

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * * * *	* * * * *	* * * * *	* * * * *
Grapefruit.			
* * * * *	* * * * *	* * * * *	* * * * *
Seedless, except red .....	On and after 9/01/94 .....	U.S. No. 1 .....	3 <sup>5</sup> / <sub>16</sub>
* * * * *	* * * * *	* * * * *	* * * * *

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**PART 944—FRUITS; IMPORT REGULATIONS**

■ 3. In § 944.106, the table in paragraph (a) is amended by revising the entry for

“Seedless, except red” to read as follows:

**§ 944.106 Grapefruit import regulation.**  
(a) \* \* \*

Grapefruit classification	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * * * *	* * * * *	* * * * *	* * * * *
Seedless, except red .....	On and after 9/01/94 .....	U.S. No. 1 .....	3 <sup>5</sup> / <sub>16</sub>

\* \* \* \* \*

Dated: April 1, 2009.

**Robert C. Keeney,**  
*Acting Associate Administrator, Agricultural Marketing Service.*

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**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**7 CFR Parts 1421 and 1434**

**RIN 0560-AH87**

**Marketing Assistance Loans and Loan Deficiency Payments**

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Credit Corporation (CCC) is revising regulations as required by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) to administer the Marketing Assistance Loans (MAL) and Loan Deficiency Payments (LDP) programs for wheat, feed grains, soybeans, other oilseeds, peanuts, pulse crops, honey, wool and mohair. The 2008 Farm Bill generally extends the

existing programs with some changes that are implemented in this rule. The amendments in this rule will add large chickpeas, beginning with the 2009 crop year, to the list of pulse crops eligible for assistance and provide separate rates for long and medium grain rice beginning with the 2008 crop year. The addition of large chickpeas may increase the number of farmers and ranchers who may receive FSA and CCC program benefits. The amendments will also, in addition, to other amendments to the old rule and clarifications, allow producers to store collateral in Federally and State-licensed warehouses that do not have a CCC storage agreement, which may reduce redundant licensing costs for warehouse operators while allowing producers a greater choice of warehouses.

**DATES:** *Effective Date:* April 6, 2009.

**FOR FURTHER INFORMATION CONTACT:** Jose R. Gonzalez, Program Manager, Marketing Assistance Loans and Loan Deficiency Payment Programs or Tonye B. Gross, Program Manager, Peanut Program, Price Support Division, FSA/USDA, STOP 0512, 1400 Independence Ave. SW., Washington, DC 20250-0512; telephone (202) 690-2534; or (202) 720-4319, facsimile (202) 690-3307; e-mails: [Jose.Gonzalez@wdc.usda.gov](mailto:Jose.Gonzalez@wdc.usda.gov) or

[Tonye.Gross@wdc.usda.gov](mailto:Tonye.Gross@wdc.usda.gov). Persons with disabilities who require alternative means of communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:**

**Background**

The 2008 Farm Bill extends MAL and LDP programs for the 2008 through 2012 crop years. The 2008 Farm Bill generally extends the existing programs, with some minor changes that are implemented in this rule. In some cases, the 2008 Farm Bill gives the Secretary discretion to select among different policy options; this rule implements such discretionary changes. This rule also makes numerous housekeeping changes to make administrative improvements, correct typographical errors, remove expired regulations, and improve organization.

Producers of eligible commodities that are eligible for loans can request MALs or LDPs on their commodities. MALs and LDPs are available to eligible producers beginning with harvest or shearing season and extending through the marketing year. MALs are 9-month loans with the commodity pledged as collateral for the loan. MALs and LDPs must be requested on or before the final

loan availability date for the applicable commodity. Producers may repay the MAL at a rate that is the lesser of the loan rate plus interest or alternative repayment rates as determined and announced by the Department of Agriculture (USDA). MALs support America's farmers and ranchers in several ways. They provide producers with interim financing at and during the harvest or shearing season. They provide significant income support when market prices are below statutory loan rates. They facilitate the orderly marketing and distribution of loan eligible commodities throughout the year, giving the producer the flexibility on when to sell the crop. With MALs, the producer doesn't have to sell the crop immediately after harvest, when prices are often relatively low.

Producers can settle their loan during the 9-month period by either selling the commodity and repaying the loan or by forfeiting the commodity to the CCC.

As an alternative to MAL, if a producer agrees to forgo MAL, the producer may obtain LDP on their crop, if such LDP is currently available for the applicable commodity and the producer is eligible for MAL. LDPs allow the producer to receive a payment when the alternative repayment rate posted for a commodity is below the loan rate for that commodity. The payment is the established loan rate for the applicable loan commodity less the repayment rate multiplied by the eligible quantity of the commodity. Similar to the MAL program, LDPs provide price income support to producers so they do not have to sell their commodities when prices are low.

The specific statutory changes required by the 2008 Farm Bill and discretionary changes affecting the MAL and LDP programs that are implemented in this rule are described below.

#### **Eligible Loan Commodities**

Prior to the 2008 Farm Bill, MALs and LDPs were authorized for wheat, feed grains, soybeans, other oilseeds, peanuts, pulse crops, honey, wool and mohair. Feed grains included corn, grain sorghum, barley, oats and rice. Other oilseeds included sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, and sesame seed. Pulse crops included lentils, dry peas and small chickpeas. The 2008 Farm Bill reauthorizes MALs and LDPs for all the existing eligible commodities. However, it has further defined the feed grain category and expanded the pulse crop category. Rice is now further defined as long grain rice and medium grain rice, with rates listed by type. Medium grain rice also includes short

grain rice. Beginning with the 2009 crop year, large chickpeas will be included as an eligible pulse crop and will be eligible for MAL and LDP. This rule changes sections 1421.1, "Applicability," 1421.3, "Definitions," 1421.5, "Eligible Commodities," and 1421.9, "Basic Loan Rates," to include large chickpeas beginning with the 2009 crop year. This rule changes sections 1421.3, 1421.5, and 1421.10, "Market Rates" (renamed as "Loan Repayment Rates"), to specify provisions for long grain and medium grain rice. This rule amends section 1421.7, "Requesting Marketing Assistance Loans and Loan Deficiency Payments," to add a final loan availability date for crambe and sesame seed.

#### **Other Eligibility Requirements for Producers**

The 2008 Farm Bill changes eligibility provisions by removing the eligibility of states, political subdivisions, and their agencies to receive MALs or LDPs. This rule removes those entities from section 1421.4, "Eligible Producers."

#### **Beneficial Interest**

As used in 7 CFR part 1421, beneficial interest in a commodity means that control of the commodity and title to the commodity remain with the producer. Beneficial interest requirements remain largely unchanged for all loan commodities in this rule, and producers must retain beneficial interest in the commodity offered as collateral for a MAL or LDP. We are amending section 1421.6, "Beneficial Interest", to clarify that delivery of a commodity to a feed or grain bank will result in the loss of beneficial interest. This rule also amends section 1421.6 to clarify that if deferred price, forward, or price-later contract is used, fulfillment of the delivery requirements of the contract or receipt of payment for the contract will result in the loss of beneficial interest as of the earlier of those events.

#### **Average Crop Revenue Election (ACRE) Program**

This final rule implements a provision of the new Average Crop Revenue Election (ACRE) Program established by the 2008 Farm Bill. Under the ACRE program, during each of the 2009 through 2012 crop years, the applicable MAL rates for wheat, feed grains, soybeans, other oilseeds, peanuts, and pulse crops, will be reduced by 30 percent for commodities on a farm where producers make the irrevocable decision to have the farm participate in ACRE. This rule amends section 1421.9, "Basic Loan Rates," to include provisions for this new

program. The regulations for the ACRE program are being established through a separate rulemaking that will amend 7 CFR part 1412.

#### **Commodity Certificate Availability Will Be Phased Out**

Commodity certificates are currently available to producers to exchange for collateral for MAL. The exchange rate is the applicable loan repayment rate on the date the commodity certificate is purchased. The 2008 Farm Bill reauthorizes commodity certificates only through the 2009 crop year. The authority to make commodity certificates available to producers will terminate effective with the ending of the 2009 crop year. Therefore, this rule amends the regulations to remove provisions for the availability of commodity certificates for crop years after 2009.

#### **Adjusted Gross Income and Payment Limitations**

For the 2008 crop only, the current payment limit on marketing loan gains and LDPs remains at \$75,000 per person and the three-entity rule is also retained. Under the current three-entity rule, an individual can receive a full payment directly and up to a half payment, indirectly, for each of two additional entities. Producers with annual adjusted gross income over \$2.5 million, averaged over 3 years, are not currently eligible for payments, unless more than 75 percent of the adjusted gross income is from agriculture. For 2009 through 2012 crop years, payment limitation and adjusted gross income requirements will be modified as specified in sections 1603 and 1604 of the 2008 Farm Bill. Starting with the 2009 crop year, CCC will no longer limit the gains from marketing assistance loans and loan deficiency payments. (**Note:** Payment limitation rules are established in 7 CFR part 1400 and not within various commodity regulations, such as these regulations. CCC is implementing changes to the payment limitation provisions through a separate rulemaking.) This rule amends section 1421.409, "Monitoring Payment Limitations," to state that payment limitations are not applicable for the 2009 through 2012 crop years for designated marketing associations for peanuts.

#### **Warehouse Licensing Requirements**

Current regulatory provisions require eligible commodities offered as collateral for MALs to be stored in an on-farm storage structure or a commercial warehouse approved by CCC. To be a CCC-approved warehouse,

warehouses must enter into a CCC storage agreement. This rule removes an exception that allowed the use of unlicensed warehouses in certain circumstances, because the 2008 Farm Bill removed that provision. However, this rule amends the regulations to allow the use of State and Federally licensed warehouses that do not have a CCC storage agreement. This change is not required by the 2008 Farm Bill; however, this will benefit warehouse operators and producers without increasing financial risk for CCC. This rule amends multiple sections to remove references to "approved" warehouses and add references to "authorized" warehouses instead.

