(b) Eligible upland 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 which are of a quality suitable, without further processing, for spinning, papermaking or bleaching;

(4) Re-ginned (processed) motes.

(c) Eligible upland cotton must not be:

(1) Cotton for which a payment, under the provisions of this subpart, has been made available;

(2) Imported cotton;

(3) Raw (unprocessed) motes; or

(4) Textile mill wastes.

§ 1427.104 Eligible domestic users and exporters.

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

(1) A person regularly engaged in the business of opening bales of eligible upland 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 upland cotton user marketing certificate program; or

(2) A person, including a producer or a cooperative marketing association approved under part 1425 of this chapter, regularly engaged in selling eligible upland cotton for exportation from the United States (exporter), who has entered into an agreement with CCC to participate in the upland cotton user marketing certificate program.

(b) Applications for payment under this subpart must contain documentation required by the provisions of the Upland Cotton Domestic User/Exporter Agreement and instructions CCC issues.

§ 1427.105 Upland Cotton Domestic User/Exporter Agreement.

(a) Payments under this subpart shall be made available to eligible domestic users and exporters who have entered into an Upland Cotton Domestic User/Exporter Agreement with CCC and who have complied with the terms and conditions in this subpart, the Upland Cotton Domestic User/Exporter Agreement and instructions issued by CCC.

(b) Upland Cotton Domestic User/Exporter Agreements may be obtained from Contract Reconciliation Division, Kansas City Commodity Office, P.O. Box 419205, Stop 8758, Kansas City, Missouri 64141–6205. In order to participate in the program authorized by this subpart, domestic users and exporters must execute the Upland Cotton Domestic User/Exporter Agreement and forward the original and one copy to KCCO.

§ 1427.106 Form of payment.

Payments under this subpart shall be made available in the form of commodity certificates issued under part 1401 of this chapter, or in cash, at the option of the program participant.

§ 1427.107 Payment rate.

(a) Beginning July 18, 1996, and ending July 31, 2008, the payment rate for purposes of calculating payments made under this subpart shall be determined as follows for exporters for cotton shipped on or after July 18, 1996, and for domestic users:

(1) Beginning the Friday following August 1 and ending the week in which the Northern Europe current (NEc) price, the Northern Europe forward (NEf) price, the U.S. Northern Europe current (USNEc) price, and the U.S. Northern Europe forward (USNEf) price first become available, the payment rate shall be:

(i) Beginning August 1, 1991, and ending May 14, 2002, the difference between the U.S. Northern Europe (USNE) price, minus 1.25 cents per pound, and the Northern Europe (NE) price;

(ii) Beginning May 15, 2002, and ending July 31, 2006, the difference between the USNE price and the NE price; and

(iii) Beginning August 1, 2006, and ending July 31, 2008, the difference between the USNE price, minus 1.25 cent per pound, and the NE price in the fourth week of a consecutive 4-week period in which the USNE price exceeded the NE price each week by:

(iv) During the period beginning August 1, 1991, and ending May 14, 2002, more than 1.25 cents per pound;

(v) During the period beginning May 15, 2002, and ending July 31, 2006, more than zero; and

(vi) During the period beginning August 1, 2006 and ending July 31, 2008, more than 1.25 cents per pound; and the adjusted work price (AWP) did not exceed the loan level for upland cotton by more than 134 percent in any week of the 4-week period; and

(2) Beginning the Friday through Thursday week after the week in which the NEc, the NEf, the USNEc, and the USNEf prices first become available and ending the Thursday following July 31, the payment rate shall be:

(i) Beginning August 1, 1991, and ending May 14, 2002, the difference between the USNEc price, minus 1.25 cents per pound, and the NEc price;

(ii) Beginning May 15, 2002, and ending July 31, 2006, the difference between the USNEc price and the NEc price; and

(iii) Beginning August 1, 2006, and ending July 31, 2008, the difference between the USNEc price, minus 1.25 cents per pound, and the NEc price in the fourth week of a consecutive 4-week period in which the USNEc price exceeded the NEc price each week by:

(iv) During the period beginning August 1, 1991, and ending May 14, 2002, more than 1.25 cents per pound;

(v) During the period beginning May 15, 2002, and ending July 31, 2006, more than zero; and

(vi) During the period beginning August 1, 2006 and ending July 31, 2008, more than 1.25 cents per pound; and the adjusted world price (AWP) did not exceed the loan level for upland cotton by more than 134 percent in any week of the 4-week period.

(3) If either or both the USNEc price and the NEc price are not available, the payment rate may be:

(i) Beginning August 1, 1991, and ending May 14, 2002, the difference between the USNEf price, minus 1.25 cents per pound, and the NEf price;

(ii) Beginning May 15, 2002, and ending July 31, 2006, the difference between the USNEf price and the NEf price; and

(iii) Beginning August 1, 2006, and ending July 31, 2008, the difference between the USNEf price, minus 1.25 cents per pound, and the NEf price.

