

with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner;

(2) Reference to the specific terms or provisions of the order, or the interpretation or application of such terms or provisions, which are complained of;

(3) A full statement of the facts, avoiding a mere repetition of detailed evidence, upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the order or the interpretation or application thereof, which are complained of;

(4) A statement of the grounds on which the terms or provisions of the order, or the interpretation or application thereof, which are complained of, are challenged as not in accordance with law;

(5) Requests for the specific relief which the petitioner desires the Secretary to grant; and

(6) An affidavit by the petitioner, or, if the petitioner is not an individual, by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition and stating that it is filed in good faith and not for purposes of delay.

(c) *A motion to dismiss a petition: filing, contents, and responses to a petition.* If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the Act or with requirements of paragraph (b) of this section, the Administrator may, within 30 days after the service of the petition, file with the hearing clerk a motion to dismiss the petition, or any portion of the petition, on one or more of the grounds stated in this paragraph. Such motion shall specify the grounds for objection to the petition and if based, in whole or in part, on allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or doc-

umentary evidence substantiating such allegations of fact. The motion may be accompanied by a memorandum of law. Upon receipt of such motion, the hearing clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition to such motion, including any memorandum of law, must be filed by the petitioner with the hearing clerk not later than 20 days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the hearing clerk shall transmit all papers which have been filed in connection with the motion to the judge for the judge's consideration.

(d) *Further proceedings.* Further proceedings on petitions to modify or to be exempted from the Order shall be governed by §§ 900.52(c)(2) through 900.71 of the Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From Marketing Orders. However, each reference to *marketing order* in the title shall mean *order*.

[47 FR 44684, Oct. 8, 1982, as amended at 67 FR 10830, Mar. 11, 2002]

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AUTHORITY: 7 U.S.C. 2101–2118 and 7 U.S.C. 7401.

**Subpart—Procedures for Conduct of Sign-up Period**

SOURCE: 62 FR 1660, Jan. 13, 1997, unless otherwise noted.

DEFINITIONS

**§ 1205.10 Act.**

The term *Act* means the Cotton Research and Promotion Act, as amended [7 U.S.C 2101–2118; Public Law 89–502, 80 Stat 279, as amended].

**§ 1205.11 Administrator.**

The term *Administrator* means the Administrator of the Agricultural Marketing Service, or any officer or employee of USDA to whom authority has been delegated to act in the Administrator’s stead.

**§ 1205.12 Cotton.**

The term *cotton* means all Upland cotton harvested in the United States and all imports of Upland cotton, including the Upland cotton content of products derived thereof. The term *cotton* does not include imported cotton for which the assessment is less than the value of \$2.00 per line item entry as established by regulations.

[62 FR 1660, Jan. 13, 1997, as amended at 67 FR 21169, Apr. 30, 2002]

**§ 1205.13 Upland cotton.**

The term *Upland cotton* means all cultivated varieties of the species *Gossypium hirsutum L.*

**§ 1205.14 Department.**

The term *Department* means the U.S. Department of Agriculture.

**§ 1205.15 Farm Service Agency.**

The term *Farm Service Agency*—formerly Agricultural Stabilization and Conservation Service (ASCS)—also referred to as “FSA,” means the Farm Service Agency of the Department.

**§ 1205.16 Order.**

The term *Order* means the Cotton Research and Promotion Order.

**§ 1205.17 Person.**

The term *person* means any individual 18 years of age or older, or any partnership, corporation, association, or any other entity.

**§ 1205.18 Producer.**

The term *producer* means any person who shares in a cotton crop, or in the proceeds thereof, as an owner of the farm, cash tenant, landlord of a share tenant, share tenant, or sharecropper, that planted the cotton during the representative period.

[67 FR 21169, Apr. 30, 2002]

**§ 1205.19 Importer.**

The term *importer* means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States, and the term import means any such entry.

**§ 1205.20 Representative period.**

The term *representative period* means the 2006 calendar year.

[72 FR 51160, Sept. 6, 2007]

**§ 1205.21 Secretary.**

The term *Secretary* means the Secretary of Agriculture of the United States, or any other officer or employee of the Department to whom authority has been delegated to act in the Secretary’s stead.

**§ 1205.22 State.**

The term *State* means each of the 50 states.

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### § 1205.23 United States.

The term *United States* means the 50 states of the United States of America.

#### PROCEDURES

### § 1205.24 General.

A sign-up period will be conducted to determine whether eligible producers and importers favor the conduct of a referendum on the continuance of the 1991 amendments to the Order.

(a) If the Secretary determines, based on the results of the sign-up period, that at least 10 percent (4,622) or more of the number of cotton producers and importers who voted in the 1991 referendum request the conduct of a continuance referendum on the 1991 Order amendments, a referendum will be held within 12 months after the end of the sign-up period. Not more than 20 percent of the total requests counted toward the 10 percent figure may be from producers from any one state or from importers of cotton.

(b) If the Secretary determines that fewer than 10 percent (4,622) of the number of producers and importers who voted in the 1991 referendum do not favor a continuance referendum, no referendum will be held.

### § 1205.25 Supervision of sign-up period.

The Administrator shall be responsible for conducting the sign-up period in accordance with this subpart.

### § 1205.26 Eligibility.

Only persons who meet the eligibility requirements in this subpart may participate in the sign-up period. No person is entitled to sign up more than once.

(a) Except as set forth in paragraphs (b) and (c) of this section, the following persons are eligible to request the conduct of a continuance referendum:

(1) Any person who was engaged in the production of Upland cotton during calendar year 2006; and

(2) Any person who was an importer of Upland cotton and imported Upland cotton in excess of the value of \$2.00 per line item entry during calendar year 2006.

(b) A general partnership is not eligible to request a continuance ref-

erendum, however, the individual partners of an eligible general partnership are each entitled to submit a request.

(c) Where a group of individuals is engaged in the production of Upland cotton under the same lease or cropping agreement, only the individual or individuals who signed or entered into the lease or cropping agreement are eligible to participate in the sign-up period. Individuals who are engaged in the production of Upland cotton as joint tenants, tenants in common, or owners of community property, are each entitled to submit a request if they share in the proceeds of the required crop as owners, cash tenants, share tenants, sharecroppers or landlords of a fixed rent, standing rent or share tenant.

(d) An officer or authorized representative of a qualified corporation, association, or limited partnership may submit a request on behalf of that corporation, association, or limited partnership.

(e) A guardian, administrator, executor, or trustee of any qualified estate or trust may submit a request on behalf of that estate or trust.

(f) An individual may not submit a request on behalf of another individual.

(g) Participation in the sign-up by proxy or power of attorney is not authorized.

[62 FR 1660, Jan. 13, 1997, as amended at 67 FR 21169, Apr. 30, 2002; 72 FR 51160, Sept. 6, 2007]

### § 1205.27 Participation in the sign-up period.

The sign-up period will be from September 4, 2007, through November 30, 2007. Those persons who favor the conduct of a continuance referendum and who wish to request that USDA conduct such a referendum may do so by submitting such request in accordance with this section. All requests must be received by the appropriate USDA office by November 30, 2007.

(a) Before the sign-up period begins, FSA shall establish a list of known, eligible, Upland cotton producers in the country that it serves during the representative period, and AMS shall also establish a list of known, eligible Upland cotton importers.

(b) Before the start of the sign-up period, AMS shall mail a request form to

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each known, eligible, cotton importer. Importers who wish to request a referendum and who do not receive a request form in the mail by September 4, 2007, may participate in the sign-up period by submitting a signed, written request for a continuance referendum, along with a copy of a U.S. Customs and Border Protection form 7501 showing payment of a cotton assessment for calendar year 2006. Importers must submit their requests and supporting documents to USDA, FSA, DAFO, Attention: Rick Pinkston, P.O. Box 23103, Washington, DC 20026-3103. All requests and supporting documents must be received by November 30, 2007.

(c) Each person on the county FSA office lists may participate in the sign-up period. Eligible producers must date and sign their name on the "County FSA Office Sign-up Sheet." A person whose name does not appear on the county FSA office list may participate in the sign-up period.

Such person must be identified on FSA-578 during the representative period or provide documentation that demonstrates that the person was a cotton producer during the representative period. Cotton producers not listed on the FSA-578 shall submit at least one sales receipt for cotton they planted during the representative period. Cotton producers must make requests to the county FSA office where the producer's farm is located. If the producer's land is in more than one county, the producer shall make request at the county office where FSA administratively maintains and processes the producer's farm records. It is the responsibility of the person to provide the information need by the county FSA office to determine eligibility. It is not the responsibility of the county FSA office to obtain this information. If any person whose name does not appear on the county FSA office list fails to provide at least one sales receipt for the cotton they produced during the representative period, the county FSA office shall determine that such person is ineligible to participate in the sign-up period, and shall note "ineligible" in the remarks section next to the person's name on the county FSA office sign-up sheet. In lieu of personally appearing at a county FSA office, eligible

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producers may request a sign-up form from the county FSA office where the producer's farm is located. If the producer's land is in more than one county, the producer shall make the request for the sign-up form at the county office where the FSA administratively maintains and processes the producer's farm records. Such request must be accompanied by a copy of at least one sales receipt for cotton they produced during the representative period. The appropriate FSA office must receive all completed forms and supporting documentation by November 30, 2007.

[72 FR 51161, Sept. 6, 2007]

### § 1205.28 Counting.

County FSA offices and FSA, Deputy Administrator for Field Operations (DAFO), shall begin counting requests no later than November 30, 2007. FSA shall determine the number of eligible persons who favor the conduct of a continuance referendum.

[62 FR 1660, Jan. 13, 1997, as amended at 67 FR 21170, Apr. 30, 2002; 72 FR 51161, Sept. 6, 2007]

### § 1205.29 Reporting results.

(a) Each county FSA office shall prepare and transmit to the state FSA office by December 7, 2007, a written report of the number of eligible producers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(b) DAFO shall prepare, by December 7, 2007, a written report of the number of eligible importers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(c) Each state FSA office shall, by December 7, 2007, forward all county reports to DAFO. By December 14, 2007, DAFO shall forward its report of the total number of eligible producers and importers that requested a continuance referendum, through the sign-up period, to the Deputy Administrator, Cotton Program, AMS, Stop 0224, 1400 Independence Ave., SW., Washington, DC 20250-0224.

[72 FR 51161, Sept. 6, 2007]

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### § 1205.30 Instructions and forms.

The Administrator is hereby authorized to prescribe additional instructions and forms consistent with the provisions of this subpart to govern conduct of the sign-up period.

### Subpart—Procedures for the Conduct of Referenda in Connection With Cotton Research and Promotion Order

SOURCE: 74 FR 51070, Oct. 5, 2009, unless otherwise noted.

### § 1205.200 General.

Referenda for the purpose of ascertaining whether producers and importers favor the issuance, continuance, amendment, suspension, or termination of the Cotton Research and Promotion Order shall be conducted in accordance with this subpart.

### § 1205.201 Definitions.

(a) *Act* means the Cotton Research and Promotion Act, as amended (7 U.S.C. 2101–2118; Pub. L. 89–502, as amended).

(b) *Administrator* means the Administrator of the Agricultural Marketing Service, or any officer or employee of USDA to whom authority has been delegated to act in the Administrator's stead.

(c) *Agricultural Marketing Service* also referred to as "AMS" means the Agricultural Marketing Service of the Department.

(d) *Cotton* means all Upland cotton harvested in the United States or imports of Upland cotton, including the Upland cotton content of the products derived thereof. The term *cotton* shall not, however, include any entry of imported cotton by an importer which has a value or weight less than the *de minimis* value established by the Secretary or industrial products as that term is defined by regulation.

(e) *Upland Cotton* means all cultivated varieties of the species *Gossypium hirsutum L.*

(f) *Department* means the U.S. Department of Agriculture.

(g) *Deputy Administrator* means the Deputy Administrator for Field Operations and also referred to as "DAFO."

(h) *Farm Service Agency* also referred to as "FSA" means the Farm Service Agency of the Department.

(i)(1) *Importer* means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States and who, during a 12-month period ending no later than 90 days prior to the conduct of the referendum, imported Upland cotton, and

(2) the term *import* means any such entry.

(j) *Order* means the Cotton Research and Promotion Order.

(k) *Person* means any individual 18 years of age or older, or any partnership, corporation, association, or any other entity.

(l) *Producer* means any person who shares in a cotton crop, or in the proceeds thereof, as an owner of the farm, cash tenant, landlord of a share tenant, share tenant, or sharecropper, that planted the cotton during the representative period.

(m) *Representative Period* means the period designated by the Secretary pursuant to section 8 of the Act (7 U.S.C. 2107).

(n) *Secretary* means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may be hereafter be delegated, the authority to act in the Secretary's stead.

(o) *State* means each of the 50 states.

(p) *United States* means 50 states of the United States of America.

(q) *Customs and Border Protection* means the U.S. Customs and Border Protection of the Department of Homeland Security. Customs and Border Protection is also referred to as "CBP."

### § 1205.202 Agencies through which a referendum shall be conducted.

(a) Agricultural Marketing Service. The Administrator shall:

(1) Determine the referendum period.

(2) Give producers and importers reasonable advance notice of the referendum

(i) by utilizing without advertising expense, available media of public information (including, but not being limited to, press and radio facilities) to

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announce the dates, places, or methods of voting, and other pertinent information, and

(ii) by such other means as the Administrator may deem advisable.

(3) Provide ballots and related material to be used in the referendum to FSA. The ballots:

(i) shall provide for recording essential information for ascertaining whether the person voting is an eligible voter, and

(ii) may provide for recording the total amount of Upland cotton produced by the producer or the total amount of cotton imported by the importer during the appropriate representative period.