Historically, approved warehouses have been warehouse operators who have entered into storage agreements with CCC that set forth terms and conditions regarding: (1) Financial aspects of the warehouse; (2) rates that are applicable to the storage of CCC owned inventory and CCC loan collateral; (3) handling and delivery charges with respect to these commodities; and (4) related storage issues. These agreements were required to protect CCC interests because, prior to the authorization and use of MALs, producers tendered over 75 percent of the annual production of some crops to CCC in some years.

Most States, as well as USDA, have a warehouse licensing program for the storage of agricultural commodities. In most States, an entity must have a State or Federal license to engage in storing these commodities. These licensed entities issue warehouse receipts that document ownership of commingled commodities. In those States that do not have a licensing program, warehouses must follow State laws relating to bailment and storage. The State laws relating to bailment and storage vary from State to State.

In general, non-licensed entities in States with licensing programs may not store agricultural commodities on behalf of producers, but may purchase commodities from producers. Commercial feed lots, ethanol plants, wool pools, and feed banks that are typical end users of the commodity are not licensed warehouses. This rule removes a provision in the regulations that allows the use of unlicensed warehouses for storing MAL collateral, because, as indicated, that is no longer authorized under the 2008 Farm Bill.

Starting with the 2009 crop year and throughout the remaining years covered by the 2008 Farm Bill, CCC will no longer require a Federally licensed warehouse operator to also maintain a CCC storage agreement, except for

peanuts. Warehouses licensed by USDA under the United States Warehouse Act must meet conditions to obtain a Federal license, which exceed those that must be met for obtaining a CCC storage agreement. While the CCC storage agreement specifies storage rates that CCC will pay in the unlikely event the commodity is forfeited to CCC, CCC moves commodities it obtains when forfeited into the market as quickly as possible. Thus, CCC incurs minimal storage costs. As of July 2008, CCC's commodity inventories have been depleted. Accordingly, CCC has determined that requiring a Federally licensed warehouse operator to also maintain a CCC storage agreement provides no additional protection to CCC's interests as a lender in the administration of the MAL programs and, therefore, CCC will no longer require such warehouse operators to also maintain a storage agreement. However, CCC may reserve the right to continue to utilize storage agreements in those instances where it is engaged in the long-term storage of commodities.

In a State with an operating warehouse licensing program, CCC will no longer require the use of a CCC storage agreement for a State-licensed warehouse. In such States, especially those with grain indemnity funds that provide cash payments to depositors in the event of the insolvency of the warehouse operator, CCC already has adequate protection as a secured lender. There are redundant costs to the warehouse operator in meeting and maintaining compliance with both the State license and the CCC storage agreement. Even without the storage agreement, CCC will still have clear title to the commodity in the event of the insolvency of the warehouse operator. If the loan is repaid, CCC has no interest at stake. Thus, for State-licensed warehouses, a CCC storage agreement will not be required. However, CCC may reserve the right to continue to utilize storage agreements in those instances where it is engaged in the long-term storage of commodities.

For warehouse operators in the small number of States that do not have warehouse licensing programs, CCC may require these entities to execute a CCC storage agreement before a producer may obtain a MAL with respect to commodities stored in such warehouse, but may require that the warehouse be approved in advance. A list of approved local warehouses may be obtained from FSA State and county offices.

These changes will allow producers to obtain warehouse-stored loans at all warehouses; both State and Federally

licensed, which expands the amount of storage available for use by producers who wish to obtain such loans. This is particularly beneficial since commercial warehouse capacity has declined over the past 15 years while the amount of commodities produced in that time has increased. Marketing patterns have changed during this time, for example, many buyers have turned to a "timed-to-arrive" basis and do not maintain large stocks of commodities at their facilities. These regulatory changes are responsive to changing market conditions.

For peanuts, the 2008 Farm Bill requires that the facility in which peanuts for MAL are stored meets certain conditions set by the Secretary and that the facility agrees to provide storage on a non-discriminatory basis.

#### **Wool and Mohair**

The 2008 Farm Bill reauthorizes provisions allowing producers to pledge wool or mohair as collateral to secure a nonrecourse MAL. This rule makes minor changes specific to those items, including changing references to update specific crop years and changing the basis on which the Secretary will announce alternative repayment rates from "periodically" to weekly in section 1421.10, "Market Rates." This rule also changes the title of the section on "Market Rates" to "Loan Repayment Rates."

#### **Peanuts**

The 2008 Farm Bill reauthorizes most of the provisions for peanuts, with two major exceptions. First, the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171, commonly known as the 2002 Farm Bill) required CCC for a time to pay for the storage, handling and other associated costs for peanuts pledged under a MAL. This authority terminated with the beginning of the 2007 crop of peanuts. Therefore, for the 2007 crop, CCC required a peanut warehouse receipt showing payment of storage charges through the loan period, and reduced the loan amount for any unpaid storage charges. The 2008 Farm Bill, beginning with the 2008 crop, requires CCC, at the time the peanuts are placed in MAL, to pay for handling and other associated costs (but not storage costs) for peanuts. The 2008 Farm Bill requires the repayment of these costs when MALs are redeemed. Second, the 2008 Farm Bill authorizes CCC to pay storage, handling, and other associated costs for all peanut MALs that achieved maturity and are forfeited to CCC as a settlement of the MAL. This rule makes changes to section 1421.10, "Loan Repayment Rates," to implement

these specific provisions of the 2008 Farm Bill.

### National Loan Rates

The 2008 Farm Bill specifies the national loan rates for the 2008 through

2012 crop years for the eligible loan commodities. The loan rates specified by the 2008 Farm Bill are as follows:

Commodity	2008 Crop year	2009 Crop year	2010–2012 Crop years
Wheat .....	\$2.75/bu .....	\$2.75/bu .....	\$2.94/bu.
Corn .....	\$1.95/bu .....	\$1.95/bu .....	\$1.95/bu.
Grain Sorghum .....	\$1.95/bu .....	\$1.95/bu .....	\$1.95/bu.
Barley .....	\$1.85/bu .....	\$1.85/bu .....	\$1.95/bu.
Oats .....	\$1.33/bu .....	\$1.33/bu .....	\$1.39/bu.
Long Grain Rice .....	\$6.50/cwt .....	\$6.50/cwt .....	\$6.50/cwt.
Medium Grain Rice .....	\$6.50/cwt .....	\$6.50/cwt .....	\$6.50/cwt.
Soybeans .....	\$5.00/bu .....	\$5.00/bu .....	\$5.00/bu.
Other Oilseeds .....	\$9.30/cwt .....	\$9.30/cwt .....	\$10.09/cwt.
Peanuts .....	\$355.00/ton .....	\$355.00/ton .....	\$355.00/ton.
Dry Peas .....	\$6.22/cwt .....	\$5.40/cwt .....	\$5.40/cwt.
Lentils .....	\$11.72/cwt .....	\$11.28/cwt .....	\$11.28/cwt.
Small Chickpeas .....	\$7.43/cwt .....	\$7.43/cwt .....	\$7.43/cwt.
Large Chickpeas .....	N/A .....	\$11.28/cwt .....	\$11.28/cwt.
Graded Wool .....	\$1.00/lb .....	\$1.00/lb .....	\$1.15/lb.
Nongraded Wool .....	\$0.40/lb .....	\$0.40/lb .....	\$0.40/lb.
Mohair .....	\$4.20/lb .....	\$4.20/lb .....	\$4.20/lb.
Honey .....	\$0.60/lb .....	\$0.60/lb .....	\$0.69/lb.

The 2008 through 2009 crop year loan rates for MALs remained the same for wheat, feed grains, soybeans, other oilseeds, peanuts, wool and mohair from those established during the last year of the 2002 Farm Bill in 2007. The 2010 through 2012 loan rates for MALs for wheat, barley, oats, other oilseeds, graded wool and honey are increased as shown in the previous table. The 2008 Farm Bill establishes two loan rates for rice. Rice is divided into a long grain rice loan rate and medium short grain loan rate. We are amending section 1421.5, "Eligible Commodities," to reflect that the determination of class, grade, and other quality factors for rice will be based on the U.S. Standards for Rice. Large chickpeas, beginning with the 2009 crop year, are now included as a pulse crop. The 2008 Farm Bill removed a pulse crop loan rate provision requiring that the loan rates be based upon U.S. feed grade for dry peas and U.S. number 3 grade for lentils and small chickpeas. Effective with the 2008 crop (with the 2009 crop for large chickpeas), pulse crop loan rates will reflect values of U.S. grade number 1.

### Adjustments of Loans (Premiums and Discounts)

The 2008 Farm Bill reauthorizes the provisions authorizing adjustments of loan rates for any eligible loan commodity under this regulation, except for rice, for differences in grade, type, quality, location and other factors. Long grain and medium grain rice loan rates will only be adjusted for grade and quality (including milling yields). To the extent practicable, FSA will make adjustments to ensure that weighted

average base county loan rates are consistent and reflect current market conditions. Specifically, for the 2008 crop year, USDA will continue to apply appropriate premiums and discounts to loan rates in the county where the commodity is stored. On a per-unit basis, premiums are added to and discounts are subtracted from the loan rate when the MAL is made for the 2008 crop year. If a producer chooses to repay a MAL, these same premiums and discounts applied to the loan rate at loan making are also applied to the loan repayment rate.

