director, Office of Regional Operations, manages the appellate functions of the 11 MSPB regional offices.

(m) *Regional Offices.* The Board has 11 regional offices located throughout the country (See appendix II to 5 CFR part 1201 for a list of the regional offices). The regional offices enter initial appeals onto their dockets and decide these cases as provided for in the Board's regulations.

Dated: August 19, 1991.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 91–20146 Filed 8–22–91; 8:45 am]

BILLING CODE 7400–01–M

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending part 1201: (1) By adding a new provision to § 1201.3, Appellate jurisdiction; (2) by amending § 1201.56, Burden and degree of proof; affirmative defenses; (3) by amending the areas served by its Chicago and St. Louis regional offices in appendix II to part 1201; and (4) by adding a new facsimile number for its Denver Regional Office in appendix II to part 1201. The amendments to §§ 1201.3 and 1201.56 reflect a legislative change in the Board's jurisdiction, and the amendments to appendix II are administrative changes. The amendments are needed to provide accurate information to Federal employees exercising their appeal rights to the Board.

EFFECTIVE DATE: August 23, 1991.

FOR FURTHER INFORMATION CONTACT: Duward Sumner (202) 653–8892.

SUPPLEMENTARY INFORMATION: Section 506 of the Ethics Reform Act of 1989 (Pub.L. 101–194, November 30, 1989) adds a new section 3393a to title 5 of the U.S.C., requiring that career appointees in the Senior Executive Service (SES) be recertified by their agencies every third year, beginning in calendar year 1991. Under the Act and the implementing regulations issued by the Office of Personnel Management (OPM) on January 3, 1991 (56 FR 165), a career appointee in the SES who is removed from the SES for failure to be recertified may appeal to the Merit Systems Protection Board. Both the Act and the implementing regulations issued by OPM provide that the agency action shall be sustained if it is supported by substantial evidence. The Board, therefore, is amending its regulations at 5 CFR 1201.3(a) to include removal of a career appointee from the SES for failure to be recertified as an agency action that is appealable to the Board. The Board is also amending its regulations at 5 CFR 1201.56(a)(i) to state that an action brought under 5 U.S.C. 3592(a)(3) must be sustained if it is supported by substantial evidence as defined at 5 CFR 1201.56(c)(1).

The amendment to appendix II to part 1201 with respect to the areas served by the Chicago and St. Louis regional offices transfers part of the state of Illinois from the geographic jurisdiction of the Chicago Regional Office to the geographic jurisdiction of the St. Louis Regional Office. This amendment is made to improve the efficiency of case adjudication and cost-effectiveness. The amendment to appendix II to part 1201 with respect to the Denver Regional Office reflects a change in the facsimile number.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of subjects in 5 CFR Part 1201

Administrative practice and procedure, Civil rights, Government employees.

Accordingly, the Board amends part 1201 as follows:

PART 1201—[AMENDED]

1. The authority for 5 CFR part 1201 continues to read:

Authority: 5 U.S.C. 1204 and 7701 unless otherwise noted.

2. Section 1201.3 is amended by removing "and" from the end of paragraph (a)(18); by removing the period at the end of paragraph (a)(19); and by adding in its place "; and." A new paragraph (a)(20) is added to read as follows:

§ 1201.3 Appellate jurisdiction.

(a) * * *

(20) Removal of a career appointee from the Senior Executive Service for failure to be recertified (5 U.S.C. 3592(a)(3), 5 CFR 359.304).

* * * * *

§ 1201.56 [Amended]

3. Section 1201.56(a)(1)(i) is amended by adding "5 U.S.C. 3592(a)(3)," after "under."

* * * * *

4. Paragraphs 3. and 8., Appendix II to Part 1201, are revised to read:

Appendix II to Part 1201—Appropriate Regional Office for Filing Appeals

* * * * *

3. Chicago Regional Office, 230 South Dearborn Street, 31st Floor, Chicago, Illinois 60604–1669 (Illinois (all locations north of Springfield), Indiana, Michigan, Minnesota, Ohio, Wisconsin).

* * * * *

8. St. Louis Regional Office, 911 Washington Avenue, suite 615, St. Louis, Missouri 63101–1203 (Illinois (Springfield and all locations south), Iowa, Kentucky, Missouri, Tennessee).

* * * * *

5. Paragraph 5., Appendix II to Part 1201, is amended by removing Facsimile No.: "(303) 233–5438" and adding "(303) 231–5205."

* * * * *

Dated: August 19, 1991.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 91–20181 Filed 8–22–91; 8:45 am]

BILLING CODE 7400–01–M

5 CFR Part 1203

Procedures for Review of Rules and Regulations of the Office of Personnel Management

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board is amending its rules under part 1203 to remove the requirement that all Board orders granting or denying a request for regulation review be published in the **Federal Register.** The Board has determined that it does not need regulatory authority to publish its

orders granting or denying a request for regulation review. This action will enhance the Board's case management functions.

EFFECTIVE DATE: August 23, 1991.

FOR FURTHER INFORMATION CONTACT: Duward Sumner (202) 653–8892.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 1204(a) and 1204(f), the Board is authorized to review rules or regulations issued by the Office of Personnel Management (OPM). The Board may review OPM rules or regulations on its own motion, on the filing of a complaint by the Special Counsel, or on granting a request for review from any interested person. Under 5 U.S.C. 1204(f), the Board is given sole discretion to grant or deny an interested person's request for regulation review. Because it has sole discretion to grant or deny an interested person's request for regulation review, the Board has determined that it is unnecessary to publish its orders granting or denying such requests in the Federal Register, as currently required by 5 CFR 1203.12(c). Therefore, the Board is deleting § 1203.12(c) from its rules under part 1203. The Board retains the discretion to solicit briefs in a request for regulation review from interested persons when necessary or desirable.

The Board is publishing this rule as a final rule pursuant to 5 U.S.C. 1204(h).

List of Subjects in 5 CFR Part 1203

Administrative practice and procedure, Government employees.

Accordingly, the Board amends part 1203 as follows:

PART 1203—[AMENDED]

1. Authority for 5 CFR part 1203 continues to read:

Authority: 5 U.S.C. 1204(a), 1204(f), and 1204(h).

2. Section 1203.12 is amended by removing paragraph (c).

* * * * *

Dated: August 19, 1991.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 91–20182 Filed 8–22–91; 8:45 am]

BILLING CODE 7400–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

Cotton

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On May 6, 1991, the Commodity Credit Corporation (CCC) issued a proposed rule with respect to the cotton price support program which is conducted by the CCC in accordance with The Agricultural Act of 1949, as amended (the 1949 Act). This rule is necessary to amend the regulations at 7 CFR part 1427 and implement the changes made by the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Act). Generally, this rule amends the manner in which producers may participate in the CCC price support program for cotton and the terms and conditions of the CCC price support program for cotton for 1991 and subsequent year's crops.

EFFECTIVE DATE: August 23, 1991. The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of August 23, 1991.

FOR FURTHER INFORMATION CONTACT: Philip Sharp, Program Specialist, Cotton, Grain, and Rice Price Support Division (GGRD), Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013, telephone (202) 447–7988.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under United States Department of Agriculture (USDA) procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and it has been determined to be "non-major" because these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program, as found in the catalogue of Federal Domestic Assistance, to which this final rule applies is Commodity Loans and Purchases, 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of these determinations.

It has been determined by environmental evaluations for the cotton price support program that this program will have no significant impact on the quality of the human environment.

This program 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, and 48 FR 29115 (June 24, 1983).

Public reporting burden for the information collections contained in this regulation with respect to the price support program for cotton is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Accept for Form CCC-605 the information collection has previously been cleared by OMB and assigned number 0560–0074. A request for expedited clearance of Form CCC–605 (attachment 1) will be submitted to OMB. A proposed rule was published in the **Federal Register** on May 6, 1991, at 56 FR 20554 which would amend regulations found at 7 CFR part 1427 with respect to the price support program for cotton which is conducted by CCC. The proposed rule provided a 30-day public comment period which ended June 5, 1991.

Discussion of Comments

Six respondents commented on CCC's proposal to provide that a producer shall not be considered to have divested beneficial interest in a commodity if the producer executes an option to purchase contract with a buyer, with or without an advance payment by the buyer, with respect to cotton under loan, if the option to purchase contract provides that title, risk of loss, and beneficial interest in the cotton remains with the producer until the buyer exercises the option to purchase, and if such option to purchase expires in the event CCC claims title to the cotton. This proposal, in effect, eliminates equity trading among cotton buyers on Form CCC-813. All commenters declared that equity trading, which has been facilitated by the use of CCC-813, moves cotton into commercial channels, maximizes producer marketing opportunities, and serve to minimize CCC's cost exposure. Two of the commenters understand the concern about protecting CCC's security interest; however, both stated that the elimination of CCC-813 would severely disrupt a significant portion of the U.S. cotton trading system. In addition, both

commenters believed that CCC-813 could be retained with the addition of a provision specifying that CCC's collateral interest is not subordinated to the holder of the CCC-813 until the purchaser redeems the cotton from the loan. CCC must ensure that the statutory provisions authorizing the cotton price support program are accomplished and that CCC must have a perfected interest in the cotton pledged as collateral for loan. In the past, equity trading on cotton pledged as collateral for loan made CCC vulnerable to that equity interest. For these reasons CCC has determined that equity trading through the use of CCC-813 adversely affects CCC's interest in the commodity. Further, such activity is not consistent with the nonrecourse nature of the price support loans which CCC is required by statute to make available to producers. However, CCC is aware of the necessity to allow the free and open trading of cotton. Accordingly, CCC has determined to allow producers to designate an agent for the purpose of redeeming all or a portion of the loan collateral by execution of a CCC Form 605. The designation of agent does not relieve the producer from the terms and conditions of the security agreement in that the producer is ultimately responsible for the repayment of the loan indebtedness. In addition, an agent so designated may, in turn, designate a subsequent agent for the purpose of redeeming all or a portion of the loan collateral by endorsement on CCC-605 by both parties. In addition, if the producer designates an agent to redeem loan collateral the producer may also designate that agent to extend such loan if CCC authorizes loan extensions. The agent so designated may also designate a subsequent agent for loan extensions by endorsement on Form CCC-605. CCC has determined that allowing the producer to designate an agent on CCC-605 will in no way impede the free marketing and trading of cotton. As additional protection to the agent, the agent may enter into a separate agreement with the producer to restrict the authority of either the agent or producer to redeem loan collateral. However, such agreements are executed solely between the agent and the producer and CCC shall have not been a party to such an agreement. According, §§ 1427.5, 1427.7, and 1427.19 is amended to provide for procedures designating an agent for the redemption of CCC Price Support loan collateral and for the extension of CCC such loans.

