

SUBCHAPTER A—COMMODITY STANDARDS AND STANDARD CONTAINER REGULATIONS

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

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

SOURCE: 22 FR 10923, Dec. 28, 1957; 30 FR 7239, May 29, 1965, unless otherwise noted.

CROSS REFERENCE: For regulations relating to cotton classing, testing, and standards, and cottonseed sold or offered for sale for crushing purposes, see parts 28 and 61 of this chapter.

Subpart A—Regulations

DEFINITIONS

§ 27.1 Meaning of words.

Words used in this subpart in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

§ 27.2 Terms defined.

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

(a) *The Act*. The United States Cotton Futures Act (90 Stat. 1841-1846; 7 U.S.C. 15b).

(b) *Department*. The United States Department of Agriculture.

(c) *Service*. The Agricultural Marketing Service of the Department.

(d) *Administrator*. The Administrator of the Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Administrator's stead.

(e) *Cotton Division*. The Cotton Division of the Service.

(f) *Director*. The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in the Director's stead.

(g) *Marketing Services Office*. A facility of the Cotton Division established under the Act at any point.

(h) *Grading Section*. The National Classing Supervision Office at Memphis, Tennessee; performs final review of cotton classification.

(i) *Exchange*. Exchange, board of trade, or similar institution or place of business, at, on, or in which a basis grade contract may be made.

(j) *Exchange inspection agency*. The inspection agency of the New York Cotton Exchange, the New Orleans Cotton Exchange, the Board of Trade of the city of Chicago, or of any other exchange which may have an organized inspection agency recognized as such by the Director, as the case may be.

(k) *Basis grade contract*. Contract of sale of cotton for future delivery mentioned in the Act, made at, on, or in any exchange in compliance with subsection 15b(f) of the Act.

(l) *Person*. Individual, association, partnership, or corporation.

(m) *Owner*. Person who owns, controls, or has the disposition of any cotton.

(n) *Classification*. The classification of any cotton shall be determined by the quality of a sample in accordance with Official Cotton Standards of the United States for the color grade and the leaf grade of American upland cotton, the length of staple, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except leaf grade and extraneous matter. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers, designated as

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such by the Director, will determine the official leaf grade and extraneous matter, and authorized Cotton Program employees will determine all fiber property measurements using High Volume Instruments.

(o) *Micronaire determination.* The measure of the fiber fineness and maturity of cotton, in combination, in terms of Micronaire readings as determined by an authorized employee of the Department in accordance with the official cotton standards of the United States for fiber fineness and maturity.

[22 FR 10923, Dec. 28, 1957, as amended at 32 FR 4157, Mar. 17, 1967; 42 FR 40677, Aug. 11, 1977; 48 FR 49210, Oct. 25, 1983; 65 FR 36598, June 9, 2000]

GENERAL

§ 27.3 Requirements of subsection 15b(f) of the Act.

The inspection, sampling, classification, and Micronaire determination of cotton pursuant to subsection 15b(f) of the Act shall be performed as prescribed in this subpart. All tenders of cotton and settlements therefor under basis grade contracts shall be made subject to the regulations in this subpart. No contract shall for the purposes of this subpart be deemed to comply with subsection 15b(f) of the Act if it contain or incorporate therein, by reference or otherwise, any provision or any bylaw, rule, or custom of an exchange which is inconsistent or in conflict with any requirement of said subsection 15b(f), nor if the parties enter into any collateral or additional agreement or understanding, either verbal or written, respecting the subject matter of such contract which is inconsistent or in conflict with any requirement of said subsection 15b(f).

[42 FR 40677, Aug. 11, 1977]

§ 27.4 Obligations and rights under Act: not affected by regulations.

Nothing in this subpart shall be construed as relieving any party to a basis grade contract of any obligation imposed upon the party, or as depriving the party of any right to which the party might be entitled under any provision of the contract or exchange rule made a part thereof which shall not be

inconsistent with the act or the regulations made under the Act.

[48 FR 49210, Oct. 25, 1983]

§ 27.5 Effect of amendments.

Any amendment to this subpart, unless otherwise stated therein, shall apply to all tenders of cotton and settlements therefor made on and after the effective date of such amendment, under basis grade contracts entered into prior, as well as subsequent, to such effective date.

[22 FR 10923, Dec. 28, 1957, as amended at 42 FR 40677, Aug. 11, 1977]

ADMINISTRATION

§ 27.8 Director.

The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the provisions of the Act and this subpart.

§ 27.9 Marketing Services Offices; Grading Section.

Marketing Services Offices shall be maintained at points designated for the purpose by the Administrator. The Grading Section shall review the classification of any cotton in accordance with §§ 27.61 to 27.72. The Grading Section shall also perform other duties as assigned.

[48 FR 49210, Oct. 25, 1983]

§ 27.10 Supervision of cotton inspection, weighing, sampling; and other duties.