Beginning with the 2009 crop year, except for peanuts, and throughout the remaining years of the 2008 Farm Bill, CCC will no longer apply premiums and discounts to loan rates at loan making time. CCC will apply premiums and discounts at the time of loan settlement or loan forfeiture instead. Producers will settle their outstanding nonrecourse MAL during the loan period by repaying MAL at applicable repayment rate or upon maturity by forfeiting the commodity to CCC. At forfeiture, the applicable loan rate in effect for the commodity will be adjusted by premiums and discounts. This rule amends sections 1421.9, "Basic Loan Rates," and 1421.112, "Loan Settlement," to implement these changes that are required by the 2008 Farm Bill.

### Loan Repayment Rates

Currently, USDA permits eligible producers to repay MALs on wheat, feed grains (except rice), soybeans, other oilseeds (except confectionary and each other kind of sunflower seed (other than

oil sunflower seed)) at any time during the loan period at a rate that is the lesser of: (1) Loan rate plus accrued interest or (2) a rate determined by the Secretary that would minimize forfeitures, accumulation of stocks, storage costs, impediments to the market and discrepancies in benefits across State and county boundaries. For rice, MALs are repaid at lesser of: (1) Loan rate plus accrued interest or the adjusted world price (AWP). The 2008 Farm Bill maintains the two existing loan repayment rate options, and mandates that the Secretary add a third loan repayment option that allows the loan repayment rate to be based on average market prices during the preceding 30-day-period. For long grain rice and medium grain rice, the 2008 Farm Bill requires USDA to permit eligible producers to repay MALs at any time during the loan period at a rate that is the lesser of: (1) Loan rate plus accrued interest or (2) the prevailing world market price adjusted to U.S. quality and location, and often referred to as the adjusted world price or AWP. For peanuts, the 2008 Farm Bill requires USDA to permit eligible producers to repay MALs at any time during the loan period at a rate that was the lesser of: (1) Loan rate plus accrued interest or (2) a rate determined by the Secretary that would minimize forfeitures, accumulation of stocks, storage costs, and impediments to the market. For confectionary and other kinds of sunflower seeds, the 2008 Farm Bill requires USDA to permit eligible producers to repay MALs at any time during the loan period at a rate that was the lesser of: (1) Loan rate plus accrued

interest or (2) a repayment rate established for oil sunflower seed. This rule amends section 1421.10, "Loan Repayment Rates," to reflect these changes required by the 2008 Farm Bill.

Additionally, the 2008 Farm Bill provides authority to temporarily adjust loan repayment rates. In the event of a severe disruption to marketing, transportation, or related infrastructure, USDA may modify the loan repayment rate applicable to eligible commodities. Any adjustments made to the applicable eligible commodity loan repayment rate will be short-term and temporary basis, as determined by USDA. Such adjustments will be announced; they will not be in the regulations.

#### **Payments In Lieu of Loan Deficiency Payments for Grazed Acreage**

The 2008 Farm Bill reauthorizes provisions for grazed acreage LDP. The 2002 Farm Bill provided a payment program for producers who grazed livestock on land that may otherwise be used to produce LDP eligible crops, also known as "graze-out" provisions. Producers who would be eligible for a wheat, barley, oats, or triticale LDP but instead use those planted crops to graze livestock will be eligible for LDPs if they agree to forgo harvesting of that acreage. We are making minor amendments to 1421.304, "Payment Amount", to clarify grazing payment provisions and to remove obsolete provisions for previous crop years.

#### **Honey**

The 2008 Farm Bill reauthorizes and extends existing honey provisions. The existing way of determining honey producers' eligibility and beneficial interest is to require them to comply with the provisions in both 7 CFR parts 1434 and 1421. That policy is not changing, although we are clarifying that policy by stating it explicitly in the regulations. New provisions in this rule for 7 CFR part 1421 also apply to honey producers even if they are not specifically addressed under 7 CFR part 1434, for example, changes discussed in this preamble for other eligibility requirements for producers, beneficial interest, and adjusted gross income and payment limitations. The increase in the national loan rate effective for 2010 through 2012 crop years (which is not in the regulations but is specified in this preamble and in the 2008 Farm Bill) and the provision allowing the Secretary to temporarily adjust loan repayment rates in the event of a severe disruption to marketing, transportation, or related infrastructure also apply to honey. This rule removes section 1434.22, "Handling Payments and Collections

not Exceeding \$9.99," to be consistent with part 1421. This rule also amends section 1434.15, "Personal Liability," to reduce liquidated damages (penalties) for violations to be consistent with similar provisions in part 1421.

#### **Other Miscellaneous Changes**

This rule amends section 1421.104 to state that CCC will conduct lien searches on all commodities pledged as collateral for amounts greater than \$50,000, which is an increase from \$25,000 in the current regulations. Field offices should be able to process loan applications more quickly if lien searches are limited to loans over \$50,000. CCC will still have the discretion to conduct lien searches for any loan amount when it is determined that CCC's interest may be at risk.

This rule clarifies section 1421.104 about assessment authority language. Commodity assessments, if applicable, are deducted from MAL proceeds at loan making and furnished to appropriate National or State assessment authorities.

CCC is also making a number of housekeeping changes to clean up the regulations. For example, we are consolidating all the definitions and abbreviations that are currently in separate sections for each subpart into one section for this part. In general, CCC is making changes to add clarity, make administrative improvements, correct typographical errors, add consistency with current CCC and industry practices, remove expired regulations, improve internal consistency, and improve organization. These changes do not represent substantive policy or administrative changes.

#### **Notice and Comment**

These regulations are exempt from notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553), as specified in section 1601(c) of the 2008 Farm Bill, which requires that the regulations be promulgated and administered without regard to the notice and comment provisions of Section 553 of title 5 of the United States Code 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.

#### **Executive Order 12866**

This final rule is economically significant according to Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment of the changes made by this rule and is

summarized below and is available from the contact above.

#### **Summary of Economic Impacts**

The Cost-Benefit Assessment includes discussions of statutorily-mandated changes as well as discretionary changes for the MAL and LDP Programs.<sup>1</sup> The projected impacts from the use of discretionary authority are expected to be relatively minor. Projected outlays impacts were addressed in the cost benefit analysis completed for the final rule for the Direct and Counter-cyclical Payment and Average Crop Revenue Election Programs, which was published on December 29, 2008 (73 FR 79284–79306). The impacts from the regulatory changes addressed in the two rules are inherently interrelated and not addressed as individual impacts.

*The discretionary changes are:*

- *Premiums and discounts:* With exception of cotton and peanuts, discontinue applying premiums and discounts at the time warehouse-stored loans are made, and instead apply them only if loan quantities are forfeited;

- *Loan repayment rates:* For applicable commodities, discontinue using prices from a single day to establish loan repayment rates, and instead use the lesser of a statutorily-mandated 30-day moving average of market prices adjusted for location and a discretionary 5-day average of applicable terminal prices backed off to the local level to establish alternative loan repayment rates;

- *Lien searches:* Raise the minimum loan principal amount for which lien searches are required from \$25,000 to \$50,000; and

- *Uniform Grain and Rice Storage Agreements (UGRSA's):* Discontinue the widespread use of UGRSA's with applicable warehouse operators and instead apply such agreements on a case-by-case basis.

The premium and discount, lien search, and UGRSA changes are expected to save some staff time, and the staff time will instead be devoted to new tasks (for example, administering the new ACRE program provisions) or

<sup>1</sup> Outlay impacts from 2008–Farm-Bill-mandated changes regarding MAL and LDP programs are discussed in the cost benefit assessment, but projected outlays impacts are addressed in the cost benefit assessment associated with the statutory and regulatory changes for the Direct and Counter-cyclical Payment and Average Crop Revenue Election Programs (7 CFR part 1412). In addition, the economic and budgetary impacts of mandatory changes, including changes in national average loan rates, are discussed in that cost benefit assessment as well. Statutory and regulatory changes associated with payment limitations, direct attribution, and adjusted gross income eligibility criteria are evaluated in the cost benefit assessment that accompanies that regulation (7 CFR part 1400).

reducing backlogs (for example, inspecting all Federally-licensed warehouses at least once annually under provisions of the United States Warehouse Act (USWA)). Use of discretionary authority in implementing the new loan repayment rate provisions is expected to reduce the day-to-day (or, as applicable, week-to-week) variability in loan repayment rates for wheat, feed grains, oilseeds, pulses, wool, and mohair. The use of a 30-day average price and a 5-day average price in loan repayment rate determinations is not expected to affect outlays. However, the mandated use of a 30-day average price will cause the repayment rate determination to be less transparent.

#### Federal Assistance Programs

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this final rule applies is 10.051—Commodity Loans and Loan Deficiency Payments.

#### Regulatory Flexibility Act

This rule is not subject to the Regulatory Flexibility Act because CCC is not required to publish a notice of proposed rulemaking for this rule.

#### Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799). FSA has determined that this rule would not constitute a major Federal action significantly affecting the quality of the human environment, and therefore, no environmental assessment or environmental impact statement will be prepared.

#### Executive Order 12988

The final rule has been reviewed under Executive Order 12988. This rule preempts State laws that are inconsistent with its provisions. This rule is not retroactive and does not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. Before any judicial action may be brought regarding the provisions of this rule the administrative appeal provisions of 7 CFR parts 11 and 870 must be exhausted.

#### Executive Order 12372

This program is not subject to Executive Order 12372, which requires

consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published in the *Federal Register* on June 24, 1983 (48 FR 29115).

#### Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

#### Unfunded Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal government or the private sector. In addition, CCC was not required to publish a notice of proposed rulemaking for this rule. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

Section 1601(c)(3) of the 2008 Farm Bill requires that the Secretary use the authority in section 808 of title 5, United States Code, which allows an agency to forgo SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. This rule affects a large number of agricultural producers who are dependent upon these provisions for income support and need to know the details as soon as possible because it has a profound effect on their planting and marketing decisions. In any event, Section 1601 provides on its own basis for the finding a good cause. Accordingly, this rule is effective upon the date of filing for public inspection by the Office of the Federal Register.

#### Paperwork Reduction Act

The regulations in this rule are exempt from requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35), as specified in section 1601(c)(2) of the 2008 Farm Bill, which provides that these regulations be promulgated and administered without regard to the Paperwork Reduction Act.

#### E-Government Act Compliance

CCC is committed to complying with the E-Government Act, to promote the use of the Internet and other

information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### List of Subjects

##### 7 CFR Part 1421

Barley, Feed grains, Grains, Loan programs—agriculture, Oats, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses, Wheat.

##### 7 CFR Part 1434

Honey, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

■ For the reasons discussed above, this rule amends 7 CFR parts 1421 and 1434 as follows:

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR 2008 THROUGH 2012

■ 1. Revise the authority citation for part 1421 to read as follows:

**Authority:** 7 U.S.C. 7231–7237 and 7931–7936; 15 U.S.C. 714b and 714c, and Public Law 110–246.

■ 2. Revise the part heading for 7 CFR part 1421 to read as shown above.

■ 3. Amend § 1421.1 as follows:

■ a. Revise the section heading to read as set forth below;

■ b. Revise paragraph (a) to read as set forth below; and

■ c. Remove paragraph (e).

##### § 1421.1 Applicability and interest.

(a) The regulations of this subpart are applicable to the 2008 through 2012 crops of barley, small chickpeas, corn, grain sorghum, lentils, oats, dry peas, peanuts, rice, wheat, wool, mohair, oilseeds and other crops designated by Commodity Credit Corporation (CCC). Additionally, large chickpeas are authorized for coverage for the 2009 through 2012 crop years. These regulations specify the general provisions under which marketing assistance loans (MAL) and loan deficiency payments (LDP) will be administered by CCC. Additional terms and conditions are in the note and security agreement and the loan deficiency payment application that must be executed by a producer to receive marketing assistance loans and LDPs. In any case in which money must be refunded to CCC in connection with this part, interest will be due to run from the date of disbursement of the sum to be refunded. This will apply,

unless waived by the Deputy Administrator, irrespective of any other rule.

\* \* \* \* \*

§ 1421.2 [Amended]

■ 4. Amend § 1421.2 by removing paragraph (c)(1) and redesignating paragraphs (c)(2) and (c)(3) as (c)(1) and (c)(2), respectively.

■ 5. Amend § 1421.3 as follows:

■ a. Add new definitions, in alphabetical order, for the terms "Administrative County Office," "CCC," "chickpeas," "CMA," "COC," "Control or Recording FSA County Office," "crop," "crop year," "current net worth ratio," "Department," "Deputy Administrator," "DMA Service County Office," "drawdown account," "electronic warehouse receipt (EWR)," "FSA," "high moisture state," "loan deficiency payment (LDP)," "loan settlement," "MAL," "medium grain rice," "rice," "Secretary," "security for DMAs," and "STC" to read as set forth below;

■ b. Remove the definitions of "field direct loan deficiency payment," "high moisture commodities," "loan deficiency payment," and "small chickpea";

■ c. Revise the definition of "loan commodities," to read as set forth below;

■ d. Amend paragraph (1) of the definition of "other crops designated by CCC" by removing the word "haulage" and adding, in its place, the word "haylage";

■ e. Amend the definition of "pulse crops" by removing the word "small"; and

■ f. Amend the definition of "wool" by adding the words "and includes, unless noted otherwise, graded and nongraded wool" before the period at the end.

§ 1421.3 Definitions.

\* \* \* \* \*

Administrative County Office is the FSA County Office where a producer's FSA records are maintained.

\* \* \* \* \*

CCC means the Commodity Credit Corporation.

\* \* \* \* \*

Chickpeas means any chickpea that meets the definition of a chickpea according to the Grain Inspection, Packers and Stockyards Administration (GIPSA), Federal Grain Inspection Service (FGIS).

(1) Small chickpea falls below a 20/64th sieve.

(2) Large chickpea stays above a 20/64th sieve.

\* \* \* \* \*

CMA means a cooperative marketing association that is subject to regulations in Part 1425 of this chapter.

COC means the FSA county committee.

\* \* \* \* \*

Control or Recording FSA County Office is the FSA County Office that controls subsidiary files for producers designated as multi-county producers.

Crop means with respect to a year, commodities harvested in that year. That is, a reference to the 2009 crop of a commodity means commodities that when planted were intended for harvest in calendar year 2009.

Crop year means any time relevant to the relevant crop for that year. Thus references to the 2009 crop year are used to include any activities relevant to the 2009 crop.

Current net worth ratio means current assets minus current liabilities, divided by current liabilities, based on the financial statement provided in connection with a DMA application or a recertification for DMA status.

Department means the United States Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA) or a designee of that person.

\* \* \* \* \*

DMA Service County Office is an FSA County Office designated by CCC to accept, process, and disburse bundled peanut MALs and LDPs to a DMA. In the absence of a centralized MAL and LDP processing system for peanuts, a service county FSA office is necessary for entering MALs and LDPs made by DMAs into CCC accounting systems.

Drawdown account is an account titled to the DMA at a financial institution and funded at the discretion of CCC for the purpose of allowing the DMA to advance funds to producers who have applied for MALs and LDPs before a subsequent MAL or LDP is made to the DMA by an assigned FSA county office.

Electronic warehouse receipt (EWR) means a receipt electronically filed in a central filing system by an approved provider as provided in an executed, "Farm Service Agency Provider Agreement to Electronically File and Maintain Warehouse Receipts."

FSA means the Farm Service Agency of the United States Department of Agriculture.

High moisture state means corn or grain sorghum having a moisture content in excess of CCC standards used to determine eligibility for marketing assistance loans made by the Secretary.

\* \* \* \* \*

Loan commodities means wheat, corn, grain sorghum, barley, oats, rice, soybeans, other oilseeds, peanuts, wool, mohair, dry peas, lentils, chickpeas, and other crops designated by CCC.

Loan deficiency payment (LDP) means a payment received in lieu of a loan when the CCC-determined value is below the applicable county loan rate.

Loan settlement means farm stored commodities delivered to CCC and warehouse stored commodities forfeited to CCC, effective with the 2009 through 2012 crop years.

MAL means marketing assistance loan.

Medium grain rice for the purposes of this part includes both short and medium grain rice as defined by the U.S. Standards for Rice.

\* \* \* \* \*

Rice means, unless otherwise noted, long grain rice and medium grain rice.

Secretary means the Secretary of the United States Department of Agriculture, or the Secretary's delegate.

Security for DMAs means a certified or cashier's check payable to CCC, an irrevocable commercial letter of credit in a form acceptable to CCC, a performance or surety bond conditioned on the DMA fully discharging all of its obligations under this part, or other form of financial security as CCC may deem appropriate.

\* \* \* \* \*

STC means the FSA State committee.

\* \* \* \* \*

■ 6. Amend § 1421.4 as follows:

■ a. Amend paragraph (a)(1) by removing the words "State or political subdivision or agency thereof," and ■ b. Revise paragraph (a)(2) to read as set forth below.

§ 1421.4 Eligible producers.

(a) \* \* \*

(2) Comply with all provisions of this part and, as applicable:

(i) 7 CFR part 12—Highly Erodible Land and Wetland Conservation;

(ii) 7 CFR part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent;

(iii) 7 CFR part 718—Provisions Applicable to Multiple Programs;

(iv) 7 CFR part 996—Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States;

(v) 7 CFR part 1400—Payment Limitation & Payment Eligibility for 2009 and Subsequent Crops, Programs, or Fiscal Years;

(vi) 7 CFR part 1402—Policy for Certain Commodities Available for Sale;

(vii) 7 CFR part 1403—Debt Settlement Policies and Procedures;

(viii) 7 CFR part 1405—Loans, Purchases, and Other Operations;  
 (ix) 7 CFR part 1412—Direct and Counter-Cyclical Program and Average Crop Revenue Election Program for the 2008 and Subsequent Crop Years; and  
 (x) 7 CFR part 1423—Commodity Credit Corporation Approved Warehouses.

\* \* \* \* \*

■ 7. Amend § 1421.5 as follows:

- a. Amend paragraph (a)(1) by removing the words “canola,” and “small”;
- b. Revise paragraph (c) to read as set forth below; and
- c. Amend paragraph (f) by adding the word “or” immediately after the word “gift.”

§ 1421.5 Eligible commodities.

\* \* \* \* \*

(c)(1) To be an eligible commodity, the commodity must be merchantable for food, feed, or other uses determined by CCC and must not contain mercurial compounds, toxin producing molds, or other substances poisonous to humans or animals. A commodity containing vomitoxin, aflatoxin, or Aspergillus mold may not be pledged for a loan made under this part, except as provided by CCC in the marketing assistance loan note and security agreement.

(2) The determination of eligibility for rice includes class, grade, grading factor, milling yields, and other quality factors and will be based upon the U.S. Standards for Rice as applied to rough rice whether or not such determinations are made on the basis of an official inspection.

(3) The determination of eligibility for peanuts includes type, quality, and quantity.

