DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27 and 28

[Doc. # AMS-CN-11-0066]

RIN 0581-AD19

Revision of Cotton Classification Procedures for Determining Cotton Leaf Grade

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to revise the procedure for determining the official leaf grade for Upland and Pima cotton. The leaf grade is a part of the official classification which denotes cotton fiber quality used in cotton marketing and manufacturing of cotton products. Currently, the leaf grade is determined by visual examination and comparison to the Official Cotton Standards by qualified cotton classers. This proposed revision would replace the classer's leaf determination with the instrument leaf measurement made by the High Volume Instrument (HVI) system used in official cotton classification for Upland Cotton since 1991.

DATES: Comments must be received on or before [Insert date 15 days after date of publication in the Federal Register].

ADDRESSES: Interested persons may comment on the proposed rule using the following procedures:

Internet: http://www.regulations.gov.

Mail: Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, 3275 Appling Road, Memphis, TN 38133. Comments should be submitted in triplicate. All comments should reference the document number, date, and page number of this issue of the Federal Register.

All comments will be available for public inspection at Cotton & Tobacco Program, AMS, USDA, 3275 Appling Road, Memphis, TN 38133 during regular business hours. A copy of this notice may be found at: www.ams.usda.gov/cotton/rulemaking.htm.

FOR FURTHER INFORMATION CONTACT: Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, 3275 Appling Road, Memphis, TN 38133. Telephone (901) 384-3060, facsimile (901) 384-3021, or e-mail darryl.earnest@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612.), AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 25,000 cotton growers, merchants, and textile manufacturers in the U.S. who voluntarily use the AMS cotton classing services annually under the United States Cotton Standards Act of 1923, as amended (7 U.S.C. 51–65), the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476), and the U.S. Cotton Futures Act, [7 U.S.C. 15b, 7 U.S.C. 4736, 7 U.S.C. 1622(g)]. The majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR §121.201). The change in procedures will not significantly affect small businesses as defined in the RFA because:

(1) Classification will continue to be based upon the Official Standards for Upland Cotton Color Grade established and maintained by the Department;

(2) The HVI measurement has been a part of the official classification record since 1991. Implementation of the revision for all cotton classification will not affect competition in the marketplace or adversely impact on cotton classification fees; and

(3) The use of cotton classification services is voluntary. For the 2010 crop, 17.6 million bales were produced by growers, and virtually all of them were voluntarily submitted for USDA classification. Futures classification services provided for merchants during the same period totaled approximately 680 thousand bales.

Paperwork Reduction Act

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501-3520) the

information collection requirements contained in the regulation to be amended is currently approved under OMB control number 0581-0008, Cotton Classing, Testing and Standards.

Background

AMS Cotton and Tobacco Programs propose to revise the procedures for providing cotton leaf grade classification services as authorized by the United States Cotton Standards Act of 1923, as amended, the Cotton Statistics and Estimates Act of 1927, and the U.S. Cotton Futures Act. While measurements for other quality factors are performed by precise HVIs, manual determinations for leaf grade and extraneous matter are currently part of the official USDA cotton classification. Accurate assignment of leaf grade is of economic importance to all participants along the cotton supply chain since leaf content is all waste and there is a cost factor associated with its removal. Furthermore, since small leaf particles cannot always be removed, these particles detract from the quality and, therefore, the value of the finished product.

AMS has instruments with the ability to optically identify, with a high level of confidence, the number of leaf particles (Particle Count) and to measure the surface area covered by non-lint particles (Area). AMS then applies mathematical algorithms to correlate Particle Count and Area data to Universal Leaf Grade Standards. A pilot project was conduct by AMS during 2009 and 2010 cotton classing seasons to evaluate the accuracy of the proposed instrument leaf grade determination process. Results showed that the HVI determines Official leaf grades more accurately than cotton classers. The Cotton and Tobacco Programs propose to introduce instrument leaf grading into the cotton classification process. This proposed change

would improve the repeatability, consistency and accuracy of leaf grade classification data provided to the cotton industry, while potentially improving operational efficiency.

For the reasons set forth above, this proposed rule would amend the sections in Part 28-- Cotton Classing, Testing, and Standards, Subpart A--Regulations Under the United States Cotton Standards Act, which establishes the procedures for determining official cotton classification based on the Official Cotton Grade Standards. Since cotton classification services under the United States Cotton Futures Act must conform to the requirements of the Cotton Standards Act, this proposed rule would also amend the sections in Part 27--Cotton Classification Under Cotton Futures Legislation which establish the procedures for determining cotton classification for cotton submitted for futures certification.

In section 27.2 (n), the definition of the term ``classification'' would be revised to reflect the changes in procedures made under Part 28.

Also under part 27, section 27.31 would be revised to reflect the deletion of the requirement for cotton classers to manually determine leaf grade. The revised section would reflect the changes made in procedures for determination of cotton quality in accordance with the official standards.

In part 28, section 28.8 would be revised to reflect the change in cotton classification procedures which replaces classer visual examinations to determine leaf grade with instrument leaf measurement by High Volume Instruments.
In addition, miscellaneous other changes are proposed to be made to parts 27 and 28 to better reflect current procedures in view of leaf determination change. For example, those

determinations made by cotton classers or by authorized Cotton Program employees will be specified.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. The comment period has been limited to 15 days from the date of publication to allow the cotton industry to fully benefit from the increased accuracy and repeatability of cotton leaf grade data provided by instrument leaf grading during the current classing season.

List of Subjects

7 CFR Part 27

Commodity Futures, Cotton.

7 CFR Part 28

Administrative practice and procedure, Cotton.

For the reasons set forth in the preamble, 7 CFR parts 27 and 28 are proposed to be amended as follows:

PART 27--[AMENDED]

1. The authority citation for 7 CFR Part 27 continues to read as follows:

Authority: 7 U.S.C. 15b, 7 U.S.C. 4736, 7 U.S.C. 1622(g).

2. In § 27.2, paragraph (n) is revised to read as follows:

§ 27.2 Terms defined.

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(n)   Classification. The classification of any cotton shall be determined by the quality of a sample in accordance with Official Cotton Standards of the United States for the color grade, the leaf grade, and fiber property measurements of American Upland cotton. High

Volume Instruments will determine all fiber property measurements except extraneous matter. Cotton classers authorized by the Cotton and Tobacco Programs will determine the presence of extraneous matter.

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3. Section 27.31 is revised to read as follows:

§ 27.31　Classification of Cotton.

For purposes of subsection 15b (f) of The Act, classification of cotton is the determination of the quality of a sample in accordance with the Official Cotton Standards of the United States for the color grade and leaf grade of American upland cotton, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except extraneous matter. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers authorized by the Cotton and Tobacco Programs will determine the presence of extraneous matter and authorized employees of the Cotton and Tobacco Programs will determine all fiber property measurements using High Volume Instruments.

PART 28—[AMENDED]

4. The authority citation for 7 CFR Part 28 continues to read as follows:

Authority: 7 U.S.C. 55 and 61

5. Section 28.8 is revised to read as follows:

§ 28.8　Classification of cotton; determination.

For the purposes of The Act, the classification of any cotton shall be determined by the quality of a sample in accordance with Official Cotton Standards of the United States for the

color grade and the leaf grade of American upland cotton, the length of staple, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except extraneous matter, special conditions and remarks. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers authorized by the Cotton and Tobacco Programs will determine the presence of extraneous matter, special conditions and remarks and authorized employees of the Cotton and Tobacco Programs will determine all fiber property measurements using High Volume Instruments. The classification record of a Classing Office or the Quality Control Division with respect to any cotton shall be deemed to be the classification record of the Department.

Dated: December 14, 2011

Robert C. Keeney
Acting Administrator

Billing code 3410-02 P

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