Authorized employees of the Cotton Division will act, when necessary, as supervisors of cotton inspection to supervise the inspection, weighing, and sampling of cotton to be classified and will perform such other duties as may be required of them for the purposes of this subpart.

[26 FR 1656, Feb. 25, 1961]

§ 27.11 Area Director, Marketing Services Office; responsibility.

Subject to this subpart and the instructions of the Director, the Area Director of each Marketing Services Office shall be responsible for the proper performance of the duties imposed on

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such office and on the persons connected therewith.

[48 FR 49210, Oct. 25, 1983]

CLASSIFICATION REQUESTS

§ 27.12 Classification request for each lot of cotton.

For each lot or mark of cotton of which the applicant desires separate classification and certification, the applicant shall make a separate written request in a form prescribed or supplied by the Cotton Division for that purpose.

[48 FR 49210, Oct. 25, 1983]

§ 27.13 Micronaire determination request incidental to classification request.

The classification request may include a request for Micronaire determination.

§ 27.14 Filing of classification and Micronaire determination requests.

Requests for classification shall be filed with the Marketing Services Office serving the location at which the cotton is stored. Requests for classification shall be filed within 30 days after sampling and before classification of the samples. The applicant may file a request for a review of classification as part of the request for classification. The applicant may file a request for Micronaire determination as part of the request for classification or may file a request for such determination, in a form prescribed by the Cotton Division within 7 business days following the date of the first certification of the cotton involved, provided this service has not been previously performed on such cotton, and the request is made prior to delivery of the cotton on a basis grade contract. Requests for Micronaire determinations may also be filed as provided in §§ 27.62 and 27.63.

[48 FR 49210, Oct. 25, 1983]

§ 27.15 Withdrawal or rejection of classification or Micronaire determination requests.

Any request for classification or for Micronaire determination may be withdrawn by the applicant at any time before the classification or

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Micronaire determination of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed under §§ 27.80 to 27.92. Any request for classification or for Micronaire determination may be rejected for noncompliance with the act or this subpart.

INSPECTION AND SAMPLES

§ 27.16 Inspection; weighing; samples; supervision.

The inspection, weighing, and sampling of cotton for which classification is desired and the preparation and delivery of samples to the Marketing Services Office shall be (a) under the supervision of a supervisor of cotton inspection, or (b) by or under the direction of an exchange inspection agency and subject to the supervision of a supervisor of cotton inspection.

[48 FR 49210, Oct. 25, 1983]

§ 27.18 Persons not to be employed for inspection or sampling.

No person shall, after notice to the interested parties, be employed in any way in connection with any phase of the inspection and sampling of cotton or the preparation of the samples thereof, for the purposes of classification under this subpart, who for good cause is disapproved by the Director.

§ 27.20 Drawing and handling of samples of cotton; inspection of bales.

One sample shall be drawn from the top side of each bale and one from the bottom side. Each such sample shall weigh not less than 5 ounces, the two samples from each bale to weigh together not less than 10 ounces. The bale shall be inspected and any condition not fully indicated by the samples shall be explained by the supervisor of cotton inspection or exchange inspection agency in a written memorandum, which shall accompany the samples to the Marketing Services Office. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Any

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sample which does not meet the requirements of this section may be rejected by the supervisor of cotton inspection or the Area Director.

[48 FR 49210, Oct. 25, 1983]

§ 27.21 Preparation of samples of cotton.

The samples from each bale shall be prepared as specified in this section. The sample from the top side and the sample from the bottom side shall each be broken into two parts. One part of the sample from the top side shall be placed with a part of the sample from the bottom side, making two sets of samples from each bale. One of such sets shall weigh as nearly as possible 6 ounces, equally divided between the two parts thereof representing the two sides of the bale. There shall be placed in each such set of samples between the two sides thereof a coupon showing the number of the tag attached to the bale from which such samples were drawn. The 6-ounce set of samples from each bale shall be called the original and the other set the duplicate.

§ 27.22 Wrapping and marking of samples of cotton.

The original sets of samples of the bales constituting a lot or mark to be classified separately shall be inclosed in one or more wrappers or containers, as the case may require. The wrappers or containers of original samples shall be so labeled or marked, or both, as to show that they contain original samples, together with the lot number, if any, the marks, and the number of bales, and such other information as may be necessary in accordance with the instructions of the Area Director of the Marketing Services Office to which the samples are to be delivered.

[48 FR 49210, Oct. 25, 1983]

§ 27.23 Duplicate sets of samples of cotton.

The duplicate sets of samples shall be inclosed in wrappers or containers separate and apart from the original sets in the manner prescribed or original samples in the foregoing section, except that the wrappers or containers shall be labeled or marked, or both, so as to show that they contain duplicate

samples and shall be delivered to the person requesting the classification of the cotton.

§ 27.24 Delivery of samples of cotton.

