

§ 1427.1081

7 CFR Ch. XIV (1-1-07 Edition)

(2) Did not act in good faith about the violation, or for cases other than first or second offense, liquidated damages will be assessed by multiplying the quantity involved in the violation by 25 percent of the loan rate applicable to the loan note.

(f) For first and second offenses, if CCC or the county committee determines that a producer acted in good faith when the violation occurred, the county committee shall:

(1) Require repayment of the loan principal applicable to the loan quantity affected by the violation, and charges plus interest applicable to the amount repaid;

(2) Assess liquidated damages under paragraph (e) of this section; and

(3) If the producer fails to pay such amount within 30 calendar days from the date of notification, call the applicable loan involved in the violation.

(g) For cases other than first or second offenses, or any offense for which CCC or the county committee cannot determine good faith when the violation occurred, the county committee shall:

(1) Assess liquidated damages under paragraph (e) of this section;

(2) Call the applicable loan involved in the violation.

(h) If CCC or the county committee determines that the producer has committed a violation under paragraph (e) of this section, the county committee shall notify the producer in writing that:

(1) The producer has 30 calendar days to provide evidence and information to the county committee regarding the circumstances which caused the violation, and

(2) Administrative actions will be taken under paragraphs (f) or (g) of this section.

(i) Any or all of the liquidated damages assessed under the provision of paragraph (e) of this section may be waived as determined by CCC.

Subpart E—Standards for Approval of Warehouses for Cotton and Cotton Linters

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended, 1072, as amended (15 U.S.C. 714 b and c).

SOURCE: 44 FR 67085, Nov. 23, 1979, unless otherwise noted.

§ 1427.1081 General statement and administration.

(a) This subpart prescribes the requirements which must be met and the procedures which must be followed by a warehouseman in the United States or Puerto Rico who desires the approval by the Commodity Credit Corporation (hereinafter referred to as "CCC") of warehouse(s) for the storage and handling of cotton and cotton linters, under a Cotton Storage Agreement, which are owned by CCC or held by CCC as security for price support loans. This subpart is not applicable to cotton or cotton linters purchased in storage for prompt shipment or to handling operations of a temporary nature.

(b) Copies of the CCC storage agreement and forms required for obtaining approval under this subpart may be obtained from the Kansas City Commodity Office, U.S. Department of Agriculture, P.O. Box 205, Kansas City, Missouri 64141 (hereinafter referred to as the "KCCO").

(c) A warehouse must be approved by the KCCO and a storage agreement must be in effect between CCC and the warehouseman before CCC will use such warehouse. The approval of a warehouse or the entering into of a storage agreement does not constitute a commitment that CCC will use the warehouse, and no official or employee of the U.S. Department of Agriculture is authorized to make any such commitment.

(d) A warehouseman, when applying for approval under this subpart shall submit to CCC at KCCO:

(1) A completed Form CCC-49, "Application for Approval of Warehouse for Storage of Cotton and/or Cotton Linters,"

(2) A current financial statement on Form WA-51, "Financial Statement", supported by such supplemental schedules as CCC may request. Financial statements may be submitted on forms other than Form WA-51 with approval of the Director, KCCO, or the Director's designee. Financial statements shall show the financial condition of the warehouseman as of a date no earlier than ninety (90) days prior to the

date of the warehouseman's application, or such other date as CCC may prescribe. Additional financial statements shall be furnished annually and at such other times as CCC may require. CCC also may require that financial statements prepared by the warehouseman or by a public accountant be examined by an independent certified public accountant in accordance with generally accepted auditing standards. Only one financial statement is required for a chain of warehouses owned or operated by a single business entity. If approved by the Director, KCCO, or the Director's designee, the financial statement of a parent company, which includes the financial position of a wholly-owned subsidiary, may be used to meet the CCC standards for approval for the wholly-owned subsidiary.

(3) Evidence that the warehouseman is licensed by the appropriate licensing authority as required under §1427.1082(a)(2) and such other documents or information as CCC may require.

(4) For warehouseman not operating under the U.S. Warehouse Act, a sample copy of the warehouseman's receipts and bale tags, and

(5) Evidence of applicable fire insurance rates.

[44 FR 67085, Nov. 23, 1979, as amended by Amdt. 3, 50 FR 16454, Apr. 26, 1985]

§ 1427.1082 Basic standards.

Unless otherwise provided in this subpart, each warehouseman and each of the warehouses owned or operated by such warehouseman for which CCC approval is sought for the storage or handling of CCC-owned or -loan commodities shall meet the following standards:

(a) The warehouseman shall:

(1) Be an individual, partnership, corporation, association, or other legal entity engaged in the business of storing or handling for hire, or both, the applicable commodity. The warehouseman, if a corporation, shall be authorized by its charter to engage in such business.

(2) Have a current and valid license for the kind of storage operation for which the warehouseman seeks approval if such a license is required by State or local laws or regulations.

(3) Have a net worth which is the greater of \$25,000 or the amount which results from multiplying the maximum storage capacity of the warehouse (the total number of bales of cotton or cotton linters which the warehouse can accommodate when stored in the customary manner) times ten (10) dollars per bale. The net worth need not exceed \$250,000. If the calculated net worth exceeds \$25,000, the warehouseman may satisfy any deficiency in net worth between the \$25,000 minimum requirement and such calculated net worth by furnishing bond (or acceptable substitute security) meeting the requirements of §1427.1083.

(4) Have available sufficient funds to meet ordinary operating expenses.

(5) Have satisfactorily corrected, upon request by CCC, any deficiencies in the performance of any storage agreement with CCC.

(6) Maintain accurate and complete inventory and operating records.

(7) Use only card type warehouse receipts which are pre-numbered and pre-punched or such other document as CCC may prescribe.

(8) Have available at the warehouse adequate and operable firefighting equipment for the type of warehouse and applicable stored commodity, and

(9) Have a work force and equipment available to provide adequate storage and handling service.

(b) The warehouseman, officials, or supervisory employees of the warehouseman in charge of the warehouse operation shall have the necessary experience, organization, technical qualifications, and skills in the warehousing business regarding the applicable commodities to enable them to provide proper storage and handling services.

(c) Warehouseman, officials and each of the supervisory employees of the warehouseman in charge of the warehouse operation shall:

(1) Have a satisfactory record of integrity, judgment, and performance, and

(2) Be neither suspended nor debarred under applicable CCC suspension and debarment regulations.

(d) The warehouse shall:

(1) Be of sound construction, in good state of repair, and adequately