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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1427

RIN 0560-AH36

#### Extra Long Staple Cotton Prices

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes an interim final rule published June 20, 2005 that was effective August 5, 2005, amending the Extra Long Staple (ELS) Cotton Competitiveness Payment Program of the Commodity Credit Corporation (CCC). The interim rule changed the ELS cotton price used to calculate the payment rate from the "average domestic spot price quotation for base quality U.S. Pima cotton" to the "American Pima c.i.f. Northern Europe" price. The change was made to reduce the cost to the Federal Government of operating the program by incorporating a reference price more indicative of actual ELS cotton world market prices. This final rule makes changes from the interim final rule in the prices used to calculate the payment rate from "American Pima c.i.f. Northern Europe" and "c.i.f. Northern Europe" price quotes to "U.S. Pima C/F Far East" and "C/F Far East," respectively. This change is made in response to comments and for other reasons as discussed.

**DATES:** Effective November 4, 2005. The first announcement of a payment rate under the new price mechanism will be on November 10, 2005.

**FOR FURTHER INFORMATION CONTACT:** Steve Neff, Economic and Policy Analysis Staff, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW., AG STOP 0515, Washington, DC 20250-0515; Phone: (202) 720-7954; e-mail: [Steve.Neff@usda.gov](mailto:Steve.Neff@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim final rule published June 20, 2005 (70 FR 35367) the Commodity Credit Corporation (CCC) changed the regulations governing how payment rates are calculated under its

Extra Long Staple (ELS) Cotton Competitiveness Payment Program to change the price used for the calculation from the "average domestic spot price quotation for base quality U.S. Pima cotton," or "U.S. spot quotes," to the "American Pima c.i.f. Northern Europe quote." Before the interim rule, the ELS payment rate was the difference between U.S. spot prices, as reported by the Department of Agriculture (USDA), Agricultural Marketing Service (AMS), and the lowest foreign quote, c.i.f. Northern Europe, as published by the trade publication *Cotton Outlook*, adjusted to U.S. location and quality. This change was made because payments to ELS producers calculated using the old price had sharply increased program outlays. For example, the payment rate, which averaged a record high of 16.46 cents per pound in 2004, averaged 80.48 cents per pound for 7 weeks in February and March, 2005. Consequently, fiscal year 2005 outlays through March, 2005, normally budgeted for \$50-55 million per year, exceeded \$150 million.

The increase in the payment rate could be attributed principally to increases in U.S. spot market quotes. The market for ELS cotton is susceptible to price swings because it is a thin market. ELS production of 736,000 bales in 2004 was only 4 percent of total U.S. cotton production and 90 percent of ELS is produced in the San Joaquin Valley of California. The ELS market also has relatively few participants. For example, two trading companies received nearly 60 percent of the payments under this program in fiscal years 2003 and 2004. Further, growing conditions in 2004 contributed to a short supply of high-quality ELS cotton, excess moisture led to color deterioration and lower grade classification. These circumstances exposed a program weakness which allowed high prices and high payment rates to influence each other with no market-like, self-correcting mechanism. AMS collects transaction data from market participants whose payments depend on the reported prices. If a sale is made at a relatively low price, the merchant has no incentive to report that transaction. With a high payment rate in effect for a week, the merchant could bid more for existing supplies and report higher transaction prices to AMS, which led to a higher payment rate in the following week. With the higher payment rate, the merchant could source from the United States and remain competitive in international markets.

The interim final rule's intent was to reduce future payment rates by comparing foreign quotes to quotes for

American Pima c.i.f. Northern Europe to determine the payment rate. American Pima c.i.f. Northern Europe was determined to be the most valid price measure for this program because it was a comparison of foreign and U.S. quotes from the same source within the same geographical area. This measure is net of the payment rate and based on the export market. FSA believed that this measure was appropriate because 90 percent of U.S.-produced ELS cotton is exported. According to our analysis, the payment rate calculated in this manner would have resulted in a payment of 20.69 cents per pound for the first week of April, about a quarter of the rate CCC actually paid.

#### Public Comment

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (2002 Act) provided that the regulations needed to implement Title I of the 2002 Act, which includes this rule, shall be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, relating to notices of proposed rulemaking and public participation in rulemaking. Therefore, the rule was issued as an interim final rule and was effective immediately. Nonetheless, the Agency requested and accepted public comments.