There was one respondent to CCC's proposal to allow persons with an interest in storing, processing, or merchandising any commodity to act as an agent for a producer if that person is delegated authority which is restricted specifically to repaying outstanding loan amounts plus interest and charges, and the delegation is on file at the county office. This respondent agreed with CCC's proposal. CCC has determined that this provision of the proposed rule is adopted without change.

There was one comment about CCC's proposal to provide that a producer may repay an upland cotton loan at a level that is the lesser of the loan level and charges, plus accrued interest or the higher of the loan multiplied by 70 percent of the adjusted world price. The commenter agreed with the proposal. CCC has determined to adopt this provision of the proposed rule without change.

There was one comment about CCC's proposal to provide that loan deficiency payments be available for the quantity of upland cotton that is eligible to be pledged as collateral for a price support loan. The commenter agreed with the proposal. CCC has determined to adopt this provision of the proposed rule without change.

One respondent commented that provisions permitting the issuance of marketing certificates when the adjusted world price is less that 70 percent of the loan rate were not addressed in the proposed rule and assumed that subsequent regulations would include such provisions.

Provisions permitting the issuance of marketing certificates were issued as a separate proposed rule on June 18, 1991.

One respondent urged CCC to continue efforts in instituting an electronic transfer system to replace the use of paper warehouse receipts so that the U.S. cotton industry can operate in a more efficient and economical manner. CCC is continuing to review this issue.

It has also been determined that all other provisions of the proposed rule should be adopted as the final rule with certain technical and grammatical corrections.

List of Subjects in 7 CFR Part 1427

Cotton Incorporation by reference, Loan programs/agriculture, Price support programs, Warehouses.

According, 7 CFR part 1427 is amended by revising Subpart—Cotton Loan Program Regulations (§§ 1427.1—1427.26) and Subpart—Seed Cotton Loan Program Regulations (§§ 1427.160—1427.175) as follows:

PART 1427—COTTON

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

Authority: 7 U.S.C. 1421, 1423, 1444, and 1444–2; 15 U.S.C. 714b and 714c.

Subpart—Cotton Loan Program Regulations

Sec.

1427.1 Applicability.
1427.2 Administration.
1427.3 Definitions.
1427.4 Eligible producer.
1427.5 General eligibility requirements.
1427.6 Disbursement of price support loans.
1427.7 Maturity of loans.
1427.8 Amount of loan.
1427.9 Classification of cotton.
1427.10 Approved storage.
1427.11 Warehouse receipt and insurance.
1427.12 Liens.
1427.13 Fees, charges and interest.
1427.14 Offsets.
1427.15 Special procedure where note amount advanced.
1427.16 Reconcentration of cotton.
1427.17 Custodial offices.
1427.18 Liability of the producer.
1427.19 Repayment of price support loans.
1427.20 Handling payments and collections not exceeding $9.99.
1427.21 Settlement.
1427.22 Death, incompetency, or disappearance.
1427.23 Cotton loan deficiency payments.
1427.24 Recourse loans.
1427.25 Determination of the prevailing world market price and the adjusted world price for upland cotton.
1427.26 Paperwork Reduction Act assigned numbers.

* * * * *

Subpart—Seed Cotton Loan Program Regulations

1427.160 General statement.
1427.161 Administration.
1427.162 Definitions.
1427.163 Disbursement of loans.
1427.164 Eligible producer.
1427.165 Eligible seed cotton.
1427.166 Insurance.
1427.167 Liens.
1427.168 Offsets.
1427.169 Fees, charges and interest.
1427.170 Quantity for loan.
1427.171 Approved storage.
1427.172 Settlement.
1427.173 Foreclosure.
1427.174 Maturity of loans.
1427.175 Restrictions in use of agents.

* * * * *

Subpart—Cotton Loan Program Regulations

§ 1427.1 Applicability.

(a) The regulations of this subpart are applicable to the 1991 and subsequent crops of upland cotton and extra long staple (ELS) cotton. These regulations set forth the terms and conditions under which price support loans and, for upland cotton, loan deficiency payments shall be made available by the Commodity Credit Corporation ("CCC").

Additional terms and conditions are set forth in the note and security agreement and loan deficiency payment application which must be executed by a producer in order to receive such price support loans and loan deficiency payments.

(b) The following are available in State and county Agricultural Stabilization and Conservation Service ("ASCS") offices ("State and county offices," respectively):

(1) Price support rates,

(2) For upland cotton, the schedules of premiums and discounts for:

(i) Grade and staple,

(ii) Micronaire, and

(iii) Strength.

(3) For ELS cotton, the schedules of:

(i) Loan rates, and

(ii) Discounts for micronaire.

(4) Loan service and related fees, and

(5) Forms which are used in administering the price support and loan deficiency payment programs for a crop of cotton. The forms for use in connection with the programs in this part shall be prescribed by CCC.

(c) Price support loans and loan deficiency payments 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 and loan deficiency payment programs which are applicable to a crop of cotton shall be administered under the general supervision of the Executive Vice President, CCC, or a designee, or Administrator, ASCS, and shall be carried out in the field by State and county Agricultural Stabilization and Conservation committees ("State and county committees," respectively).

(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 Executive Vice President, CCC, or a designee, or 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 loan deficiency payment applications 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.

The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in part 719 of this title and 1413 of this chapter shall also be applicable.

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

(1) Preparing and executing loan 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 and accounting 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 ELS cotton as applicable, produced in the United States.

Financial institution means:

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

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

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

Form G loans means a cotton loan to an approved marketing cooperative on eligible cotton delivered to a cooperative by eligible members of the cooperative executed on Form CCC—Cotton G, Cotton Cooperative Loan Agreement.

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

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

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

Servicing agent bank means the bank designated as the financial institution for a cooperative marketing association approved in accordance with part 1425 of this chapter, which has been approved by CCC.

§ 1427.4 Eligible producer.

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

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

(2) Meets the requirements of this part; and

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

(b) A receiver or trustee of an insolvent or bankrupt debtor's estate, and executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person or estate represented by the executor or administrator. Loan and loan deficiency payment documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) A minor who is otherwise an eligible producer shall be eligible to receive price support and loan

deficiency payments only if the minor meets one of the following requirements:

(1) The right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable price support documents are signed by the guardian;

(3) Any note and security agreement signed by the minor is cosigned by a person determined by the county committee to be financially responsible; or

(4) A bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had the minor been an adult.

(d) 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 a bale may have been produced by two or more eligible producers on one or more farms if the bale is not a repacked bale.

(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 the eligible production of such cotton or loan deficiency payments with respect to such cotton on behalf of the members of the cooperative who are eligible to receive price support loans or loan deficiency payments with respect to a crop of cotton. For purposes of this subpart, the term "producer" includes an approved cooperative marketing association.

(g) A producer shall not delegate to any person, or the person's representative, who has any interest in storing, processing, or merchandising any commodity which is otherwise eligible for price support or a loan deficiency payment under a program to which this section is applicable, authority to exercise on the behalf of the producer any of the producer's rights or privileges under such program, including the authority to execute any note and security agreement or other price support document, unless the person (or the person's representative) to whom authority is delegated, is serving in the capacity of a farm manager for the producer or unless the authority delegated is restricted specifically for the purpose of repaying the loan amount and charges plus interest or, for the purpose of extending the loan or, for the purpose of obtaining loan deficiency payments, and such delegation is filed through the execution of Form ASCS-211, Power of Attorney, or other form as approved by CCC, with the county office and accepted by CCC.

§ 1427.5 General eligibility requirements

(a) In order to receive price support for a crop of cotton, a producer must execute a note and security agreement or loan deficiency payment application on or before May 31 of the year following the year in which such crop is normally harvested. Price Support loans at a national average support rate of 50.77 cents per pound for the 1991 crop of upland cotton and 82.99 cents per pound for the 1991 crop of extra loan staple cotton are available to producers as determined and announced by CCC. A Form A loan 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 A loan and within the period of loan availability.

(1) A producer, except for a cooperative, must request price support and loan deficiency payments:

(i) 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, or

(ii) Form an authorized LSA.

(2) An authorized agent which has an agreement with CCC and which is designated by the producer to obtain a loan or loan deficiency payment on behalf of such producers may obtain such loans through a central county office designated by CCC.

(3) An approved cooperative marketing association must request loans and loan deficiency payments:

(i) At a servicing agent bank approved by CCC, or

(ii) At the county office for the county in which the principal office of the cooperative is located unless the State committee designates some other county office as the office where such association must request price support.

(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 or loan defficiency payment proceeds;

(ii) For ELS cotton, be a grade and staple length specified in the schedule of loan rates for ELS cotton.

(iii) For upland cotton, be a grade, staple length, micronaire, and strength specified in:

(A) The schedule of premiums and discounts for grade and staple,

(B) The schedule of strength premiums and discounts, and

(C) The schedule of micronaire premiums and discounts.

(iv) Be represented by a warehouse receipt meeting the requirements of § 1427.11;

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

(A) Upland cotton must not:

(*1*) Have been reduced more than two grades because of preparation; and

(*2*) Have a strength reading of 18 grams per tex, rounded to whole grams, or below.

(B) ELS cotton must:

(*1*) Have been ginned on a roller gin,

(*2*) Must have been produced in a county designated as suitable for the production of such cotton,

(*3*) Must not have a micronaire reading of 2.6 or less, and

(*4*) Must not have been reduced in grade for any reason;

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

(vii) 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 or to obtain a loan deficiency payment; and

(viii) Not have been previously sold and repurchased; or pledged as collateral for a CCC price support loan and redeemed except as provided in § 1427.172(b) (3) or (4).

(ix) For upland cotton, have been graded by Agricultural Marketing Service (AMS) using a High Volume Instrument (HVI).

(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 in the June 1991 Specifications for Cotton Bale Packaging Materials. Heads of bales must be completely covered.

(A) Copies of the June 1991 Specifications for Cotton Bale Packaging Materials published by the JCIBPC which are incorporated by reference are available upon request at the county office and at the following address: Joint Cotton Industry Bale Packaging Committee, National Cotton Council of America, P.O. Box 12285, Memphis, Tennessee 38112. Copies may be inspected at the South Agriculture Building, room 3624, 14th and Independence Ave. SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

(B) Information with respect to experimental packaging material may be obtained from JCIBPC.