(4) Make available to producers through FSA county offices instructions on voting, an appropriate ballot and, except in the case of a referendum on the termination or suspension of an order, a summary of the terms and conditions of the order. The instructions on voting shall explain the method to be used in determining the amount of Upland cotton produced during the representative period and shall specify whether such amount is to be entered on the ballot by the voter, subject to the following terms and conditions:

(i) If a current production year for which harvesting has not been completed is designated as the representative period, the amount of Upland cotton produced shall be determined by the FSA county office on the basis of the acreage planted or in the case of approved prevented plantings under the disaster payment program, the acreage the person intended to plant up to the allotted acreage as determined by the FSA county office, and the established yield for FSA program payment purposes: *Provided*, That on farms for which an established yield has not been established, the county committee shall determine an established yield based on actual production records on the farm for the preceding three years, as adjusted for any abnormal conditions, if available; if not available, on the basis of yield on similar farms in the area.

(ii) On farms in which more than one eligible voter is engaged in production, the vote cast by each voter shall represent only the amount of Upland cot-

ton that is the voter's share of the crop, or proceeds thereof.

(iii) If an eligible voter is engaged in production of Upland cotton on more than one farm, such voter is entitled to only one vote but any vote cast by such voter shall represent the total amount of Upland cotton that is that voter's share of the crop, or proceeds thereof, on all such farms: *Provided*, That only farms for which records are maintained by the FSA county office designated as the voter's polling place shall be considered unless the voter, prior to the expiration of the referendum period, establishes to the satisfaction of such county office the voter's share of the crop, or proceeds thereof, on an additional farm or farms.

(5) Make available to importers through FSA instructions on voting, an appropriate ballot and, except in the case of a referendum on the termination or suspension of an order, a summary of the terms and conditions of the order. The instructions on voting shall explain the appropriate method to be used in determining the amount of cotton imported during the representative period and specify whether such amount is to be entered on the ballot. If applicable, the following terms and conditions apply:

(i) For importer entities in which more than one importer is eligible to vote, the vote cast by each importer shall represent only the amount in weight or value of cotton imported by each eligible voter.

(ii) If an eligible importer is engaged in importation of cotton as more than one importer entity, such voter is entitled to only one vote but any vote cast by such voter shall represent the total amount in weight or value, of cotton in the voters share of cotton imported from each such importer entity: *Provided*, that only the importer entities for which records are maintained by CBP or other source determined by the Administrator shall be considered unless the voter, prior to the expiration of the referendum period, establishes to the satisfaction of the Administrator the voters share, in weight or value, of the imported cotton.

(b) *Farm Service Agency*. Except for the functions specified in paragraph (a)

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of this section the Deputy Administrator shall be in charge of and responsible for conducting the referendum. Each FSA county office shall be in charge and responsible for conducting such referendum in its State. Each county office shall be responsible for the proper holding of such referendum in its county. It shall be the duty of each FSA county office to conduct each referendum in a fair, unbiased, and impartial manner in accordance with the regulations in this subpart.

### § 1205.203 Voting eligibility.

(a) *General eligibility requirements.* The following persons shall be eligible to vote in an announced referendum—

(1) each person who was engaged in the production of Upland cotton during the representative period; and

(2) each person who is an importer of Upland cotton and who, during a 12-month period ending no later than 90 days prior to the conduct of the referendum, imported Upland cotton.

(b) *Special eligibility requirements.* (1)(i) A person may qualify as an eligible voter by meeting the eligibility requirements, but no such person shall be entitled to more than one vote regardless of the number of importing entities or Upland cotton farms in which the person is interested or the number of communities, counties, or States in which are located farms in which such person is interested: *Provided, however,* That the individual members of a qualified partnership shall each have one vote, but the partnership as such shall not have a vote and an individual who qualifies as an eligible voter by reason of that individual's separate farming or importing operations will be entitled to one vote even though that person is interested in an entity such as (but not limited to) a corporation which is also eligible as a voter and entitled to one vote. A person who, as a guardian, administrator, executor, or trustee engages in the production of Upland cotton or importation of cotton will be eligible to vote in such a fiduciary capacity if, in such a capacity, that person qualifies as an eligible voter.

(ii) In such cases the person for whom he or she is acting in a fiduciary capacity will not be eligible to vote. An indi-

vidual may, if otherwise eligible, cast a ballot in his or her individual capacity although that person may also cast a ballot as a guardian, administrator, executor, or trustee. An individual who holds more than one fiduciary position may vote as a fiduciary in each case in which that person is otherwise eligible, as for example, if an individual is administrator of estate X, he or she may cast a ballot as administrator of estate X, and if the same individual is administrator of estate Y, he or she may cast another ballot as administrator or estate Y.

(2) Where a group of several persons, such as a spouse or marital partner, and children, or unrelated individuals, are engaged in the production of Upland cotton under the same lease or cropping agreement, only the person or persons who signed or entered into the lease or cropping agreement shall be eligible to vote. In the event two or more persons are engaged in the production of Upland cotton as joint tenants, tenants in common, or owners of community property, each such person shall be entitled to one vote if otherwise qualified. For example, a husband or a wife is eligible to vote if he or she shares with his or her spouse in the proceeds of the required crop as an owner, cash tenant, share tenant, sharecropper or landlord of a fixed rent, standing rent or share tenant. Thus, if a husband and wife are tenants or sharecropper on a farm, jointly responsible under the rental or sharecropping agreement, both are eligible to vote. This is true whether the rental or sharecropping agreement is written, signed by both parties, or oral, provided both husband and wife made the oral agreement. A minor is not disqualified from voting solely because of minority if otherwise eligible and the minor is not less than 18 years of age.

(c) *Voting by proxy prohibited.* There shall be no voting by proxy or agent but a duly authorized officer of a corporation, association or their legal entity may cast its vote.

### § 1205.204 Voting.

(a) *Place of voting.* The FSA county office serving the county in which the producer's farm is located shall be the producer's polling place. For a person

not participating in an FSA program, the opportunity to vote in a referendum will be provided at the FSA county office serving the county where the person owns or rents land. If a person's operation is located in several counties, the voting office shall be determined based on the major portion of the operation's location. The U.S. Department of Agriculture, FSA, DAFO, P.O. Box 23704, Washington, DC 20026-3704 shall be the polling place for all cotton importers.

(b) *Register of eligible voters.* The FSA county office shall establish a register of known eligible producer voters prior to the referendum. AMS shall establish a register of known eligible importer voters prior to the referendum and provide the list to FAS.

(c) *Voting.* (1) For Upland producers to vote, eligible persons may obtain form CN-100 in-person, by mail or by facsimile from FSA county offices or through the Internet during the voting period. A completed and signed CN-100 and supporting documentation, such as a sales receipt or remittance form, must be returned to the appropriate FSA county office. Forms obtained via the Internet will be located at <http://www.ams.usda.gov/Cotton>. Upon request by Upland producers, ballots shall be mailed by FSA county offices.

(2) For cotton importers to vote, eligible persons may obtain form CN-100 in-person, by mail or by facsimile from USDA, FSA in Washington, D.C. or through the Internet during the voting period. In addition, before the referendum, USDA shall mail a request form to each known, eligible, cotton importer. A completed and signed CN-100 and supporting documentation of CBP Form 7501, must be returned USDA, FSA, DAFO, P.O. Box 23704, Washington, DC 20026-3704. Forms obtained via the Internet will be located at <http://www.ams.usda.gov/Cotton>.

(d) Returning ballot to polling place. Each person to whom a ballot is issued by Internet, mail, facsimile, or in-person shall only be allowed to vote in the referendum by completing and signing the ballot, placing it in an envelope, and delivering or mailing it to the appropriate polling place. In order to be eligible for tabulation, voted ballots must be received at the polling place

during the period established for holding the referendum. A ballot shall be considered to have been received during the referendum period if:

(1) In the case of the ballot delivered to the polling place, it was received in the office prior to the close of the work day on the final day of the referendum period, or

(2) In the case of the mailed ballot, it was postmarked not later than midnight of the final day of the referendum period and was received in the polling place prior to the start of canvassing the ballots.

(e) *Placing ballots in ballot box.* Notwithstanding the fact that a ballot(s) may be later challenged by FSA county office or a representative of FSA, envelopes containing ballots received at the polling place during the referendum period shall remain unopened and shall be placed immediately in a ballot box provided by FSA for producers and importers. Such ballot box shall be arranged so that ballots cannot be read or moved without breaking the seal on the container.

#### § 1205.205 Canvass of ballots.

(a) *Canvassing procedure.* Canvassing of returned ballots shall take place as soon as possible after the opening of the FSA offices on the fifth day following the close of the referendum period. Such canvassing shall be in the presence of at least one member of the FSA county office for producer ballots or an FSA representative for importer ballots and shall be open to the public. The canvassing and ballots shall be handled in such a manner so that no member of the public may see how any person voted in the referendum. The county office or FSA representative shall supervise the opening of the sealed ballot box, the opening of the envelopes containing the ballots and a determination as to:

(1) The number of eligible voters favoring the Order and where necessary, the amount of cotton represented by them,

(2) The number of eligible voters disapproving the Order and, where necessary, the amount of cotton represented by them.

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(3) The number of ballots cast by voters found to be ineligible to vote in the referendum, and

(4) The number of spoiled ballots. The ballots determined to be spoiled or cast by ineligible voters shall not be considered as approving or disapproving the Order, and the persons who cast such ballots shall not be regarded as participating in the referendum.

(b) *Spoiled ballots.* A ballot shall be considered as a spoiled ballot if:

(1) It is mutilated or marked in such a way that it is not possible to determine with certainty how the ballot was intended to be counted, or

(2) It does not contain the signature of the voter, or the voter's properly witnessed mark.

(c) *Challenge of ballots.* A producer ballot may be challenged by the member of the FSA county office and the importer ballot may be challenged by the representative of FSA. Before a challenged ballot is either counted or declared invalid, a determination shall be made by the FSA county office or representative of FSA as to the eligibility of the voter to vote in the referendum.

### § 1205.206 Reporting results of referendum.

(a) Each FSA county office shall transmit a written county summary of ballots showing the results of the referendum in its county to its State office.

(b) Each State office shall transmit a written summary of the referendum results from the county offices within its State to DAFO, and DAFO will provide a copy to the AMS. AMS will make the results available for public inspection for a period of 5 years following the end of the referendum period.

(c) AMS shall prepare and submit to the Secretary a report as to the results of the referendum. The Secretary shall then publically proclaim the results of the referendum.

### § 1205.207 Challenge of correctness of county summary of ballots.

The FSA state offices shall make a prompt investigation and decision in case of any dispute or challenge regarding the correctness of the county summary of ballots in any county: *Provided,*

That no dispute of challenge shall be investigated unless it is brought to the attention of the State FSA office within 3 days after receipt by the FSA State office of the county summary of ballots from such county.

### § 1205.208 Disposition of ballots and records.

The FSA county office shall seal the voted ballots, challenged ballots found to be ineligible, spoiled ballots, register sheets, and summary sheets for the county in one or more envelopes or packages, plainly marked with the identification of the referendum, the date and the names of the county and State, and place them under lock and key in a safe place under the custody of the FSA county office for a period of 45 days after the referendum period. If no notice to the contrary is received by the end of such time, and after the ballots and other records have been examined by a representative of the State FSA office, the voted ballots and challenged ballots shall be destroyed, but the registers and county summary sheets shall be filed for a period of 5 years in the office of the FSA county office.

### § 1205.209 Confidential information.

(a) The ballots cast or the manner in which any person voted and all information furnished to, compiled by, or in the possession of the referendum agent shall be regarded as confidential.

(b) The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Order and the voter list shall be strictly confidential and shall not be disclosed.

### § 1205.210 Additional instructions and forms.

AMS is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this subpart for the use of State and County FSA offices in conducting a referendum. Such additional instructions may include procedures for FSA county and State offices to report and announce the results of the preliminary count of the votes in the county and the State.

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**Subpart—Cotton Research and Promotion Order**

SOURCE: 31 FR 16758, Dec. 31, 1966, unless otherwise noted.

DEFINITIONS

**§ 1205.301 Secretary.**

*Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

**§ 1205.302 Act.**

*Act* means the Cotton Research and Promotion Act, as amended (7 U.S.C. 2101-2118; Public Law 89-502, 80 Stat 279, as amended).

[56 FR 64472, Dec. 10, 1991]

**§ 1205.303 Person.**

*Person* means any individual, partnership, corporation, association, or any other entity.

**§ 1205.304 Cotton.**

*Cotton* means:

(a) All Upland cotton harvested in the United States, and, except as used in §§ 1205.311 and 1205.335, includes cottonseed of such cotton and the products derived from such cotton and its seed, and

(b) Imports of Upland cotton, including the Upland cotton content of the products derived thereof. The term "cotton" shall not, however, include:

(1) Any entry of imported cotton by an importer which has a value or weight less than a de minimis amount established in regulations issued by the Secretary and

(2) Industrial products as that term is defined by regulation.

[56 FR 64472, Dec. 10, 1991]

**§ 1205.305 Upland cotton.**

*Upland cotton* means all cultivated varieties of the species *Gossypium hirsutum* L.

[56 FR 64472, Dec. 10, 1991]

**§ 1205.306 Bale.**

Except as used in § 1205.322, *Bale* means the package of lint cotton produced at a cotton gin or the amount of processed cotton in a manufactured product that is equivalent to a 500 pound bale of lint cotton.

[56 FR 64472, Dec. 10, 1991]

**§ 1205.307 Fiscal period.**

*Fiscal period* is the 12-month budgetary period and means the calendar year unless the Cotton Board, with the approval of the Secretary, selects some other 12-months budgetary period.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

**§ 1205.308 Cotton Board.**

*Cotton Board* means the administrative body established pursuant to § 1205.318.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

**§ 1205.309 Producer.**

*Producer* means any person who shares in a cotton crop actually harvested on a farm, or in the proceeds thereof, as an owner of the farm, cash tenant, landlord of a share tenant, share tenant, or sharecropper.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

**§ 1205.310 Importer.**

*Importer* means many person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States, and the term *import* means any such entry.