The original sample from each bale to be classified shall be delivered to the Marketing Services Office with which the classification request was filed, at its classification room. If there is no Marketing Services Office at the point where the cotton is sampled, the supervisor of cotton inspection or the exchange inspection agency shall forward the samples to the proper Marketing Services Office. No samples covered by pending classification requests which are ready for delivery as provided for herein shall be withheld from such delivery except as authorized in writing by the Area Director or the Director.

[48 FR 49210, Oct. 25, 1983]

§ 27.25 Additional samples of cotton; drawing.

In addition to the samples hereinbefore prescribed, separate samples, if desired, may be drawn and furnished to the owner of the cotton.

§ 27.28 Disposition of samples.

Samples submitted to a Marketing Services Office shall become the property of the Department and shall be disposed of in accordance with the property regulations of Department when no longer needed for classification or Micronaire determinations.

[48 FR 49211, Oct. 25, 1983]

CLASSIFICATION AND MICRONAIRE DETERMINATIONS

§ 27.31 Classification of Cotton.

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

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the official color grade. Cotton classers, designated as such by the Director, will determine the official leaf grade and extraneous matter, and authorized Cotton Program employees will determine all fiber property measurements using High Volume Instruments.

[65 FR 36598, June 9, 2000]

§ 27.32 Order of classification.

All cotton for which classifications requests shall be pending shall be classified as far as practicable in the order in which proper samples thereof, ready for such classification, shall have been delivered to the Marketing Services Office, except as otherwise provided in this subpart or when the Area Director or the Director shall find that an emergency exists and shall order otherwise.

[48 FR 49211, Oct. 25, 1983]

§ 27.33 Exposing of samples for classification.

Classification shall not proceed until the samples, after being delivered to the Marketing Services Office, shall have been exposed for such length of time as in the judgment of the Area Director shall be sufficient to put them in proper condition for the purpose.

[48 FR 49211, Oct. 25, 1983]

§ 27.34 Classification procedure.

Classification shall proceed as rapidly as possible, but not when light or other conditions make uncertain the accuracy of the results to be obtained.

§ 27.35 Lower class of two samples to prevail.

In case a sample drawn from one portion of a bale is lower in class than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower class.

§ 27.36 Classification and Micronaire determinations based on official standards.

All cotton shall be classified for grade and staple length on the basis of the official cotton standards of the United States for grade and staple length in effect at the time of such

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classification. Micronaire determinations for cotton, upon request under § 27.14, § 27.62, or § 27.63 shall be made according to the official cotton standards of the United States for fiber fineness and maturity in effect at the time of such determinations.

§ 27.37 Cotton reduced in grade.

If cotton be reduced in grade, by reason of the presence of extraneous matter or other irregularities or defects, below its grade according to the official cotton standards of the United States, the grade from which it is so reduced, and the condition or reason which so reduces its grade shall be determined and stated.

[25 FR 5872, June 25, 1960]

§ 27.38 Terms defined for purposes of classification.

For the purposes of classification the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has the strength of fiber as ordinarily found in cotton destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) [Reserved]

(c) *Gin cut cotton.* Cotton that shows damage in ginning, through cutting by the saws, to an extent that reduces its value more than two grades.

(d) *Reginned cotton.* Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) *Repacked cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales that are combined after the cotton leaves the gin.

(f) *False packed cotton.* Cotton in a bale (1) containing substances entirely foreign to cotton, (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior, (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such

manner as not to be detected by customary examination, or (4) containing pickings or linters worked into the bale.

(g) *Mixed packed cotton.* Cotton in a bale which, in the sample taken therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color groups, or (3) a difference in length of staple of one-eighth inch or more. For purposes of this paragraph, White Cotton (including the Plus grades), Light Gray Cotton, and Gray Cotton shall constitute one color group, and Light Spotted Cotton, Spotted Cotton, Tinged Cotton, and Yellow Stained Cotton shall each constitute a color group.

(h) *Water packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

[22 FR 10926, Dec. 28, 1957, as amended at 26 FR 5945, July 1, 1961; 32 FR 7011, May 9, 1967; 35 FR 17935, Nov. 21, 1970]

COTTON CLASS CERTIFICATES

§ 27.39 Issuance of certificates.

Except as otherwise provided in this section, as soon as practicable after the classification of cotton has been completed by a Marketing Services Office, the Marketing Services Office shall issue a cotton class certificate showing the results of such classification. Each certificate shall bear the date of its issuance and the name of the Area Director of the Marketing Services Office that classified the cotton. The certificate shall show the identification of the cotton according to the information in the possession of the Marketing Services Office, the classification of the cotton according to its grade and length of staple and such other facts as the Director may require. As soon as practicable after the Micronaire determination of cotton has been completed by an authorized employee of the Cotton Division, upon request under this subpart, the results of such determination shall be certified by the Marketing Services Office or by the Grading Section on the classification cer-

tificate for the cotton, with the date of issuance of the Micronaire determination, the name of the certifying officer, and such other facts as the Director may require. When a request is made for a review of classification and a Micronaire determination, at the same time as the request for initial classification, the Marketing Services Office shall notify the Grading Section of the results of the classification and the latter shall review the classification and make the Micronaire determination, and notify the Marketing Services Office of the results. The latter shall issue a cotton class certificate over the signature of the Head, Grading Section showing the results of the review classification (but not the initial classification), the Micronaire determination, the date of issuance of the certificate, and such other facts as the Director may require. The certificate of classification and Micronaire determination may be placed directly upon the warehouse receipt covering the cotton involved. The Marketing Services Office or the Grading Section may authorize an officer of the Service located at another point to certify the results of any classification or Micronaire determination upon the basis of information furnished by them, notwithstanding any other provisions of this section.