(C) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51;

(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)(iii) of this section.

(c)(1) To be eligible to receive price support, a producer must have the beneficial interest in the cotton which is tendered to CCC for a loan or loan deficiency payment. 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 tendering the cotton to CCC has succeeded had such an interest in the cotton. Cotton obtained by gift or purchase shall not be eligible to be tendered to CCC for price support. Heirs who succeed to the beneficial interest of a deceased producer or who assume the decedent'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.

(2) A producer shall not be considered to have divested the beneficial interest in the commodity if the producer retains control of the commodity, including the right to make all decisions regarding the tender of the cotton to CCC for price support, and:

(i) Executes an option to purchase whether or not an advance payment is made by the potential buyer with respect to such cotton if the option to purchase contains the following provision:

"Notwithstanding any other provision of this option to purchase, title; risk of loss; and beneficial interest in the commodity, as specified in 7 CFR part 1427, shall remain with the producer until the buyer exercises this option to purchase the commodity. This option to purchase shall expire, notwithstanding any action or inaction by either the producer or the buyer, at the earlier of: (1) The maturity of any Commodity Credit Corporation price support loan which is secured by such commodity; (2) the date the Commodity Credit Corporation claims title to such commodity; or (3) such other date as provided in this option." or

(ii) Enters into a contract to sell the cotton if the producer retains title, risk of loss, and beneficial interest in the commodity and the purchaser does not pay to the producer any advance payment amount or any incentive payment amount to enter into such contract except as provided in part 1425 of this chapter.

(iii) Executes CCC Form 605, Designation of Agent—Upland Cotton. Such Designation:

(A) Allows the producer to authorize an agent or subsequent agent to redeem all or a portion of the cotton pledged as collateral for a loan. The form will identify the warehouse receipts for which the authorization is given.

(B) Allows the producer to also authorize an agent or subsequent agent to extend the loan when extensions of upland cotton loans are authorized by CCC.

(C) Expires upon maturity of the loan.

(D) Allows agents so designated by the producer to designate a subsequent agent by endorsement of the form by both parties.

(E) Must be presented at the time the loan is repaid or the loan is extended at the county office where the loan originated if the agent or subsequent agent exercises any authority granted by the producer.

(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 or its member 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.

(d) If the person tendering cotton for a loan is a landowner, landlord, tenant, or sharecropper, such cotton must represent such person's separate share of the crop and must not have been acquired by such person directly or indirectly from a landowner, landlord, tenant, or sharecropper or have been received in payment of fixed or standing rent.

(e) Each bale of upland cotton sampled by the warehouseman upon initial receipt which has not been sampled by the ginner must not show more than one sample hole on each side of the bale. If more than one sample is desired when the bale is received by the warehouseman, the sample shall be cut across the width of the bale, broken in half or split lengthwise, and otherwise drawn in accordance with AMS dimension and weight requirements. This requirement will not prohibit sampling of the cotton at a later date if authorized by the producer.

(f) The quantity of cotton for which a loan deficiency payment has been made is not eligible to be pledged for a price support loan.

§ 1427.6 Disbursement of price support loans.

(a) Disbursement of loans to individual producers may be made by:

(1) County offices,

(2) Authorized LSA's, or by

(3) Central county offices designated by CCC to provide centralized service to a person or firm which has been designated as a producer's agent and which has entered into a written agreement with CCC.

(b) Loan proceeds may be disbursed by approved servicing agent banks to approved cooperative marketing associations.

(c) The loan and loan deficiency payment documents shall not be presented for disbursement unless the commodity covered by the mortgage or pledge of security is eligible, in existence, in approved storage, and in good condition. If the commodity was not either an eligible commodity, in existence and in good condition at the time of disbursement, the total amount disbursed under the loan, and charges plus interest shall be refunded promptly.

§ 1427.7 Maturity of loans.

(a) Form A cotton loans and Form G loans to cotton cooperative marketing associations, mature on demand by CCC and no later than the last day of the 10th calendar month from the first day of the month in which the loan or loan advance is disbursed, except that

(1) Upland cotton loans may, at the producer's request or at the request of the agent or subsequent agent authorized on CCC Form 605, be extended for an additional eight months during the 10th month of the initial loan provided the average spot market price for the base quality of cotton as determined by CCC during the ninth month of the loan did not exceed 130 percent of the average spot market price for such base quality of cotton for the preceding 36 months.

(2) If authorized by CCC, ELS cotton loans may, at the producer's request, be extended for an additional eight months during the tenth month of the initial loan.

(3) CCC may, by public announcement, extend the time for repayment of the loan indebtedness or carry the loan in a past due status.

(4) CCC may at any time accelerate the loan maturity date by providing the producer notice of such acceleration at least 15 days in advance of the accelerated maturity date.

(b) If a producer's upland cotton price support loan is extended for 8 months in accordance with paragraph (a)(2) of this section and the loan collateral is:

(1) Thereafter forfeited to CCC, the producer shall pay to CCC:

(i) All storage costs associated with the storage of the forfeited cotton, beginning with the first month of such extension; and

(ii) A handling fee of $1.00 per bale.

(2) Thereafter redeemed by repayment to CCC, the producer shall pay to CCC an amount which shall include interest that has accrued with respect to such collateral, beginning with the first month of such extension.

(c) If the loan is not repaid by the maturity date of the loan, title to the cotton shall vest in CCC the day after such maturity date 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.

§ 1427.8 Amount of loan.

(a) The quantity of cotton which may be pledged as collateral for a loan shall be the net weight of the eligible cotton as shown on the warehouse receipt issued by an approved warehouse, 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 by CCC.

(b) 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:

(1) Any unpaid warehouse receiving charges,

(2) Any warehouse storage charges in excess of 60 days as of the date of tender to CCC, as provided in § 1427.11(g), and

(3) Any unpaid charge for furnishing new bale ties as prescribed in § 1427.11(g).

(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 quantity or 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 classification for the bale as specified on the AMS Form A–1, such error may be corrected.

§ 1427.9 Classification of cotton.

References made to "classification" in this subpart shall include micronaire, and for upland cotton, strength, readings. All cotton tendered for loan must be classed by an AMS Cotton Classing Office ("Cotton Classing Office") and tendered on the basis of such classification.

(a) An AMS Cotton Classification Memorandum Form 1 ("AMS Form 1") showing the classification of a bale must be based upon a representative sample drawn from the bale in accordance with instructions to samplers drawing samples under the Smith-Doxey program.

(b) If the producer's cotton has not been sampled for an AMS Form 1 classification, the warehouse shall sample such cotton and forward the samples to the Cotton Classing Office serving the district in which the cotton is located. Such warehouse must be licensed by AMS to draw samples for submission to the Cotton Classing Office.

(c) If a sample has been submitted for classification, another sample shall not be drawn and forwarded to a Cotton Classing Office except for a review classification. Review classifications are recorded on AMS Form 1, Review Memorandum ("AMS Form 1 Review").

(d) Where review classification is not involved, if through error or otherwise, two or more samples from the same bale are submitted for classification, the loan rate shall be based on the classification having the lower loan value.

(e) The classification on AMS Form 1 or AMS Form 1 Review must be dated not more than 15 days prior to the date the warehouse receipt was issued; however, State committees may, in arid regions, extend this period to not to exceed 30 days prior to the date the warehouse receipt was issued upon determining that such extension will not result in reduction in the grade of the cotton during the extension period, otherwise a new sample must be drawn and a review classification based on the new sample will be required.

(f) If an AMS Form 1 Review classification is obtained, the loan value of the cotton represented thereby will be based on such review classification.

§ 1427.10 Approved storage.

(a) Except as provided in accordance with § 1427.16, eligible cotton may be pledged as collateral for loans only if stored at warehouses approved by CCC.

(1) Persons desiring approval of their facilities should communicate with the Kansas City Commodity Office, P.O. Box 419205, Kansas City, Missouri 64141–6205.

(2) The names of approved warehouses may be obtained from the Kansas City Commodity Office or from State or county offices.

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

(c) Storage charges paid by a producer to CCC as security for a loan will not be refunded by CCC. If cotton is redeemed from the loan, the person removing the cotton from storage shall pay all unpaid warehouse charges at the established tariff rate.

(d) The approved storage requirements provided in this section may be waived by CCC if the producer requests a loan deficiency payment pursuant to the loan deficiency payment provisions contained in § 1427.23.

§ 1427.11 Warehouse receipt and insurance.

(a) Producers may obtain loans on eligible cotton represented by warehouse receipts only if the warehouse receipts:

(1) Are negotiable machine cardtype warehouse receipts,

(2) Are issued by CCC approved warehouses,

(3) Provide for delivery of the cotton to bearer or are properly assigned by endorsement in blank, so as to vest title in the holder of the receipt, and

(4) Otherwise are acceptable to CCC.

(b) The warehouse receipt must:

(1) Contain the tag number (warehouse receipt number),

(2) Show that the cotton is covered by fire insurance, and

(3) Be dated on or prior to the date the producer signs the note and security agreement.

(c) If a bale is stored at the origin warehouse (the warehouse to which the bale was first delivered for storage after ginning), the warehouse receipt must contain the gin bale number. If a bale has been moved from the origin warehouse, the warehouse receipt shall, in lieu of the gin bale number, contain the tag number and identification of the origin warehouse.

(d) Open yard endorsement, if any, on the warehouse receipt must have been rescinded with the legend "open yard disclaimer deleted" with appropriate signature of the authorized representative of the warehouse.

(e) Block warehouse receipts will be accepted when authorized by CCC only under the following conditions:

(1) The owner of the warehouse issuing the block warehouse receipt shall also own the cotton represented by the block warehouse receipt, and

(2) The warehouse shall not be licensed under the U.S. Warehouse Act.

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

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

(ii) If the showing of gin weights on the warehouse receipts is permitted by the licensing authority for the warehouse.

(2) The tare shown on the receipt shall be the tare furnished to the warehouse by the ginner or entered by the ginner on the gin bale tag. A warehouse receipt reflecting an alteration in tare or net weight will not be accepted by CCC unless it bears, on the face of the receipt, the following legend or similar wording approved by CCC, duly executed by the warehouse or an authorized representative of the warehouse:

Corrected (tare or net) weight
(Name of warehouse)
By (Signature)
Date

(3) Alterations in other inserted data on the receipt must be initialed by an authorized representative of the warehouse.

