

Commodity Credit Corporation, USDA

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§ 1427.1 Applicability.

(a) The regulations of this subpart are applicable to the 2008 through 2012 crops of upland cotton and extra long staple cotton. Rules codified in this part which are issued after October 1, 2008, will not affect the 2007 and prior crops except that changes in the calculation of loan repayment rates that apply to the 2008 crop also apply to 2007 crop loans outstanding at the time of the changes in 2008 crop calculations. Other adjustments for the 2008 crop, such as storage rate adjustments will not apply. These regulations set forth the general provisions under which marketing assistance loans and loan deficiency payment programs shall be administered by the Commodity Credit Corporation (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 loan deficiency payments.

(b) The basic loan rate, the schedule of premiums and discounts, and forms applicable to the cotton marketing assistance loan and loan deficiency payment programs are available from FSA offices. The forms for use in connection with the programs in this subpart shall be prescribed by CCC.

(c) Marketing assistance loans and loan deficiency payments will not be available for any cotton produced on land owned or otherwise in the possession of the United States if such land is occupied without the consent of the United States.

(d) Notwithstanding the other provisions of this part, a producer may only receive the maximum assistance allowed by part 1400 of this chapter.

(e) Eligible producers, under 7 CFR 1421.4, who produce upland cotton during the 2008 through 2012 crop years on a farm that is not covered under a direct and counter-cyclical program contract, as defined in part 1412 of this chapter, are eligible for marketing assistance loans or loan deficiency payments as are eligible producers who produced commodities on farms covered by such a contract.

[67 FR 64459, Oct. 18, 2002, as amended at 73 FR 65719, Nov. 5, 2008]

§ 1427.2 Administration.

(a) The marketing assistance loan and loan deficiency payment programs shall be administered under the general supervision of the Executive Vice President, CCC, or a designee and shall be carried out by FSA employees, and state and county committees.

(b) No FSA employee or committee may modify or waive any requirement in this subpart, except as provided in paragraph (e) of this section.

(c) The State committee shall take any required action not taken by the county committee. The State committee shall also:

(1) Correct, or require a correction of an action that is not in compliance with this part; or

(2) Stop an employee from taking an action or decision that is not in accordance with the regulations of this part.

(d) The Executive Vice President, CCC, or a designee may determine any question arising under these programs, and reverse or modify a determination made by an FSA employee or State or county committee.

(e) The Deputy Administrator for Farm Programs, FSA, may authorize State or county committees to waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other program requirements does not adversely affect the operation of the marketing assistance and loan deficiency payment programs.

(f) A representative of CCC may execute marketing assistance loan and loan deficiency payment applications and related documents only under the terms and conditions determined and announced by CCC. Any document not executed under such terms and conditions, including any purported execution before the date authorized by CCC, shall be null and void.

[67 FR 64459, Oct. 18, 2002, as amended at 73 FR 65719, Nov. 5, 2008]

§ 1427.3 Definitions.

The definitions in this section shall apply for all purposes of program administration regarding the cotton loan and loan deficiency payment programs. The terms defined in part 718 of this title and parts 1412, 1421, 1423, 1425, and

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1434 of this chapter shall also apply, except where they conflict with definitions in this section.

Adjusted spot price means the spot price adjusted to reflect any lack of data for base quality to make the adjusted spot price comparable to a spot price assuming the base quality. If base quality spot price data are not available, spot prices for other qualities will be used and adjusted by the average difference between base quality spot prices and those for other qualities over the available observations during the previous 12 months.

Approved cooperative marketing association (CMA) means a cooperative marketing association approved under part 1425 of this chapter which has executed a Cotton Cooperative Loan Agreement on a form prescribed by CCC.

Bale opening means the removal of the bagging and ties from a bale of eligible upland cotton in the normal opening area, immediately before 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.

Charges means all fees, costs, and expenses incurred by CCC in insuring, carrying, handling, storing, conditioning, and marketing the cotton tendered to CCC for loan. Charges also include any other expenses incurred by CCC in protecting CCC's or the producer's interest in such cotton.

Classification means the measurement results provided by the Agricultural Marketing Service (AMS) of color grade, leaf, staple, strength, extraneous matter and micronaire, and for upland cotton, length uniformity.

Commodity certificate exchange means the exchange, as provided in part 1404 of this chapter, of commodities pledged as collateral for a marketing assistance loan at a rate determined by CCC in the form of a commodity certificate bearing a dollar denomination. Such certificate may not be transferred or exchanged for the inventory of CCC.

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

Cotton means upland cotton and extra loan staple cotton meeting the definition in the definitions of "upland cotton" and "extra long staple (ELS) cotton" in this section, respectively, and excludes cotton not meeting such definitions.