[48 FR 49211, Oct. 25, 1983]

§ 27.40 New certificates; conditions of issuance.

For the business convenience of a holder of a cotton class certificate issued under this subpart a new certificate may be issued at the request of the holder, to take the place of the former certificate without the reclassification of the cotton and without a new Micronaire determination for the cotton. In any case where a new certificate is issued in accordance with this section, the former certificate shall be surrendered for cancellation, and such new certificate shall bear a new number, the date of its issuance, and the date of original certification, and shall otherwise comply with this subpart.

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§ 27.41 Lost certificate; duplicate.

Upon the written request of the last holder of a valid cotton class certificate and a showing to the satisfaction of the Area Director of the Marketing Services Office which issued such certificate, that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new certificate shall be issued without the reclassification of the cotton and without a new Micronaire determination for the cotton. Such new certificate shall bear the same number and date of issuance as the lost or destroyed certificate, and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

[48 FR 49211, Oct. 25, 1983]

§ 27.42 Surrender of certificate.

For good cause any certificate issued under this subpart shall be surrendered to a Marketing Services Office for correction or cancellation. If such certificate be not surrendered upon request it shall nevertheless be invalid under subsection 15b(f) of the Act and this subpart.

[48 FR 49211, Oct. 25, 1983]

§ 27.43 Validity of cotton class certificates.

Each cotton class certificate for cotton classified as tenderable shall be valid for use in the tender of such cotton on a basis grade contract made in accordance with the Act and this subpart and the rules of an exchange not inconsistent therewith.

[22 FR 10926, Dec. 28, 1957, as amended at 42 FR 40677, Aug. 11, 1977]

§ 27.44 Invalidity of cotton class certificates.

Any cotton class certificate shall become invalid for use in the tender or delivery of the cotton covered thereby on a basis grade contract whenever such cotton shall be removed from the place of storage specified therein, except when it is handled and re-stored or transferred to a different place of storage and restored under the supervision

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of an exchange inspection agency or a supervisor of cotton inspection.

(90 Stat. 1841-1846; (7 U.S.C. 15b))

[22 FR 10926, Dec. 28, 1957, as amended at 26 FR 1657, Feb. 25, 1961; 42 FR 40677, Aug. 11, 1977]

§ 27.45 No storage of cotton for classification at disapproved place.

No cotton submitted for classification under subsection 15b(f) of the Act shall be located or stored at a place disapproved for the purpose by the Area Director or the Director on account of being unsuitable for the safekeeping or proper storage of such cotton, or on account of the failure or refusal of the custodian thereof to comply or to permit compliance with the requirements of this subpart. Notice of such disapproval shall be given in such manner as the Director may direct. Thereafter every cotton class certificate previously issued for cotton located or stored at such place shall be invalid for the delivery of such cotton on a basis grade contract, unless the cotton shall be removed under the supervision of an exchange inspection agency, or a supervisor of cotton inspection, to a place which shall be suitable for the purpose. Upon such removal and the request of the holder of the cotton class certificate for such cotton a new certificate in lieu thereof, as provided elsewhere in this subpart, shall be issued.

[48 FR 49211, Oct. 25, 1983]

§ 27.46 Cotton withdrawn from storage.

The exchange inspection agency under the supervision or control of which any cotton classified pursuant to this subpart shall be held or stored shall furnish to the Marketing Services Office which classified such cotton, on the first business day of each week, a written statement of all cotton withdrawn from storage, or the lot number or other identification of which has been changed, or which has otherwise been removed from the supervision or control of such exchange inspection agency during the next preceding week. Such statement shall show each lot number, and, if changed, the new lot number, and in case of the withdrawal

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or removal of a portion only of the lot, the tag numbers of the bales so withdrawn or removed. If such removal shall be to a different place of storage under the supervision or control of the exchange inspection agency, the statement shall show the new location.

[48 FR 49211, Oct. 25, 1983]

§ 27.47 Tender or delivery of cotton; conditions.

Subject to the provisions of §§ 27.52 through 27.55, 27.65, no cotton shall be tendered or delivered on a basis grade contract unless on or prior to the date fixed for delivery under such contract, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a valid outstanding cotton class certificate complying with the regulations in this subpart, showing such cotton to be tenderable on a basis grade contract.