(g) If warehouse storage charges have been paid, the receipt must be stamped or otherwise noted to show that date through which the storage charges have been paid. (1) For receipts showing accrued storage charges in excess of 60 days as of the date of tender to CCC, the loan amount will be reduced for each month of unpaid storage or fraction thereof in excess of 60 days by the monthly storage charge specified in the storage agreement between the warehouse and CCC.

(2) If warehouse receiving charges have been paid or waived, the receipt must be stamped or otherwise noted to show such fact.

(3) If the receipt does not show that receiving charges have been paid or waived, CCC shall reduce the loan amount the amount of the receiving charges specified in the storage agreement between the warehouse and CCC. However, except for bales stored in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, if receiving charges due on the bale include a charge, if any, for a new set of ties for compressing flat bales tied with ties which cannot be reused, the warehouse receipt must show such receiving charges and state: "Receiving charges due include charge for new set of ties, or similar notation, and CCC shall reduce the loan amount by the amount of the receiving charges shown on the warehouse receipt (this will be the amount payable by CCC if it pays for receiving, notwithstanding the provisions of the storage agreement)".

(4) In any case where the loan amount is reduced by unpaid storage or receiving charges, such charges will be paid to the warehouse by CCC after loan maturity if the cotton is not redeemed from the loan, or as soon as practicable after the cotton is ordered shipped by CCC or destroyed by fire while in loan status. Except for bales stored in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, or Virginia, if the bale is stored at a warehouse which does not have compress facilities or arrangements, and if the bale ties are not suitable for reuse when the bale is compressed, the warehouse receipt must show this fact, and the loan amount will be reduced by the charge which will be assessed by the nearest compress in line of transit for furnishing new bale ties.

(h) If the bale was received by rail, the receipt must be stamped or otherwise noted to show such fact.

(i) The warehouse receipt must show the compression status of the bale, i.e., flat, modified flat, standard, gin standard, gin universal, or warehouse universal density. If the compression charge has been paid, or if the warehouse claims no lien for such compression, the receipt must be stamped or otherwise noted to show such fact.

§ 1427.12 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.

§ 1427.13 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. The amount of such fees is available in State and county offices and are shown on the note and security agreement.

(b) Loan clerks may only charge fees for the preparation of loan documents at the rate determined by CCC. (1) Such fees may be deducted from the loan proceeds instead of the fees being paid in cash.

(2) The amount of such fees is available in State and county offices and are shown on the note and security agreement.

(c) Interest which accrues with respect to a loan shall be determined in accordance with part 1405 of this chapter. All or a portion of such interest may be waived with respect to a quantity of cotton which has been redeemed in accordance with § 1427.19 at a level which is less than the principal amount of the loan plus charges and interest.

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

(1) Loan proceeds for a crop of cotton and shall be at a rate equal to one dollar per bale plus up to one percent of the loan amount, and

(2) Loan deficiency payment proceeds for a crop of cotton and shall be at a rate equal to up to one percent of the loan deficiency payment amount.

§ 1427.14 Offsets.

(a) If any installment on any loan made by CCC on farm-storage facilities or drying equipment is due and payable such amount due to CCC shall be offset from loan proceeds made available to the producer in accordance with this part, after deduction of clerk fees, service charges, research and promotion fees.

(b) If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under regulations in this subpart, after deduction of amounts payable under paragraph (a) of this section shall be applied to such indebtedness as provided in part 3 of this title and part 1403 of this chapter.

§ 1427.15 Special procedure where note amount advanced.

(a) This special procedure is provided to assist persons or firms, which, in the course of their regular business of handling cotton for producers, have made advances to eligible producers on eligible cotton to be placed under loan and desire to obtain credit at a financial institution for the amounts advanced. A financial institution which has made advances to eligible producers on eligible cotton may also obtain reimbursement for the amounts advanced under this procedure.

(b) This special procedure shall apply only:

(1) To loan documents covering cotton on which a person or firm has advanced to the producers, including payments to prior lienholders and other creditors, the note amounts shown on the Form A loan, except for:

(i) Authorized loan clerk fees.

(ii) The research and promotion fee collected for transmission to the Cotton Board, and

(iii) CCC loan service charges, and

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

(c)(1) Each Form A loan and related documents shall be mailed or delivered to the appropriate county office and shall show the entire proceeds of the loans, except for CCC loan service charges, for disbursement to:

(i) The financial institution which is to allow credit to the person or firm which made the loan advances or to such financial institution and such person or firm as joint payees, or

(ii) The financial institution which made the loan advances to the producers.

(2) When received in a county office (or postmarked, if mailed) warehouse receipts and loan documents must reflect not more than 60 days accrued storage, or the loan amount must be reduced by the excess storage as specified in § 1427.11.

(3) The documents shall be accompanied by Form CCC–825, Transmittal Schedule of Form A Cotton Loans, in original and two copies, numbered serially for each county office by the financial institution. The Form CCC–825 shall show the amounts invested by the financial institution in the loans, which shall be the amounts of the notes minus the amounts of CCC loan service charges shown on the notes.

(4) Upon receipt of the loan documents and Form CCC–825, the county office will stamp one copy of the Form CCC–825 to indicate receipt of the documents and return this copy to the financial institution.

(d) County offices will review the loan documents prior to disbursement and will return to the financial institution any documents determined not to be acceptable because of errors or illegibility. County offices will disburse the loans for which loan documents are acceptable by issuance of one check to the payee indicated on the Form A and will mail the check to the address shown for such payee on the Form A loan with a copy of Form CCC–825. The Form CCC–825 will show the date of disbursement by a county office and amount of interest earned by the financial institution.

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

(f) Interest will be computed on the total amount invested by the financial institution in the loan represented by accepted loan documents from and including the date of investment of funds by the financial institution to, but not including, the date of disbursement by a county office.

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

(2) Interest earned by the financial institution in the investment in loans disbursed during a month will be paid by county offices after the end of the month.

§ 1427.16 Reconcentration of cotton.

(a) Loans on cotton to be reconcentrated shall be available only on cotton received at CCC approved warehouses in areas where there is a shortage of storage space and the local warehouse certifies such fact to CCC. A producer who desires to obtain a loan on cotton to be reconcentrated under the provisions of this paragraph shall request such reconcentration and present the same documents as required for a regular loan.

(1) The Forms CCC-Cotton A-1, Schedule of Pledged Cotton (Form CCC-Cotton A-1), and warehouse receipts covering such cotton to be reconcentrated must show the reconcentration order number furnished by the county office or authorized LSA under which the cotton will be shipped.

(2) The county office or authorized LSA shall arrange for reconcentration of the cotton under the direction of the Kansas City Commodity Office.

(3) Any fees, cost, or expenses incident to such actions shall be charges against the cotton.

(4) After the cotton is reconcentrated, the Kansas City Commodity Office shall obtain new warehouse receipts, allocate to individual bales shipping and other charges incurred against the cotton, and return new warehouse receipts and reconcentration charges applicable to each bale to the county office or authorized LSA. Such reconcentration charges shall be added to bale loan amounts and must be repaid for bales redeemed from loan.

(b) CCC may under certain conditions, before loan maturity, compress, store, insure, or reinsure the cotton against any risk, or otherwise handle or deal with the cotton as it may deem necessary or appropriate for the purpose of protecting the interest therein of the producer or CCC.

(1) CCC may also move the cotton from one storage point to another with the written consent of the producer or borrower and upon the request of the local warehouse and certification that there is congestion and lack of storage facilities in the area: Provided, however, that if CCC determines such loan cotton is improperly warehoused and subject to damage, or if any of the terms of the loan agreement are violated, or if carrying charges are substantially in excess of the average of carrying charges available elsewhere and the local warehouse, after notice, declines to reduce such charges, such written consent need not be obtained.

(2) The county office or authorized LSA shall arrange for reconcentration of the cotton under the direction of the Kansas City Commodity Office.

(3) Any fees, costs, or expenses incident to such actions shall be charges against the cotton.

(4) After the cotton is reconcentrated, the Kansas City Commodity Office shall obtain new warehouse receipts, allocate to individual bales, shipping and other charges incurred against the cotton, and return new warehouse receipts and reconcentration charges applicable to each bale to the county office or authorized LSA. Such reconcentration charges shall be added to bale loan amounts and must be repaid for bales redeemed from loan.

§ 1427.17 Custodial offices.

Forms A and CCC-Cotton A–1, collateral warehouse receipts, cotton classification memoranda, and related documents will be maintained in custody of the local county office, authorized LSA, central county office, or any financial institution defined in § 1427.2 and approved by CCC, whichever disbursed the loan evidenced by such documents.

§ 1427.18 Liability of the producer.

(a)(1) If a producer makes any fraudulent representation in obtaining a loan or loan deficiency payment or in 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 or loan deficiency payment;

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

(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;

(iv) Applicable interest on such amounts, and

(v) With regard to amounts due for a loan, the payment of such amounts may not be satisfied by the forfeiture of loan collateral to CCC of cotton with a settlement value that is less than the total of such amounts or by repayment of such loan at the lower loan repayment rate as prescribed in § 1427.19.

(2)(i) Notwithstanding any provision of the note and security agreement, if a producer has made any such fraudulent representation or if the producer has disposed of, or moved, the loan collateral without prior written approval from CCC, the value of such collateral delivered to or acquired by CCC 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 cotton, the value of the cotton shall be the lower of:

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

(B) The loan settlement value of the cotton.

(b) If the amount disbursed under a loan, or in settlement thereof, or loan deficiency payment 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 or loan deficiency payment is less than the amount required in accordance with this part, the producer shall be personally liable for repayment of the amount of such deficiency plus applicable interest.

(d) If more than one producer executes a note and security agreement or loan deficiency payment application 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 amend 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.

§ 1427.19 Repayment of support price loans.

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

(b) A producer or agent or subsequent agent authorized on CCC Form 605, may redeem one or more bales of cotton pledged as collateral for a loan by payment to CCC of an amount applicable to the bales of cotton being redeemed determined in accordance with this section. CCC, upon proper payment for the amount due, shall release the warehouse receipts and, if requested, the classification memoranda applicable to such cotton. The producer may also request that the warehouse receipts and classification memoranda be forwarded to a bank for payment, in which case:

(1) 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, and

(2) All charges assessed by the bank to which the receipts are sent must be paid by the producer.