(4) With respect to barley, canola, corn, flaxseed, grain sorghum, oats, rice, soybeans, sunflower seed for extraction of oil, wheat, and other commodities designated by CCC, the determination of eligibility will be based upon the Official U.S. Standards for Grain: U.S. Standards for Whole Dry Peas, Split Peas, and Lentils for dry peas and lentils; and the U.S. Standards for Beans for chickpeas, whether or not such determinations are made on the basis of an official inspection.

(5) With regard to hull-less barley, hull-less oats, mustard seed, rapeseed, safflower seed, flaxseed, and sunflower seed used for a purpose other than to extract oil, the determination of eligibility will be based on quality requirements established and announced by CCC, whether or not such determinations are made on the basis of

an official inspection. The costs of an official quality determination may be paid by CCC. The quality requirements that are used in administering marketing assistance loans and loan deficiency payments for the oilseeds in this paragraph are available in USDA State and county FSA service centers.

(6) With regard to farm-stored peanuts, the determination of eligibility will be determined at the time of delivery to CCC by a Federal or State Inspector authorized or licensed by the Secretary.

\* \* \* \* \*

■ 8. Amend § 1421.6 as follows:

- a. In paragraphs (b)(5), (c)(5), and (h)(2) remove the word “approved” and add, in its place, the word “authorized” each time it appears;
- b. In paragraph (a), revise the second sentence to read as set forth below;
- c. In paragraphs (b)(5) and (c)(5), add the words “feed or grain bank” immediately after the words “feed mill,” each time they appear;
- d. In paragraph (c)(5), remove the word “unapproved” and add, in its place, the word “unauthorized”;
- e. In paragraph (h)(1)(i), add the words “the earlier of receipt of any payment or” immediately before the word “once” and add the words “of the delivery requirements” immediately after the word “fulfillment”;
- f. In paragraph (h)(2), add the words “if CCC determines such a provision is required” before the period at the end; and
- g. In paragraph (i), remove the words “loan and” and add, in their place, the words “loan or” and remove the words “or payment” and add, in their place, the words “or LDP”.

§ 1421.6 Beneficial interest.

(a) \* \* \* For the purposes of this part, the term “beneficial interest” refers to a determination by CCC that a person has title to and control of the commodity that is tendered to CCC as collateral for a marketing assistance loan or of the commodity that will be used to determine a loan deficiency payment.

\* \* \* \* \*

§ 1421.7 [Amended]

- 9. Amend § 1421.7 as follows:
  - a. In paragraph (c), remove the words “a crop of a” and add, in their place, the words “an eligible”;
  - b. In paragraph (c)(1), add the words “crambe, sesame seed” immediately after the word “rapeseed,”;
  - c. In paragraph (c)(2), remove the word “small”; and
  - d. Remove paragraph (d).

§ 1421.8 [Amended]

- 10. Amend § 1421.8 as follows:
  - a. In paragraph (a)(2), remove the reference “§ 1421.106” and add, in its place, the references and words “§§ 1421.9, 1421.106, and 1421.107 as applicable”;
  - b. In paragraph (b)(1) introductory text, add the words “loan availability” immediately after the word “final”;
  - c. In paragraph (c)(1), remove the word “approved” and add, in its place, the word “authorized” each time it appears;
  - d. Remove paragraph (c)(2) and redesignate paragraph (c)(3) as (c)(2); and
  - e. In newly redesignated paragraph (c)(2), remove the words “an otherwise eligible commodity” in the last sentence and add, in their place, the words “otherwise eligible”.
- 11. Amend § 1421.9 as follows:
  - a. Revise paragraph (a) to read as set forth below;
  - b. In paragraph (b), remove the words “small chickpeas,” and add the words “chickpeas, crambe, sesame seed,” in their place, and remove the word “at” and add the word “to” in its place;
  - c. Revise paragraph (c) to read as set forth below; and
  - d. Add paragraphs (d) through (g) to read as set forth below.

§ 1421.9 Basic loan rates.

(a) Basic marketing assistance loan rates for a commodity may be established on a National, State, regional, county basis or other basis, will be at rates that comply with applicable statutes, and may be adjusted by CCC to reflect grade, type, quality, location and other factors applicable to the commodity and as otherwise provided in this section.

\* \* \* \* \*

(c)(1) Subject to adjustment under paragraph (g) of this section in case of forfeiture, for all 2009 through 2012 crop year commodities, except rice and peanuts, warehouse-stored loans will be disbursed at levels based on the basic county marketing assistance loan rate for the county where the commodity is stored. For the 2008 crop year only, warehouse-stored loans will be disbursed at levels based on the basic county marketing assistance loan rate for the county where the commodity is stored, adjusted for the schedule of premiums and discounts established for the commodity on the basis of grade, type, and quality factors set forth on warehouse receipts or supplemental certificates and for other factors, as determined and announced by CCC.

(2) Subject to adjustment under paragraph (g) of this section in case of



forfeiture, for 2009 through 2012 crop years rice, warehouse-stored loans will be disbursed at levels based on the milling yields times the whole and broken kernel marketing assistance loan rates. For the 2008 crop year of rice only, warehouse-stored loans will be disbursed at levels based on the milling yields times the whole and broken kernel marketing assistance loan rates, adjusted for the schedule of discounts on the basis of grade and quality factors set forth on warehouse receipts or supplemental certificates and for other factors, as determined and announced by CCC.

(3) For peanuts, warehouse-stored loans will be disbursed at levels based on National loan rates by peanut type, adjusted for the schedule of premiums and discounts on the basis of grade, quality, and other factors set forth on warehouse receipts.

(d) The Secretary will establish a single loan rate in each county for each kind of other oilseeds, such as but not limited to, sunflower, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds as designated by the Secretary.

(e) Adjustments by the Secretary to establish loan rates for loan commodities, except rice, on a county basis will not be lower than 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays. Adjustments in this section will not result in an increase in the national average loan rate for any year.

(f) For the 2009 through 2012 crops, producers on farms in the Acreage Crop Revenue Election program under part 1400 of this title will receive a 30 percent reduction in loan rate as established under this section for all loan commodities from the farm, except honey, wool, and mohair.

(g) For the 2009 through 2012 crop years, premiums and discounts will not be applicable for all eligible loan commodities, except for peanuts, at loan disbursement; however, premiums and discounts will apply if the eligible loan commodities are forfeited and delivered to CCC and any deficiency must be repaid to CCC.

■ 12. Revise § 1421.10 to read as follows:

**§ 1421.10 Loan repayment rates.**

(a) For the 2008 through 2012 crops of barley, corn, grain sorghum, oats, wheat, dry peas, lentils, chickpeas, oilseeds, wool, mohair, and other crops as designated by CCC (other than peanuts, long grain rice, medium grain rice, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)), a producer may repay

a nonrecourse marketing assistance loan at a rate that is the lesser of:

(1) The loan rate established for the commodity under § 1421.9, plus interest;

(2) A rate (as determined by the Secretary) that is calculated based on average market prices for the loan commodity during a preceding 30-day period and that the Secretary has determined will minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries; or

(3) A rate that the Secretary may develop using alternative methods for calculating a repayment rate for a loan commodity that the Secretary determines will: Minimize potential loan forfeitures; minimize the accumulation of stocks of the commodity by the Federal Government; minimize the cost incurred by the Federal Government in storing the commodity; allow the commodity produced in the U.S. to be marketed freely and competitively, both domestically and internationally; and minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) To the extent practicable, CCC will determine and announce repayment rates under paragraphs (a)(2) and (a)(3) of this section based upon market prices at appropriate U.S. markets as determined by CCC and these repayment rates may be adjusted to reflect grade, type, quality, location, and other factors for each crop of a commodity as follows:

(1) On a weekly basis in each county for oilseeds, except canola, flaxseed, soybeans, and sunflower seed;

(2) On a daily basis in each county for barley, canola, corn, flaxseed, grain sorghum, oats, soybeans, sunflower seed and wheat; and

(3) On a weekly basis regionally for dry peas, lentils, chickpeas, wool and mohair.

(c)(1) For the 2008 through 2012 crops of peanuts, a producer may repay a nonrecourse loan at a rate that is the lesser of:

(i) The loan rate established for the commodity under § 1421.9, plus interest; or

(ii) A rate that the Secretary determines will: Minimize potential loan forfeitures; minimize the accumulation of stocks of the commodity by the Federal Government; minimize the cost incurred by the Federal Government in storing the commodity; and allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) To the extent practicable, CCC will determine and announce weekly alternative repayment rates for peanuts.

(d) For the 2008 through 2012 crop of peanuts, the Secretary will require the repayment of handling and other associated costs paid under § 1421.104 for all peanuts pledged as collateral for a loan that are redeemed under this section.

(e) The Secretary will permit producers to repay a marketing assistance loan for long grain rice and medium grain rice at a rate that is the lesser of:

(1) The loan rate established for the commodity under § 1421.9, plus interest; or

(2) The prevailing world market price for the commodity, as determined and adjusted by the Secretary in accordance with this section.

(f) For purposes of this section, the Secretary will prescribe—

(1) A formula to determine the prevailing world market price for long grain rice and medium grain rice and

(2) A mechanism by which the Secretary will announce periodically those prevailing world market prices.

(g) Adjustments will be made to the prevailing world market price for long grain rice and medium grain rice.

(1) The prevailing world market price for long grain and medium rice determined under paragraph (f) of this section will be adjusted to U.S. quality and location.

(2) In making adjustments under this subsection, the Secretary will establish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the U.S. market.

