



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

[Doc. # AMS-CN-14-0050]

RIN: 0581-AD38

Defining Bona Fide Cotton Spot Markets for the World Cotton Futures Contract

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to amend the regulatory language to designate which bona fide cotton spot markets will be used to determine actual commercial differences in value for various grades above or below the basis grade in the settlement of World cotton futures contracts on the Intercontinental Exchange (ICE). Designating bona fide cotton spot markets for the World cotton futures contract in the regulatory language will allow for AMS to collect spot market price data and publish spot quotes for the settlement of these specific contracts.

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 Program, 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 Program, 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 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to access all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the

importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a "non-significant regulatory action" under §3(f) of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

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) (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 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. Many of these cotton merchants are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). Small business entities that are merchants in the U.S. cotton industry are defined as having fewer than 100 employees. Amendments to the regulation concerning bona fide cotton spot market designations will not significantly affect small businesses as defined in the RFA because:

(1) How spot prices are estimated are not expected to be impacted by this action;

(2) Business practices of the U.S. cotton industry are not expected to change as a result of this action;

(3) Costs associated with providing market news services will not be significantly changed by this action;

(4) Market news services are paid for by appropriated funds, therefore users are not charged fees for the provision of the services.

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 0581-0009, Cotton Classification and Market News Service.

Background

The Secretary of Agriculture is authorized under the United States Cotton Futures Act (7 U.S.C. 15b) to designate at least five bona fide cotton spot markets from which cotton price information can be collected. A spot market - also called the "cash market" or "physical market" - is a market where commodities are sold on the spot for cash at current market prices and delivered immediately. Designation of these bona fide cotton spot markets and the determination of which counties and states compose each of these spot markets was most recently published in the Federal Register on April 30, 2013 (78 FR 25181). For each of these bona fide cotton spot markets, the Cotton and Tobacco Program of the Agricultural Marketing Service collects market price information under the United States Cotton Futures Act (7 U.S.C. 15b), the Cotton Statistics and Estimates Act (7 U.S.C. 473b) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)). This price information is then used to

calculate price differences for the settlement of cotton futures contracts.

In order to better manage price risk in the global cotton market, the American Cotton Shippers Association (ACSA) and the International Cotton Association (ICA) requested that the Intercontinental Exchange (ICE) offer a World cotton futures contract. In response, ICE announced its intention to begin offering World cotton contracts beginning in the fourth quarter of 2015. To determine actual commercial differences in value for various grades above or below the basis grade in the settlement of this new World cotton futures contract, AMS has been asked by these same stakeholders to collect and publish cotton spot market price information relevant to the World cotton contract. Therefore, AMS proposes to amend § 27.94 to designate the same bona fide cotton spot markets for the World cotton futures contract as have been designated for the No. 2 cotton futures contract.

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 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. 473b, 7 U.S.C. 1622(g).

2. In § 27.94, paragraph (a) is revised to read as follows:

§ 27.94 Spot markets for contract settlement purposes.

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(a) For cotton delivered in settlement of any Cotton No. 2 or World Cotton contract on the Intercontinental Exchange (ICE); the spot markets are Southeastern, North and South Delta, Eastern Texas and Oklahoma, West Texas, and Desert Southwest.

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Dated: December 11, 2014.

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

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