(c) A producer or agent or subsequent agent authorized on CCC Form 605, may repay the loan amount for one or more bales of cotton pledged as collateral for a loan:

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

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

(ii) The higher of:

(A) The loan level determined for such bales multiplied by 70 percent for the 1991 and subsequent years crops; or

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

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

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

(e) The difference between the loan level, excluding charges and interest, and the loan repayment level is the market gain. The total amount of any market gain realized by a person is subject to part 1497 of this chapter.

(f) Notwithstanding any other provision in this part, if an upland cotton loan has been extended in accordance with § 1427.7(a)(2), and is repaid in accordance with paragraph (c)(1) of this section, the repayment amount shall include interest that has accrued on the cotton under loan in accordance with § 1427.7(b)(2).

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

§ 1427.20 Handling payments and collections not exceeding $9.99.

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.

§ 1427.21 Settlement.

(a) The settlement of loans shall be made by CCC on the basis of the quality and quantity of the cotton delivered to CCC by the producer or acquired by CCC.

(b) Settlements made by CCC with respect to eligible cotton which are acquired by CCC which are stored in an approved warehouse shall be made on the basis of the entries set forth on 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 take title to the cotton in accordance with § 1427.7(c).

§ 1427.22 Death, incompetency, or disappearance.

In the case of death, incompetency, or disappearance of any producer who is entitled to the payment of any proceeds in settlement of a loan or loan deficiency payment, payment shall, upon proper application to the county office which disbursed the loan or loan deficiency payment, be made to the person or persons who would be entitled to such producer's payment as provided in the regulations entitled Payment Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent, part 707 of this title.

§ 1427.23 Cotton loan deficiency payments.

(a) Producers may obtain loan deficiency payments for 1991 and subsequent crops of upland cotton in accordance with this section.

(b) In order to be eligible to receive such loan deficiency payments, the producer of such commodity must:

(1) Comply with all of the program requirements to be eligible to obtain loans in accordance with this part;

(2) Agree to forego obtaining such loans; and

(3) Otherwise comply with all program requirements.

(c) The loan deficiency payment applicable to a crop of cotton shall be computed by multiplying the loan payment rate, as determined in accordance with paragraph (c) of this section by the quantity of the crop the producer is eligible to pledge as collateral for a price support loan.

(d) The loan deficiency payment rate for a crop of upland cotton shall be the amount by which the level of price support loan determined for a bale of such crop exceeds the amount at which CCC has announced that producers may repay the price support loan for such bale.

(e) The total amount of any loan deficiency payments that a person may receive is subject to part 1497 of this chapter.

§ 1427.24 Recourse loans.

CCC may make recourse loans available to eligible producers. Repayment or settlement of such recourse loans shall be in accordance with the terms and conditions set forth by CCC when the availability of such recourse loans is announced.

§ 1417.25 Determination of the prevailing world market price and the adjusted world price for upland cotton.

(a) The prevailing world market price for upland cotton shall be determined by CCC as follows:

(1) During the period when only one daily price quotation is available for each growth quoted for Middling one and three-thirty-second inch (M 1 3/32 inch) cotton C.I.F. (cost, insurance, and freight) northern Europe, the prevailing world market price for upland cotton shall be based upon the average of the quotations for the preceding Friday through Thursday for the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton C.I.F. northern Europe.

(2) During the period when both a price quotation for cotton for shipment no later than August/September of the current calendar year ("current shipment price") and a price quotation for cotton for shipment no earlier than October/November of the current calendar year ("forward shipment price") are available for growths quoted for M 1 3/32 inch cotton C.I.F. northern Europe, the prevailing world market price for upland cotton shall be based upon the following: Beginning with the first week covering the period Friday through Thursday which includes April 15 or, if both the average of the current shipment prices for the preceding Friday through Thursday for the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton C.I.F. northern Europe ("Northern Europe current price") and the average of the forward shipment prices for the preceding Friday through Thursday for the five lowest-priced growths of the growths quoted for M 1 3/32 inch cotton C.I.F. northern Europe ("Northern Europe forward price") are not available during that period, beginning with the first week covering the period Friday through Thursday after the week which includes April 15 in which both the Northern Europe current price and the Northern Europe forward price are available, the prevailing world market price for upland cotton shall be based upon the result calculated by the following procedure:

(i) *Weeks 1 and 2:* (2 × Northern Europe current price) + Northern Europe forward price/3.

(ii) *Weeks 3 and 4:* Northern Europe current price + Northern Europe forward price/2.

(iii) *Weeks 5 and 6:* Northern Europe current price + (2 × Northern Europe forward price)/3.

(iv) *Week 7 through July 31:* Northern Europe forward price.

(3) The prevailing world market price for upland cotton as determined in accordance with paragraphs (a)(1) or (a)(2) of this section shall hereinafter be referred to as the "Northern Europe price."

(4) If quotes are not available for one or more days in the five-day period, the available quotes during the period will be used. If no quotes are available during the Friday through Thursday period, the prevailing world market price shall be based upon the best available world price information, as determined by CCC.

(b) The prevailing world market price for upland cotton, adjusted in accordance with paragraph (c) of this section ("adjusted world price"), shall be applicable to the 1991 through 1995 crops of upland cotton.

(c) The adjusted world price for upland cotton shall equal the Northern Europe price as determined in accordance with paragraph (a) of this section, adjusted as follows:

(1) The Northern Europe price shall be adjusted to average designated U.S. spot market location by deducting the average difference in the immediately preceding 52-week period between:

(i)(A) The average of price quotations for the U.S. Memphis territory and the California/Arizona territory as quoted each Thursday for M 1 3/32 inch cotton C.I.F. northern Europe during the period when only one daily price quotation for such growths is available, or

(B) The average of the current shipment prices for U.S. Memphis territory and the California/Arizona territory as quoted each Thursday for M 1 3/32 inch cotton C.I.F. northern Europe during the period when both current shipment prices and forward shipment prices for such growths are available; and

(ii) The average price of M 1 3/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton as quoted each Thursday in the designated U.S. spot markets.

(2) The price determined in accordance with paragraph (c)(1) of this section shall be adjusted to reflect the

price of Strict Low Middling (SLM) 1 1/16 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton ("U.S. base quality") by deducting the difference, as announced by CCC, between the applicable loan rate for a crop of upland cotton for M 1 3/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton and the loan rate for a crop of upland cotton of the U.S. base quality.

(3) The price determined in accordance with paragraph (c)(2) of this section shall be adjusted to average U.S. location by deducting the difference between the average loan rate for a crop of upland cotton of the U.S. base quality in the designated U.S. spot markets and the corresponding crop year national average loan rate for a crop of upland cotton of the U.S. base quality, as announced by CCC.

(4)(i) If it is determined that the prevailing world market price, as adjusted in accordance with paragraph (c)(1) through (c)(3) of this section, is less than 115 percent of the current crop year loan level for SLM 1 1/16 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton, and that the Friday through Thursday average price quotation for the lowest-priced U.S. growth as quoted for M 1 3/32 inch cotton C.I.F. northern Europe is greater than the Northern Europe price, such price may be adjusted on the basis of some or all of the following data, as available:

(A) The U.S. share of world exports;

(B) The current level of cotton export sales and/or cotton export shipments; and

(C) Other data determined by CCC to be relevant in establishing an accurate prevailing world market price determination adjusted to United States quality and location.

(ii) The adjustment may not exceed the difference between the Friday through Thursday average price for the lowest-priced U.S. growth as quoted for M 1 3/32 inch cotton C.I.F. northern Europe and the Northern Europe price.

(d) In determining the average difference in the 52-week period as provided in paragraph (c)(1) of this section:

(1) If the difference between the average price quotations for the U.S. Memphis territory and the California/Arizona territory as quoted for M 1 3/32 inch cotton C.I.F. northern Europe and the average price of M 1 3/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton as quoted each Thursday in the designated U.S. spot markets for any week is:

(i) More than 115 percent of the estimated actual cost associated with transporting U.S. cotton to northern Europe, then 115 percent of such actual cost shall be substituted in lieu thereof for such week.

(ii) Less than 85 percent of the estimated actual cost associated with transporting U.S. cotton to northern Europe, then 85 percent of such actual cost shall be substituted in lieu thereof for such week.

(2) If a Thursday price quotation for either the U.S. Memphis territory or the California/Arizona territory as quoted for M 1 3/32 inch cotton C.I.F. northern Europe is not available for any week, CCC:

(i) May use the available northern Europe quotation to determine the difference between the average price quotations for the U.S. Memphis territory and the California/Arizona territory as quoted for M 1 3/32 inch cotton C.I.F. northern Europe and the average price of M 1 3/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton as quoted each Thursday in the designated U.S. spot markets for that week, or

(ii) May not take that week into consideration.

(3) If Thursday price quotations for any week are not available for either,

(i) both the Memphis territory and the California/Arizona territory as quoted for M 1 3/32 inch cotton C.I.F. northern Europe, or

(ii) the average price of M 1 3/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton as quoted in the designated U.S. spot markets, that week will not be taken into consideration.

(e) The adjusted world price for upland cotton, as determined in accordance with paragraph (c) of this section and the amount of the additional adjustment, as determined in accordance with paragraph (f) of this section, shall be determined weekly by CCC and shall be announced as soon as possible after 4 p.m. Eastern time each Thursday, beginning July 25, 1991, and continuing through the last Thursday of July 1996. In the event that Thursday is a nonworkday, the determination will be announced the next workday.

(f)(1) The adjusted world price, as determined in accordance with paragraph (c) of this section, shall be subject to further adjustments as provided in this subsection with respect to any grade of upland cotton with a staple length of 1 1/32 inch or shorter and the following grades of upland cotton with a staple length of 1 1/16 inch or longer:

(i) *White Grades*—Strict Good Ordinary Plus, Strict Good Ordinary, Good Ordinary Plus and Good Ordinary;

(ii) *Light Spotted Grades*—Low Middling and Strict Good Ordinary;

(iii) *Spotted Grades*—Middling, Strict Low Middling, Low Middling, and Strict Good Ordinary;

(iv) *Tinged Grades*—Strict Middling, Middling, Strict Low Middling and Low Middling;

(v) *Yellow Stained Grades*—Strict Middling and Middling;

(vi) *Light Gray Grades*—Strict Low Middling;

(vii) Gray Grades—Middling and Strict Low Middling. Grade and staple length must be determined in accordance with § 1427.9. If no such official classification is presented, the adjustment shall not be made.