(h)(1) The prevailing world market price for a class of rice will be determined by CCC based upon a review of prices at which rice is being sold in world markets and a weighting of such prices through the use of information such as changes in supply and demand of rice, tender offers, credit concessions, barter sales, government-to-government sales, special processing costs for coatings or premixes, and other relevant price indicators, and will be expressed in U.S. equivalent values F.O.B. (free on board) vessel, U.S. port of export, per hundredweight as follows:

(i) U.S. grade No. 2, 4 percent broken kernels, long grain milled rice;

(ii) U.S. grade No. 2, 4 percent broken kernels, medium grain milled rice; and

(iii) U.S. grade No. 2, 4 percent broken kernels, short grain milled rice.

(2) Export transactions involving rice and all other related market information will be monitored on a continuous basis. Relevant information may be

obtained for this purpose from USDA field reports, international organizations, public or private research entities, international rice brokers, and other sources of reliable information.

(3) The prevailing world market price for a class of rice adjusted to U.S. quality and location, the adjusted world price (AWP), as determined under paragraph (h)(5) of this section, will apply to this section.

(4) The adjusted world price for each class of rice will equal the prevailing world market price for a class of rice (U.S. equivalent value) as determined under paragraphs (h)(1) and (h)(2) of this section and adjusted to U.S. quality and location as follows:

(i) The prevailing world market price for a class of rice will be adjusted to reflect an F.O.B. mill position by deducting from such calculated price an amount that is equal to the estimated national average costs associated with:

(A) The use of bags for the export of U.S. rice, and

(B) The transfer of such rice from a mill location to F.O.B. vessel at the U.S. port of export with such costs including, but not limited to, freight, unloading, wharfage, insurance, inspection, fumigation, stevedoring, interest, banking charges, storage, and administrative costs.

(ii) The price determined under paragraph (h)(4)(i) of this section will be adjusted to reflect the market value of the total quantity of whole kernels contained in milled rice by deducting the world value of broken kernels it contains, with the value of the broken kernels determined by multiplying a formulaic quantity of broken kernels (4 percent per hundredweight) by the world market value of broken kernels. The world market value of broken kernels will be based upon the relationship of whole and broken kernel world prices as estimated from observations of prices at which rice is being sold in world markets.

(iii) The price determined under paragraph (h)(4)(ii) of this section will be adjusted to reflect the per-pound market value of whole kernels by dividing the price by the quantity of whole milled kernels contained in the milled rice (96 percent per hundredweight).

(iv) The price determined under paragraph (h)(4)(iii) of this section will be adjusted to reflect the market value of whole kernels contained in 100 pounds of rough rice by multiplying such price by the estimated national average quantity of whole kernel rice by class obtained from milling 100 pounds of rough rice.

(v) The price determined under paragraph (h)(4)(iv) of this section will be adjusted to reflect the total market value of rough rice by:

(A) Adding to such price:

(1) The market value of bran contained in the rough rice, computed by multiplying the domestic unit market value of bran by the estimated national average quantity of bran produced in milling 100 pounds of rice; and

(2) The market value of broken kernels contained in the rough rice, computed by multiplying the estimated world market value of broken kernels by the estimated national average quantity of broken kernels produced in milling 100 pounds of rice;

(B) Deducting from such price an estimated cost of milling rough rice; and an estimated cost of transporting rough rice from farm to mill locations.

(5) The adjusted world price for each class of rice, loan rate basis, will be determined by CCC and announced, to the extent practicable, on or after 7 a.m. Eastern Standard Time each Wednesday or more frequently as determined necessary by CCC, continuing through the later of:

(i) The last Wednesday of July in the year in which the crop rice loan matures;

(ii) The last Wednesday of the latest month the crop rice loans mature, or

(iii) In the event that Tuesday is not a normal business day, the determination may be made on the next work day, on or after 7 a.m. Eastern Standard Time.

(i) The producer may repay a marketing assistance loan under this section for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of:

(1) The loan rate established for the commodity under § 1421.9, plus interest, or

(2) The repayment rate established for oil sunflower seed.

(j)(1) On a form prescribed by CCC, a producer may request to lock in the applicable repayment rate for a period of 60 calendar days or for the remaining life of the loan term, whichever is less, provided that no request may be granted within 14 calendar days of the end of the loan.

(2) The request to lock in the applicable repayment rate must be received in the FSA county service center that disbursed the loan.

(3) The repayment rate that is locked in will be the rate in effect when the request to lock in is approved.

(4) The repayment rate may be locked in on outstanding farm-stored or warehouse-stored loans.

(5) The repayment rate that is locked in will expire as provided in paragraph (j)(1) of this section.

(6) The requests can only be completed one time for a designated quantity.

(7) The requests can be made in person or by facsimile.

(8) The requests cannot be canceled, terminated, or changed after approval.

(9) The locked in applicable repayment rate will not transfer to any loan disbursed outside of the originating county where the commodity was stored.

(10) Once a repayment rate is locked in it cannot be extended.

(k) If a producer fails to repay a marketing assistance loan within the time prescribed by CCC under the terms and conditions of the request to lock in a market loan repayment rate, the producer may repay the loan:

(1) On or before maturity, at the lesser of:

(i) Principal plus interest as determined by CCC; or

(ii) The repayment rate in effect on the day the repayment is received in the FSA County Service Center.

(2) After maturity, at principal plus interest.

(l) When the proceeds of the sale of the commodity are needed to repay all or a part of a farm-stored loan, the producer must request and obtain prior written approval on a CCC-approved form and comply with the terms and conditions of such form, to remove a specified quantity of the commodity from storage. Approval does not constitute release of CCC's security interest in the commodity or release of producer liability for amounts due CCC for the marketing assistance loan indebtedness if payment in full is not received by the county office. Failure to repay a marketing assistance loan within the time period prescribed by CCC in the case of a farm-stored loan and delivery of the pledged collateral to a buyer is a violation of the agreement. In the case of such violation, the producer must repay the loan principal and interest or another amount as determined by the Deputy Administrator, FSA, as specified in § 1421.109.

(m) The producer may obtain county committee approval of a release of all or part of pledged collateral for a warehouse-stored loan at or before the maturity of such loan by paying to CCC:

(1) The principal amount of the marketing assistance loan and charges plus interest or

(2) An amount less than the principal amount of the marketing assistance loan and charges plus interest under the

terms and conditions specified by CCC at the time the producer redeems the collateral for such loan.

(n) A partial release of marketing assistance loan collateral must cover all of the commodity represented by one warehouse receipt. Warehouse receipts redeemed by repayment of the marketing assistance loan must be released only to the producer. However, such receipt may be released to persons designated in a written authorization that is filed with the county office by the producer within 15 days before the date of repayment.

(o) The note and security agreement will not be released until the marketing assistance loan has been satisfied in full.

(p)(1) If the commodity is moved from storage without obtaining prior approval to move such commodity, such removal will constitute unauthorized removal or disposition, as applicable under § 1421.109(b), unless the removal occurred on a non-workday and the producer notified the county office on the next workday of such removal.

(2) Any loan quantities involved in a violation of § 1421.109 must be repaid under § 1421.109(e).

(q) In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans. Any adjustment made to the repayment rate for marketing assistance loans for a loan commodity under § 1421.5 will be in effect on a short-term and temporary basis, as determined by the Secretary.

■ 13. Amend § 1421.13 as follows:

- a. Revise the heading to read as set forth below;
- b. Remove paragraph (a);
- c. Redesignate paragraph (b) as paragraph (a); and
- d. In newly designated paragraph (a)(2), remove the word “is” and add the word “are” in its place.

§ 1421.13 Special loan deficiency payments.

\* \* \* \* \*

§ 1421.101 [Amended]

- 14. Amend § 1421.101 paragraph (a)(1) first sentence by removing the word “approved” and adding the word “disbursed” in its place.

§ 1421.102 [Amended]

- 15. Amend § 1421.102 as follows:
  - a. In paragraph (a)(2)(ii), remove the words “average marketing assistance”;
  - b. In paragraph (a)(3), remove the word “base”;
  - c. In paragraph (a)(4), remove the words “marketing assistance”.

■ 16. Amend § 1421.103 as follows:

- a. Revise the heading to read as set forth below;
- b. In paragraph (a) introductory text, remove the word “Approved” and add the word “Authorized” in its place;
- c. In paragraph (a)(3), remove the word “approved” and add the word “authorized” in its place; and
- d. Revise paragraph (c) to read as set forth below.

§ 1421.103 Authorized storage.

\* \* \* \* \*

(c)(1) Authorized warehouse storage consists of warehouses that:

- (i) If Federally licensed, are in compliance with 7 CFR part 735 or
- (ii) If not Federally licensed, are in compliance with State laws and that issue warehouse receipts that meet the criteria specified in § 1421.107.
- (iii) If not Federally licensed or in compliance with State Laws and issue warehouse receipts that meet the criteria specified in § 1421.107, have entered into a storage agreement with CCC.

(2) Notwithstanding paragraph (c)(1) of this section, if storing peanuts, the warehouse must in all cases have entered into a storage agreement with CCC. For storing other crops, notwithstanding paragraph (c)(1) of this section, CCC may, on a case-by-case basis, still require a warehouse operator that would qualify under paragraphs (c)(1)(i) or (ii) of this section to enter into a storage agreement if deemed necessary by the Deputy Administrator to be needed to protect CCC’s interests.

■ 17. Amend § 1421.104 as follows:

- a. In paragraph (a)(1), remove the amount “\$25,000,” each time it appears, and add the amount “\$50,000,” in its place;
- b. Revise paragraph (b), introductory text, to read as set forth below;
- c. In paragraph (b)(2), remove the semicolon at the end of the sentence and replace it with a period;
- d. Remove paragraph (b)(3); and
- e. Revise paragraph (c) to read as set forth below.

§ 1421.104 Marketing assistance loan making.