[56 FR 64472, Dec. 10, 1991]

**§ 1205.311 Handler.**

*Handler* means any person who handles cotton, including the Commodity Credit Corporation.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

**§ 1205.312 Handle.**

*Handle* means to harvest, gin, warehouse, compress, purchase, market,

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transport, or otherwise acquire ownership or control of cotton.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.313 United States.

*United States* means the 50 States of the United States of America.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.314 Cotton-producing State

*Cotton-producing State* means each of the following States and combinations of States:

Alabama-Florida; Arizona; Arkansas; California-Nevada; Georgia; Louisiana; Mississippi; Missouri-Illinois; New Mexico; North Carolina-Virginia; Oklahoma; South Carolina; Tennessee-Kentucky; Texas.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.315 Marketing.

*Marketing* includes the sale of cotton or the pledging of cotton to the Commodity Credit Corporation as collateral for a price support loan.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.316 Cotton-Producer organization.

*Cotton-Producer organization* means any organization which has been certified by the Secretary pursuant to § 1205.341.

[56 FR 64472, Dec. 10, 1991]

### § 1205.317 Cotton-Importer organization.

*Cotton-Importer organization* means any organization which has been certified by the Secretary pursuant to § 1205.342.

[56 FR 64472, Dec. 10, 1991]

### § 1205.318 Contracting organization or association.

*Contracting organization or association* means the organization or association with which the Cotton Board has entered into a contract or agreement pursuant to § 1205.328(c).

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.319 Cotton-producing region.

*Cotton-producing region* means each of the following groups of cotton-producing States:

(a) Southeast Region: Alabama-Florida, Georgia, North Carolina-Virginia, and South Carolina;

(b) Midsouth Region: Arkansas, Louisiana, Mississippi, Missouri-Illinois, and Tennessee-Kentucky;

(c) Southwest Region: Oklahoma and Texas;

(d) Western Region: Arizona, California-Nevada, and New Mexico.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.320 Marketing year.

*Marketing year* means a consecutive 12-month period ending on July 31.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.321 Part and subpart.

*Part* means the cotton research and promotion order and all rules, regulations and supplemental orders issued pursuant to the act and the order, and the aforesaid order shall be a "subpart" of such part.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

## COTTON BOARD

### § 1205.322 Establishment and membership.

(a) There is hereby established a Cotton Board composed of:

(1) Representatives of cotton producers, each of whom shall have an alternate, selected by the Secretary from nominations submitted by eligible producer organizations within a cotton-producing state, as certified pursuant to § 1205.341, or, if the Secretary determines that a substantial number of producers are not members of or their interests are not represented by any such eligible organizations, from nominations made by producers in a manner authorized by the Secretary, and

(2) Representatives of cotton importers, each of whom shall have an alternate, selected by the Secretary from nominations submitted by eligible importer organizations, as certified pursuant to § 1205.342, or, if the Secretary

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determines that a substantial number of importers are not members of or their interests are not represented by any such eligible organization, from nominations made by importers in a manner authorized by the Secretary.

(b) Representation on the Cotton Board shall be as follows:

(1) Each cotton-producing state shall have at least one member and an additional member for each 1 million bales or major fraction (more than half) thereof of cotton produced in the state and marketed above one million bales during the period specified in the regulations for determining Board membership; and

(2) Cotton importers shall be represented by an appropriate number of representatives, as determined by the Secretary, of importers of cotton subject to assessment during the period specified in the regulations for determining Board membership. That number shall not be less than two members. The initial importer representation on the Board shall consist of four representatives. The Secretary may, after consultation with organizations representing importers, reduce or increase the number of importer representatives, in the manner prescribed by the Secretary.

[56 FR 64472, Dec. 10, 1991]

### § 1205.323 Term of office.

All members of the Board and their alternatives shall serve for terms of three years. Each member and alternate shall continue to serve until a successor is selected and has qualified.

[56 FR 64472, Dec. 10, 1991]

### § 1205.324 Nominations.

All nominations authorized under §1205.322 shall be made within such a period of time and in such a manner as the Secretary shall prescribe. The eligible producer organizations within each cotton-producing state, as certified pursuant to §1205.341, shall caucus for the purpose of jointly nominating two qualified persons for each member and each alternate member to be selected to represent the cotton producers of such cotton-producing state. The eligible importer organizations, as certified pursuant to §1205.342, shall

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caucus for the purpose of jointly nominating two qualified persons for each member and alternate member to be selected to represent cotton importers. If joint agreement is not reached with respect to the nominees for any such position, each such organization may nominate two qualified persons for any position on which there is no agreement.

[56 FR 64472, Dec. 10, 1991; 56 FR 66670, Dec. 24, 1991]

### § 1205.325 Selection.

From the nominations made pursuant to §§1205.322 and 1205.324, the Secretary shall select the members of the Board and an alternate for each member on the basis of representation provided for in §§1205.322 and 1205.323.

[56 FR 64473, Dec. 10, 1991]

### § 1205.326 Acceptance.

Any person selected by the Secretary as a member or as an alternate member of the Board shall qualify by filing a written acceptance with the Secretary promptly after being notified of such selection.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.327 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the Board to qualify, or in the event of death, removal, resignation or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and selected in the manner specified in §§1205.322, 1205.324 and 1205.325.

[56 FR 64473, Dec. 10, 1991]

### § 1205.328 Alternate members.

An alternate member of the Board, during the absence of the member for whom the person is the alternate, shall act in the place and stead of such member and perform such other duties as assigned. In the event of death, removal, resignation or disqualification of a member, the alternate for the member shall act for the member until

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a successor for such member is selected and qualified. In the event that both a producer member of the Board and the member's alternate are unable to attend a meeting, the Board may designate any other alternate member from the same cotton-producing state or region to serve in such member's place and stead of such meeting. In the event that both an importer member and the member's alternate are unable to attend a meeting, the Board may designate any other importer alternate member to serve in such member's place and stead at such meeting.

[56 FR 64473, Dec. 10, 1991]

### § 1205.329 Procedure.

A majority of the members of the Board, or alternates acting for members, shall constitute a quorum and any action of the Board shall require the concurring votes of at least a majority of those present and voting. At assembled meetings all votes shall be cast in person. For routine and non-controversial matters which do not require deliberation and the exchange of views, and in matters of an emergency nature when there is not enough time to call an assembled meeting of the Board, the Board may also take action upon the concurring votes of a majority of its members by mail, telegraph or telephone, but any such action by telephone shall be confirmed promptly in writing.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.330 Compensation and reimbursement.

The members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for necessary expenses, as approved by the Board, incurred by them in the performance of their duties under this subpart.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### § 1205.331 Powers.

The Board shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms and provisions;

(b) Subject to the approval of the Secretary, to make rules and regulations to effectuate the terms and provisions of this subpart including the designation of the handler, importer, or other person responsible for collecting the assessments authorized by § 1205.335, which designation may be of different handlers, importers, or other persons, or classes of handlers, importers, or other persons, to recognize differences in marketing practices or procedures in any state or area;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart;

(d) To recommend to the Secretary amendments to this subpart.

[31 FR 16758, Dec. 31, 1966, as amended at 42 FR 4813, Jan. 26, 1977. Redesignated and amended at 56 FR 64472, 64473, Dec. 10, 1991]

### § 1205.332 Duties.

The Board shall have the following duties:

(a) To select from among its members a chairman and such other officers as may be necessary for the conduct of its business, and to define their duties;

(b) To appoint or employ such persons as it may deem necessary and to determine the compensation and to define the duties of each;

(c) With the approval of the Secretary, to enter into contracts or agreements for the development and submission to it of research and promotion plans or projects authorized by § 1205.333, and for the carrying out of such plans or projects when approved by the Secretary, and for the payment of costs thereof with funds collected pursuant to § 1205.335, with an organization or association whose governing body consists of cotton producers selected by the cotton-producer organizations certified by the Secretary under § 1205.341, in such manner that the producers of each cotton-producing state will, to the extent practicable, have representation on the governing body of such organization in the proportion that the cotton marketed by the producers of such state bears to the total marketed by the producers of all cotton-producing states. Any such contract or agreement shall provide that

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such contracting organization or association shall develop and submit annually to the Cotton Board, for the purpose of review and making recommendations to the Secretary, a program of research, advertising, and sales promotion projects, together with a budget, or budgets, which shall show the estimated cost to be incurred for such projects, and that any such projects shall become effective upon approval by the Secretary. Any such contract or agreement shall also provide that the contracting organization shall keep accurate records of all its transactions, which shall be available to the Secretary and Board on demand, and make an annual report to the Cotton Board of activities carried out and an accounting for funds received and expended, and such other reports as the Secretary may require;

(d) To review and submit to the Secretary any research and promotion plans or projects which have been developed and submitted to it by the contracting organization or association, together with its recommendations with respect to the approval thereof by the Secretary;

(e) To submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of advertising and promotion and research and development projects as estimated in the budget or budgets submitted to it by the contracting organization or association, with the Board's recommendations with respect thereto;

(f) To maintain such books and records and prepare and submit such reports from time to time to the Secretary as he may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) To cause its books to be audited by a competent public accountant at least once each fiscal period and at such other times as the Secretary may request, and to submit a copy of each such audit to the Secretary;

(h) To give the Secretary the same notice of meetings of the Board as is given to members in order that his representative may attend such meetings;

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(i) To act as intermediary between the Secretary and any producer, importer, or handler.

(j) To submit to the Secretary such information as he may request.

[31 FR 16758, Dec. 31, 1966. Redesignated and amended at 56 FR 64472, 64473, Dec. 10, 1991]

**RESEARCH AND PROMOTION**

**§ 1205.333 Research and promotion.**

The Cotton Board shall in the manner prescribed in §1205.332(c) establish or provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate plans or projects for the advertising and sales promotion of cotton and its products, which plans or projects shall be directed toward increasing the general demand for cotton or its products in accordance with section 6(a) of the act;

(b) The establishment and carrying on of research and development projects and studies with respect to the production, ginning, processing, distribution, or utilization of cotton and its products in accordance with section 6(b) of the act, to the end that the marketing and utilization of cotton may be encouraged, expanded, improved, or made more efficient.

[31 FR 16758, Dec. 31, 1966. Redesignated and amended at 56 FR 64472, 64473, Dec. 10, 1991]

**EXPENSES AND ASSESSMENTS**

**§ 1205.334 Expenses.**

(a) The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart.

(b) The Board shall reimburse the Secretary for:

(1) Expenses up to \$300,000 incurred by the Secretary in connection with any referendum conducted under the Act and

(2) Expenses incurred by the Department of Agriculture for administrative and supervisory costs up to five employee years annually.

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(c) The Board shall reimburse any agency of the United States Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection therewith.

(d) The funds to cover such expenses incurred under paragraphs (a), (b) and (c) of this section shall be paid from assessments received pursuant to § 1205.335.

[42 FR 4813, Jan. 26, 1977. Redesignated and amended at 56 FR 64472, 64473, Dec. 10, 1991]

**§ 1205.335 Assessments.**

(a) Each cotton producer or other person for whom cotton is being handled shall pay to the handler thereof designated by the Cotton Board pursuant to regulations issued by the Secretary and such handler shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board, at such times and in such manner as prescribed by regulations issued by the Secretary, assessments as prescribed in paragraphs (a) (1) and (2) of this section:

(1) An assessment at the rate of \$1 per bale of cotton handled;

(2) A supplemental assessment on cotton handled which shall not exceed one percent of the value of such cotton as determined by the Cotton Board and approved by the Secretary and published in the Cotton Board rules and regulations. The rate of the supplemental assessment may be increased or decreased by the Cotton Board with the approval of the Secretary. The Secretary shall prescribe by regulation whether the assessment rate shall be levied on:

(i) The current value of the cotton, or

(ii) An average value determined from current and/or historical cotton prices and converted to a fixed amount for each bale.

(b) Each importer of cotton shall pay to the Cotton Board through the U.S. Customs Service, or in such other manner and at such times as prescribed by regulations issued by the Secretary, assessments as prescribed in paragraphs (b)(1) and (2) of this section:

(1) An assessment of \$1 per bale of cotton imported or the bale equivalent thereof for cotton products.

(2) A supplemental assessment on each bale of cotton imported, or the bale equivalent thereof for cotton products, which shall not exceed one percent of the value of such cotton as determined by the Cotton Board and approved by the Secretary and published in the Cotton Board rules and regulations. The rate of the supplemental assessment on imported cotton shall be the same as that paid on cotton produced in the United States. The rate of the supplemental assessment may be increased or decreased by the Cotton Board with the approval of the Secretary. The Secretary shall prescribe by regulation the value of imported cotton based on an average of current and/or historical cotton prices.

(c) The Secretary may designate by regulation exemptions to assessments provided for in this section for the following:

(1) Entries of products designated by specific Harmonized Tariff Schedule numbers which the Secretary determines are composed of U.S. cotton or other than Upland cotton, and for;

(2) Cotton contained in entries of imported cotton and cotton products that is U.S. produced cotton or is other than Upland cotton.

(d) Assessments collected under this section are to be used for such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds reasonable and likely to be incurred by the Cotton Board and the Secretary under this subpart.

[56 FR 64473, Dec. 10, 1991]

**§ 1205.336 "Importer Reimburse-  
ments".**

Any cotton importer against whose imports any assessment is made and collected under the authority of the Act who has reason to believe that such assessment or any portion of such assessment was made on U.S. produced cotton or cotton other than Upland cotton shall have the right to demand and receive from the Cotton Board a reimbursement of the assessment or portion of the assessment upon submission of proof satisfactory to the Board that the importer paid the assessment

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and that the cotton was produced in the U.S. or is other than Upland cotton. Any such demand shall be made by the importer in accordance with regulations and on a form and within a time period prescribed by the Board and approved by the Secretary. Such time periods shall provide the importer at least 90 days from the date of collection to submit the reimbursement form to the Board. Any such reimbursement shall be made within 60 days after demand therefor.