(b) Whenever a 4-week period under paragraph (a) of this section contains a combination of NE, NEc, and NEf prices only for one to three weeks, such as occurs in the spring when the NE price is succeeded by the NEc and the NEf prices (Spring transition), and at the start of a new marketing year when the NEc and the NEf prices are succeeded by the NE price (marketing year transition), under paragraphs (a)(1) and (a)(2) of this section, during both the spring transition and the marketing year transition periods, to the extent practicable, the NEc and USNEc prices in combination with the NE and the USNE prices shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued. During both the spring transition and the marketing year transition periods, if either or both the USNEc price and the NEc price are not available, the USNEf and NEf prices in combination with the USNE and NE prices shall be taken into consideration during such 4-week periods to determine whether a payment is to be issued.

(c) For purposes of this subpart:

(1) For the determination of the USNE, USNEc, USNEf, NE, NEc, and the NEf prices:

(i) If daily quotations are not available for one or more days of the 5-day period, the available quotations during the period will be used;

(ii) CCC will not consider a week in which no daily quotes are available for the entire 5-day period for either or both the USNE and the NE during the period when only one daily price quotation is available for each growth quoted for M 1$\frac{3}{32}$-inch cotton, delivered cost insurance, and freight (C.I.F.) northern Europe, or the USNEc and the NEc, or the USNEf and the NEf. In that case, CCC may establish a payment rate at a level it determines to be appropriate, taking into consideration the payment rate determined under paragraph (a) of this section for the most recent available week; and

(iii) Beginning July 18, 1996, if no daily quotes are available for the entire 5-day period for either or both the USNEc and the NEc, the marketing year transition shall be implemented immediately.

(2) Regarding the determination of the USNE, the USNEc, and the USNEf, if a quotation for either the U.S. Memphis territory or the California/Arizona territory, as quoted for M 1³⁄₃₂-inch cotton, delivered C.I.F. northern Europe, is not available for each day or any day of the 5-day period, available quotation(s) will be used.

(d) Payment rates for semi-processed motes that are of a quality suitable, without further processing, for spinning, papermaking or bleaching shall be based on a percentage of the basic rate for baled lint, as specified in the Upland Cotton Domestic User/Exporter Agreement.

§ 1427.108 Payment.

(a) Payments under this subpart shall be determined by multiplying:

(1) The payment rate, determined under § 1427.107, by

(2) The net weight (gross weight minus the weight of bagging and ties), determined under paragraph (b) of this section, of eligible upland cotton bales an eligible domestic user opens or an eligible exporter sold for export during the Friday through Thursday period following a week in which a payment rate is established.

(b) For the purposes of this subpart, the net weight shall be determined based upon:

(1) For domestic users, the weight on which settlement for payment of the cotton was based (landed mill weight);

(2) For reginned motes processed by an end user who converted such motes, without rebaling, to an end use in a continuous manufacturing process, the net weight of the reginned motes after final cleaning;

(3) For exporters, the shipping warehouse weight or the gin weight if the cotton was not placed in a warehouse, of the eligible cotton unless the exporter obtains and pays the cost of having all the bales in the shipment reweighed by a licensed weigher and furnishes a copy of the certified reweights.

(c) For the purposes of this subpart, eligible upland cotton will be considered—

(1) Consumed by the domestic user on the date the bale is opened for consumption; and

(2) Exported by the exporter on the date CCC determines is the date on which the cotton is shipped through July 31, 2008.

(d) Payments under this subpart shall be made available upon application for payment and submission of supporting documentation, including proof of purchase and consumption of eligible cotton by the domestic user or proof of export of eligible cotton by the exporter, as required by the CCC-issued provisions of the Upland Cotton Domestic User/Exporter Agreement.

Subpart D—Recourse Seed Cotton Loans

SOURCE: 67 FR 64459, Oct. 18, 2002, unless otherwise noted.

§ 1427.160 Applicability.

(a) This subpart is applicable to the 2002 through 2007 crops of upland and extra long staple seed cotton. These regulations set forth the terms and conditions under which recourse seed cotton loans shall be made available by CCC. Such loans will be available through March 31 of the year following the calendar year in which such crop is normally harvested. CCC may change the loan availability period to conform to State or locally imposed quarantines. Additional terms and conditions are in the note and security agreement which must be executed by a producer in order to receive such loans.

(b) Loan rates and the forms which are used in administering the recourse seed cotton loan program for a crop of cotton are available in FSA State and county offices. Loan rates shall be based upon the location at which the loan collateral is stored.

(c) A producer must, unless otherwise authorized by CCC, request the loan at the county office which, under part 718 of this title, is responsible for administering programs for the farm on which the cotton was produced. A CMA must, unless otherwise authorized by CCC, request the loan at a central county office designated by the State committee. All note and security agreements and related documents necessary for the administration of the recourse seed cotton loan program shall