\* \* \* \* \*

(b) Fees, charges, interest, and all applicable approved commodity assessment collections must be paid by the producer to CCC at a rate CCC determines or, in the case of assessments, at a rate approved by the assessment authority. Such fees, charges, and interest include:

\* \* \* \* \*

(c) For the 2008 through 2012 crop years, to ensure proper storage of peanuts for which a loan is made under

this section, the Secretary will pay reasonable handling and other associated costs (other than storage) incurred at the time at which the peanuts are placed in a warehouse stored loan. Such rates will be available in the State and county FSA offices.

\* \* \* \* \*  
§ 1421.106 [Amended]

■ 18. Amend § 1421.106 as follows:

- a. In paragraph (d) in the first sentence, remove the words “Handling and storage” and add the word “Storage” in their place; and
- b. Remove paragraph (g).
- 19. Amend § 1421.107 as follows:
  - a. In paragraph (b) in the third sentence, remove the word “approved” and add the word “authorized” in its place;
  - b. In paragraph (d), remove the words “approved warehouse that has a storage agreement with CCC shall,” add the words “authorized warehouse must” in their place, and remove the words “under such agreement”;
  - c. In paragraph (g)(1) introductory text, remove the words “the applicable CCC storage agreement or”;
  - d. In paragraph (g)(1)(ii), remove the word “CCC” and add, in its place, the words “licensing authority”;
  - e. In paragraph (h)(2)(i), remove the reference “(g)(2)(iv)” and add, in its place, a reference “(h)(2)(iv)”;
  - f. In paragraph (h)(2)(ii), remove the reference “(g)(2)(i)” and add, in its place, a reference “(h)(2)(i)”;
  - g. In paragraph (h)(2)(iv) introductory text, remove the reference “(g)(2)(iii)” and add, in its place, a reference “(h)(2)(iii)”;
  - h. In paragraph (h)(2)(iv)(A)(7), remove the word “percent” and add, in its place, the word “percent”;
  - i. Revise the first sentence of paragraph (i)(2) to read as set forth below; and
  - j. In paragraph (j), remove the reference “paragraph (f)” and add in its place the reference “paragraph (g)”.

§ 1421.107 Warehouse receipts.

\* \* \* \* \*

- (i) \* \* \*
- (2) Warehouse receipts and the commodities represented by such receipts may be subject to a lien for warehouse charges. \* \* \*

§ 1421.108 [Amended]

- 20. Amend § 1421.108 as follows:
  - a. In paragraph (c) in the first sentence, remove the words “CCC-approved” and add in their place the word “authorized”;

- b. In paragraph (c), third sentence, remove the word “to” the second time it appears.
- 21. Amend § 1421.109 as follows:
  - a. In paragraph (a)(2), add the words “in accordance with § 1421.10” before the period at the end;
  - b. In paragraph (a)(3), add a new sentence at the end to read as set forth below;
  - c. Revise paragraph (b), introductory text, to read as set forth below;
  - d. In paragraph (c), remove the first sentence and the words “Accordingly, if” and add the word “If” in their place;
  - e. In paragraphs (e) and (f) introductory text remove the word “commensurate” and add, in its place, the word “equivalent”;
  - f. In paragraph (h) add a new sentence at the end to read as set forth below;
  - g. In paragraph (i)(1), add the word “sufficient” immediately before the word “evidence”;
  - h. In paragraph (j), remove the word “lower”;
  - i. Revise paragraph (k), introductory text, to read as set forth below;
  - j. In paragraph (p), remove the phrases “or loan deficiency payments” and “or loan deficiency payment application”; and
  - k. Revise paragraph (q) to read as set forth below.

**§ 1421.109 Personal liability of the producer.**

- (a) \* \* \*
- (3) \* \* \* If CCC determines that the producer has violated the terms and conditions of the applicable forms prescribed by CCC, liquidated damages will be assessed on the quantity of the commodity that is involved in the violation.
- (b) Such violations as referred to in paragraph (a)(3) of this section may include, but are not limited to:
  - \* \* \* \* \*
- (h) \* \* \* CCC will demand delivery of any remaining loan collateral if not repaid within the 30 calendar day notification period.
  - \* \* \* \* \*
- (k) Producers denied or rejected for a farm-stored loan for any reason under this section may apply for a warehouse-stored loan.
  - \* \* \* \* \*
- (q) Any or all of the liquidated damages assessed under this section may be waived if the CCC determines that the violation occurred inadvertently, accidentally, or unintentionally.

**§ 1421.110 [Removed]**  
 §§ 1421.111 through 1421.114  
 [Redesignated as §§ 1421.110 through 1421.113]

- 22. Remove § 1421.110 and redesignate §§ 1421.111 through 1421.114 as §§ 1421.110 through 1421.113 respectively.
- 23. Amend newly designated § 1421.110 as follows:
  - a. In paragraph (a), add the words “for the 2008 and 2009 crop years” immediately after the words “outstanding marketing assistance loan”;
  - b. In paragraph (b) introductory text, remove the word “lessor” and adding in its place the word “lesser”;
  - c. In paragraph (c), remove the reference to “§ 1421.110” and add, in its place, a reference to “§ 1421.10”; and
  - d. Add paragraph (e) to read as set forth below.

**§ 1421.110 Commodity exchange certificates.**

- \* \* \* \* \*
- (e) The authority to make commodity certificates available to the producer will terminate effective the ending of the 2009 crop year.
- 24. Amend newly designated § 1421.111 as follows:
  - a. Revise paragraph (b) to read as set forth below;
  - b. In paragraphs (c) introductory text, (c)(1), and (c)(2) remove the word “approved” and add, in its place, the word “authorized” each time it appears.
  - c. Redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as set forth below; and
  - d. Add paragraph (f) to read as set forth below.

**§ 1421.111 Loan settlement.**

- \* \* \* \* \*
- (b) Settlements made by CCC for eligible commodities that are acquired by CCC and that are stored in an authorized warehouse will be made on the basis of the entries in the applicable warehouse receipt, supplemental certificate, and accompanying documents.
  - (1) All eligible commodities that are stored in other than authorized warehouses must be delivered to CCC as CCC instructs. Settlement will be based on entries in the applicable warehouse receipt, supplemental certificate, and accompanying documents.
  - (2) For eligible loan commodities that are delivered from other than an authorized warehouse, settlement will be made by CCC on the basis of the basic marketing assistance loan rate that is in effect for the commodity at the

producer’s customary delivery point, as determined by CCC.

\* \* \* \* \*

(d) For peanuts forfeited to CCC, the Secretary will pay reasonable storage, handling, and other associated costs for all peanuts pledged as collateral that are forfeited under this section.

\* \* \* \* \*

(f) Beginning with the 2009 through 2012 crop years, premiums and discounts will apply to all eligible loan commodities forfeited and delivered to CCC. This will not require any additional adjustment for peanuts to the extent that such premiums and discounts were accounted for when the loan was made.

**§ 1421.112 [Amended]**

- 25. In newly designated § 1421.112, amend paragraph (b)(1) by removing the reference to “§ 1421.112” and adding, in its place, a reference to “§ 1421.111”.

**§ 1421.113 [Amended]**

- 26. In newly designated § 1421.113, amend paragraph (b) by adding the words “at principal plus interest” immediately after the word “full”.
- 27. Amend § 1421.200 by revising paragraph (c)(1) to read as follows:

**§ 1421.200 Applicability.**

\* \* \* \* \*

(c)(1) A producer must submit to the FSA Service Center a completed request for a loan deficiency payment on forms prescribed by CCC. This submission must be received on or before the date beneficial interest is lost in the commodity and before the final loan availability date for the commodity. Such completed and submitted forms indicate the producer’s intentions and further provide the terms and conditions of the loan deficiency payment program. If all or any of the provisions of this paragraph are not met by the producer, the producer may not obtain the loan deficiency payment benefit.

\* \* \* \* \*

- 28. Amend § 1421.201 as follows:
  - a. Revise paragraph (b), introductory text, to read as set forth below;
  - b. Remove paragraphs (b)(1) and (b)(2), and (b)(3) introductory text; and
  - c. Redesignate paragraphs (b)(3)(i), (ii), and (iii) as (b)(1), (2) and (3), respectively.

**§ 1421.201 Loan deficiency payment rate.**

\* \* \* \* \*

(b) The loan deficiency payment rate will be the rate in effect in the county

where the commodity was marketed or stored on the date:

\* \* \* \* \*

**§ 1421.202 [Amended]**

■ 29. Amend § 1421.202 paragraph (c) by removing the words “approved or unapproved” and adding, in their place, the words “authorized or unauthorized”.

**§ 1421.203 [Amended]**

■ 30. Amend § 1421.203 as follows:

- a. Amend paragraph (a)(1) by removing the words “in determining” and adding, in their place, the words “when determining eligibility for”;
- b. Amend paragraph (a)(2) by removing the words “eligible, if” and adding in their place the words “eligible. If”;
- c. Amend paragraph (c)(1) in the first sentence by removing the words “in accordance with,” and adding in its place, the words “according to” and in the last sentence by adding the words “any other” immediately before the word “charges”;
- d. Amend paragraph (c)(2) by adding the words “any other” immediately before the word “charges”;
- e. Amend paragraph (d) by removing the words “taken applicable” and adding, in its place, the words “assessed according”;
- f. Amend paragraph (f)(1) by adding the word “sufficient” immediately after the word “provide”; and
- g. Amend paragraph (g) by removing the word “charges” and adding, in its place, the words “liquidated damages”.

**Subpart D—Grazing Payments for the 2008 Through 2012 Crop of Wheat, Barley, Oats, and Triticale**

■ 31. The heading of subpart D is revised to read as shown above.