[56 FR 64474, Dec. 10, 1991]

**§ 1205.337 Influencing governmental action.**

No funds collected by the Board under this subpart shall in any manner be used for the purpose of influencing governmental policy or action except in recommending to the Secretary amendments to this subpart.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

REPORTS, BOOKS, AND RECORDS

**§ 1205.338 Reports.**

Each handler and importer subject to this subpart and importers of de minimis amounts of cotton may be required to report to the Cotton Board periodically such information as is required by regulations, which may include but not be limited to the following:

- (a) Number of bales handled or imported;
- (b) Number of bales on which an assessment was collected;
- (c) Name and address of person from whom the handler has collected the assessments on each bale handled or imported;
- (d) Date collection was made on each bale handled or imported.

[56 FR 64474, Dec. 10, 1991]

**§ 1205.339 Books and records.**

Each handler and importer subject to this subpart and importers of de minimis amounts of cotton shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any

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reports required. Such records shall be retained for at least two years beyond the marketing year of their applicability.

[56 FR 64474, Dec. 10, 1991]

**§ 1205.340 Confidential treatment.**

All information obtained from such books, records or reports shall be kept confidential by all officers and employees of the Department of Agriculture and of the Cotton Board, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this § 1205.340 shall be deemed to prohibit:

- (a) The issuance of general statements based upon the reports of a number of handlers or importers subject to this subpart or importers of de minimis amounts of cotton, which statements do not identify the information furnished by any person, or
- (b) The publication by the direction of the Secretary, of the name of any person violating this subpart, together with a statement of the particular provisions of this subpart violated by such person.

[56 FR 64474, Dec. 10, 1991]

CERTIFICATION OF COTTON PRODUCER ORGANIZATION

**§ 1205.341 Certification of cotton producer organization.**

Any cotton producer organization within a cotton-producing State may request the Secretary for certification of eligibility to participate in nominating members and alternate members to represent such State on the Cotton Board. Such eligibility shall be based in addition to other available information upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(a) Geographic territory within the State covered by the organization's active membership;

(b) Nature and size of the organization's active membership in the State, proportion of total of such active membership accounted for by farmers, a map showing the cotton-producing counties in such State in which the organization has members, the volume of cotton produced in each such county, the number of cotton producers in each such county, and the size of the organization's active cotton producer membership in each such county;

(c) The extent to which the cotton producer membership of such organization is represented in setting the organization's policies;

(d) Evidence of stability and permanency of the organization;

(e) Sources from which the organization's operating funds are derived;

(f) Functions of the organization; and

(g) The organization's ability and willingness to further the aims and objectives of the act.

The primary consideration in determining the eligibility of an organization shall be whether its cotton producer membership consists of a sufficiently large number of cotton producers who produce a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members for the Cotton Board. Any cotton producer organization found eligible by the Secretary under this §1205.341 will be certified by the Secretary, and the Secretary's determination as to eligibility is final.

[31 FR 16758, Dec. 31, 1966. Redesignated and amended at 56 FR 64472, 64474, Dec. 10, 1991]

**§ 1205.342 Certification of cotton importer organizations.**

Any importer organization may request the Secretary for certification of eligibility to participate in nominating members and alternate members to represent cotton importers on the Cotton Board. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(a) Nature and size of organization's active membership, proportion of total active membership accounted for by cotton importers and the total amount of cotton imported by the organization's cotton importer members;

(b) The extent to which the cotton importer membership of such organization is represented in setting the organization's policies;

(c) Evidence of stability and permanency of the organization;

(d) Sources from which the organization's operating funds are derived;

(e) Functions of the organization; and

(f) The organization's ability and willingness to further the aims and objectives of the Act.

The primary consideration in determining the eligibility of an organization shall be whether its membership consist of a sufficient large number of cotton importers who import a relatively significant volume of cotton to reasonably warrant its participation in the nomination of members for the Cotton Board. Any importer organization found eligible by the Secretary under this §1205.342 will be certified by the Secretary, and the Secretary's determination as to eligibility is final.

[56 FR 64475, Dec. 10, 1991]

**MISCELLANEOUS**

**§ 1205.343 Suspension and termination.**

(a) The Secretary will, whenever the Secretary finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of cotton producers and importers (if subject to the Order) voting in the most recent referendum, to determine whether cotton producers and importers subject to the Order favor the suspension or termination of this subpart, except that in counting such request for a referendum, not more than 20 percent of such request may be from producers

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from any one state or importers of cotton (if subject to the Order). The Secretary shall suspend or terminate such subpart at the end of the marketing year whenever the Secretary determines that its suspension or termination is approved or favored by a majority of producers and importers subject to the Order voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production or importation of cotton, and who produced and imported more than 50 percent of the volume of cotton produced and imported by those voting in the referendum.

[56 FR 64474, Dec. 10, 1991]

**§ 1205.345 Proceedings after termination.**

(a) Upon the termination of this subpart the Cotton Board shall recommend not more than five of its members to the Secretary to serve as trustees, for the purpose of liquidating the affairs of the Cotton Board. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall—

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Cotton Board under any contracts or agreements entered into by it pursuant to § 1205.332 (c);

(3) From time-to-time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all funds, property and claims vested in the Board or the trustees pursuant to this § 1205.345.

(c) Any person to whom funds, property or claims have been transferred or delivered pursuant to this § 1205.345

shall be subject to the same obligation imposed upon the Cotton Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practicable, in the interest of continuing one or more of the cotton research or promotion programs hitherto authorized.

[31 FR 16758, Dec. 31, 1966. Redesignated and amended at 56 FR 64472, 64475, Dec. 10, 1991]

**§ 1205.346 Effect of termination or amendment.**

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder, or (b) release or extinguish any violation of this subpart or any regulation issued thereunder, or (c) affect or impair any rights or remedies of the United States, or of the Secretary, or of any other person, with respect to any such violation.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

**§ 1205.347 Personal liability.**

No member or alternate member of the Cotton Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or alternate, except for acts of dishonesty or willful misconduct.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

**§ 1205.348 Separability.**

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances

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is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

### Subpart—Members of Cotton Board

#### § 1205.401 Definitions.

(a) *Cotton Division.* *Cotton Division* means the Cotton Division of the Agricultural Marketing Service of the U.S. Department of Agriculture.

(b) *Director.* *Director* means the Director of the Cotton Division.

[32 FR 1084, Jan. 31, 1967, as amended at 41 FR 37092, Sept. 2, 1976]

#### § 1205.402 Determination of Cotton Board membership.

(a) In determining whether any cotton-producing state is entitled to be represented by more than one member of the Cotton Board as provided in §1205.322, average annual production of Upland cotton in terms of 480-pound net weight bales for the five most recent marketing years will be used as the criteria for determination of such additional members.

(b) In determining whether importers of cotton and cotton-containing products are entitled to be represented by more than a minimum of two members on the Cotton Board as provided in §1205.322, the average annual volume of imported cotton and the cotton content of imported products on which assessments have been collected will be used as the criteria for determination of such additional members. This volume of cotton will be expressed in terms of 480-pound net weight bales for the five most recent calendar years. The initial importer representation on the Board shall consist of four importer representatives.

(c) All members appointed from a state will be entitled to serve a full three-year term even though it is determined in a subsequent year that a state should have fewer additional members by using the average production of the five most recent marketing

years as specified in paragraph (a) of this section.

(d) All members appointed to represent importers will be entitled to serve a full three-year term even though it is determined in a subsequent year that importers should be represented by fewer additional members by using the average volume of imports of cotton and the cotton content of products on which assessments have been collected as specified in paragraph (b) of this section.

(e) Each year the Director shall:

(1) Based on the average annual production of Upland cotton in terms of 480-pound net weight bales for the five most recent marketing years, notify all certified cotton producer organizations in each cotton-producing state of the number of vacancies to be filled by cotton producers on the Cotton Board; and

(2) Based on the average annual volume of imports of cotton and the cotton content of cotton-containing products on which assessments as provided for in §1205.335 have been collected in terms of 480-pound net weight bales for the five most recent calendar years, notify all certified cotton importer organizations of the number of vacancies to be filled by cotton importers on the Cotton Board.

[56 FR 65980, Dec. 20, 1991]

#### § 1205.403 Nomination procedure.

(a) The Director shall notify all certified producer organizations within each cotton-producing state and all certified importer organizations of the location, date, and time of the caucus for nominating producer and importer representatives for the Cotton Board as specified in §1205.324. The Director will designate a representative from the Cotton Division to attend the caucus meeting of cotton producer organizations in each state, and of cotton importer organizations. Each eligible cotton producer organization within each cotton-producing state and each importer organization will be entitled to only one representative at the caucus for the purpose of nominating two qualified persons for each member and for each alternate member to be selected. The representative of a cotton producer organization shall be a cotton

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producer and resident of such state, an officer or member of the Board of Directors of such organization, and duly and unqualifiedly authorized in writing by such organization to make nominations on its behalf. The representative of an importer organization shall be an importer of cotton and/or products containing cotton, an officer or member of the Board of Directors of such organization, and duly and unqualifiedly authorized in writing by such organization to make nominations on its behalf. The representative of the Director designated to attend the caucus meeting of cotton producer organizations in each state and of cotton importer organizations will ascertain the qualifications and eligibility of each representative of a cotton producer organization or cotton importer organization to participate in said meeting and to make nominations.

(b) Each caucus will be conducted as follows:

(1) The representative from the Cotton Division will act as temporary chairperson and will explain the procedure for nominations and the duties of the Cotton Board;

(2) The representatives in attendance from the certified organizations will then select a chairperson and secretary;

(3) At each caucus there will be presented for nomination and there will be nominated not less than the number of nominees required under the provisions of §§ 1205.322, 1205.324, and 1205.402.

[56 FR 65981, Dec. 20, 1991]

**Subpart—Cotton Board Rules and Regulations**

SOURCE: 42 FR 35974, July 13, 1977, unless otherwise noted.

DEFINITIONS

§ 1205.500 **Terms defined.**

As used throughout this subpart, unless the context otherwise requires, the following terms shall mean:

(a) *ASCS* means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) *Cotton Board* means the administrative body established pursuant to

the Cotton Research and Promotion Order.

(c) *CCC* means the Commodity Credit Corporation.

(d) *Current value of Cotton* means the gross price per pound of lint cotton received by the producer for cotton as shown on the producers' settlement document before deductions are made for weight penalties, buyer's commission or brokerage fees, marketing fees, the \$1 per bale cotton research and promotion assessment, picking charges, ginning charges, warehouse receiving charges, warehouse storage charges, transportation charges or any other charges, plus any amount received by a producer in the form of a loan deficiency payment with respect to such cotton.

(e) *Form A* means Cotton Producer's Note, Form CCC Cotton A.

(f) *Gin code number* means the identification number assigned to each cotton gin by the Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(g) *Handle* means to harvest, gin, warehouse, compress, purchase, market, transport, or otherwise acquire ownership or control of cotton.

(h) *Handler* means any person who handles cotton, including CCC.

(i) *Marketing* means any sale of cotton, or the pledging of cotton to CCC as collateral for a price support loan.

(j) *Marketing year* means a consecutive 12-month period ending on July 31.

(k) *Person* means any individual, partnership, corporation, association, or any other entity, whether governmental or private.

(l) *Producer* means any person who owns or shares in a cotton crop (or in the proceeds thereof) as landowner, landlord, tenant, or sharecropper.

(m) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(n) *Loan deficiency payment* means any payment on Upland cotton made by the Commodity Credit Corporation to a producer in accordance with 7 CFR 713.55.

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(o) *Importer* means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States and *import* means any such entry.

(p) *Customs Service* means the United States Customs Service of the United States Department of Treasury.

(q) *Cotton* means:

(1) All Upland cotton harvested in the United States, and, except as used in section 7(e) of the Act, includes cottonseed of such cotton and the products derived from such cotton and its seed, and

(2) Imports of Upland cotton, including the Upland cotton content of the products derived thereof. The term *cotton* shall not, however, include:

(i) Any entry of imported cotton by an importer which has a value or weight less than a de minimis amount established in regulations issued by the Secretary and

(ii) Industrial products as that term is defined by regulation.

(r) *Industrial products* means cotton-containing products which are classified in the Harmonized Tariff Schedule of the United States under classifications other than textile classifications. Certain cotton-containing textile products under textile classifications shall also be considered to be industrial products, and are therefore not included in the table appearing in these regulations as products subject to assessment. Such products include, but are not limited to textile fabrics coated, impregnated, covered, or laminated, with other materials, textile piping and tubing, and belting materials.

[42 FR 35974, July 13, 1977, as amended at 50 FR 10932, Mar. 19, 1985; 51 FR 6098, Feb. 20, 1986; 51 FR 37705, Oct. 24, 1986; 57 FR 29185, July 1, 1992]

**GENERAL**

**§ 1205.505 Communication.**

All reports, requests, applications for reimbursements, and communications in connection with the Cotton Research and Promotion Order shall be addressed as follows: Cotton Board, Post Office Box 2121, Memphis, Tennessee, 38101-2121.

[57 FR 29186, July 1, 1992]

**ASSESSMENTS**

**§ 1205.510 Levy of assessments.**

(a) *Producer assessments.* An assessment of \$1 per bale for cotton research and promotion is hereby levied on each bale of Upland cotton that is produced from cotton harvested and ginned except cotton consumed by any governmental agency from its own production. Such assessment shall be payable and collected only once on each bale.