[22 FR 10926, Dec. 28, 1957, as amended at 42 FR 40677, Aug. 11, 1977; 50 FR 47707, Nov. 20, 1985]

DELAYED CERTIFICATION

§ 27.52 Delivery without certification.

If upon the date fixed for delivery in accordance with subsection 15b(f) of the Act cotton class certificates shall not have been issued by a Marketing Services Office for cotton to be delivered pursuant to such notice, samples of which cotton shall have been in the custody of the Marketing Services Office for the time hereinafter prescribed, the delivery of such cotton may be made upon compliance with and subject to the conditions specified in §§ 27.52 through 27.55. Sections 27.52 through 27.55 shall not apply to cotton upon which a Marketing Services Office has already issued cotton class certificates pursuant to this subpart.

[48 FR 49212, Oct. 25, 1983, as amended at 50 FR 47707, Nov. 20, 1985]

§ 27.53 Notice for delayed certification; requirements.

On the date of giving the transferable notice of the delivery in accordance with subsection 15b(f) of the act the person issuing such notice or the person on whose behalf it was issued shall

also give written notice to the Marketing Services Office with which the classification request was required to be filed, specifying the date of delivery and the number of bales so to be delivered which have not been certified. In such notice, or later in writing before the delivery of the samples to the Marketing Services Office the lot numbers of the cotton so to be delivered shall be specified.

[48 FR 49212, Oct. 25, 1983]

§ 27.54 Inspection and sampling for delayed certification.

Such cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must be delivered to the Marketing Services Office not later than the date of issuance of the transferable notice, except when the delivery day fixed by such transferable notice is the last delivery day in the month of delivery. In such case the cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must have been delivered to the Marketing Services Office in accordance with all regulations applicable and in readiness for classification not later than 8 p.m. of the second business day preceding such last delivery day.

[48 FR 49212, Oct. 25, 1983]

§ 27.55 Requirements in lieu of cotton class certificates on delivery day.

If on the morning of the delivery day specified in the transferable notice the cotton class certificates covering the cotton involved are not ready for delivery when called for, the tenderer of the cotton shall present to the receiver a receipt issued by an exchange inspection agency certifying that warehouse receipts, listed by lot numbers, representing cotton weighed and sampled in an approved warehouse under the supervision of such agency, have been received by the exchange inspection agency and are in the custody of the Cotton Division Marketing Services Office where certification requests are required to be filed. The requirements of §§ 27.52-27.55 shall be complied with prior to delivery by the tenderer of the

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agency's receipt to the receiver. Upon issuance by Marketing Services Office, the tenderer shall furnish to the receiver the cotton class certificates complying with the regulations in this subpart, showing the cotton to be tenderable on a basis grade contract.

[50 FR 47707, Nov. 20, 1985]

POSTPONED CLASSIFICATION

§ 27.57 Request for postponement.

If the applicant desires the postponement of the classification of any cotton covered by a classification request filed pursuant to the regulations in this subpart until later notice, the original classification request must so state, or the applicant must so advise the Marketing Services Office in writing before the classification has been entered upon. Such request must show cause and that it is not made merely for dilatory reasons.

[48 FR 49212, Oct. 25, 1983]

§ 27.58 Postponed classification; must be within 30 days.

If thereafter the classification of the cotton be desired, notice thereof shall be filed not later than the expiration of 30 days after the date upon which the samples were drawn from the cotton, and the original samples must have remained continuously in the possession of the Marketing Services Office or under its control.

[48 FR 49212, Oct. 25, 1983]

§ 27.59 Postponed classification; interference.

Classification pursuant to such suspended request shall not be allowed to interfere with or delay the classification of other samples previously made ready for classification or which are otherwise entitled to priority.

§ 27.60 When original request deemed withdrawn.

If the period of 30 days specified in § 27.58 shall expire without the filing of the notice of desire for classification the applicant shall be deemed to have withdrawn the original request for the classification of such cotton.

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CLASSIFICATION REVIEWS AND MICRONAIRE DETERMINATIONS

§ 27.61 One review of classification.

One review only of the classification of the cotton covered by any cotton class certificate may be obtained as provided in §§ 27.62 to 27.72, such review to be performed by the Grading Section. Micronaire determinations are not subject to review.

[48 FR 49212, Oct. 25, 1983]

§ 27.62 Conditions for review of classification and for incidental Micronaire determination for original applicant.

The person for whom the classification of cotton has been or is to be performed under this subpart may have a review of such classification by filing a written application therefor before the delivery of such cotton on a basis grade contract and not later than the expiration of the seventh business day following the date of the first certification of the cotton involved. Such written application may be made at the same time as the request for initial classification. The written application may also include a request for Micronaire determination of the cotton if this service has not been previously performed.

[22 FR 10926, Dec. 28, 1957, as amended at 42 FR 40677, Aug. 11, 1977]

§ 27.63 Conditions for review of classification and for Micronaire determination for receiver.