(2) The adjustment for upland cotton provided for by paragraph (f)(1) of this section shall be determined by deducting from the adjusted world price:

(i) The difference between the Northern Europe price, and

(A) During the period when only one daily price quotation for each growth quoted for "coarse count" cotton C.I.F. northern Europe is available the average of the quotations for the corresponding Friday through Thursday for the three lowest-priced growths of the growths quoted for "coarse count" cotton C.I.F. northern Europe.

(B) During the period when both current shipment prices and forward shipment prices are available for the growths quoted for "coarse count" cotton C.I.F. northern Europe, the result calculated by the following procedure: Beginning with the first week covering the period Friday through Thursday which includes April 15 or, if both the average of the current shipment prices for the preceding Friday through Thursday for the three lowest-priced growths of the growths quoted for "coarse count" cotton C.I.F. northern Europe ("Northern Europe coarse count current price") and the average of the forward shipment prices for the preceding Friday through Thursday for the three lowest-priced growths of the growths quoted for "coarse count" cotton C.I.F. northern Europe ("Northern Europe coarse count forward price") are not available during that period, beginning with the first week covering the period Friday through Thursday after the week which includes April 15 in which both the Northern Europe coarse count current price and the Northern Europe coarse count forward price are available:

(*1*) *Weeks 1 and 2:* (2 x Northern Europe coarse count current price) +

Northern Europe coarse count forward price/3.

(2) *Weeks 3 and 4:* Northern Europe coarse count current price + Northern Europe coarse count forward price/2.

(3) *Weeks 5 and 6:* Northern Europe coarse count current price + (2 x Northern Europe coarse count forward price)/3.

(4) *Week 7 through July 31:* The Northern Europe coarse count forward price, minus:

(ii) The difference between the applicable loan rate for a crop of upland cotton for M 1 3/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton and the loan rate for a crop of upland cotton for SLM 1 1/32 inch (micronaire 3.5 through 3.6 and 4.3 through 4.9, strength 24 through 25 grams per tex) cotton.

(iii) The result of the calculation as determined in accordance with this paragraph (f)(2) shall hereinafter be referred to as the "Northern Europe coarse count price."

(3) With respect to the determination of the Northern Europe coarse count price in accordance with paragraph (f)(2)(i) of this section:

(i) If no quotes are available for one or more days of the five-day period, the available quotes will be used.

(ii) If quotes for three growths are not available for any day in the five-day period, that day will not be taken into consideration; and

(iii) If quotes for three growths are not available for at least three days in the five-day period, that week will not be taken into consideration, in which case the adjustment determined in accordance with paragraph (f)(2) of this section for the latest available week will continue to be applicable.

(g) If the 6-week transition periods from using current shipment prices to using forward shipment prices in the determination of the Northern Europe price in accordance with paragraph (a)(2) of this section, and the Northern Europe coarse count price in accordance with paragraph (f)(2)(i)(B) of this section do not begin at the same time, CCC shall use either current shipment prices, forward shipment prices, or any combination thereof, to determine the Northern Europe price and/or the Northern Europe coarse count price used in the determination of the adjustment for upland cotton provided for by paragraph (f)(1) of this section and determined in accordance with paragraph (f)(2) of this section, in order to prevent distortions in such adjustment.

(h) The adjusted world price, determined in accordance with paragraph (c) of this section, shall be subject to further adjustments, as determined by CCC based upon the Schedule of Premiums and Discounts and the location differentials applicable to each warehouse location as announced in accordance with the upland cotton price support loan program for a crop of upland cotton.

§ 1427.26 Paperwork Reduction Act assigned numbers.

The information collection requirements contained in these regulations will be submitted to the Office of Management and Budget in accordance with 44 U.S.C. chapter 35 and an OMB number will be assigned.

Subpart—Seed Cotton Loan Program Regulations.

§ 1427.160 General Statement.

(a) The regulations in this subpart are applicable to the 1991 and subsequent crops of upland and extra long staple (ELS) seed cotton. Such loans will be available through March 31 of the year following the calendar year in which such crop is normally harvested. This is the loan availability period. CCC may change the loan availability period to conform to State or locally imposed quarantines. 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 ELS 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.

§ 1427.163 Disbursement of loans.

(a) A producer or the producer's agent shall request a loan at the county office for the county which, in accordance with part 719 of this title, is responsible for administering programs for the farm on which the cotton was produced, which will assist the producer in completing the loan documents, except that approved cooperatives designated by producers to obtain loans in their behalf may obtain loans through a central county office designated by the State committee.

(b) Disbursement of each loan will be made by the county office of the county which is responsible for administering programs for the farm on which the cotton was produced except that approved cooperatives designated by producers to obtain loans in their behalf may obtain disbursement of loans at a central county office designated by the State committee. 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.

§ 1427.164 Eligible producer.

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

§ 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.

(4) 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

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

(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 an Agricultural Marketing Service (AMS), Cotton Classing Office, the quality for the lot shall be the quality shown on the AMS 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).

§ 1427.166 Insurance.

The cotton must be insured at the full loan value against loss or damage by fire.

§ 1427.167 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.

§ 1427.168 Offsets.

(a) If any installment on any loan made by CCC on farm-storage facilities or drying equipment is due and payable such amount due to CCC shall be offset from loan proceeds made available to the producer in accordance with this part, after deduction of clerk fees, service charges, research and promotion fees.

(b) If the producer is indebted to CCC or any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under regulations in this subpart, after deduction of amounts payable under paragraph (a) of this section shall be applied to such indebtedness as provided in part 3 of this title and part 1403 of this chapter.

§ 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.

§ 1427.170 Quantity for loan.

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

(b) The lint turnout factor for any lot of seed cotton shall be the percentage determined by the county committee representative during the initial inspection of the lot. If a control portion of the lot is weighed and ginned, the turnout factor determined for the portion of cotton ginned will be used for the lot. If a control portion is not weighed and ginned, the lint turnout factor shall not exceed 32 percent for machine picked cotton and 22 percent for machine stripped cotton unless acceptable proof is furnished showing that the lint turnout factor is greater.

(c) Loans shall not be made on more than a percentage established by the county committee of the quantity of lint cotton determined as provided in this section. If the seed cotton is weighed, the percentage to be used shall not be more than 95 percent. If the quantity is determined by measurement, the percentage to be used shall not be more than 90 percent. The percentage to be used in determining the maximum quantity for any loan may be reduced below such percentages by the county committee when determined necessary to protect the interests of CCC on the basic of one or more of the following risk factors:

(1) Condition or suitability of the storage site or structure,

(2) Condition of the cotton,

(3) Location of the storage site or structure, and

(4) Other factors peculiar to individual farms or producers which related to the preservation or safety of the loan collateral. Loans may be made on a lower percentage basis at the producer's request.

§ 1427.171 Appoved storage

Approved storage shall consist of storage located on or off the producer's farm (excluding public or commercial warehouses) which is determined by a county committee representative to afford adequate protection against loss or damage and which is located within a reasonable distance, as determined by CCC, of an approved gin. If the cotton is stored off 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 such 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 shall permit a reasonable time to such persons to remove the cotton from the premises.

§ 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 cottonseed 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 AMS classification in accordance with § 1427.9 (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 in accordance with this part, 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 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 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, plus interest and charges 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, 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 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 ginned and pledged as collateral for a warehouse-stored loan in accordance with this part by the 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 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 and there shall be no obligation on the part of CCC to pay for any proceeds which may be in excess of the loan amount including interest and other charges.

§ 1427.174 Maturity of loans.

Seed cotton loans mature on demand by CCC but no later than May 31 following the calender year in which such crop is normally harvested.

§ 1427.175 Restrictions in use of agents.

A producer shall not delegate to any person, or the person's representative, who has any interest in storing, processing, or merchandising any commodity which is otherwise eligible for price support or a loan deficiency payment under a program to which this section is applicable, authority to exercise on the behalf of the producer any of the producer's rights or privileges under such program, including the authority to execute any note and security agreement or other price support document, unless the person (or the person's representative) to whom authority is delegated, is serving in the capacity of a farm manager for the producer or unless the authority delegated is restricted specifically for the purpose of repaying the loan amount and charges plus interest or, for the purpose of extending the loan or, for the purpose of obtaining loan deficiency payments, and such delegation is filed through the execution of Form ASCS–211, Power of Attorney, or other form as approved by CCC, with the county office and accepted by CCC.

Note: The following Attachment 1 will not appear in the Code of Federal Regulations.

Signed this August 15, 1991, in Washington, DC.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

BILLING CODE 3410-05-M

ATTACHMENT 1

CCC-605

(07-31-91)

Form Approved - OMB No. 0560-0074

USDA-CCC

DESIGNATION OF AGENT - UPLAND COTTON

The producer must complete Items 1-6.

PART A - LOAN AND AGENT DATA

1. PRODUCER'S NAME AND ADDRESS	2. AGENT'S NAME AND ADDRESS	3. COUNTY OFFICE HOLDING WAREHOUSE RECEIPTS
4. Maturity Date	5. Loan Number	6. Crop Year

PART B - DESIGNATION OF AGENT FOR LOAN REDEMPTION

THE UNDERSIGNED PRODUCER(S) ("PRODUCER") hereby authorizes the undersigned agent or subsequent agent transferred by endorsement on the reverse side of this form, to redeem all or a portion of the cotton pledged as collateral for the loan identified in Part A. The Producer agrees that no other Form CCC-605 has been or will be executed with respect to such cotton. If this form covers all the warehouse receipts pledged as security for the loan as described in Part A, mark "all" in Item 7. If this form is for only some of the warehouse receipts pledged as security for the loan, mark "see CCC-605-1 or attached list" and enter the bale receipt number(s) in numerical order on Form CCC-605-1 or other list properly dated and signed by the producer. Attach CCC-605-1 or other list to this form.

7. LOAN QUANTITY APPLICABLE TO THIS AGREEMENT:	8. NUMBER OF BALES
ALL ☐ See CCC-605-1 or attached list ☐	

Title to the cotton shall, without a sale thereof, immediately vest in CCC upon maturity of the loan. CCC shall have no obligation to pay for any market value which the cotton may have in excess of the amount of the loan. CCC may sell, transfer and deliver the cotton or documents evidencing title thereto at such time, in such manner, and upon such terms and conditions as CCC may determine, without demand, advertisement, or notice of the time and place of sale. CCC does not guarantee that the cotton subject to this agreement will be permitted to be redeemed at a level lower than the original loan level if the producer has exceeded statutory payment limitation amounts. Unless the producer's name and address are shown exactly as they appear on the Note and Security Agreement for the loan identified in Part A, this document is void.