(1) A supplemental assessment for cotton research and promotion in addition to the \$1 per bale assessment provided for in paragraph (a) of this section, is hereby levied on each bale of Upland cotton harvested and ginned except cotton consumed by any governmental agency from its own production. The supplemental assessment rate shall be levied at the rate of five-tenths of one percent of:

(i) The current value of the cotton multiplied by the number of pounds of lint cotton or;

(ii) The current value of the cotton converted to a fixed amount per bale as reflected in the following assessment chart:

**ASSESSMENT CHART <sup>1</sup>**

Current value (cents per pound)	Supplemental Assessment, dollars per bale
.00 to 9.99 .....	0.15
10.00 to 19.99 .....	.40
20.00 to 29.99 .....	.65
30.00 to 39.99 .....	.90
40.00 to 49.99 .....	1.15
50.00 to 59.99 .....	1.40
60.00 to 69.99 .....	1.65
70.00 to 79.99 .....	1.90
80.00 to 89.99 .....	2.15
90.00 to 99.99 .....	2.40
100.00 to 109.99 .....	2.65
110.00 to 119.99 .....	2.90

<sup>1</sup> Assessment is calculated on 5/10 of 1 percent of the midpoint of each 10¢ increment, based on a 500 lb. bale and converted to a fixed amount per bale.

(2) Each marketing year the collecting handler must select one of the two options for collecting the supplemental assessment as provided in paragraph (a)(1) of this section. The handler shall notify the Cotton Board as to the method selected at the time the handler files the first handler report each marketing year.

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(b) *Importer assessment.* An assessment for cotton research and promotion of \$1 per bale is hereby levied on each bale of cotton, or the bale equivalent thereof for cotton in cotton-containing products identified in the HTS conversion factor table in paragraph (b)(3) of this section and imported into the United States on or after July 31, 1992. The \$1 per bale assessment shall be converted to a fixed amount per kilogram to facilitate the U.S. Customs Service in collecting this assessment.

(1) A supplemental assessment for cotton research and promotion in addition to the \$1 per bale assessment provided for in paragraph (b) of this section is hereby levied on each bale of cotton or bale equivalent of cotton in cotton-containing products, identified in this subpart, imported into the United States on or after July 31, 1992. The supplemental assessment shall be levied at the rate of five-tenths of one percent of the historical value of cotton as determined by the Secretary and expressed in paragraph (b)(2) of this section. The rate of the supplemental assessment on imported cotton will be the same as that levied on cotton produced within the United States. The supplemental assessment will be calculated as a fixed amount per kilogram and added to the \$1 per bale or bale equivalent assessment to facilitate the Customs Service in collecting assessments.

(2) The 12-month average of monthly weighted average prices received by U.S. farmers will be calculated annually. Such weighted average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is \$1.0880 cents per kilogram.

(3) The following table contains Harmonized Tariff Schedule (HTS) classification numbers and corresponding conversion factors and assessments. The left column of the following table indicates the HTS classifications of imported cotton and cotton-containing products subject to assessment. The center column indicates the conversion factor for determining the raw fiber

content for each kilogram of the HTS. HTS numbers for raw cotton have no conversion factor in the table. The right column indicates the total assessment per kilogram of the article assessed.

(i) Any line item entry of cotton appearing on Customs entry documentation in which the value of the cotton contained therein results in the calculation of an assessment of two dollars (\$2.00) or less will not be subject to assessments as described in this section.

(ii) In the event that any HTS number subject to assessment is changed and such change is merely a replacement of a previous number and has no impact on the physical properties, description, or cotton content of the product involved, assessments will continue to be collected based on the new number.

IMPORT ASSESSMENT TABLE  
[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5201000500	0	1.0880
5201001200	0	1.0880
5201001400	0	1.0880
5201001800	0	1.0880
5201002200	0	1.0880
5201002400	0	1.0880
5201002800	0	1.0880
5201003400	0	1.0880
5201003800	0	1.0880
5204110000	1.1111	1.2089
5204200000	1.1111	1.2089
5205111000	1.1111	1.2089
5205112000	1.1111	1.2089
5205121000	1.1111	1.2089
5205122000	1.1111	1.2089
5205131000	1.1111	1.2089
5205132000	1.1111	1.2089
5205141000	1.1111	1.2089
5205210020	1.1111	1.2089
5205210090	1.1111	1.2089
5205220020	1.1111	1.2089
5205220090	1.1111	1.2089
5205230020	1.1111	1.2089
5205230090	1.1111	1.2089
5205240020	1.1111	1.2089
5205240090	1.1111	1.2089
5205310000	1.1111	1.2089
5205320000	1.1111	1.2089
5205330000	1.1111	1.2089
5205340000	1.1111	1.2089
5205410020	1.1111	1.2089
5205410090	1.1111	1.2089
5205420021	1.1111	1.2089
5205420090	1.1111	1.2089
5205440021	1.1111	1.2089
5205440090	1.1111	1.2089
5206120000	0.5556	0.6045
5206130000	0.5556	0.6045
5206140000	0.5556	0.6045
5206220000	0.5556	0.6045

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**IMPORT ASSESSMENT TABLE—Continued**

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5206230000	0.5556	0.6045
5206240000	0.5556	0.6045
5206310000	0.5556	0.6045
5207100000	1.1111	1.2089
5207900000	0.5556	0.6045
5208112020	1.1455	1.2463
5208112040	1.1455	1.2463
5208112090	1.1455	1.2463
5208114020	1.1455	1.2463
5208114060	1.1455	1.2463
5208114090	1.1455	1.2463
5208118090	1.1455	1.2463
5208124020	1.1455	1.2463
5208124040	1.1455	1.2463
5208124090	1.1455	1.2463
5208126020	1.1455	1.2463
5208126040	1.1455	1.2463
5208126060	1.1455	1.2463
5208126090	1.1455	1.2463
5208128020	1.1455	1.2463
5208128090	1.1455	1.2463
5208130000	1.1455	1.2463
5208192020	1.1455	1.2463
5208192090	1.1455	1.2463
5208194020	1.1455	1.2463
5208194090	1.1455	1.2463
5208196020	1.1455	1.2463
5208196090	1.1455	1.2463
5208224040	1.1455	1.2463
5208224090	1.1455	1.2463
5208226020	1.1455	1.2463
5208226060	1.1455	1.2463
5208228020	1.1455	1.2463
5208230000	1.1455	1.2463
5208292020	1.1455	1.2463
5208292090	1.1455	1.2463
5208294090	1.1455	1.2463
5208296090	1.1455	1.2463
5208298020	1.1455	1.2463
5208312000	1.1455	1.2463
5208321000	1.1455	1.2463
5208323020	1.1455	1.2463
5208323040	1.1455	1.2463
5208323090	1.1455	1.2463
5208324020	1.1455	1.2463
5208324040	1.1455	1.2463
5208325020	1.1455	1.2463
5208330000	1.1455	1.2463
5208392020	1.1455	1.2463
5208392090	1.1455	1.2463
5208394090	1.1455	1.2463
5208396090	1.1455	1.2463
5208398020	1.1455	1.2463
5208412000	1.1455	1.2463
5208416000	1.1455	1.2463
5208418000	1.1455	1.2463
5208421000	1.1455	1.2463
5208423000	1.1455	1.2463
5208424000	1.1455	1.2463
5208425000	1.1455	1.2463
5208430000	1.1455	1.2463
5208492000	1.1455	1.2463
5208494020	1.1455	1.2463
5208494090	1.1455	1.2463
5208496010	1.1455	1.2463
5208496090	1.1455	1.2463
5208498090	1.1455	1.2463
5208512000	1.1455	1.2463
5208516060	1.1455	1.2463
5208518090	1.1455	1.2463
5208523020	1.1455	1.2463

**IMPORT ASSESSMENT TABLE—Continued**

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5208523045	1.1455	1.2463
5208523090	1.1455	1.2463
5208524020	1.1455	1.2463
5208524045	1.1455	1.2463
5208524065	1.1455	1.2463
5208525020	1.1455	1.2463
5208591000	1.1455	1.2463
5208592025	1.1455	1.2463
5208592095	1.1455	1.2463
5208594090	1.1455	1.2463
5208596090	1.1455	1.2463
5209110020	1.1455	1.2463
5209110035	1.1455	1.2463
5209110090	1.1455	1.2463
5209120020	1.1455	1.2463
5209120040	1.1455	1.2463
5209190020	1.1455	1.2463
5209190040	1.1455	1.2463
5209190060	1.1455	1.2463
5209190090	1.1455	1.2463
5209210090	1.1455	1.2463
5209220020	1.1455	1.2463
5209220040	1.1455	1.2463
5209290040	1.1455	1.2463
5209290090	1.1455	1.2463
5209313000	1.1455	1.2463
5209316020	1.1455	1.2463
5209316035	1.1455	1.2463
5209316050	1.1455	1.2463
5209316090	1.1455	1.2463
5209320020	1.1455	1.2463
5209320040	1.1455	1.2463
5209320060	1.1455	1.2463
5209320090	1.1455	1.2463
5209330000	1.1455	1.2463
5209330020	1.1455	1.2463
5209330040	1.1455	1.2463
5209330060	1.1455	1.2463
5209330080	1.1455	1.2463
5209330090	1.1455	1.2463
5209413000	1.1455	1.2463
5209416020	1.1455	1.2463
5209416040	1.1455	1.2463
5209420020	1.0309	1.1216
5209420040	1.0309	1.1216
5209430030	1.1455	1.2463
5209430050	1.1455	1.2463
5209490020	1.1455	1.2463
5209490090	1.1455	1.2463
5209516035	1.1455	1.2463
5209516050	1.1455	1.2463
5209520020	1.1455	1.2463
5209590025	1.1455	1.2463
5209590040	1.1455	1.2463
5209590090	1.1455	1.2463
5210114020	0.6873	0.7478
5210114040	0.6873	0.7478
5210116020	0.6873	0.7478
5210116040	0.6873	0.7478
5210116060	0.6873	0.7478
5210118020	0.6873	0.7478
5210191000	0.6873	0.7478
5210192090	0.6873	0.7478
5210214040	0.6873	0.7478
5210216020	0.6873	0.7478
5210216060	0.6873	0.7478
5210218020	0.6873	0.7478
5210314020	0.6873	0.7478
5210314040	0.6873	0.7478
5210316020	0.6873	0.7478
5210318020	0.6873	0.7478
5210414000	0.6873	0.7478
5210416000	0.6873	0.7478
5210418000	0.6873	0.7478

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IMPORT ASSESSMENT TABLE—Continued

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5210498090	0.6873	0.7478
5210514040	0.6873	0.7478
5210516020	0.6873	0.7478
5210516040	0.6873	0.7478
5210516060	0.6873	0.7478
5211110090	0.6873	0.7478
5211120020	0.6873	0.7478
5211190020	0.6873	0.7478
5211190060	0.6873	0.7478
5211202125	0.6873	0.7478
5211202135	0.4165	0.4532
5211202150	0.6873	0.7478
5211202990	0.6873	0.7478
5211320020	0.6873	0.7478
5211390040	0.6873	0.7478
5211390060	0.6873	0.7478
5211490020	0.6873	0.7478
5211490090	0.6873	0.7478
5211590025	0.6873	0.7478
5212146090	0.9164	0.9970
5212156020	0.9164	0.9970
5212216090	0.9164	0.9970
5509530030	0.5556	0.6045
5509530060	0.5556	0.6045
5513110020	0.4009	0.4362
5513110040	0.4009	0.4362
5513110060	0.4009	0.4362
5513110090	0.4009	0.4362
5513120000	0.4009	0.4362
5513130020	0.4009	0.4362
5513210020	0.4009	0.4362
5513310000	0.4009	0.4362
5514120020	0.4009	0.4362
5516420060	0.4009	0.4362
5516910060	0.4009	0.4362
5516930090	0.4009	0.4362
5601210010	1.1455	1.2463
5601210090	1.1455	1.2463
5601300000	1.1455	1.2463
5602109090	0.5727	0.6231
5602290000	1.1455	1.2463
5602906000	0.526	0.5723
5604909000	0.5556	0.6045
5607909000	0.8889	0.9671
5608901000	1.1111	1.2089
5608902300	1.1111	1.2089
5609001000	1.1111	1.2089
5609004000	0.5556	0.6045
5701104000	0.0556	0.0605
5701109000	0.1111	0.1209
5701901010	1.0444	1.1363
5702109020	1.1	1.1968
5702312000	0.0778	0.0846
5702411000	0.0722	0.0786
5702412000	0.0778	0.0846
5702421000	0.0778	0.0846
5702913000	0.0889	0.0967
5702990500	1.1111	1.2089
5702991500	1.1111	1.2089
5703900000	0.4489	0.4884
5801210000	1.1455	1.2463
5801230000	1.1455	1.2463
5801250010	1.1455	1.2463
5801250020	1.1455	1.2463
5801260020	1.1455	1.2463
5802190000	1.1455	1.2463
5802300030	0.5727	0.6231
5804291000	1.1455	1.2463
5806200010	0.3534	0.3845
5806200090	0.3534	0.3845
5806310000	1.1455	1.2463

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5806400000	0.4296	0.4674
5808107000	0.5727	0.6231
5808900010	0.5727	0.6231
5811002000	1.1455	1.2463
6001106000	1.1455	1.2463
6001210000	0.8591	0.9347
6001220000	0.2864	0.3116
6001910010	0.8591	0.9347
6001910020	0.8591	0.9347
6001920020	0.2864	0.3116
6001920030	0.2864	0.3116
6001920040	0.2864	0.3116
6003203000	0.8681	0.9445
6003306000	0.2894	0.3149
6003406000	0.2894	0.3149
6005210000	0.8681	0.9445
6005220000	0.8681	0.9445
6005230000	0.8681	0.9445
6005240000	0.8681	0.9445
6005310010	0.2894	0.3149
6005310080	0.2894	0.3149
6005320010	0.2894	0.3149
6005320080	0.2894	0.3149
6005330010	0.2894	0.3149
6005330080	0.2894	0.3149
6005340010	0.2894	0.3149
6005340080	0.2894	0.3149
6005410010	0.2894	0.3149
6005410080	0.2894	0.3149
6005420010	0.2894	0.3149
6005420080	0.2894	0.3149
6005430010	0.2894	0.3149
6005430080	0.2894	0.3149
6005440010	0.2894	0.3149
6005440080	0.2894	0.3149
6006211000	1.1574	1.2593
6006221000	1.1574	1.2593
6006231000	1.1574	1.2593
6006241000	1.1574	1.2593
6006310040	0.1157	0.1259
6006310080	0.1157	0.1259
6006320040	0.1157	0.1259
6006320080	0.1157	0.1259
6006330040	0.1157	0.1259
6006330080	0.1157	0.1259
6006340040	0.1157	0.1259
6006340080	0.1157	0.1259
6006410085	0.1157	0.1259
6006420085	0.1157	0.1259
6006430085	0.1157	0.1259
6006440085	0.1157	0.1259
6101200010	1.0094	1.0982
6101200020	1.0094	1.0982
6102200010	1.0094	1.0982
6102200020	1.0094	1.0982
6103421020	0.8806	0.9581
6103421040	0.8806	0.9581
6103421050	0.8806	0.9581
6103421070	0.8806	0.9581
6103431520	0.2516	0.2737
6103431540	0.2516	0.2737
6103431550	0.2516	0.2737
6103431570	0.2516	0.2737
6104220040	0.9002	0.9794
6104220060	0.9002	0.9794
6104320000	0.9207	1.0017
6104420010	0.9002	0.9794
6104420020	0.9002	0.9794
6104520010	0.9312	1.0131
6104520020	0.9312	1.0131
6104622006	0.8806	0.9581

