

Rules and Regulations

Federal Register

Vol. 68, No. 159

Monday, August 18, 2003

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

RIN 0560-AH03

Outside Storage of Extra Long Staple Loan Cotton

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This rule amends cotton loan eligibility, packaging, and storage approval requirements to permit extra long staple (ELS) cotton to be stored outside while pledged as collateral for a Commodity Credit Corporation (CCC) marketing assistance loan. The intent of this rule is to permit producers to reduce storage costs for ELS cotton without increasing risk of quality or value loss to producers, merchants, CCC, or ultimate users of the cotton. This interim rule is effective upon its publication, but provides an opportunity for the public to comment on the administration of the new provisions.

DATES: This rule is effective August 18, 2003. Comments on this rule should be submitted on or before September 17, 2003 to be assured of consideration.

ADDRESSES: Address all comments concerning this interim final rule to John Johnson, Deputy Administrator for Farm Programs, USDA/Farm Service Agency, 1400 Independence Avenue, SW, STOP 0510, Washington, DC 20250-0510. Comments may be submitted by electronic mail to johnjohnson@wdc.usda.gov, or through the Internet at www.regulations.gov. Comments received in connection with this rule may be viewed by contacting Mr. Johnson and arranging a time during normal business hours. Persons with disabilities who require alternative

means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

FOR FURTHER INFORMATION CONTACT: John Johnson at (202) 720-3175, or via electronic mail at johnjohnson@wdc.usda.gov. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

Current Rule

Current CCC regulations require a warehouse operator to promptly place cotton stored outside within the warehouse when notified that a loan has been made on such cotton. CCC is amending regulations to allow outside storage of ELS by producers who meet the requirements of this interim rule. All other requirements in 7 CFR part 1427 for cotton loan eligibility will continue to apply.

Reason for Change

CCC is making this change to reduce the costs to producers of storing ELS cotton in areas of the country where outside storage is a cost effective and accepted industry practice. CCC has determined that outside storage may be effective at lowering the costs of ELS cotton storage with minimal increased risk. This rule is effective beginning with 2003-crop ELS cotton and will be effective for subsequent crops. In order to implement this change, the CCC cotton marketing assistance loan agreement (attached to this rule as an exhibit) is also amended to include the following conditions:

Outside Storage Requirements

Eligible Cotton: ELS cotton pledged as collateral for a CCC marketing assistance loan may be stored outside by the producer only if all requirements in CFR part 1427 are met except the cotton must be (1) hermetically sealed to maintain internal bale humidity at a certain level, and (2) packaged using bale ties and bags that meet or exceed industry minimum standards for gauge, gauge tolerance, tensile strength, elongation, tear resistance, impact resistance, slip characteristics, size or length, and rust inhibition, as applicable

to the materials selected for use.

Additionally, the producer must not pledge as loan collateral any bale with a torn bag that is stored outside.

Storage area: The outside storage area must be: (1) Limited to an area identified as suitable for cotton storage; (2) constructed so as to prevent water accumulation under the cotton; and (3) serviced by bale handling equipment that will not damage the sealed bale (no bale hooks); and (4) serviced by bale handling and transport systems that will not degrade the drainage characteristics of the storage area.

Additional limitations: CCC will not pay handling charges to move cotton between inside and outside storage. Also, the producer must deliver all outside-stored forfeited ELS to a site designated by CCC and re-class such cotton within 30 days after the date of delivery. The producer will be responsible for any charges for this delivery, re-classification, receiving charges, weighing, issuance of an electronic warehouse receipt, and other charges as may be levied by the warehouse associated with outside-stored cotton.

Notice and Comment

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (2002 Act) provides that the regulations needed to implement Title I of the 2002 Act, including those involved here, may be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. Because this rule involves technical storage and packaging requirements, it was determined that it was in the public's interest to solicit comments on the rule. The rule is effective upon publication in order to provide its benefit to producers for 2003, and because the rule is consistent with commercial storage practices used, under limited circumstances, for years.

Executive Order 12866

This interim rule has been reviewed by the Office of Management and Budget under Executive Order 12866 and has been designated as "not significant."