

§ 1427.1201

(2) The LFQ, determined in accordance with §1427.1207, is less than 134 percent of the current crop year loan level for the ELS cotton grade 3, staple 44, micronaire 3.5 or higher.

(c) Additional terms and conditions may be set forth in the ELS Cotton Domestic User/Exporter Agreement, which must be executed by the domestic user or exporter in order to receive such payments.

(d) Forms that are used in administering the ELS cotton competitiveness payment program shall be prescribed by CCC.

§ 1427.1201 Administration.

(a) The ELS cotton competitiveness payment program shall be administered under the general supervision of the Executive Vice-President, CCC (Administrator, FSA), or a designee and shall be carried out by FSA's Kansas City Commodity Office (KCCO) and Kansas City Management Office (KCMO).

(b) The KCCO and KCMO, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this subpart.

(c) No provision or delegation herein to KCCO or KCMO shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by KCCO or KCMO.

(d) The Executive Vice President, CCC, or a designee, may authorize KCCO or KCMO to waive or modify non-statutory deadlines and other non-statutory program requirements in cases where lateness or failure to meet such other requirements do not affect adversely the operation of the ELS cotton competitiveness payment program. In addition, the Executive Vice President may suspend the program to the extent that cause to do so may appear as a result of a public rulemaking or otherwise.

(e) A representative of CCC may execute ELS cotton competitiveness payment program payment applications, ELS Cotton Domestic User/Exporter Agreements and related documents only under the terms and conditions determined and announced by CCC.

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(f) Payment applications, ELS Cotton Domestic User/Exporter Agreements and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution prior to the date authorized by CCC, shall be null and void.

(g) This program shall only be administered to the extent that it is determined by the Executive Vice President, CCC, that it is lawful and appropriate to commit funds to this program from those sources specifically identified as the funding source in the authorizing legislation.

§ 1427.1202 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration. The terms defined in §§1427.3 and 1427.52 of this part and part 1413 of this chapter shall also be applicable.

Adjusted spot price means the spot price adjusted to reflect any lack of data for grade 3 or staple 44 to make the adjusted spot price comparable to a spot price assuming grade 3 and staple 44. If grade 3 spot price data are not available, spot prices for grade 2, grade 1, or grade 4 will be used and will be adjusted by the average difference between spot prices for grade 3 and those for grade 2, grade 1 or grade 4, as the case may be, over the available observations during the previous 12 months. If spot prices for staple 44 are not available, spot prices for staple 46 may be used and will be adjusted by the average difference between spot prices for staple 44 and those for staple 46 over the available observations during the previous 12 months.

Bale opening means the removal of the bagging and ties from a bale of eligible ELS cotton in the normal opening area, immediately prior to use, by a manufacturer in a building or collection of buildings where the cotton in the bale will be used in the continuous process of manufacturing raw cotton into cotton products in the United States.

Consumption means, the use of eligible ELS cotton by a domestic user in the manufacture in the United States of ELS cotton products.

Cotton product means any product containing cotton fibers that result from the use of an eligible bale of ELS cotton in manufacturing.

Current shipment price means, during the period in which two daily price quotations are available for the LFQ for the foreign growth quoted C.I.F. Northern Europe, the price quotation for cotton for shipment no later than August/September of the current calendar year.

Forward shipment price means, during the period in which two daily price quotations are available for the LFQ for foreign growths quoted C.I.F. Northern Europe, the price quotation for cotton for shipment no earlier than October/November of the current calendar year.

LFQ means, during the period in which only one daily price quotation is available for the growth, the lowest average for the preceding Wednesday-through-Tuesday week of the price quotations for foreign growths of ELS cotton, quoted C.I.F. Northern Europe, after each respective average is adjusted for quality differences between the respective foreign growth and U.S. Pima, grade 3, staple 44, micronaire 3.5 and higher, provided that the lowest adjusted quotation becomes the LFQ after it is further adjusted to reflect the estimated cost of transportation between an average U.S. location and northern Europe.

(1) *Current LFQ* means the average for the preceding Wednesday through Tuesday of the current shipment prices for the lowest adjusted foreign growth, C.I.F. Northern Europe.

(2) *Forward LFQ* means the average for the preceding Wednesday through Tuesday of the forward shipment prices for the lowest adjusted foreign growth quoted C.I.F. Northern Europe.

Spot price means the Wednesday-Tuesday weekly average of the domestic spot prices reported by the Agricultural Marketing Service, USDA, for U.S. Pima, grade 3, staple 44, micronaire 3.5 or higher, uncompressed, F.O.B. warehouse, for the San Joaquin and Desert Southwest markets. When both San Joaquin Valley and Desert Southwest spot quotations are available, the U.S. quotation will be the average of the

two quotations. If only one quotation is available, that quotation will be used.

§ 1427.1203 Eligible ELS cotton.

(a) For the purposes of this subpart, eligible ELS cotton is domestically produced baled ELS cotton that is—

(1) Opened by an eligible domestic user on or after October 1, 1999, or,

(2) Exported by an eligible exporter on or after October 1, 1999, during a Wednesday through Tuesday period in which a payment rate, determined in accordance with §1427.1207, is in effect, and that meets the requirements of paragraphs (b) and (c) of this section;

(b) Eligible ELS cotton must be either—

(1) Baled lint, including baled lint classified by USDA's Agricultural Marketing Service as Below Grade;

(2) Loose;

(3) Semi-processed motes that are of a quality suitable, without further processing, for spinning, papermaking or bleaching;

(4) Reginned (processed) motes.

(c) Eligible ELS cotton must not be—

(1) ELS Cotton with respect to which a payment, in accordance with the provisions of this subpart, has been made available;

(2) Imported ELS cotton;

(3) Raw (unprocessed) motes;

(4) Semi-processed motes that are not of a quality suitable, without further processing, for spinning, papermaking or bleaching;

(5) Textile mill wastes; or

(6) Semi-processed or reginned (processed) motes that have been blended with textile mill waste or other fibers.

§ 1427.1204 Eligible domestic users and exporters.

(a) For the purposes of this subpart, the following persons shall be considered to be eligible domestic users and exporters of ELS cotton:

(1) A person regularly engaged in the business of opening bales of eligible ELS cotton for the purpose of manufacturing such cotton into cotton products in the United States ("domestic user"), who has entered into an agreement with CCC to participate in the ELS cotton competitiveness payment program; or