

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1423

RIN 0560-AE50

Standards for Approval of Warehouses for CCC Interest Commodity Storage

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule is offered to revise regulations covering the storage of commodities in which the Commodity Credit Corporation (CCC) has an interest. For the most part, those commodities are acquired in connection with non-recourse commodity loan programs that benefit farmers. This rule will consolidate the regulations for all commodities stored by CCC into one set of regulations. In addition, this rule would, in some instances, revise the substantive provisions that are in effect under the existing regulations.

DATES: Comments on this rule, in order to be assured of consideration, must be received by January 20, 2004.

ADDRESSES: Comments and request for additional information should be directed to Howard Froehlich, Chief, Program Development Branch, Warehouse and Inventory Division, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., STOP 0553, Washington, DC 20250-0553, telephone (202) 720-7398, FAX (202) 690-3123, e-mail Howard_Froehlich@wdc.fsa.usda.gov. Persons with disabilities who require alternative means for communication for regulatory information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant under Executive Order

12866 and has not, therefore, been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Programs

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

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

Environmental Assessment

The environmental impacts of this proposed rule have been considered in accordance with the provisions of the national Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. To the extent these authorities may apply, CCC has concluded that this rule is categorically excluded from further environmental review as evidenced by the completion of an environmental evaluation. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. In accordance with this Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) except as specifically stated in this rule, no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with 7 CFR part 780 must be exhausted before seeking judicial review.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372,

which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

Government Paperwork Elimination Act

CCC is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and CCC in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for the warehousing matters covered by this rule are not yet fully implemented for the public to conduct business with CCC electronically. Documents needed in this regard may be obtained by mail or FAX. Electronic implementation of the matters covered by this rule is under consideration.

Background

Under Title I of the Farm Security and Rural Investment Act of 2002, the Commodity Credit Corporation (CCC) makes marketing assistance loans to farmers that can lead to forfeiture of the commodities to CCC. Also, CCC can acquire commodities under other circumstances. Section 4(h) of the CCC Charter Act (7 U.S.C. 714b(h)) precludes CCC from acquiring real property for storage facilities for agricultural commodities unless CCC determines that private facilities for the storage of such commodities are inadequate. Further, section 5 of the CCC Charter Act (7 U.S.C. 714c) requires that in purchasing, selling, warehousing, transporting, or handling agricultural commodities, CCC shall use, to the maximum extent practicable, the usual and customary channels, facilities, and arrangements of trade and commerce.

CCC enters into storage agreements with private warehouse operators to provide for the storage of various commodities it acquires. CCC has