#### Discussion of Public Comments

Eight public comments were received. Two letters supporting the interim final rule were received from Congress—one from the Chairman of the Senate Committee on Agriculture, Nutrition & Forestry; one from the Chairman of the House Committee on Agriculture. Also, separate letters were received from two cotton industry groups, the National Cotton Council and Supima, supporting the interim rule. These groups also joined in a letter signed by five organizations recommending the shift to a Far East price quote basis discussed below.

#### Price Quotes Used To Calculate Payments

A comment from a U.S. cotton spinner urged the Agency to change both price quotes used to calculate payments from the "American Pima c.i.f. Northern Europe" adopted in the interim final rule and the foreign price quote used for comparison, "c.i.f. Northern Europe," to "U.S. Pima C/F Far East" and "C/F Far East," respectively. This change was needed, the commenter suggested, because "very little cotton, and especially very little American Pima (ELS cotton), is

exported to Europe.” Another comment received, a joint letter signed by the National Cotton Council, Supima, Amcot (the international sales agency of American cotton growers), the American Cotton Shippers Association, and the Western Cotton Shippers Association, also suggested that the change to a Far East basis by CCC “would be a logical approach.”

As suggested by commenters, this rule changes CCC’s regulation to a Far East price basis. FSA agrees that the “U.S. Pima C/F Far East” and “C/F Far East” quotes are the best quotes for determining program payments mainly because, as one respondent indicated, U.S. exports of ELS cotton are preponderantly to Asian destinations. From 2000 through 2004, the share of ELS exports to Europe averaged 13.5 percent, compared to 76 percent to the Far East and South Asia. A further reason for this price change is that *Cotton Outlook* has announced that it would stop publishing the Northern Europe quotations. Thus, the price quote required in CCC regulations soon will no longer be available. Accordingly, the final rule adopts the commenters suggestion and changes the price quotes required by the regulation from “American Pima c.i.f. Northern Europe” and “c.i.f. Northern Europe” quotes published by *Cotton Outlook* to “U.S. Pima C/F Far East” and “C/F Far East,” respectively, as published by *Cotlook Limited*, publisher of *Cotton Outlook*. This change in price quotes will not measurably alter the economic impacts and government outlay results expected from the interim rule.

#### Executive Order 12866

This rule is issued in conformance with Executive Order 12866, was determined to be not significant and has not been reviewed by the Office of Management and Budget.

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because CCC is not required by 5 U.S.C. 533 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

#### Environmental Assessment

The environmental impacts of this rule have been considered consistent with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR part 799.

FSA concluded that the rule requires no further environmental review because it is categorically excluded. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement.

#### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. This rule preempts State laws that are inconsistent with it. Before any legal action may be brought regarding a determination under this rule, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

#### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

#### Unfunded Mandates Reform Act of 1995

The rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, Local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### Paperwork Reduction Act

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be made without regard to chapter 35 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed to administer the program authorized by these regulations are not subject to review by OMB under the Paperwork Reduction Act.

#### Executive Order 12612

This rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

#### Government Paperwork Elimination Act

CCC and FSA are committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The forms and other information collection activities required for participation in the program are available electronically through the USDA eForms Web site at <http://www.sc.egov.usda.gov> for downloading. Applications may be submitted at the FSA county offices, by mail or by FAX. At this time, electronic submission is not available. Full development of electronic submission is underway.

#### Federal Assistance Programs

The title and number of the Federal assistance program found in the Catalog of Federal Domestic Assistance to which this final rule applies are Commodity Loans and Loan Deficiency Payments, 10.051.

#### List of Subjects in 7 CFR Part 1427

Agricultural commodities, Cotton, Price support programs, Reporting and record keeping requirements.

■ For the reasons set out in the preamble, 7 CFR part 1427 is amended as follows:

#### PART 1427—COTTON

■ 1. The authority citation continues to read as follows:

**Authority:** 7 U.S.C. 7231–7237 and 7931 *et seq.*; 15 U.S.C. 714b, 714c.

#### Subpart G—Extra Long Staple (ELS) Cotton Competitiveness Payment Program

■ 2. Revise subpart G to read as follows:

#### Subpart G—Extra Long Staple (ELS) Cotton Competitiveness Payment Program

##### § 1427.1200 Applicability.

(a) These regulations set forth the terms and conditions under which CCC shall make payments to eligible domestic users and exporters of extra long staple cotton who have entered into an ELS Cotton Domestic User/Exporter Agreement with CCC.

(b) CCC will issue payments to domestic users and exporters in any week following a consecutive 4-week period in which:

(1) The LFQ is less than the USPFE; and

(2) Adjusted LFQ is less than 134 percent of the current crop year loan level for the base quality U.S. Pima cotton.