Any receiver of cotton upon a basis grade contract who has not redelivered such cotton on a basis grade contract may have a review of the classification of any cotton of which the classification has not been previously reviewed by filing a written application within 7 business days following the date of the delivery of cotton class certificates in accordance with this subpart. When more than 5,000 bales of cotton shall have been delivered to the same receiver on the same date of delivery, the receiver may, upon proper showing of the facts, be allowed 5 additional business days for filing the application for review of the classification of any such cotton, provided written request for

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such extension is filed within 7 business days following the date of such delivery. In the event of the reissue of certificates to replace any certificates delivered, the receiver may have a review of the classification of the cotton covered by such reissued certificates, provided such review is requested within the time herein prescribed, calculated from the date of delivery of such reissued certificates. Any such receiver may also have a Micronaire determination, with or without review of classification, under these same conditions on cotton on which this service has not been previously performed under this subpart.

[48 FR 49212, Oct. 25, 1983]

§ 27.64 Application for review of classification and for Micronaire determination; filing.

(a) Every application review of classification or for Micronaire determination under § 27.62 or § 27.63 shall be filed with the Marketing Services Office serving the location at which the cotton is stored. The application shall in each case be in the hands of such Marketing Services Office within the time specified in § 27.62 or § 27.63 for applying for review: *Provided*, That any Marketing Services Office may designate any officer of the Cotton Division or a representative of an exchange inspection agency located at another point to receive applications, and in such cases the applications shall be in the hands of the persons so designated within the time specified. Any person making such application shall, upon call of the Marketing Services Office or person with whom such application was filed under this section, surrender the cotton class certificates covering the cotton involved.

(b) Such applications shall be made on a form furnished or approved by the Cotton Division and shall contain (1) the name and address of the party, if any, from whom the cotton was received on a basis grade contract; (2) the lot numbers of the cotton; and (3) the warehouse bale numbers.

[22 FR 10928, Dec. 28, 1957, as amended at 26 FR 1657, Feb. 25, 1961; 42 FR 40677, Aug. 11, 1977; 48 FR 49213, Oct. 25, 1983]

§ 27.65 Completion of review of classification.

In any case where an application for review of classification or an application for Micronaire determination has been filed with respect to cotton previously designated as tenderable, such review or determination may be completed notwithstanding the subsequent tender of such cotton on a basis grade contract.

[22 FR 10926, Dec. 28, 1957, as amended at 42 FR 40677, Aug. 11, 1977]

§ 27.66 Dismissal of application for review.

Any application for review may be dismissed whenever it shall be found by the Area Director or the Director that it was filed without good cause or for dilatory purposes.

[48 FR 49213, Oct. 25, 1983]

§ 27.67 Use of new samples in reviews and Micronaire determinations.

Unless the use of new samples shall be necessary in the judgment of the Area Director, a review classification pursuant to §§ 27.61 to 27.72, or a Micronaire determination pursuant to § 27.14, § 27.62 or § 27.63, shall be made by reference to the samples, if any, of the cotton involved in the possession of the Marketing Services Office; but if the use of new samples is deemed necessary by the Area Director, or if there are no samples of the cotton in the possession of the Marketing Services Office, or if the samples of the cotton have been in the possession of the Marketing Services Office for more than one year, the person requesting the review classification or Micronaire determination shall cause new samples to be drawn for the purpose and submitted to the Marketing Services Office in accordance with this subpart.

[48 FR 49213, Oct. 25, 1983]

§ 27.69 Classification review; notations on certificate.

When a review of classification is made after the issuance of a cotton class certificate, the results of the review classification, the date of issuance of the review classification results, and the signature of the Head, Grading Section shall be entered on the

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cotton class certificate. Thereupon the certificate shall be returned to the person who requested the review.

[48 FR 49213, Oct. 25, 1983]

§ 27.72 Withdrawal of application for review.

Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be assessed pursuant to §§ 27.80 through 27.92.

TRANSFERS OF COTTON

§ 27.73 Supervision of transfers of cotton.

Whenever the owner of any cotton inspected and sampled for classification pursuant to this subpart and for which the owner holds valid cotton class certificates desires to transfer such cotton to a different delivery point, or to a different warehouse at the same delivery point, for the purpose of having it made available for delivery upon a basis grade contract, such transfer shall be effected under the supervision of an exchange inspection agency or a supervisor of cotton inspection.

[48 FR 49213, Oct. 25, 1983]

COSTS OF CLASSIFICATION AND MICRONAIRE

§ 27.80 Fees; classification, Micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is tenderable or not, the person requesting the services shall pay fees as follows:

(a) Initial classification and certification—\$2.00 per bale.

(b) Review classification and certification—\$2.00 per bale.

(c) Micronaire determination and certification—30 cents per bale.

(d) Combination service—\$3.50 per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class certificates.)

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(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together—\$1.60 per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—\$1.60 per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates—\$2.75 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates—\$2.00 per bale.

