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with the terms and conditions determined and announced by CCC, including any purported execution outside of the dates authorized by CCC, shall be null and void except as otherwise provided in this part.

§ 1427.1102 Definitions.

The definitions in this section shall apply to the cottonseed payment program provided for in this subpart. The terms defined in §1427.3 of this part shall also be applicable to this subpart.

Application period means a period, as announced by CCC, during which applications for payments under the Cottonseed Payment Program must be received to be considered for payment.

Cottonseed means the seed from any varieties of upland cotton and extra long staple (ELS) cotton produced and ginned in the United States.

Gin means a person (*i.e.*, an individual, partnership, association, corporation, cooperative marketing association, estate, trust, State or political subdivision or agency thereof, or other legal entity) that removes cotton seed from cotton lint in commercial quantities.

Lint means cotton lint as contained in bales of cotton ordinarily marketed as cotton and excludes any linters, raw motes, re-ginned motes, cleaned motes, and any other gin waste or byproduct not traditionally defined as cotton lint.

Ton means a unit of weight equal to 2,000 pounds avoirdupois (907.18 kilograms).

[68 FR 20332, Apr. 25, 2003, as amended at 71 FR 4233, Jan. 26, 2006]

§ 1427.1103 Eligible cottonseed and counties.

To be eligible for payments under this subpart:

(a) Counties must have been declared a disaster by the President of the United States due to 2004 hurricanes or tropical storms.

(b) Cottonseed must not have been destroyed or damaged by fire, flood, or other events such that its loss or damage was compensated by other local, State, or Federal government or pri-

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vate or public insurance or disaster relief payments.

[71 FR 4233, Jan. 26, 2006; 71 FR 8926, Feb. 22, 2006]

§ 1427.1104 Eligible applicants (first handlers).

(a) An eligible first handler of cottonseed shall be a gin that has an eligible payment quantity as determined under §1427.1107. Only an eligible first handler of cottonseed shall be eligible to file an application for payment under this subpart.

(b) Applicants must comply with the terms and conditions set forth in this subpart and instructions issued by CCC, and sign and submit an accurate, legible and complete Cottonseed Payment Program Application and Certification.

(c) Applicants signing the cottonseed payment application or receiving payment under this subpart must share any payment with the producer of the cotton that was the basis of the cottonseed payment to the extent that the effect of the loss of cottonseed, was borne by the producer rather than the gin. To the extent that such funds will be shared with the producer by the gin, those funds will be considered to have been received by the applicant on behalf of such producers.

[68 FR 20332, Apr. 25, 2003, as amended at 71 FR 4233, Jan. 26, 2006]

§ 1427.1105 Payment application and deadline.

(a) Payments in accordance with this subpart shall be made available only to eligible first handlers of cottonseed based on information provided on a Cottonseed Payment Program Application and Certification.

(b) The application deadline shall be 60 calendar days after the rules in this subpart become effective unless otherwise announced by CCC. Applications received after such application deadline will not be accepted for payment.

(c) Cottonseed Payment Program Application and Certifications may be obtained from the CCC as announced by press release. In order to participate in the cottonseed payment program under this subpart, first handlers of cottonseed must execute and submit to CCC according to announced instructions

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the Cottonseed Payment Program Application and Certification.

[68 FR 20332, Apr. 25, 2003, as amended at 71 FR 4233, Jan. 26, 2006]

§ 1427.1106 Available funds.

The total available program funds for the 2004-crop cottonseed program provided for in this subpart shall be \$10 million.

[71 FR 4233, Jan. 26, 2006]

§ 1427.1107 Applicant payment quantity.

(a) The applicant's payment quantity of cottonseed will be calculated by the applicant and submitted on the Cottonseed Payment Application and Certification for approval for by CCC. An applicant must be an eligible gin and the applicant's payment eligibility will be based on the determination of the amount of lint deliveries by cotton producers in eligible counties which were lost to the gin because of the qualifying hurricane or tropical storm as calculated under this section.

(1) The lost lint determination will be made on a producer-by-producer and farm-by-farm basis, based on producer certification, ginning records and other relevant information as applicable.

(2) The loss determination will be limited to losses related to 2004-crop cotton production in eligible counties. A cotton producer's gross loss of lint shall be determined based on a comparison of lint deliveries for 2003 and 2004 by the producer from the eligible farm to all gins. That difference will be adjusted to reflect changes in the acreage planted in the two years by the producer on the eligible farm and adjusted for losses due to reasons other than hurricane or tropical storm.

(b) The producer will certify the gin or gins to which the lost lint production as so determined would have been delivered. Also, the producer will certify the relevant percentages of the losses that would have been delivered to each gin if more than one gin would have received the deliveries. Apportionment of the loss may be made by CCC between gins on that basis.

(c) If the producer delivered 2004-crop cotton to a gin different than the gin to which the producer delivered 2003-

crop cotton, or delivered cotton to more than one gin in either 2003 or 2004, the gin receiving 2004-crop cotton shall contact the other gins for production information or obtain other proof of the eligible quantity from the cotton producer so as to make or verify the calculation called for in paragraph (a) of this section.

(d) If the cotton producer did not produce 2003-crop cotton the producer shall be considered a new producer. A new producer's eligible lost quantity will be determined as provided in paragraph (a) of this section except that the amount of loss of lint will be made by comparing the producer's actual 2004 per-acre yield with the 2003 USDA, National Agricultural Statistics Service county average yield for the applicable county.

(e) The gin's lint eligibility will be calculated individually with respect to all eligible cotton producers and those individual eligibilities for the gin will then be added together to determine the total lint eligibility of the gin. From that amount of lint eligibility, the applicant gin's payment quantity of cottonseed shall be calculated by CCC by multiplying:

(1) The applicant gin's eligible weight of lint for which payment is requested, as approved by CCC, and as determined in paragraphs (a) through (d) of this section by;

(2) The Olympic average of estimated pounds of cottonseed per pound of ginned cotton lint, as determined by CCC, for the five years preceding the 2004 crop year.

[71 FR 4233, Jan. 26, 2006]

§ 1427.1108 Total payment quantity.

The total quantity of 2004-crop cottonseed eligible under this subpart shall be based on the total payment quantity of cottonseed as determined under this subpart for which timely applications are filed. Eligible cottonseed for which no application is received according to announced application instructions shall not be included in the total payment quantity of cottonseed. The total payment quantity of cottonseed (ton-basis) shall be calculated by multiplying:

(a) The total weight of cotton lint, converted to tons, for which payment