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IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6104622011	0.8806	0.9581
6104622016	0.8806	0.9581
6104622021	0.8806	0.9581
6104622026	0.8806	0.9581
6104622028	0.8806	0.9581
6104622030	0.8806	0.9581
6104622060	0.8806	0.9581
6104632006	0.3774	0.4106
6104632011	0.3774	0.4106
6104632026	0.3774	0.4106
6104632028	0.3774	0.4106
6104632030	0.3774	0.4106
6104632060	0.3774	0.4106
6104692030	0.3858	0.4198
6105100010	0.985	1.0717
6105100020	0.985	1.0717
6105100030	0.985	1.0717
6105202010	0.3078	0.3349
6105202030	0.3078	0.3349
6106100010	0.985	1.0717
6106100020	0.985	1.0717
6106100030	0.985	1.0717
6106202010	0.3078	0.3349
6106202030	0.3078	0.3349
6107110010	1.1322	1.2318
6107110020	1.1322	1.2318
6107120010	0.5032	0.5475
6107210010	0.8806	0.9581
6107220015	0.3774	0.4106
6107220025	0.3774	0.4106
6107910040	1.2581	1.3688
6108210010	1.2445	1.3540
6108210020	1.2445	1.3540
6108310010	1.1201	1.2187
6108310020	1.1201	1.2187
6108320010	0.2489	0.2708
6108320015	0.2489	0.2708
6108320025	0.2489	0.2708
6108910005	1.2445	1.3540
6108910015	1.2445	1.3540
6108910025	1.2445	1.3540
6108910030	1.2445	1.3540
6108920030	0.2489	0.2708
6109100004	0.9956	1.0832
6109100007	0.9956	1.0832
6109100011	0.9956	1.0832
6109100012	0.9956	1.0832
6109100014	0.9956	1.0832
6109100018	0.9956	1.0832
6109100023	0.9956	1.0832
6109100027	0.9956	1.0832
6109100037	0.9956	1.0832
6109100040	0.9956	1.0832
6109100045	0.9956	1.0832
6109100060	0.9956	1.0832
6109100065	0.9956	1.0832
6109100070	0.9956	1.0832
6109901007	0.3111	0.3385
6109901009	0.3111	0.3385
6109901049	0.3111	0.3385
6109901050	0.3111	0.3385
6109901060	0.3111	0.3385
6109901065	0.3111	0.3385
6109901090	0.3111	0.3385
6110202005	1.1837	1.2879
6110202010	1.1837	1.2879
6110202015	1.1837	1.2879
6110202020	1.1837	1.2879
6110202025	1.1837	1.2879
6110202030	1.1837	1.2879
6110202035	1.1837	1.2879

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6110202040	1.1574	1.2593
6110202045	1.1574	1.2593
6110202067	1.1574	1.2593
6110202069	1.1574	1.2593
6110202077	1.1574	1.2593
6110202079	1.1574	1.2593
6110909022	0.263	0.2861
6110909024	0.263	0.2861
6110909030	0.3946	0.4293
6110909042	0.263	0.2861
6110909044	0.263	0.2861
6111201000	1.2581	1.3688
6111202000	1.2581	1.3688
6111203000	1.0064	1.0950
6111205000	1.0064	1.0950
6111206010	1.0064	1.0950
6111206020	1.0064	1.0950
6111206030	1.0064	1.0950
6111206050	1.0064	1.0950
6111206070	1.0064	1.0950
6111305020	0.2516	0.2737
6111305050	0.2516	0.2737
6111305070	0.2516	0.2737
6112110050	0.7548	0.8212
6112120010	0.2516	0.2737
6112120030	0.2516	0.2737
6112120040	0.2516	0.2737
6112120050	0.2516	0.2737
6112120060	0.2516	0.2737
6112390010	1.1322	1.2318
6112490010	0.9435	1.0265
6114200005	0.9002	0.9794
6114200010	0.9002	0.9794
6114200015	0.9002	0.9794
6114200020	1.286	1.3992
6114200040	0.9002	0.9794
6114200046	0.9002	0.9794
6114200052	0.9002	0.9794
6114200060	0.9002	0.9794
6114301010	0.2572	0.2798
6114301020	0.2572	0.2798
6114303030	0.2572	0.2798
6115101510	1.0417	1.1334
6115103000	1.0417	1.1334
6115298010	1.0417	1.1334
6115959000	1.0417	1.1334
6115966020	0.2315	0.2519
6116101300	0.3655	0.3977
6116101720	0.8528	0.9278
6116926420	1.0965	1.1930
6116926430	1.2183	1.3255
6116926440	1.0965	1.1930
6116928800	1.0965	1.1930
6117809510	0.9747	1.0605
6117809540	0.3655	0.3977
6201121000	0.948	1.0314
6201122010	0.8953	0.9741
6201122050	0.6847	0.7450
6201122060	0.6847	0.7450
6201134030	0.2633	0.2865
6201921000	0.9267	1.0082
6201921500	1.1583	1.2602
6201922010	1.0296	1.1202
6201922021	1.2871	1.4004
6201922031	1.2871	1.4004
6201922041	1.2871	1.4004
6201922051	1.0296	1.1202
6201922061	1.0296	1.1202
6201931000	0.3089	0.3361
6201933511	0.2574	0.2801
6201933521	0.2574	0.2801

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IMPORT ASSESSMENT TABLE—Continued

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6201999060	0.2574	0.2801
6202121000	0.9372	1.0197
6202122010	1.1064	1.2038
6202122025	1.3017	1.4162
6202122050	0.8461	0.9206
6202122060	0.8461	0.9206
6202134005	0.2664	0.2898
6202134020	0.333	0.3623
6202921000	1.0413	1.1329
6202921500	1.0413	1.1329
6202922026	1.3017	1.4162
6202922061	1.0413	1.1329
6202922071	1.0413	1.1329
6202931000	0.3124	0.3399
6202935011	0.2603	0.2832
6202935021	0.2603	0.2832
6203122010	0.1302	0.1417
6203221000	1.3017	1.4162
6203322010	1.2366	1.3454
6203322040	1.2366	1.3454
6203332010	0.1302	0.1417
6203392010	1.1715	1.2746
6203399060	0.2603	0.2832
6203422010	0.9961	1.0838
6203422025	0.9961	1.0838
6203422050	0.9961	1.0838
6203422090	0.9961	1.0838
6203424006	1.2451	1.3547
6203424011	1.2451	1.3547
6203424016	0.9961	1.0838
6203424021	1.2451	1.3547
6203424026	1.2451	1.3547
6203424031	1.2451	1.3547
6203424036	1.2451	1.3547
6203424041	0.9961	1.0838
6203424046	0.9961	1.0838
6203424051	0.9238	1.0051
6203424056	0.9238	1.0051
6203424061	0.9238	1.0051
6203431500	0.1245	0.1355
6203434010	0.1232	0.1340
6203434020	0.1232	0.1340
6203434030	0.1232	0.1340
6203434040	0.1232	0.1340
6203498045	0.249	0.2709
6204132010	0.1302	0.1417
6204192000	0.1302	0.1417
6204198090	0.2603	0.2832
6204221000	1.3017	1.4162
6204223030	1.0413	1.1329
6204223040	1.0413	1.1329
6204223050	1.0413	1.1329
6204223060	1.0413	1.1329
6204223065	1.0413	1.1329
6204292040	0.3254	0.3540
6204322010	1.2366	1.3454
6204322030	1.0413	1.1329
6204322040	1.0413	1.1329
6204423010	1.2728	1.3848
6204423030	0.9546	1.0386
6204423040	0.9546	1.0386
6204423050	0.9546	1.0386
6204423060	0.9546	1.0386
6204522010	1.2654	1.3768
6204522030	1.2654	1.3768
6204522040	1.2654	1.3768
6204522070	1.0656	1.1594
6204522080	1.0656	1.1594
6204533010	0.2664	0.2898
6204594060	0.2664	0.2898
6204622010	0.9961	1.0838

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6204622025	0.9961	1.0838
6204622050	0.9961	1.0838
6204624006	1.2451	1.3547
6204624011	1.2451	1.3547
6204624021	0.9961	1.0838
6204624026	1.2451	1.3547
6204624031	1.2451	1.3547
6204624036	1.2451	1.3547
6204624041	1.2451	1.3547
6204624046	0.9961	1.0838
6204624051	0.9961	1.0838
6204624056	0.9854	1.0721
6204624061	0.9854	1.0721
6204624066	0.9854	1.0721
6204633510	0.2546	0.2770
6204633530	0.2546	0.2770
6204633532	0.2437	0.2651
6204633540	0.2437	0.2651
6204692510	0.249	0.2709
6204692540	0.2437	0.2651
6204699044	0.249	0.2709
6204699046	0.249	0.2709
6204699050	0.249	0.2709
6205202016	0.9961	1.0838
6205202021	0.9961	1.0838
6205202026	0.9961	1.0838
6205202031	0.9961	1.0838
6205202036	1.1206	1.2192
6205202047	0.9961	1.0838
6205202051	0.9961	1.0838
6205202061	0.9961	1.0838
6205202066	0.9961	1.0838
6205202071	0.9961	1.0838
6205202076	0.9961	1.0838
6205302010	0.3113	0.3387
6205302030	0.3113	0.3387
6205302040	0.3113	0.3387
6205302050	0.3113	0.3387
6205302080	0.3113	0.3387
6206100040	0.1245	0.1355
6206303011	0.9961	1.0838
6206303021	0.9961	1.0838
6206303031	0.9961	1.0838
6206303041	0.9961	1.0838
6206303051	0.9961	1.0838
6206303061	0.9961	1.0838
6206403010	0.3113	0.3387
6206403030	0.3113	0.3387
6206900040	0.249	0.2709
6207110000	1.0852	1.1807
6207199010	0.3617	0.3935
6207210030	1.1085	1.2060
6207220000	0.3695	0.4020
6207911000	1.1455	1.2463
6207913010	1.1455	1.2463
6207913020	1.1455	1.2463
6208210010	1.0583	1.1514
6208210020	1.0583	1.1514
6208220000	0.1245	0.1355
6208911010	1.1455	1.2463
6208911020	1.1455	1.2463
6208913010	1.1455	1.2463
6209201000	1.1577	1.2596
6209203000	0.9749	1.0607
6209205030	0.9749	1.0607
6209205035	0.9749	1.0607
6209205045	1.2186	1.3258
6209205045	0.9749	1.0607
6209205050	0.9749	1.0607
6209303020	0.2463	0.2680
6209303040	0.2463	0.2680

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**IMPORT ASSESSMENT TABLE—Continued**

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6210109010	0.2291	0.2493
6210403000	0.0391	0.0425
6210405020	0.4556	0.4957
6211111010	0.1273	0.1385
6211111020	0.1273	0.1385
6211118010	1.1455	1.2463
6211118020	1.1455	1.2463
6211320007	0.8461	0.9206
6211320010	1.0413	1.1329
6211320015	1.0413	1.1329
6211320030	0.9763	1.0622
6211320060	0.9763	1.0622
6211320070	0.9763	1.0622
6211330010	0.3254	0.3540
6211330030	0.3905	0.4249
6211330035	0.3905	0.4249
6211330040	0.3905	0.4249
6211420010	1.0413	1.1329
6211420020	1.0413	1.1329
6211420025	1.1715	1.2746
6211420060	1.0413	1.1329
6211420070	1.1715	1.2746
6211430010	0.2603	0.2832
6211430030	0.2603	0.2832
6211430040	0.2603	0.2832
6211430050	0.2603	0.2832
6211430060	0.2603	0.2832
6211430066	0.2603	0.2832
6212105020	0.2412	0.2624
6212109010	0.9646	1.0495
6212109020	0.2412	0.2624
6212200020	0.3014	0.3279
6212900030	0.1929	0.2099
6213201000	1.1809	1.2848
6213202000	1.0628	1.1563
6213901000	0.4724	0.5140
6214900010	0.9043	0.9839
6216000800	0.2351	0.2558
6216001720	0.6752	0.7346
6216003800	1.2058	1.3119
6216004100	1.2058	1.3119
6217109510	1.0182	1.1078
6217109530	0.2546	0.2770
6301300010	0.8766	0.9537
6301300020	0.8766	0.9537
6302100005	1.1689	1.2718
6302100008	1.1689	1.2718
6302100015	1.1689	1.2718
6302215010	0.8182	0.8902
6302215020	0.8182	0.8902
6302217010	1.1689	1.2718
6302217020	1.1689	1.2718
6302217050	1.1689	1.2718
6302219010	0.8182	0.8902
6302219020	0.8182	0.8902
6302219050	0.8182	0.8902
6302222010	0.4091	0.4451
6302222020	0.4091	0.4451
6302313010	0.8182	0.8902
6302313050	1.1689	1.2718
6302315050	0.8182	0.8902
6302317010	1.1689	1.2718
6302317020	1.1689	1.2718
6302317040	1.1689	1.2718
6302317050	1.1689	1.2718
6302319010	0.8182	0.8902
6302319040	0.8182	0.8902
6302319050	0.8182	0.8902
6302322020	0.4091	0.4451
6302322040	0.4091	0.4451
6302402010	0.9935	1.0809

**IMPORT ASSESSMENT TABLE—Continued**

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6302511000	0.5844	0.6358
6302512000	0.8766	0.9537
6302513000	0.5844	0.6358
6302514000	0.8182	0.8902
6302600010	1.1689	1.2718
6302600020	1.052	1.1446
6302600030	1.052	1.1446
6302910005	1.052	1.1446
6302910015	1.1689	1.2718
6302910025	1.052	1.1446
6302910035	1.052	1.1446
6302910045	1.052	1.1446
6302910050	1.052	1.1446
6302910060	1.052	1.1446
6303191100	0.9448	1.0279
6303910010	0.6429	0.6995
6303910020	0.6429	0.6995
6304111000	1.0629	1.1564
6304190500	1.052	1.1446
6304191000	1.1689	1.2718
6304191500	0.4091	0.4451
6304192000	0.4091	0.4451
6304910020	0.9351	1.0174
6304920000	0.9351	1.0174
6505901540	0.181	0.1969
6505902060	0.9935	1.0809
6505902545	0.5844	0.6358

(4) Any entry of cotton that qualifies for informal entry according to regulations issued by the Customs Service will not be subject to the assessment.