[51 FR 22061, June 18, 1986, as amended at 55 FR 20440, May 17, 1990]

§ 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for the purpose of business convenience, or when made necessary by the transfer of cotton under the supervision of any exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of \$.70 cents for each certificate issued.

[55 FR 20440, May 17, 1990]

§ 27.83 No fees for certain certificates.

No fee shall be collected for a new cotton class certificate issued in lieu of a prior certificate solely for the purpose of correcting clerical errors therein or for the purpose of substituting a new form applicable to outstanding certificates, or without an application therefor.

§ 27.85 Fees; withdrawn requests or applications.

When the request for classification, or the application for review or classification, of any cotton or the request for Micronaire determination for any cotton shall be withdrawn after the service requested has been started pursuant to such request or application,

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the person making such request or application shall pay the fee prescribed by § 27.80 as to any service completed prior to such withdrawal.

§ 27.87 Fees; classification and Micronaire determination information.

Whenever the person who requests the classification of, or Micronaire determination for, any cotton, or the person on whose behalf such request is made, also requests the transmission by telegraph or telephone of information concerning such classification or Micronaire determination, the person making the request for such classification or determination shall pay, in addition to the applicable costs prescribed in this subpart, the cost of tolls incurred in such transmission.

§ 27.89 Expenses; inspection; sampling.

Expense of inspection and sampling, the preparation of the samples and the delivery of such samples in accordance with § 27.24, shall be borne by the party requesting the classification of the cotton involved. When a review of classification or a Micronaire determination is requested and samples of the cotton involved are not in possession of a Marketing Services Office, the expense of inspection, sampling, preparation of samples, and delivery of the samples to the Marketing Services Office shall be borne by the party requesting the service.

[48 FR 49213, Oct. 25, 1983]

§ 27.90 Bills for payment of fees and expenses.

The Cotton Division shall deliver bills to all persons from whom payment for fees or expenses on account of services under this subpart shall be due. Such bills shall be rendered as soon as practicable after the last day of each month for the amounts due and unpaid on such day. When necessary, in the discretion of the Area Director or the Director, any bill may be rendered at an earlier date for any fees and expenses then due by the person to whom such bill shall be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but

in any event not later than 2 weeks after such rendition.

[48 FR 49213, Oct. 25, 1983]

§ 27.91 Advance deposit may be required.

If requested by the Area Director with whom the classification request is required to be filed or by the Director, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official requesting the same.

[48 FR 49213, Oct. 25, 1983]

§ 27.92 Method of payment; advance deposit.

Any payment or advance deposit under this subpart shall be by check, draft, or money order, payable to the order of "Agricultural Marketing Service, USDA," and may not be made in cash except in cases where the total payment or deposit does not exceed \$1.

SPOT MARKETS

§ 27.93 Bona fide spot markets.

The following markets have been determined, after investigation, and are hereby designated to be bona fide spot markets within the meaning of the act:

Southeastern, North Delta, South Delta, East Texas and Oklahoma, West Texas, Desert Southwest and San Joaquin Valley. Such markets will comprise the following areas:

SOUTHEASTERN

All counties in the states of Alabama, Florida, Georgia, North Carolina and South Carolina and all counties in the state of Tennessee east of and including Stewart, Houston, Humphreys, Perry, Wayne and Hardin counties.

NORTH DELTA

All counties in the states of Arkansas and Missouri and all counties in Tennessee west of and including the counties of Henry, Benton, Henderson, Decatur, Chester and McNairy counties and the Mississippi counties of Alcorn, Benton, Calhoun, Chickasaw, DeSoto, Grenada, Itawamba, Lafayette, Lee, Marshall, Monroe, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Union and Yalobusha.

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SOUTH DELTA

All counties in the state of Louisiana and all counties in the state of Mississippi not included in the North Delta market.

EAST TEXAS AND OKLAHOMA

All counties in the state of Oklahoma and the Texas counties east of and including Montague, Wise, Parker, Erath, Comanche, Mills, San Saba, Mason, Sutton, Edwards, Kinney, Maverick, Webb, Zapata, Star and Hidalgo counties.

WEST TEXAS

All Texas counties not included in the East Texas, Oklahoma and Desert Southwest Markets and the New Mexico counties of Union, Quay, Curry, Roosevelt and Lea.

DESERT SOUTHWEST

The Texas counties of Val Verde, Crockett, Terrell, Pecos, Brewster, Presidio, Jeff Davis, Culberson, Hudspeth and El Paso, all New Mexico counties except those included in the West Texas market, all counties in the state of Arizona and the California counties south of and including Riverside and Orange counties.

SAN JOAQUIN VALLEY

All California counties except those included in the Desert Southwest market.

[53 FR 29326, Aug. 4, 1988]

§ 27.94 Spot markets for contract settlement purposes.

The following are designated as spot markets for the purpose of determining as provided in paragraph 15b(f)(3) of the act, the differences above or below the contract price which the receiver shall pay for grades tendered or deliverable in settlement of a basis grade contract:

(a) For cotton delivered in settlement of any No. 2 contract on the New York Cotton Exchange: Southeastern, North and South Delta, Eastern Texas and Oklahoma, West Texas, and Desert Southwest.