Cotton clerk means a person approved by CCC to assist producers in preparing loan and loan deficiency documents.

Cotton commercial bank means the bank designated as the financial institution for a CMA or loan servicing agent.

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

Cotton storage deficit area means a State, County, or group of contiguous counties within a State, where the production of cotton for the area based on the most recent estimate from the USDA, National Agricultural Statistics Service exceeds the combined approved inside storage capacity less carry-in stocks, of warehouses that have entered into a Cotton Storage Agreement with CCC.

Current Far East shipment price means, during the period in which two daily price quotations are available for the growth quoted for M 1³/₃₂ inch cotton, CFR (cost and freight) Far East, the price quotation for cotton for shipment no later than August/September of the current calendar year.

Electronic Agent Designation is an electronic record that:

- (1) Designates the entity authorized by a producer to redeem all of the cotton pledged as collateral for a specific loan;
- (2) Is maintained by providers of electronic warehouse receipts; and
- (3) A producer may authorize CCC to use as the basis for the redemption and release of loan collateral.

Extra long staple (ELS) cotton means any of the following varieties of cotton which is produced in the United States and is ginned on a roller gin:

- (1) American-Pima;
- (2) All other varieties of the Barbados species of cotton, and any hybrid thereof; and
- (3) Any other variety of cotton in which one or more of these varieties predominate.

False packed cotton means cotton in a bale containing substances entirely foreign to cotton; containing damaged cotton in the interior with or without any indication of the damage on the exterior; composed of good cotton on the exterior and decidedly inferior cotton in the interior, but not detectable by customary examination; or, containing pickings or linters worked into the bale.

Financial institution means:

(1) A bank in the United States which accepts demand deposits; and

(2) An association organized pursuant to Federal or State law and supervised by Federal or State banking authorities.

Form A loan means a nonrecourse loan entered into between a producer and CCC.

Form G loan means a CCC non-recourse loan entered into between a CMA and CCC.

Good condition means a bale of cotton that, by comparison with the photographic standards of "A Guide for Cotton Bale Standards" of the Joint Cotton Industry Bale Packaging Committee, is determined to be a Grade A or Grade B bale.

Lint Cotton means cotton that has passed through the ginning process.

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

Loan rate is the national loan rate for base quality upland cotton and the national average rate for ELS cotton adjusted by any premiums and discounts determined by CCC.

Loan servicing agent means a legal entity that enters into a written agreement with CCC to act as a loan servicing agent for CCC in making and servicing Form A cotton loans. The loan servicing agent may perform, on behalf of CCC, only those services which are specifically prescribed by CCC including, but not limited to, the following:

(1) Preparing and executing loan and loan deficiency payment documents;

(2) Disbursing loan and loan deficiency payment proceeds;

(3) Accepting loan repayments;

(4) Handling documents involved with forfeiture of loan collateral to CCC; and

(5) Providing loan, loan deficiency payment, and accounting data to CCC for statistical purposes.

Transfer means, depending on the context, the process for a producer or an authorized agent of the producer to:

(1) Physically relocate cotton loan collateral from one CCC-approved warehouse to another CCC-approved warehouse,

(2) Exchange an electronic warehouse receipt for a receipt certificated by a warehouse for delivery under a futures contract without physically relocating the cotton, or

(3) Do both of the above.

Upland cotton means planted and stub cotton which is produced in the United States from other than pure strain varieties of the Barbados species, any hybrid thereof, or any other variety of cotton in which one or more of these varieties predominate.

Warehouse receipt means a receipt containing the required information prescribed in this part that may or may not be certificated for delivery for a futures-pricing contract, and is:

(1) For 2008-crop cotton only, a pre-numbered, pre-punched negotiable warehouse receipt issued under the authority of the U.S. Warehouse Act, a state licensing authority, or by an approved CCC warehouse in such format authorized and approved, in advance, by CCC; or

(2) For 2008 through 2012-crop cotton, an electronic warehouse receipt record issued by such warehouse recorded in a central filing system or systems maintained in one or more locations that are approved by FSA to operate such system.

Wet cotton means a bale of cotton that, at a gin, has 7.5 percent or more moisture, wet basis, at any point in the bale.

[67 FR 64459, Oct. 18, 2002, as amended at 71 FR 51427, Aug. 30, 2006; 73 FR 30275, May 27, 2008; 73 FR 65719, Nov. 5, 2008; 75 FR 50849, Aug. 18, 2010]

§ 1427.4 Eligible producer.

(a) To be an eligible producer, the producer must: