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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

[AMS-CN-13-0043]

RIN: 0581-AD33

COTTON FUTURES CLASSIFICATION: OPTIONAL CLASSIFICATION PROCEDURE

AGENCY: Agricultural Marketing Service, USDA

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes
regulatory amendments that would allow for the addition of an
optional cotton futures classification procedure - identified
and known as "registration" by the U.S. cotton industry and the
Intercontinental Exchange (ICE). In response to requests from
the U.S. cotton industry and ICE, AMS proposes to offer a
futures classification option whereby cotton bales may be
certificated for the purpose of an exchange's cotton futures
contract using Smith-Doxey data to verify that submitted bales
meet more restrictive quality requirements and age parameters
established by that exchange. The implementation of ICE's
Cotton Resolution No. 2 is scheduled to commence with the March
2014 contract month. It is anticipated that AMS would make the
futures classification option available December 2013.

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DATES: Comments must be received on or before (Insert date 30 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:* Comments may be submitted by mail to: Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Comments should be submitted in triplicate. All comments should reference the docket number and the date and the page of this issue of the **Federal Register**. All comments will be available for public inspection during regular business hours at Cotton & Tobacco Program, AMS, USDA, 3275 Appling Road, Memphis, TN 38133. 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, Room 11, Memphis, TN 38133. Telephone (901) 384-3060, facsimile (901) 384-3021, or e-mail darryl.earnest@ams.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

 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 that
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) (5U.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 businesses.

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
approximately sixty cotton merchant organizations of various
sizes active in trading U.S. cotton. Cotton merchants
voluntarily use the AMS cotton futures classification services
under the Cotton Futures Act (Act) (7 U.S.C. 15b). Many of
these cotton merchants are small businesses under the criteria

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established by the Small Business Administration (13 CFR §121.201). Establishing the registration option for cotton futures classification will not significantly affect small businesses as defined in the RFA because:

(1) The established user fee for cotton futures classification services is $3.50 per bale (7 CFR § 27.80). Users choosing the registration option would incur no additional charges;

(2) The established cotton futures classification fee represents a very small portion of the cost per-unit currently borne by those entities utilizing the service;

(3) The average price paid to producers for cotton from the 2012 crop was 72.05 cents per pound, making a 500 pound bale of cotton worth an average of $360.25. The current user fee for futures classification services, $3.50 per bale, is less than one percent of the average value of a bale of cotton;

(4) The fee for this service will not affect competition in the marketplace;

(5) The futures classification option is expected to streamline marketing and create logistical efficiencies for all entities utilizing this option; and

(6) The use of futures classification services are voluntary. For fiscal year 2012, there were 318,337 cotton

futures samples (approximately 2.1 percent of the 2012 cotton crop) voluntarily submitted for the futures classification service.

Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581-0008, Cotton Classing, Testing, And Standards.

Background

The Act requires USDA-verified quality measurements for each bale to be included in futures contracts for the purpose of verifying that each bale meets the minimum quality requirements for cotton futures trading. Furthermore, the Act authorizes the charging of user fees required to recover the cost associated with providing futures quality verification services.

USDA was first directed to provide cotton classification services to producers of cotton under the Smith-Doxey Act of April 13, 1937 (Pub. L. 75-28). Therefore, the original classification of a cotton bale's sample and quality data which results from this classification is commonly referred to as the Smith-Doxey classification or Smith-Doxey data.   While cotton

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classification is not mandatory, practically every cotton bale grown in the United States today is classed by AMS under the authority of the Cotton Statistics and Estimates Act (7 U.S.C. 471-476) and the U.S. Cotton Standards Act (7 U.S.C. 51-65) and under regulations found in 7 CFR part 28 – Cotton Classing, Testing, and Standards. The U.S. cotton industry uses Smith-Doxey data to assign quality-adjusted market values to U.S. cotton and market U.S. cotton both domestically and internationally. Smith-Doxey data is commonly used by the cotton merchant community to indicate which bales may be tenderable against a cotton futures contract.

Conventional procedures employed for verifying quality measurements for bales to be included in futures contracts consists of two futures classifications: 1) initial futures classification and 2) final futures classification. AMS, Cotton and Tobacco Programs revised these procedures to incorporate Smith-Doxey data into the cotton futures classification process in March 2012 (77 FR 5379). When verified by a futures classification, Smith-Doxey data serves as an initial futures classification with the verifying futures classification serving as a final futures classification. The use of Smith-Doxey data significantly reduced the number of futures classifications required for many of the bales that were submitted for

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certification.

The successful incorporation of Smith-Doxey data into the futures classification procedures prompted the U.S. cotton industry and ICE to request that the AMS, Cotton and Tobacco Programs use Smith-Doxey data to certify that bales submitted for quality verification meet more restrictive quality requirements and age parameters set by ICE for use in a cotton futures contract. The U.S. cotton industry and ICE refer to this optional procedure the "registration option". Furthermore, the U.S. cotton industry and ICE have requested that AMS, Cotton and Tobacco Programs make this option available in December 2013 to coincide with the implementation of ICE's Cotton Resolution No. 2, which is scheduled to commence with the March 2014 contract month.

The established user fee for cotton futures classification services is $3.50 per bale (7 CFR § 27.80). Customers choosing this cotton futures classification option would incur this charge. In the event that AMS determines that a bale submitted under this option fails to meet quality or age parameters set by the exchange inspection agency, the owner of the bale would be notified of the bale's failure.

AMS, Cotton and Tobacco Programs propose regulatory amendments that would allow the use of original Smith-Doxey data

to certify that bales submitted for quality verification meet quality and age parameters set by the applicable exchange inspection agency.   Accordingly, the definition of "Classification" in § 27.2, paragraph (n) would be amended to allow for the proposed registration option for the futures classification services. Also in § 27.2, the term "Smith-Doxey data" would be defined in new paragraphs (p).

A thirty day comment period is and deemed appropriate. It is anticipated that AMS would make the futures classification option available December 2013 to coincide with the implementation of ICE's Cotton Resolution No. 2.

List of Subjects in 7 CFR Part 27

Commodity futures, Cotton.

For the reasons set forth in the preamble, 7 CFR part 27 is proposed to be amended to read as follows:

PART 27 - [Amended]

1. The authority citation for 7 CFR part 27 is revised to read as follows:

Authority: 7 U.S.C. 15b, 7 U.S.C. 473a-b, 7 U.S.C. 1622(g).

2. Amend § 27.2 to revise paragraph (n) and add paragraph (p) to read as follows:

§ 27.2 Terms Defined.

*   *   *   *   *

(n) *Classification*. The classification of any cotton shall be determined by the quality of a sample in accordance with the Universal Cotton Standards (the official cotton standards of the United States) for cotton property measurements of American Upland cotton. High Volume Instruments will determine all cotton property measurements except extraneous matter. Cotton classers authorized by the Cotton and Tobacco Programs will determine the presence of extraneous matter. Original Smith-Doxey data may serve as certification that bales submitted for quality verification meet quality and age parameters set by an applicable exchange inspection agency as a futures classification option.

*   *   *   *   *

(p) *Smith-Doxey data*. Data reflecting the original classification of a cotton bale provided to producers of cotton under the Smith-Doxey Act of April 13, 1937 (Pub. L. 75–28).

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Dated: August 30, 2013

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service.

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