9 A. SIGNATURE OF PRODUCER	DATE	9 C. SIGNATURE OF PRODUCER	DATE
9 B. SIGNATURE OF PRODUCER	DATE	10. SIGNATURE OF AGENT	DATE

PART C - DESIGNATION OF AGENT FOR LOAN EXTENSION

With respect to the loan identified above, if the Producer has executed Part B of this form, the undersigned Producer does also hereby appoint the agent identified in Item 2 as the Agent to act on behalf of the undersigned Producer to extend the loan identified above when extensions are authorized by CCC. Such Agent is authorized to appoint another person to act as said Agent for the undersigned Producer. The designation of such other person shall be transferred by endorsement on the reverse side of this form.

11 A. SIGNATURE OF PRODUCER	DATE
11 B. SIGNATURE OF PRODUCER	
11 C. SIGNATURE OF PRODUCER	

SAMPLE COPY

NOT FOR REPRODUCTION

REMARKS

NOTE

These statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a). The authority for requesting the information to be supplied on this form is the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act, as amended. Furnishing the data is voluntary; however, without it assistance cannot be provided. The information will be used to determine who may repay or extend cotton price support loans. This information may be furnished to any agency responsible for enforcing the provisions of the upland cotton program.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560-0074), Washington, D.C. 20503.

This program or activity will be conducted on a nondiscriminatory basis without regard to race, color, religion, national origin, age, sex, marital status, or handicap.

[FR Doc. 91-19963 Filed 8-22-91; 8:45 am]

BILLING CODE 3410-05-C

Farmers Home Administration

7 CFR Parts 1944 and 1951

RIN 0575-AA87

Section 502 Rural Housing Loan Policies, Procedures and Authorizations; Borrower Supervision, Servicing, and Collection of Single Family Housing Loan Accounts

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulations to include a deferred payment mortgage option in the Rural Housing loan making program. The intended effect is to make home ownership affordable for a greater number of very low-income families. This action is being taken to implement the requirements of the Cranston-Gonzalez National Affordable Housing Act. This Act authorized, subject to funding approval in appropriations Acts, a Deferred Mortgage Demonstration program for fiscal years 1991 and 1992. The Act also mandated that this program be implemented within 120 days of the date of enactment of the Act.

DATES: This action is effective on August 23, 1991. Comments must be received on or before October 22, 1991.

ADDRESSES: Submit written comments to the Office of the Chief, Regulation Analysis and Control Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6348, South Agriculture Building, 14th and Independence SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address. The reporting and recordkeeping requirements contained in this regulation have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980. Public reporting burden for this collection of information is estimated to vary from 10 minutes to 2 hours per response, with an average of 1.4 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room, 404-W, Washington, DC 20250; and to the Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ray McCracken, Senior Loan Specialist, Farmers Home Administration, USDA, room 5334-S, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202) 382-1474.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined to be nonmajor because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions, or significant adverse effects on competition, employment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Discussion

It is the policy of the Department to publish notice of proposed rulemaking with a comment period before rules are issued even though 5 U.S.C. 553 exempts rules relating to public property, loan, grants, benefits, or contracts. However, exemptions are permitted where an Agency finds, for good cause, that compliance would be impracticable, unnecessary or contrary to the public interest. This rulemaking package is issued to implement portions of Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, which required implementation within 120 days of enactment. Because of this short time frame, this rulemaking document is issued as an interim final rule.

Section 534 of the Housing Act of 1949 requires that all rules and regulations issued pursuant to that Act must be published for public comment. The one exception is for a rule or regulation issued on an emergency basis. This action is not published for proposed rule making since it involves an emergency situation because there is not enough time to go through the proposed rulemaking process and still be able to establish a deferred payment mortgage option that would function in this fiscal year as intended by the Cranston-Gonzalez National Affordable Housing Act. By implementing the regulations as an interim final rule, it will permit FmHA to assist the maximum number of very low-income families needing deferred payment assistance. The time period FmHA will have to evaluate the program will also increase. Comments will be accepted for a 60-day period after this interim rule. FmHA will consider such comments before issuing a final rule.

The Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, provides for a program, subject to approval in appropriation Acts, whereby not more than 10 percent of the Section 502 rural Housing funds will be used to carry out a deferred mortgage program. This program will be used for applicants, who are otherwise eligible for the Section 502 program, but lack repayment to afford the mortgage payments when amortized at 1 percent for a 38 year period. The amount deferred will not exceed 25 percent of the mortgage payment due at 1 percent interest. Deferred mortgage payments will be converted to repayment status as soon as the borrower has the repayment ability. Any amount that remains unpaid at the time of termination of the mortgage is subject to recapture.

FmHA grants interest credit on loans to low- and very low-income borrowers to assist them in obtaining and retaining decent, safe, and sanitary Housing. This interest is subject to recapture when the loans are paid. The deferred payment mortgage option is being added to the interest credit program to make Housing more affordable for very low-income families. Many of the features of interest credit are applicable to the deferred payment mortgage option including the requirement that the deferred amounts are subject to recapture. Under the interest credit program, the borrower's payment is the greater of: the difference between 20 percent of the borrower's adjusted annual income plus taxes and insurance, or the difference between the annual installment due on the promissory note and the loan amortized at an interest rate of 1 percent. The deferred mortgage option is available to those borrowers that would be required under the interest credit program to pay in excess of 20 percent of their adjusted family income after they have received maximum interest credit.

The term of the deferred mortgage payment loan is 38 years, or 30 years for a manufactured home. This term was chosen to provide borrowers an extended repayment period with lowest possible amortized payments. Borrowers under the deferred mortgage program may be eligible for deferred payments up to 15 years after the effective date of the initial interest agreement. This was

done to provide borrowers a reasonable time period to improve their income, yet have sufficient time to pay the loan by the end of amortization period. During the 15 years maximum period for deferral the portion of the payment to be deferred will consist primarily of interest, but may include principal. No interest will accrue on the deferred interest. Any deferred principal will accrue interest at a 1 percent rate.

Instructions are included for servicing accounts with deferrals, handling the deferred portion after various servicing actions have been used, and collecting the deferred portion of the payments when the borrower is eligible for repayment. Borrowers with deferred mortgage payments are eligible for all servicing actions.

Regulatory Flexibility Act

La Verne Ausman, Administrator of Farmers Home Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities because the regulatory changes affect FmHA processing of section 502 loans and individual applicant eligibility for the program.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this proposed action does not constitute a major Federal Action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Programs Affected

This program is listed in the catalog of Federal Domestic Assistance under 10.410, Low Income Housing Loans.

Intergovernmental Consultation

For the reason set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

List of Subjects

7 CFR Part 1944

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mobile Homes, Mortgages, Rural Housing, Subsidies.

7 CFR Part 1951

Accounting, Housing, Loan programs—Housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements, Rural areas.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

2. Section 1944.35 is added to read as follows:

§ 1944.35 Deferred mortgage payments.

(a) *General.* It is the policy of FmHA to defer up to 25 percent of the payment, calculated at 1 percent interest rate, due on loans to qualified borrowers, to assist them in obtaining decent, safe, and sanitary dwellings and related facilities. Only principal and interest can be deferred. When FmHA contracts out servicing, all actions assigned to the County Supervisor may be performed by the contractor, except approval or cancellation of deferrals.

(b) *Approval authority.* FmHA officials authorized to approve section 502 loans are also authorized to approve the deferral.

(c) *Eligibility.* In order to qualify for deferred mortgage payments under this section, the following conditions must exist:

(1) The borrower's adjusted family income, at the time of initial loan approval, does not exceed the applicable very low-income limits in exhibit C of this subpart.

(2) The term of the loan is 38 years, or 30 years for manufactured housing units,

(3) The borrower's payment at 1 percent interest, plus real estate taxes and insurance, exceeds 20 percent of the adjusted family income by more than $5 per month, and

(4) Deferral under this section is granted at the time of initial loan closing, and for renewal

(5) Annually, the borrower received deferment assistance and it is within 15 years of the effective date of the initial interest credit agreement.

(d) *Amount and terms of deferral.* (1) No more than 25 percent of the amount of the payment due at 1 percent interest shall be deferred.

(2) The deferral amount is determined as follows:

(i) The borrower will be granted the maximum interest credit allowable under § 1944.34 of this subpart.

(ii) That portion of the principal and interest payment, amortized at 1 percent, plus real estate taxes and homeowner's insurance premiums (or escrow amounts for taxes and homeowner's insurance premiums due during the current year, where applicable), in excess of 20 percent of the borrower's adjusted family income may be deferred, up to 25 percent of the monthly payment calculated at 1 percent interest rate.

(iii) Only regularly scheduled principal and interest payments, and real estate taxes and insurance bills due for the current year will be included when calculating the amount of payment to be deferred. Protective advances, additional payment agreements, and other payment agreements will not be considered.

(3) Deferrals will be effective for a 12 month period. The effective date shall coincide with the anniversary date of an interest credit agreement processed. Deferred payments may be continued for up to 15 years after the effective date of the initial interest credit agreement.

(4) Interest deferred will not accrue interest. Any principal deferred will accrue interest at a 1 percent rate. Interest payments deferred under this section cannot be converted to principal through reamortization or other servicing action.

(e) *Review process.* The borrower's income will be reviewed annually to determine if the borrower is eligible for continued payment deferral and interest credit benefits. The review for both benefits shall be performed at the same time. Deferrals will be effective for a 12 month period.

(1) *Annual review.* The annual review will be scheduled to take place during the interest credit review period as defined in § 1944.34 of this subpart.

(2) *Reviews outside of the regular review period.* It is not the responsibility of the FmHA to monitor changes in the borrower's income. If a borrower whose payments are being deferred experiences a change in income that qualifies under § 1944.34(i)(3) of this subpart for a change in interest credit, the amount of deferral may also be changed.

(3) *Responsibilities of the borrower.* The borrower is responsible for providing FmHA with the following before a deferral can be approved:

(i) Income verification, considered satisfactory by FmHA,

(ii) The information needed to complete the deferral section of Form FmHA 1944–6 and signing the form, and

(iii) An interview to review the deferral information, either in person or by telephone.