(5) Imported textile and apparel articles assembled of components formed from cotton produced in the United States and identified by HTS numbers 9819.11.03, 9819.11.06, 9820.11.03, 9820.11.06, 9820.11.09, 9820.11.12, 9820.11.18, 9820.11.21, 9802.00.8015, 9802.00.9000, 9802.00.8044, or 9802.00.8046 shall not be subject to assessment.

(6) Imported cotton and products may be exempted by the Cotton Board from assessment under this paragraph. Such imported cotton and products may include, but are not limited to cotton and the cotton content of products which is U.S. produced cotton, or cotton other than Upland cotton.

(i) A request for such exemption must be submitted to the Cotton Board by the importer, prior to the importation of the cotton product. The Cotton Board will then issue, if deemed appropriate, a numbered exemption certificate valid for 1 year from the date of issue. The exemption number should be entered by the importer on the Customs entry documentation in the appropriate location as determined by the U.S. Customs Service.

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(ii) The request for exemption should include:

(A) the name, address, and importer identification number for the importer;

(B) the HTS classification of the imported product;

(C) weight of the product for which the exemption is sought;

(D) estimated date of entry;

(E) commercial invoices of other such documentation indicating the origin or production or type of the cotton fiber used to produce the imported product;

(F) manufacture's description of the imported product.

(7) The exemption number "999999999" shall be entered on the Customs entry summary document, in the appropriate location as determined by the U.S. Customs Service, by the importer when, based on the importer's own determination, the imported product is identified by a Harmonized Tariff Schedule classification number which is subject to assessment but the particular article contains no cotton.

(8) Articles imported into the United States temporarily and under bond which are classified by the Harmonized Tariff Schedule heading which begins with "9813" shall not be subject to assessment.

(9) Articles imported into the U.S. after being exported from the U.S. for alterations and which are classified by the Harmonized Tariff Schedule subheadings 9802.00.40 and 9802.00.50 shall not be subject to assessment.

[57 FR 29432, July 2, 1992]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1205.510, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 1205.511 Payment and collection.**

(a) The \$1 per bale assessment shall be paid by:

(1) The producer of the cotton to the collecting handler designated in §1205.512, and

(2) The importer of cotton to the Customs Service as provided in §1205.514.

(b) The supplemental assessment shall be paid by:

(1) The producer of the cotton to the collecting handler designated in §1205.513, and

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(2) The importer of cotton to the Customs Service as described in §1205.515.

(c) If more than one person subject to assessment shares in the proceeds received from a bale or bale equivalent, each such person is obligated to pay that portion of the assessment that is equivalent to that person's proportionate share of the proceeds.

(d) Failure of the handler to collect the assessments on each bale shall not relieve the handler of the handler's obligation to remit the assessments to the Cotton Board as required in §§1205.512, 1205.513 and 1205.516.

[57 FR 29190, July 1, 1992]

**§ 1205.512 Collecting handlers and time of collection of \$1 per bale assessment.**

Collecting handlers and the time of collecting the \$1 per bale assessment shall be as follows:

(a) Except as provided in paragraph (b) of this section, any person who purchases a bale of cotton from the producer of the cotton shall be the collecting handler for such cotton. The handler shall collect the assessment at the time the handler first makes any payment or any credit to the producer's account for the cotton. The handler shall give the producer a receipt indicating payment of the assessment.

(b) Any cooperative marketing association or other person that accepts a bale of cotton from the producer of the cotton under an oral or written contract or agreement providing for the marketing of the cotton shall be the collecting handler for such cotton. Such association or person shall collect the assessment regardless of whether the cotton is marketed or tendered to CCC for price support loan. The handler shall collect the assessment at the time the handler first makes any cash advance, any payment, or any credit to the producer's account for the cotton. The handler shall give the producer a receipt indicating payment of the assessment.

(c) For bales of cotton tendered to CCC for Form A loan, except bales tendered pursuant to paragraph (b) of this section:

(1) The ASCS County Office shall be the collecting handler except as provided in paragraph (c)(2) of this section. The ASCS County Office shall collect the assessment when it makes disbursement based on the Form A loan documents. The producer's copy of the Cotton Producer's Note (Form CCC Cotton A) shall show payment of the assessment and shall constitute the producer's receipt for payment of the assessment.

(2) Any person (other than an ASCS County Office) who advances to the producer the loan value of the cotton as shown on a Cotton Producer's Note (Form CCC Cotton A) shall be the collecting handler for such cotton. The handler shall collect the \$1 per bale assessment at the time the handler makes any advance to the producer on the loan value of the cotton. The handler shall give the producer a receipt indicating payment of the assessment.

(d) Any person who purchases cotton in the cotton field where produced or who purchases seed cotton or unbaled lint cotton from the producer of the cotton shall be the collecting handler. The handler shall collect the assessment at the time such cotton is ginned and shall give the producer a receipt indicating payment of the assessment. When a bale is ginned that contains any such cotton purchased from more than one producer, the handler shall collect each producer's proportionate share of the assessment and shall give each producer a receipt indicating the producer's proportionate share of the assessment payment.

(e) Any person who purchases cotton from a producer whereby the producer agrees to deliver a certain quantity of cotton but retains the right to establish the price at some future date shall be the collecting handler for such cotton. The handler shall collect the \$1 per bale assessment at the time final settlement is made on the cotton. The handler shall give the producer a receipt indicating payment of the \$1 per bale assessment.

(f) Any person who consumes domestically or exports cotton of that person's own production shall be the collecting handler for such cotton. Such handler shall pay the assessment to the

Cotton Board at the time the cotton is consumed or exported.

(g) Any person who obtains ownership of a bale of cotton from the producer of the cotton by transfer of any kind or by any means, under conditions other than those described in paragraph (a), (b), (c), (d) or (e) of this section shall be the collecting handler for such cotton. Such handler shall collect the assessment at the time such handler takes ownership of the cotton. The handler shall give the producer a receipt indicating payment of the assessment.

(h) In the event of a producer's death, bankruptcy, receivership, or incapacity to act, the representative of such producer, or the producer's estate, or the person acting on behalf of creditors, shall be considered the producer for the purposes of this section.

[42 FR 35974, July 31, 1977, as amended at 50 FR 10932, Mar. 19, 1985; 57 FR 29190, July 1, 1992]

**§ 1205.513 Collecting handlers and time of collection of the supplemental assessment.**

Collecting handlers and the time of collecting the supplemental assessment shall be as follows:

(a) Except as provided in paragraph (b) of this section, any person who purchases a bale of cotton from the producer of the cotton shall be the collecting handler for such cotton. The handler shall collect the supplemental assessment at the time the handler first makes any payment or any credit to the producer's account for the cotton. The handler shall give the producer a receipt indicating payment of the supplemental assessment.

(b) Any cooperative marketing association or other person that accepts a bale of cotton from the producer of the cotton under an oral or written contract or agreement providing for the marketing of the cotton shall be the collecting handler for such cotton. Such association or person shall collect the supplemental assessment regardless of whether the cotton is marketed or tendered to CCC for price support loan. The handler shall collect the supplemental assessment at the time the handler first makes any cash advance,

any payment, or any credit to the producer's account for the cotton. Supplemental assessments due on any subsequent cash advances, payments, or credits to the producer's account shall be collected by the handler at the time final settlement is made on the cotton. The handler shall give the producer a receipt each time a supplemental assessment is collected.

(c) For bales of cotton tendered to CCC for Form A loan, except bales tendered pursuant to paragraph (b) of this section:

(1) The ASCS County Office shall be the collecting handler except as provided in paragraph (c)(2) of this section. The ASCS County Office shall collect the supplemental assessment when it makes disbursement based on the Form A loan value of cotton. The producer's copy of the Cotton Producer's Note (Form CCC Cotton A) shall show payment of the supplemental assessment and shall constitute the producer's receipt for payment of the supplemental assessment.

(2) Any person (other than an ASCS County Office) who advances to the producer the loan value of the cotton as shown on a Cotton Producer's Note (Form CCC Cotton A) shall be the collecting handler for such cotton. The handler shall collect the supplemental assessment at the time the handler makes any advance to the producer on the loan value of the cotton. The handler shall give the producer a receipt indicating payment of the supplemental assessment.

(d) With respect to any Upland cotton on which the producer or a cooperative marketing association acting on behalf of a producer receives a loan deficiency payment, the ASCS County Office or the cooperative marketing association shall be the collecting handler of the supplemental assessment on the value of the cotton represented by the loan deficiency payment at the time such payment is made to the producer or the cooperative marketing association. A copy of a document reflecting this transaction issued by the ASCS County Office or cooperative marketing association shall show the amount collected as the supplemental assessment and shall constitute the

producer's receipt for payment of the supplemental assessment.

(e) Any person who (1) purchases a producer's equity in cotton tendered to CCC for Form A loan or (2) purchases cotton that a producer has redeemed from the Form A loan, shall be the collecting handler for the portion of the total supplemental assessment not collected under paragraph (c) of this section. The handler shall give the producer a receipt indicating payment of that portion of the supplemental assessment.

(f) Any person who purchases cotton in the cotton field where produced or who purchases seed cotton or unbaled lint cotton from the producer of the cotton shall be the collecting handler. The handler shall collect the supplemental assessment at the time such cotton is ginned and shall give the producer a receipt indicating payment of the supplemental assessment. When a bale is ginned and baled that contains any such cotton purchased from more than one producer, the handler shall collect each producer's proportionate share of the supplemental assessment and shall give each producer a receipt indicating the producer's proportionate share of the supplemental assessment payment.

(g) Any person who purchases cotton from a producer whereby the producer agrees to deliver a certain quantity of cotton but retains the right to establish the price at some future date shall be the collecting handler for such cotton. The handler shall collect the supplemental assessment at the time final settlement is made on the cotton. The handler shall give the producer a receipt indicating payment of the supplemental assessment.

(h) Any person who consumes domestically cotton of that person's own production shall be the collecting handler for such cotton. The handler shall pay the supplemental assessment at the time of consumption on the basis of a market value determined in consultation with the Cotton Board.

(i) Any person who exports cotton of that person's own production shall be the collecting handler for such cotton. Such handler shall pay the supplemental assessment on the basis of the

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current value of cotton as reflected on the export settlement document.

(j) Any person who obtains ownership of a bale of cotton from the producer of the cotton by transfer of any kind or by any means, under conditions other than those described in paragraph (a), (b), (c), (d), (e), or (f) of this section shall be the collecting handler for such cotton. Such handler shall collect the supplemental assessment at the time the handler takes ownership of the cotton. The handler shall give the producer a receipt indicating payment of the supplemental assessment.

(k) In the event of a producer's death, bankruptcy, receivership, or incapacity to act, the representative of such producer or the producer's estate, or the person acting on behalf of creditors, shall be considered the producer for the purposes of this section.

[42 FR 35974, July 31, 1977, as amended at 50 FR 10932, Mar. 19, 1985; 51 FR 37705, Oct. 24, 1986; 57 FR 29190, July 1, 1992]

### **§ 1205.514 Customs Service and the Collection of the \$1 per bale assessment.**

The Collection of the \$1 per bale assessment by the Customs Service shall be as follows:

(a) The Customs Service will collect the assessment from the importer or from any person acting as principal, agent, broker or consignee for cotton or cotton-containing products produced outside the United States and imported into the United States. The Customs Service will collect the assessment on cotton and cotton-containing products identified by Harmonized Tariff Schedule heading numbers in §1205.510(b)(2) at the time of importation and forward such assessment as per the agreement between the United States Customs Service and the U.S. Department of Agriculture.

(b) In the event of an importer's death, bankruptcy, receivership, or incapacity to act, the representative of such importer, or the importer's estate, or the person acting on behalf of creditors, shall be considered the importer for the purposes of this section.

[57 FR 29191, July 1, 1992]

### **§ 1205.515 Customs Service and the collection of the supplemental assessment.**

The collection of the supplemental assessment by the Customs Service shall be as follows:

(a) The Customs Service will collect the supplemental assessment from any person acting as principal, agent, broker or consignee for cotton or cotton-containing products produced outside the United States and imported into the United States. Customs Service will collect the assessment on all cotton and cotton-containing products identified by Harmonized Tariff Schedule heading numbers in §1205.510(b)(2) at the time of importation and forward such assessment as per the agreement between the United States Customs Service and the U.S. Department of Agriculture.