(c) CCC shall prescribe the forms and information collections necessary in administering the ELS cotton competitiveness payment program. Additional terms and conditions for the program are set forth in the ELS Cotton Domestic User/Exporter Agreement.

#### § 1427.1201 [Reserved]

#### § 1427.1202 Definitions.

The following definitions apply as used in this subpart:

*Consumption* means the use of eligible ELS cotton by a domestic user in the manufacture in the United States of 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/F Far East, the price quotation for cotton for shipment no later than August/September of the current calendar year.

*ELS* means Extra Long Staple.

*Forward shipment price* means, during the period in which two daily price quotations are available for the LFQ for foreign growths, quoted C/F Far East, 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 Friday through Thursday week of the price quotations for foreign growths of ELS cotton, quoted cost and freight (C/F) Far East, after each respective average is adjusted for quality differences between the respective foreign growth and U.S. Pima, of the base quality.

(1) *Adjusted LFQ* means the LFQ adjusted to reflect the estimated cost of transportation between an average U.S. location and destination ports in the Far East.

(2) *LFQc* means the preceding Friday through Thursday average of the current shipment prices for the lowest adjusted foreign growth, C/F Far East.

(3) *LFQf* means the preceding Friday through Thursday average of the forward shipment prices for the lowest adjusted foreign growth, quoted C/F Far East.

*USPFE* means the Friday through Thursday weekly average of the price

quotation for base quality U.S. Pima cotton, as determined by CCC for purposes of administering this subpart, C/F Far East.

(1) *USPFEc* means the preceding Friday through Thursday average of the current shipment prices for U.S. Pima cotton, C/F Far East.

(2) *USPFEf* means the preceding Friday through Thursday average of the forward shipment prices for U.S. Pima cotton, C/F Far East.

#### § 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 Friday through Thursday period in which a payment rate determined under § 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; or

(2) Loose.

(c) Eligible ELS cotton must not be:

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

(2) Imported ELS cotton;

(3) Raw, unprocessed notes;

(4) Textile mill wastes; or

(5) Semi-processed or re-ginned, processed notes.

#### § 1427.1204 Eligible domestic users and exporters.

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

(1) A person regularly engaged in the business of opening bales of eligible ELS cotton to manufacturing such cotton into cotton products in the United States (a domestic user), who has entered into an agreement with CCC to participate in the ELS Cotton Competitiveness Payment 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 ELS cotton for exportation from the United States (an exporter), who has entered into an agreement with CCC to participate in the ELS Cotton Competitiveness Payment Program.

(b) Payment applications must contain the documentation required by this subpart, an ELS Cotton Domestic User/Exporter Agreement and additional information that may be requested by CCC.

#### § 1427.1205 ELS 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 ELS Cotton Domestic User/Exporter Agreement with CCC and who have complied with the terms and conditions in this subpart, the ELS Cotton Domestic User/Exporter Agreement and CCC-issued instructions.

(b) ELS Cotton Domestic User/Exporter Agreements may be obtained from CCC. To participate in the program authorized by this subpart, domestic users and exporters must execute the ELS Cotton Domestic User/Exporter Agreement and forward the original and one copy to CCC.

#### § 1427.1206 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 participant, as CCC determines and announces.

#### § 1427.1207 Payment rate.

(a) The payment rate for payments made under this subpart shall be determined as follows:

(1) Beginning the Friday on or following August 1 and ending the week in which the LFQc, the LFQf, the USPFEc, and the USPFEf prices first become available, the payment rate shall be the difference between the USPFE and the LFQ in the fourth week of a consecutive 4-week period in which the USPFE exceeded the LFQ each week, and the adjusted LFQ was less than 134 percent of the current crop year loan level for U.S. base quality Pima cotton in all weeks of the 4-week period; and

(2) Beginning the Friday-through-Thursday week after the week in which the LFQc, the LFQf, the USPFEc, and the USPFEf prices first become available and ending the Thursday following July 31, the payment rate shall be the difference between the USPFEc and the LFQc in the fourth week of a consecutive 4-week period in which the USPFEc exceeded the LFQc each week, and the adjusted LFQc was less than 134 percent of the current crop year loan level for base quality U.S. Pima in all weeks of the 4-week period. If either or both the USPFEc and the LFQc are not available, the payment rate may be the difference between the USPFEf and the LFQf.