(4) *Responsibilities of the FmHA.* (i) The Finance Office will indicate on the interest credit renewal report sent to the County Office, which borrowers currently have payment deferrals which must be reviewed and that have one year of eligibility remaining.

(ii) If a borrower fails to respond to the interest credit or deferral renewal letter, a second notice will be sent by certified mail, return receipt requested. The returned receipt will be kept in the casefile.

(iii) An FmHA employee or contractor will determine the borrower's payment and document the calculations on a form designated by FmHA.

(iv) Accept the borrower's reported real estate tax and property insurance expenses, unless uncharacteristic for the area, or the payment is being escrowed. Payment deferrals will not be delayed solely because of the borrower's failure to provide paid receipts for these expenses.

(f) *Cancellation of deferral.* Deferrals may be canceled for any of the conditions outlined in § 1944.34(k) of this subpart. The same effective dates of cancellations will be used and appeal rights will be granted in accordance with paragraph (h) of this section. Deferred payments may be continued for up to 15 years after the effective date of the initial interest credit agreement. After this time period, the borrower is no longer eligible for deferred payments.

(g) *Notification of deferral requirements.* (1) The applicant will be notified, through the mortgage subsidy paragraph of Form FmHA 1944–6, that the mortgage payment deferral is subject to repayment and/or recapture.

(2) For all loans receiving payment deferral, until the mortgage forms are revised, the following additional covenant will be inserted above the signature line on the mortgage and be initialed at loan closing by all parties signing the mortgage:

This instrument also secures the recapture of any deferred principal and interest which may be granted to the borrower(s) pursuant to § 502(g) of the Housing Act of 1949, as amended.

(h) *Appeal/review rights.* Because the deferral regulations are based on the objective application of formulas, deferral calculations are not appealable, however, a review may be requested. Borrowers who request and are denied mortgage payment deferral, or whose deferral amount has been reduced, cancelled, or not renewed based on contested income calculations, will be notified of their appeal rights as required by Subpart B of Part 1900 of this chapter. If a decision is not appealable, such as decisions based on verified income or clear and objective statutory or regulatory requirements, the applicant or borrower will receive review rights in accordance with subpart B of part 1900 of this chapter.

2a. Section 1944.50 is removed and reserved to read as follows:

§ 1944.50 [Reserved]

PART 1951—SERVICING AND COLLECTIONS

3. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 7 CFR 2.70.

Subpart G—Borrower Supervision, Servicing, and Collection of Single Family Housing Loan Accounts

4. Section 1951.309 is amended by revising introductory text in paragraph (b)(1), paragraphs (b)(1)(v) and (b)(3), and adding paragraph (b)(1)(vi) to read as follows:

§ 1951.309 Receiving and applying payments.

* * * * *

(b) *Application of payment*—(1) *Regular payments.* Regular payments are all payments other than extra payments and refunds and include the items in paragraphs (b)(1) (i) through (vi) of this section. All direct payments are considered regular payments. Regular payments will be applied by FmHA in the following order of priority:

* * * * *

(v) Scheduled repayment of deferred mortgage payments, if applicable.

(vi) Principal on the note account.

* * * * *

(3) *Extra payments and refunds.* Payments derived from cash proceeds of real property insurance, the sale or refinancing of real estate not mortgaged to the Government, or similar transactions are considered extra payments. Refunds are the return of unused loan or grant funds. Extra payments and refunds will be credited to the borrower's note account(s) as of the date of Form FmHA 451–2, "Schedule of Remittance," and will be applied as prescribed in paragraphs (b)(1)(iv), (v) and (vi) of this section. Extra payments and refunds do not relieve borrowers from making their next scheduled payment.

* * * * *

5. Section 1951.313 is amended by revising the introductory text of paragraphs (g) and revising paragraph (i) to read as follows:

§ 1951.313 Moratoriums.

* * * * *

(g) *Action at the end of the moratorium period.* At the end of the moratorium period, FmHA will verify the borrower's annual income and obtain a current budget to determine the borrower's repayment ability. The borrower will be advised by letter of the action taken, the reasons for the action, and the new repayment schedule. Loans with a portion of the payment deferred under § 1944.35 of subpart A of part 1944 of this chapter will be handled in accordance with this paragraph and § 1951.330 of this subpart.

* * * * *

(i) *Interest accrual.* Interest will accrue during the moratorium at the rate shown on the promissory note as modified by any Interest Credit Agreement in effect. Interest credit will be granted and renewed throughout the period a moratorium is in effect for borrowers eligible for interest credit as authorized in subpart A of part 1944 of this chapter. Interest on the principal portion of deferred mortgage payments will accrue at the rate of 1 percent.

* * * * *

6. The introductory text of § 1951.314 is amended by adding a new last sentence to read as follows:

§ 1951.314 Reamortizations.

* * * loans with a portion of the payments deferred under § 1944.35 of subpart A of part 1944 of this chapter may be reamortized in accordance with § 1951.330 of this subpart.

* * * * *

7. Section 1951.330 is added to read as follows:

§ 1951.330 Servicing loans with deferred mortgage payments.

This section describes servicing of loans with a portion of the payments deferred under § 1944.35 of subpart A of part 1944 of this chapter.

(a) *General servicing.* (1) Borrowers who have loans with deferred payments are eligible for all servicing actions.

(2) Borrowers who have loans with deferred payments whose accounts become delinquent will be serviced in accordance with § 1951.312(e) of this subpart.

(3) Interest deferred will not accrue interest. Any principal deferred will accrue interest at a 1 percent rate.

(b) *Repayment of deferred mortgage payments.* (1) When 20 percent of the borrower's adjusted family income exceeds the full note rate payment, plus taxes and insurance premium, the borrower is required to begin repaying the deferred portion of the payments.

(2) The amount of payment will be calculated by subtracting the full note rate payment, real estate taxes and insurance premiums from twenty percent of the adjusted family income.

(3) The borrower will execute a new form designated by FmHA based on the amount calculated in paragraph (b)(2) of this section.

(4) The borrower's household income will continue to be verified annually, and a new form designated by FmHA executed annually, at the time of review. If the borrower experiences a change in household income, changes may be made in the repayment of deferred payments in accordance with the guidelines provided in § 1944.34 of subpart A of part 1944 of this chapter.

(5) The borrower will continue to pay the deferred installment, based on 20 percent of the adjusted household income, until the deferred payments are paid in full, or the mortgage is terminated and the total deferment is recaptured.

(c) *Reamortization.* Loans with a portion of the payments deferred under § 1944.35 of subpart A of part 1944 of this chapter may be reamortized under the conditions set forth in § § 1951.313 and 1951.314 of this subpart. However, the deferred portion of the interest payments will not be converted to principal and capitalized.

(d) *Recapture.* If the borrower sells or otherwise transfers title of the property to another party before the total amount deferred is repaid, deferred mortgage payments not already repaid are included in total subsidy granted, and recapture will be calculated in accordance with subpart I of this part.

Dated: June 14, 1991.

Jonathan I. Kislak,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc. 91-20128 Filed 8-22-91; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

8 CFR Parts 103 and 274a

[INS No. 1259R-90]

RIN 1115-AB73

Powers and Duties of Service Officers; Availability of Service Records, Control of Employment of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends 8 CFR parts 103 and 274a by providing technical as well as substantive amendments to the rules governing employer sanctions and employment authorization. This rule is necessary to incorporate changes caused by new legislation and case decisions, as well as the experience gained in implementing the employer sanctions program during the first four years. The rule gives further guidance to the public through expanded definitions, clarification of certain requirements of the employment verification system, and revision of documentary procedures used to verify the identity and employment eligibility of new employees.

EFFECTIVE DATE: November 21, 1991.

FOR FURTHER INFORMATION CONTACT: Michael J. Creppy, Deputy General Counsel, Immigration and Naturalization Service, 425 Eye Street, NW., room 7048, Washington, DC 20536, telephone (202) 514-3195.

SUPPLEMENTARY INFORMATION: Part 274a, which was published as a final rule in the **Federal Register** on May 1, 1987, at 52 FR 16216, with an effective date of June 1, 1987, was necessitated by the Immigration Reform and Control Act of 1986, Public Law 99-603 (hereinafter "IRCA"), which amended the Immigration and Nationality Act (hereinafter "the Act") by adding provisions relating to the control of employment of aliens in the United States. These provisions make it unlawful for a person or entity to knowingly hire, recruit or refer for a fee, for employment in the United States aliens who are not authorized to work in the United States. Since implementation on June 1, 1987, of part 274a of title 8 of the Code of Federal Regulations, the U.S. Immigration and Naturalization Service (hereinafter "INS" or "the Service") received numerous comments and proposals on the regulations recommending certain amendments and revisions to clarify the language in that final rule and in a related section of title 8 Code of Federal Regulations. As a result, the INS published an interim final rule with request for comments on June 25, 1990, (hereinafter "interim final rule"). Although the comment period ended on July 25, 1990, the INS considered comments that were received after this date. What follows is a section-by-section analysis of the final revisions to the interim final rule and a discussion of comments concerning the sections to which they apply.

1. General Comments

Some general comments were critical of the regulation being published in interim final form. Three commenters stated that it was improper for the Service to publish interim regulations and make them effective on the date of publication. Concern was expressed that post-promulgation comments would not be seriously considered by the agency. However, the scope and specificity of this Supplementary Information section reflect the care and deliberation that the Service has given to each and every comment submitted, including those received after the comment deadline. The comments next noted that since there was no statutory deadline by which the Service was obligated to effectuate the changes, these regulations need not have been published in interim final form. To the contrary, the standardized application for employment authorization (Form I-765), the fee associated with this document, and the standardized Employment Authorization Document (EAD) (Form I-688B) were already in effect, and the regulations were required to be amended in order to support their existence. The commenters also stated that the changes will exacerbate the employer confusion that was cited in the third GAO report (GAO/GGD-90-62, March 29, 1990). The INS is cognizant that employer understanding of the employer sanctions statute and regulations is crucial to achieving the Service's stated goal of voluntary compliance. To that end, the INS has published this final rule after careful consideration of all comments.

More specifically, one commenter stated that the rules should not be effective until the Interagency Task Force can review them. The Service is unable to locate any legal support for the proposition that any task force should review the regulations promulgated by this agency. Another commenter stated that since the regulations have a significant impact on a substantial number of small entities, a regulatory flexibility analysis should have been done. The service disagrees that this final rule will have a significant