(b) In the event of an importer's death, bankruptcy, receivership, or incapacity to act, the representative of such importer, or the importer's estate, or the person acting on behalf of creditors, shall be considered the importer for the purposes of this section.

[57 FR 29191, July 1, 1992]

### **§ 1205.516 Reports and remittance to the Cotton Board.**

(a) *Handler reports and remittances.* Each collecting handler shall transmit assessments to the Cotton Board as follows:

(1) *Reporting periods.* Each calendar month shall be a reporting period and the period shall end on the close of business on the last day of the month.

(2) *Reports.* Each collecting handler shall make reports on forms made available or approved by the Cotton Board. Each report shall be mailed to the Cotton Board and postmarked within ten days after the close of the reporting period.

(i) *Collecting handler report.* Each collecting handler shall prepare a separate report form each reporting period for each gin from which such handler handles cotton on which the handler is required to collect the assessments during the reporting period. Each report shall be mailed in duplicate to the Cotton Board and shall contain the following information:

(A) Date of report;

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(B) Reporting period covered by report;

(C) Gin code number;

(D) Name and address of handler;

(E) Listing of all producers from whom the handler was required to collect the assessments, their addresses, total number of bales, and total assessment collected and remitted for each producer;

(F) Date of last report remitting assessments to the Cotton Board.

(ii) *No cotton purchased report.* Each collecting handler shall submit a no cotton purchased report form for each reporting period in which no cotton was handled for which the handler is required to collect assessments during the reporting period. A collecting handler who handles cotton only during certain months shall file a final no cotton purchased report at the conclusion of such handlers marketing season. If a collecting handler handles cotton during any month following submission of the final report for the handlers marketing season, such handler shall send a collecting handler report and remittance to the Cotton Board by the 10th day of the month following the month in which cotton was handled. The no cotton purchased report shall be signed and dated by the handler of the handler's agent.

(3) *Remittances.* The collecting handler shall remit all assessments to the Cotton Board with the report required in paragraph (a)(2) of this section. All remittances sent to the Cotton Board by collecting handlers shall be made by check, draft, or money order payable to the order of the "Cotton Board". All remittances shall be received subject to collection and payment at par.

(4) *Interest and late payment charges.*

(i) There shall be an interest charge, at rates prescribed by the Cotton Board with the approval of the Secretary, on any handler who is sent a second certified mail notice of past-due assessments from the Cotton Board in any one marketing year (August 1-July 31).

(ii) In addition to the interest charge specified in paragraph (a)(4)(i) of this section, there shall be a late payment charge on any handler whose remittance is not received by the Cotton Board within 10 days after the close of the reporting period in which interest

charges were first accrued. The late payment charge shall be 5 percent of the unpaid balance before interest charges have accrued.

(iii) The interest and late payment charges on the unremitted assessments for a particular reporting period will be applied from the first working day on or following the 20th day of the month in which the assessments were due.

(b) *Importer reports and remittance.* The United States Customs Service will transmit reports and assessments collected on imported cotton to the Agricultural Marketing Service according to the agreement between the Customs Service and the Agricultural Marketing Service. Upon the request of the Cotton Board, an importer shall file with the Board a report, for a period of time specified in the request, that includes the following information:

(1) The importer's name and address;

(2) The quantity of cotton and cotton products imported;

(3) The amount of the assessment paid on imported cotton and cotton products;

(4) The amount of imported cotton and cotton products on which the assessment was not paid to the Customs Service.

[57 FR 29190, July 1, 1992]

§ 1205.517 Failure to report and remit.

(a) Any collecting handler who fails to submit reports and remittances according to reporting periods and time schedules required in § 1205.516 shall be subject to appropriate action by the Cotton Board which may include one or more of the following actions:

(1) Audits of the collecting handler's books and records to determine the amount owed the Cotton Board;

(2) Requirement that an escrow account for the deposit of assessments collected be established. Frequency and schedule of deposits and withdrawals from the escrow account shall be determined by the Cotton Board with the Approval of the Secretary;

(3) Referral to the Secretary for appropriate enforcement action;

(4) Publication of a collecting handler's name in accordance with the following provisions:

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(i) The name of any collecting handler will be subject to publication if the collecting handler:

(A) is sent two certified mail notices of past due assessments and/or collecting handler reports from the Cotton Board in any one marketing year (August 1–July 31), or

(B) is required by the Cotton Board to establish an escrow account for depositing assessments, in accordance with paragraph (a)(2) of this section, and does not comply with the deposit procedures established by the Cotton Board with approval of the Secretary.

(ii) The name of any collecting handler who is subject to publication will be published by the Cotton Board with the approval of the Secretary in a monthly listing during the primary cotton marketing season (September through March) and a bi-monthly listing during the remainder of the year. The published listing will be distributed by the Cotton Board.

(iii) The Cotton Board, with approval of the Secretary, may notify individual producers that the assessments collected by such producer's collecting handler, whose name is subject to publication in accordance with the provisions of paragraph (a)(4)(i) of this section, have not been remitted to the Cotton Board as required.

(b) Any importer who fails to submit reports to the Cotton Board pursuant to request made according to §1205.516 or assessments to the Customs Service, shall be subject to one or more of the following actions:

(1) Audits of the importer's books and records to determine the amount owed the Cotton Board.

(2) A deduction for the amount of any unpaid assessment by the Customs Service from the importers surety bond.

(3) Referral to the Secretary for appropriate enforcement action.

[57 FR 29191, July 1, 1992]

### § 1205.518 Receipts for payment of assessments.

Each collecting handler who is required by §1205.512 and §1205.513 to give the producer a receipt showing payment of cotton research and promotion assessments shall provide the producer with an invoice or settlement sheet for

the cotton. Such document shall serve as a receipt shall contain the following information:

(a) Name and address of collecting handler.

(b) Gin code number of gin at which cotton was ginned.

(c) Name and address of producer who paid assessment.

(d) Number of bales on which assessment was paid.

(e) Gross price per pound received by the producer.

(f) Total assessments paid by the producer.

(g) Date on which assessment was paid by producer.

(Approved by the Office of Management and Budget under control number 0581-0115)

[42 FR 35974, July 13, 1977, as amended at 49 FR 8420, Mar. 7, 1984. Redesignated and amended at 51 FR 6099, Feb. 20, 1986. Further redesignated at 57 FR 29190, July 1, 1992]

### § 1205.519 Organic exemption.

(a) A producer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan; produces only products that are eligible to be labeled as 100 percent organic under the NOP, except as provided for in paragraph (h) of this section; and is not a split operation shall be exempt from the payment of assessments.

(b) To apply for an exemption under this section, an eligible cotton producer shall submit a request for exemption to the Board—on a form provided by the Board—at any time initially and annually thereafter on or before the beginning of the crop year as long as the producer continues to be eligible for the exemption.

(c) The request shall include the following: The producer's name and address, a copy of the organic farm or organic handling operation certificate provided by a USDA-accredited certifying agent as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502), a signed certification that the applicant meets all of the requirements specified in paragraph (a) of this section for an assessment exemption, and such other information as may be required by the Board and with the approval of the Secretary.

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(d) If the producer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the producer. For exemption requests received on or before August 15, 2005, the Board will have 60 days to approve the exemption request; after August 15, 2005, the Board will have 30 days to approve the exemption request. If the application is disapproved, the Board will notify the applicant of the reason(s) for disapproval within the same timeframe.

(e) The producer shall provide a copy of the Certificate of Exemption to each handler to whom the producer sells cotton. The handler shall maintain records showing the exempt producer's name and address and the exemption number assigned by the Board.

(f) An importer who imports only products that are eligible to be labeled as 100 percent organic under the NOP (7 CFR part 205) and who is not a split operation shall be exempt from the payment of assessments. That importer may submit documentation to the Board and request an exemption from assessment on 100 percent organic cotton and 100 percent organic cotton products—on a form provided by the Board—at any time initially and annually thereafter as long as the importer continues to be eligible for the exemption. This documentation shall include the same information required of producers in paragraph (c) of this section. If the importer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the importer. The Board will also issue the importer a 9-digit alphanumeric Harmonized Tariff Schedule (HTS) classification valid for 1 year from the date of issue. This HTS classification should be entered by the importer on the Customs entry documentation. Any line item entry of 100 percent organic cotton and cotton products bearing this HTS classification assigned by the Board will not be subject to assessments.

(g) The exemption will apply immediately following the issuance of the Certificate of Exemption.

(h) Agricultural commodities produced and marketed under an organic system plan, as described in 7 CFR

205.201, but not sold, labeled, or represented as organic, shall not disqualify a producer from exemption under this section, except that producers who produce both organic and non-organic agricultural commodities as a result of split operations shall not qualify for exemption. Reasons for conventional sales include lack of demand for organic products, isolated use of antibiotics for humane purposes, chemical or pesticide use as the result of State or emergency spray programs, and crops from a buffer area as described in 7 CFR part 205, provided all other criteria are met.

[70 FR 2754, Jan. 14, 2005]

**REIMBURSEMENTS**

**§ 1205.520 Procedure for obtaining reimbursement.**

Each importer against whose imports of cotton or cotton-containing products any assessments are made and collected may obtain a reimbursement on that portion of the assessment that was collected on cotton produced in the United States or cotton other than Upland cotton by following the procedures prescribed in this section.

(a) *Application form.* An importer shall obtain a reimbursement application form from the Cotton Board. Such form may be obtained by written request to the Cotton Board and the request shall bear the importer's signature or the importer's properly-witnessed mark.

(b) *Submission of reimbursement application to Cotton Board.* Any importer requesting a reimbursement shall mail the application on the prescribed form to the Cotton Board. The application shall be postmarked within 180 days from the date the assessments were paid on the cotton by such importer. The reimbursement application shall show:

(1) The importer's name, address, phone number and Customs Service identification number;

(2) Weight of the cotton in each HTS category for which the reimbursement is requested;

(3) Subtotal amounts to be reimbursed for each HTS number and grand total to be reimbursed;

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(4) Date or inclusive dates on which the assessments were paid;

(5) The name of the port of entry; and

(6) Certification by the importer that the cotton was grown in the U.S. or is other than Upland cotton.

(c) Where more than one importer shared in the assessment payment on cotton, joint or separate reimbursement application forms may be filed. In any such case, the reimbursement application shall show the names, addresses and proportionate shares of assessments paid by all importers. The reimbursement application shall bear the signature of each importer seeking reimbursement.

(d) *Proof of payment of the assessment on U.S. produced or other than Upland cotton.* A copy of the Customs entry form and the commercial invoice filed with the Customs Service shall accompany the importer's reimbursement application. Within 60 days from the date the properly executed application for reimbursement is received by the Cotton Board, the Cotton Board shall make reimbursement to the importer. For joint applications, the reimbursement shall be made payable to all eligible importers signing the reimbursement application. Documentation submitted with reimbursement applications shall not be returned to the importer.

[57 FR 29192, July 1, 1992, as amended at 62 FR 22879, Apr. 28, 1997]

### WAREHOUSE RECEIPTS

#### § 1205.525 Entry of gin code number.

The warehouse that first receives a bale for storage after ginning shall enter the gin code number of the gin at which the bale was ginned on the warehouse receipt issued for the bale.

[57 FR 29192, July 1, 1992]

### REPORTS AND RECORDS

#### § 1205.530 Gin reports and reporting schedule.

(a) *Gin reports.* Each year each cotton gin in the United States shall submit reports to the Cotton Board on forms or certificates made available or approved by the Cotton Board as follows:

(1) *End-of-season report.* Except as provided in paragraph (a)(2) of this sec-

tion, each gin shall report to the Cotton Board an alphabetical listing of producer names, their addresses, and the number of bales ginned for each such producer during its ginning season.

(2) *Certificate in Lieu of End-of-Season Report.* If a gin is the collecting handler on every bale ginned at such gin and collecting handler reports and remittances of assessments have been made in accordance with § 1205.516, a certification to that effect may be made to the Cotton Board in lieu of an end-of-season report.

(b) *Reporting schedule.* The schedule for submitting gin reports is as follows:

(1) Each gin that completes ginning operations prior to January 16 shall make a report to the Cotton Board within 10 days after completion of ginning.

(2) Each gin that operates on or after January 16 will make a report to the Cotton Board not later than January 25 covering bales ginned through January 15.

(3) Each gin that operates after January 15 shall make a supplemental report to the Cotton Board within 10 days after the close of ginning operations covering bales ginned after January 15.

[42 FR 35974, July 13, 1977, as amended at 57 FR 29192, July 1, 1992]

#### § 1205.531 Records.

Each handler or importer required to make reports pursuant to this subpart shall maintain such books and records as are necessary to verify the reports.

[57 FR 29192, July 1, 1992]

#### § 1205.532 Retention period for reports and records.

Each handler and importer required to make reports pursuant to this subpart shall retain for at least 2 years beyond the marketing year of their applicability:

(a) One copy of the report made to the Cotton Board; and

(b) Such books and records as are necessary to verify such reports.

[57 FR 29192, July 1, 1992]

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### § 1205.533 Availability of reports and records.

Each handler and importer required to make reports pursuant to this subpart shall make available for inspection by the Cotton Board, including its designated employees, and the Secretary any reports, books, or records required under this subpart.

[57 FR 29192, July 1, 1992]

#### CONFIDENTIAL INFORMATION

### § 1205.540 Confidential books, records, and reports.

All information obtained from the books, records, and reports of handlers and importers shall be kept confidential in the manner and to the extent provided for in §1205.340.

[57 FR 29192, July 1, 1992]

### § 1205.541 OMB control numbers.

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, is OMB number 0581-0093, except Board member nominee information sheets are assigned OMB number 0505-0001.

[57 FR 29192, July 1, 1992]

## Subpart—Fiscal Period [Reserved]

## PART 1206—MANGO PROMOTION, RESEARCH, AND INFORMATION

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AUTHORITY: 7 U.S.C. 7411-7425 and 7 U.S.C. 7401.