(b) Whenever a 4-week period under paragraph (a) of this section contains a combination of LFQ, LFQc, and LFQf for only one to three weeks, such as may occur in the spring when the LFQ is succeeded by the LFQc and the LFQf

(spring transition), and at the start of a new marketing year when the LFQc and the LFQf are succeeded by the LFQ (marketing year transition), under paragraphs (a)(1) and (a)(2) of this section, during both the spring transition and the marketing year transition periods, the LFQc and USPFEc, in combination with the LFQ and USPFE, shall, to the extent practicable, be considered 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 USPFEc price and the LFQc are not available, the USPFEf and the LFQf in combination with the USPFE price and LFQ 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, regarding the determination of the USPFE, USPFEc, USPFEf, the LFQ, the LFQc, and the LFQf:

(1) 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;

(2) If none of the USPFE, USPFEc, or USPFEf prices is available, or if none of the LFQ, LFQc, or LFQf is available, the payment rate shall be zero and shall remain zero unless and until sufficient USPFE prices or the LFQ again becomes available, the USPFE, USPFEc, or USPFEf price exceeds the LFQ, the LFQc, or the LFQf, as the case may be, and the LFQ, the LFQc, or the LFQf, as the case may be, adjusted for transportation, is less than 134 percent of the current crop year loan rate for base quality U.S. Pima for 4 consecutive weeks.

(d) Payment rates for loose lint that is of a suitable quality, 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 ELS Cotton Domestic User/Exporter Agreement.

#### § 1427.1208 Payment.

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

(1) The payment rate, determined under § 1427.127, by

(2) The net weight (gross weight minus the weight of bagging and ties) determined under paragraph (b) of this section, of eligible ELS cotton bales that an eligible domestic user opens or an eligible exporter exports 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 based upon:

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

(2) For exporters, the shipping warehouse weight or the gin weight if the ELS 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 re-weighed by a licensed weigher and furnishes a copy of the certified weights.

(c) For the purposes of this subpart, eligible ELS 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 that CCC determines is the date on which the cotton is shipped for export.

(d) Payments under this subpart shall be made available upon application for payment and submission of supporting documentation, as required by this subpart, CCC instructions, and the ELS Cotton Domestic User/Exporter Agreement.

Signed in Washington, DC, on October 24, 2005.

**Michael Yost,**

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 05-22082 Filed 11-4-05; 8:45 am]

**BILLING CODE 3410-05-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 21, 121, 135, 145, and 183

[Docket No. FAA-2003-16685; Amendment Nos. 21-86, 121-311, 135-97, 145-23, and 183-12]

**RIN 2120-AH79**

#### Establishment of Organization Designation Authorization Program

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; Notice of Office of Management and Budget approval for information collection.

**SUMMARY:** This notice announces the Office of Management and Budget's approval of the information collection requirements in the final rule, Establishment of Organization Designation Authorization Program. Affected parties were not required to comply with the information collection requirements of this rule until a notification of OMB approval was published in the **Federal Register**.

**DATES:** This rule was published in the **Federal Register** on October 13, 2005

(70 FR 59932). The FAA received OMB approval for the information collection requirements on September 22, 2005. The final rule becomes effective on November 14, 2005, and affected parties will be required to comply with information collection requirements at that time.

**FOR FURTHER INFORMATION CONTACT:** For technical issues, Ralph Meyer, Delegation and Airworthiness Programs Branch, Aircraft Engineering Division (AIR-140), Aircraft Certification Service, Federal Aviation Administration, 6500 S. MacArthur Blvd, ARB Room 308, Oklahoma City, OK 73169; telephone (405) 954-7072; facsimile (405) 954-2209, e-mail [ralph.meyer@faa.gov](mailto:ralph.meyer@faa.gov). For legal issues, Karen Petronis, Office of the Chief Counsel, Regulations Division (AGC-200), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3073; facsimile (202) 267-7971; e-mail [karen.petronis@faa.gov](mailto:karen.petronis@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 13, 2005, the FAA published the final rule, Establishment of Organization Designation Authorization Program (70 FR 59932). This rule contains information collection requirements in §§ 183.43, 183.45, 183.53, 183.55, 183.57, 183.63, and 183.65. As we noted in the rule's preamble, affected parties were not required to comply with these information collection requirements until the Office of Management and Budget (OMB) assigned a control number for them, and the FAA published the number in the **Federal Register**.

According to the Paperwork Reduction Act, OMB approved the FAA's request for information collection on September 22, 2005. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a currently valid OMB control number. The OMB control number associated with this collection is 2120-0704. The request was approved by OMB without change and expires on September 30, 2008.

Issued in Washington, DC, on October 31, 2005.

**Anthony F. Fazio,**

*Director, Office of Rulemaking.*

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