

services. This includes officials and supervisory employees of the warehouse operator in charge of warehouse operations;

(4) A satisfactory record of integrity, judgment, and performance as determined by CCC; provided further that owners, officials, and supervisory employees of the warehouse operator in charge of warehouse operations must also have such a satisfactory record; and

(5) No record, either itself or among its owners, officials, and supervisory employees, of suspension or debarment under applicable Federal suspension and debarment regulations.

(d) Unless otherwise provided in this part, each approved warehouse used to store or handle CCC interest commodities, shall:

(1) Be under the control of the warehouse operator at all times;

(2) If leased, furnish a copy of the written lease agreement to CCC with the application. The lease agreement must be renewable and must provide that the lease holder cannot cancel the agreement without giving at least 120 days notice to the warehouse operator. All leases are subject to CCC approval;

(3) At all times meet the conditions for approval; and

(4) Not be subject to greater than normal risk of fire, flood, or other hazards, as determined by CCC.

#### **§ 1423.5 Application requirements.**

(a) *Documents required.* To apply for approval under this part, a warehouse operator shall submit to CCC the following:

(1) An application as prescribed by CCC for the applicable commodity storage agreement;

(2) Evidence of compliance with § 1423.4;

(3) Current financial information sufficient to meet the requirements of § 1423.6;

(4) For State licensed or non-licensed warehouse operators, a sample copy of the warehouse operator's warehouse receipts or electronic warehouse receipt record descriptor when applicable; and

(5) Such other documents or information as CCC may require.

(b) *Examination required.* Before approval, a warehouse must be examined by a person designated by CCC to determine whether it meets the standards for approval for the storage or handling of commodities under this part.

#### **§ 1423.6 Financial information documentation requirements.**

(a) To be approved to store CCC-interest commodities, warehouse operators shall submit the following to CCC:

(1) An audit or review report by an independent Certified Public Accountant or an independent public accountant. The report must be prepared in accordance with standards established by the American Institute of Certified Public Accountants according to generally accepted auditing principles including the accountant's certifications, assurances, opinions, comments, and notes with respect to such audit or review report. The report must also include a:

(i) Balance sheet;

(ii) Statement of income (profit and loss);

(iii) Statement of retained earnings; and

(iv) Statement of cash flows.

(2) Such other information as CCC may require.

(b) Financial statements submitted:

(1) May be submitted on other forms than required in paragraph (a) of this section when so approved by CCC;

(2) Shall show the financial condition of the warehouse operator no earlier than ninety (90) days before the date of the warehouse operator's application, or such other date as CCC may prescribe, and must indicate any material changes that have occurred in the interim; and

(3) Shall be updated and resubmitted annually and at such other times as CCC may require; and

(c) Subject to CCC approval, the financial reporting requirements set forth in paragraphs (a) and (b) of this section may be met by one of the following:

(1) Appraisals of the value of fixed assets in excess of the book value when prepared by independent appraisers acceptable to and approved by CCC.

(2) A parent company of a wholly-owned subsidiary when the warehouse operator's financial position is separately identified on all applicable consolidated statements, or

(3) A guaranty agreement from:

(i) A parent company submitted on behalf of a wholly-owned subsidiary, or

(ii) An entity with substantial interest in the warehouse operator when applicable financial statements are prepared at the audit level.

#### **§ 1423.7 Net worth alternatives.**

Warehouse operators with net worth equal to or greater than the minimum net worth required, but less than the total net worth for the commodity involved in the particular agreement, may satisfy the net worth deficiency by furnishing one of the following:

(a) A bond which:

(1) Is executed by a surety approved by the U.S. Department of the Treasury so long as the surety maintains someone

authorized to accept service of legal process in the State where the warehouse is located.

(2) Is executed on either a bond form obtained from CCC, or which is furnished under State law or operational rules for non-governmental supervisory agencies, if approved by CCC, so long as CCC determines that such alternative bond:

(i) Provides adequate protection to CCC;

(ii) Has been executed by a surety approved by the U.S. Department of the Treasury or has an acceptable blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond; and

(iii) Is effective for at least 1 year and cannot be canceled without a one hundred twenty (120) days notice to CCC. Excess coverage on a bond for one warehouse will not be accepted by CCC against insufficient bond coverage on other warehouses;

(b) Cash and negotiable securities.

Any such cash or negotiable securities accepted by CCC will be returned to the warehouse operator when the period for which coverage was required has ended and CCC determines there is no liability under the storage agreement;

(c) An irrevocable letter of credit meeting CCC requirements that is effective for at least 1 year and cannot be canceled without a one hundred twenty (120) days notice to CCC. The issuing bank must be a commercial bank insured by the Federal Deposit Insurance Corporation or a financial institution subject to the Farm Credit Act of 1971, Public Law 92-181, 85 Stat. 583; or

(d) Other alternative instruments and forms of financial assurance as the Deputy Administrator determines appropriate to secure the warehouse operator's compliance with this section.

#### **§ 1423.8 Approval or rejection.**

(a) CCC will notify warehouse operators approved under this part in writing. Approval does not relieve the warehouse operator of any obligation under any agreement to CCC or any other agency of the United States, and does not obligate CCC to use the warehouse.

(b) CCC will notify the warehouse operator of rejection under this part in writing. The notification will state the cause(s) for rejection. Except for rejections due to the requirements of § 1423.4(c)(5), CCC may reconsider a warehouse for approval when the warehouse operator establishes that the reasons for rejection have been