**§ 1421.300 [Amended]**

■ 32. Amend § 1421.300 in paragraph (a), first sentence, by removing the years “2002–2007” and adding, in their place, the years “2008 through 2012”.

**§ 1421.302 [Removed]**

**§§ 1421.303 through 1421.307 [Redesignated as §§ 1421.302 through 1421.306]**

■ 33. Remove § 1421.302 and redesignate §§ 1421.303 through 1421.307 as §§ 1421.302 through 1421.306.

**§ 1421.302 [Amended]**

■ 34. Amend newly redesignated § 1421.302 as follows:

- a. Amend paragraph (a), first sentence, by removing the years “2002 through

2007” and adding, in their place, the years “2008 through 2012” and in the third sentence by removing the words “the risk of loss in” and adding, in their place, the words “control and title of”;

■ b. Amend paragraph (e)(2) by removing the words “control, title, and risk of loss in” and adding, in their place, the words “control and title of”; and

■ c. Amend paragraph (f) by removing the years “2002–2007” and adding, in their place, the years “2008 through 2012”.

■ 35. Amend newly redesignated § 1421.304 as follows:

- a. In paragraph (a) revise the second sentence to read as set forth below;
- b. In paragraph (d), last sentence, remove the extra space before the comma “,” in the last sentence immediately after the phrase “otherwise be due”;
- c. In paragraph (e), second sentence, remove the word “The” immediately before the word “CCC”;
- d. In paragraph (f), remove the words “of the applicable crop year” and add, in their place, the words “of the calendar year following the year the crop is normally harvested”;
- e. In paragraph (g), add the word “be” immediately before the word “ineligible” and remove the word “the” immediately before the word “CCC”; and
- f. Remove paragraph (h).

**§ 1421.304 Payment amount.**

(a) \* \* \* For triticale, the grazing rate will be equal to the loan deficiency payment rate in effect for the predominant class of wheat in the county where the farm is located as of the date the application is filed.

\* \* \* \* \*

**§ 1421.306 [Amended]**

■ 36. Amend newly redesignated § 1421.306 as follows:

- a. In paragraph (a), remove the words “or this subpart” and add, in their place, the words “of this subpart,” and remove the words “late-payments” and add, in their place, the words “late-payment”;
- b. In paragraph (c), first sentence, remove the words “required of the producer” and add, in their place, the words “required from the producer”; and
- c. In paragraph (d), remove the words “7 CFR part 1403” and add, in their place, the words “part 1403 of this chapter”.

**Subpart E—[Amended]**

■ 37. Amend Subpart E as follows:

■ a. Remove the word “DMA’s” and add, in its place, the word “DMAs” each time it appears;

■ b. Remove the word “MAL’s” and add, in its place, the word “MALs,” each time it appears;

■ c. Remove the word “LDP’s” and add, in its place, the word “LDPs,” each time it appears; and

■ d. Remove the word “EWR’s” and add, in its place, the word “EWRs,” each time it appears.

**§ 1421.400 [Amended]**

■ 38. Amend § 1421.400 as follows:

- a. In paragraph (a), remove the last sentence; and
- b. Remove and reserve paragraph (b).

**§ 1421.401 [Removed]**

**§§ 1421.402 through 1421.418 [Redesignated as §§ 1421.401 through 1421.417]**

■ 39. Remove § 1421.401 and redesignate §§ 1421.402 through 1421.418 as §§ 1421.401 through 1421.417, respectively.

■ 40. Amend newly redesignated § 1421.401 by removing the word “theFederal” in paragraph (b)(1) and adding, in its place, the words “the Federal”.

■ 41. Amend newly redesignated § 1421.409 by adding a sentence to the end of the section to read as follows:

**§ 1421.409 Monitoring and payment limitations.**

\* \* \* Payment limitations are not applicable for the 2009 through 2012 crop years.

**§ 1421.419 [Removed]**

**§§ 1421.420 through 1421.423 [Redesignated as §§ 1421.418 through 1421.420]**

■ 42. Remove § 1421.419 and redesignate §§ 1421.420 through 1421.423 as §§ 1421.418 through 1421.421, respectively.

**Subpart F—[Removed]**

■ 43. Remove subpart F.

**PART 1434—NONRECOURSE MARKETING ASSISTANCE LOANS AND LDP REGULATIONS FOR HONEY**

■ 44. Revise the authority citation for part 1434 to read as follows:

**Authority:** 7 U.S.C. 7931 and Public Law 110–246.

■ 45. Revise § 1434.1 to read as set forth below:

**§ 1434.1 Applicability.**

(a) This part provides the terms and conditions of Commodity Credit

Corporation (CCC) nonrecourse marketing assistance loans or loan deficiency payments for honey for the 2008 through 2012 crop years. Marketing loan gains and loan deficiency payments for the 2008 crop will be limited to the payment limitation rules applicable to the 2008 crop. Beginning with the 2009 crop year, there will not be payment limits on marketing loan gains and loan deficiency payments.

(b) Producers must comply with all provisions of this part and part 1421 of this chapter.

■ 46. Amend § 1434.6 as follows:

■ a. Remove paragraph (b) and redesignate paragraphs (c) through (e) as paragraphs (b) through (d), respectively;

■ b. In newly redesignated paragraph (b) introductory text, remove the words “control, title, and risk of loss in” and add, in their place, the words “title and control of”;

■ c. Revise newly redesignated paragraph (b)(1) to read as set forth below; and

■ d. In newly redesignated paragraph (b)(2), remove the words “risk of loss,”.

**§ 1434.6 Beneficial interest.**

\* \* \* \* \*

(b) \* \* \*

(1) Executes an option to purchase, whether or not a payment is made by the potential buyer for such option to purchase, with respect to such honey if all other eligibility requirements are met and the option to purchase contains the following provision:

“Notwithstanding any other provision of this option to purchase or any other contract, title and control of the honey and beneficial interest in the honey, as specified in 7 CFR 1434.6, must remain with the producer until the buyer exercises this option to purchase the honey. This option to purchase will 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 (CCC) loan which is secured by such honey;

(2) The date the CCC claims title to such honey; or

(3) Such other date as provided in this option.”

\* \* \* \* \*

■ 47. Amend § 1434.15 as follows:

■ a. Revise the section heading to read as set forth below;

■ b. Revise paragraph (c)(1) to read as set forth below; and

■ c. In paragraph (c)(2), remove the words “25 percent” and add, in their place, the words “10 percent”.

**§ 1434.15 Personal liability.**

\* \* \* \* \*

(c) \* \* \*

(1) Acted in good faith when the violation occurred, liquidated damages will be assessed by multiplying the quantity involved in the violation by 10 percent of the loan rate applicable to the loan note for each offense.

\* \* \* \* \*

■ 48. Amend § 1434.18 as follows:

■ a. In paragraph (a), add the words “during the loan period” immediately after the word “loan”; and

■ b. Add paragraph (a)(3) to read as set forth below.

**§ 1434.18 Loan repayments.**

(a) \* \* \*

(3) In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans. Any adjustment made to the repayment rate for marketing assistance loans for honey under this part will be in effect on a short-term and temporary basis, as determined by the Secretary.

\* \* \* \* \*

**§ 1434.21 [Amended]**

■ 49. Amend § 1434.21(a) by removing the years “2002–2007” and adding, in their place, the words “2008 through 2012”.

**§ 1434.22 [Removed]**

**§ 1434.23 [Redesignated as § 1434.22]**

■ 50. Remove § 1434.22 and redesignate § 1434.23 as § 1434.22.

Signed in Washington, DC, on March 31, 2009.

**Dennis J. Taitano,**

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. E9–7644 Filed 4–6–09; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Part 24**

[Docket ID OCC–2009–0006]

RIN 1557–AD12

**Community and Economic Development Entities, Community Development Projects, and Other Public Welfare Investments**

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is adopting in

final form and without change the interim final rule, issued on August 11, 2008, which implemented the statutory change to national banks’ community development investment authority made in the Housing and Economic Recovery Act of 2008 (HERA). The OCC also is revising Appendix 1 to part 24, the CD–1 National Bank Community Development (Part 24) Investments Form, to make technical changes that are consistent with the HERA provision and the revised regulation. Section 2503 of the HERA revised the community development investment authority in section 24(Eleventh) to restore a national bank’s authority to make investments designed primarily to promote the public welfare.

**DATES:** *Effective Date:* April 7, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Stephen Van Meter, Assistant Director, Community and Consumer Law Division, (202) 874–5750; Michele Meyer, Assistant Director, Patrick T. Tierney, Senior Attorney, or Rebecca Smith, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:**

**Background**

*Introduction*

The Financial Services Regulatory Relief Act of 2006 (FSRRA)<sup>1</sup> made a number of changes to 12 U.S.C. 24(Eleventh), the statute that authorizes national banks’ community development investments.<sup>2</sup> Prior to its amendment by the FSRRA, 12 U.S.C. 24(Eleventh) authorized a national bank “[t]o make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs)” (the public welfare test). The FSRRA, among other things, narrowed the grant of authority in section 24(Eleventh) by providing that a national bank may “make investments directly or indirectly, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing housing, services, or jobs).”<sup>3</sup> On April 24, 2008, the OCC issued a final rule that implemented the

<sup>1</sup> Public Law 109–351, 120 Stat. 1966 (Oct. 13, 2006).

<sup>2</sup> See 12 CFR part 24 (2008) (implementing 12 U.S.C. 24(Eleventh)).

<sup>3</sup> Public Law 109–351, § 305, 120 Stat. at 1970–71 (emphasis added).