(b) [Reserved]

[53 FR 29327, Aug. 4, 1988, as amended at 67 FR 77148, Dec. 17, 2002]

PRICE QUOTATIONS AND DIFFERENCES

§ 27.95 Spot markets to conform to Act and regulations.

Every bona fide spot market shall, as a condition of its designation and of

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the retention thereof, conform to the act and any applicable regulations.

[53 FR 29327, Aug. 4, 1988]

§ 27.96 Quotations in bona fide spot markets.

The price or value and differences between the price or value of grades and staple lengths of cotton shall be based solely upon the official cotton standards of the United States and shall be the actual commercial value or price and differences as determined by the sale of spot cotton in such spot market. Quotations shall be determined and maintained in each designated spot market by the Cotton Division, Agricultural Marketing Service, USDA, as follows:

(a) In spot markets designated to determine differences for the settlement of futures contracts, the Cotton Division will on each business day determine and quote by bale volume the prices or values of base qualities which are deliverable on any active futures contracts, as well as the differences for all other qualities deliverable on such contracts. The prices or differences for non-deliverable qualities will be determined and quoted by bale volume in each such spot market for those qualities normally produced or traded in that particular market.

(b) In spot markets not designated to determine differences for the settlement of futures contracts, the Cotton Division will on each business day determine and quote by bale volume the prices or differences for all qualities of cotton normally produced or traded in each such spot market.

[53 FR 29327, Aug. 4, 1988]

§ 27.97 Ascertaining the accuracy of price quotations.

The buyers and sellers of cotton in each spot market shall be responsible for providing accurate and timely price, quality, and volume of purchases data by growth area to the Cotton Division. The Cotton Division is responsible for ascertaining the accuracy of the price quotations in each designated spot market. The Cotton Division will carry out this responsibility by performing the following duties and functions:

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(a) The Cotton Division will collect and analyze pertinent information on the prices and values of spot cotton from each spot market.

(b) In the process of determining price quotations, the Cotton Division will contact a minimum of three buyers and sellers of cotton in each bona fide market at least two times per week during the active trading season and one time per week during the remainder of the year to obtain information on prices, qualities, volume, and terms of sales in sufficient detail to determine quotations.

(c) The Cotton Division will summarize the price and quality data and, based on analysis of this summary, make determinations regarding quotations of price, value and differences.

(d) Quotations for each spot market shall be reviewed and approved by the Cotton Division's Market News Branch Chief or Assistant Branch Chief prior to publication.

(e) The Cotton Division will publish the appropriate quotations by bale volume for grades, staple lengths, micronaire determinations, and other quality factors for each spot market on a daily basis.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under OMB control number 0581-0029.)

[53 FR 29327, Aug. 4, 1988]

§ 27.98 Value of grade where no sale; determination.

As provided in § 27.96, whenever no sale of a particular grade of cotton shall have been made on a given day in a particular spot market, the value of such grade in the market on that day will be determined as follows:

(a) If on such given day there shall have been in such market both a sale of any higher grade and a sale of any lower grade, the average of the declines, or advances, or decline and advance, as the case may be, of the next higher grade and the next lower grade so sold shall be deducted from, or added to, as the case may be, the value, on the last preceding business day, of the grade the value of which on such given day is sought to be ascertained.

(b) If on such given day there shall have been in such market a sale of either a higher or a lower grade, but not sales of both, the decline or advance of the next higher or the next lower grade so sold shall be deducted from, or added to, as the case may be, the value on the last preceding business day of the grade the value of which on such given day is sought to be ascertained.

(c) If on such given day there shall have been in such market no sale of spot cotton of any grade, the value of each grade shall be deemed to be the same as its value therein on the last preceding business day, unless in the meantime there shall have been bona fide bids and offers, or sales of hedged cotton, or other sales of cotton, or changes in prices of futures contracts made subject to the act, which in the usual course of business would clearly establish a rise or fall in the value of spot cotton in such market, in which case such rise or fall may be calculated and added to or deducted from the value on the preceding business day of cotton of all grades affected thereby.

[53 FR 29327, Aug. 4, 1988]

§ 27.99 Values; expression.

For the purpose of this subpart values shall be expressed in terms of cents and hundredths of a cent. A fraction of a hundredth, when equal to, or greater than, the half thereof, shall be treated as a hundredth, and when less than a half of a hundredth shall be disregarded.

[22 FR 10923, Dec. 28, 1957; 30 FR 7239, May 29, 1965. Redesignated at 53 FR 29328, Aug. 4, 1988]

§ 27.100 Administration.

The details of the method of carrying out the provisions of this subpart in each bona fide spot market shall be subject to the approval of the Director or shall be prescribed by the Director.

[48 FR 49214, Oct. 25, 1983. Redesignated at 53 FR 29328, Aug. 4, 1988]