

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 27 and 28

[CN-00-001]

RIN 0581-AB67

#### Revision of Cotton Classification Procedures for Determining Upland Cotton Color Grade

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

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

**DATES:** Comments must be received by March 31, 2000.

**ADDRESSES:** Comments and inquiries should be addressed to, Cotton Programs, AMS, USDA, Room 2641-S, P.O. Box 96456, Washington, DC 20090-6456. Comments will be available for public inspection during regular business hours at the above office in Rm. 2641-South Building, 14th & Independence Avenue, SW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Lee Cliburn, 202-720-2145.

**SUPPLEMENTARY INFORMATION:** This proposed rule has been determined to be not significant for purposes of Executive Order 12866, therefore, it has

not been reviewed by the Office of Management and Budget (OMB).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

#### Regulatory Flexibility Act

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be disproportionately burdened. There are an estimated 35,150 cotton growers, merchants, and textile manufacturers in the U.S. who voluntarily use the AMS cotton classing services annually under the United States Cotton Standards Act, the Cotton Statistics and Estimates Act, and the Cotton Futures Act. The majority of these entities are small businesses under the criteria established by the Small Business Administration (13 CFR 121.601). The change in procedure will not significantly affect small businesses as defined in the RFA because:

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

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

(3) The use of cotton classification services is voluntary. For the 1999 crop, 15,825,000 running bales were produced by growers, and virtually all of them were voluntarily submitted for USDA classification. Classification services provided for merchants and manufacturers during the same period totaled approximately 404,000 bales.

#### Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581-0009 under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Background

Pursuant to the authority contained in the United States Cotton Standards Act, the Secretary of Agriculture maintains official cotton standards of the United States and provides classification and testing services to cotton producers, textile manufacturers, merchants, and others in the domestic and international cotton industry. The standards are used for the classification of American upland cotton and provide a basis for the determination of value for commercial purposes. Classification services provide information on quality of cotton. The National Cotton Council represents the interests of all seven segments of the U.S. cotton industry: growers, ginners, warehousemen, merchants, cooperatives, manufacturers, and cottonseed oil crushers.

#### Need for Revisions

High Volume Instrument classification was adopted for all USDA classification of American upland cotton in 1991. The color grade is a component of the official USDA classification. Although High Volume Instrument colormeter readings have been reported since 1991, at the request of the industry, USDA continued the procedure of determining the official color grade by human cotton classers because of the historical importance of color in determining the quality of cotton. With the passage of time, confidence in USDA High Volume Instrument measurements of fiber quality characteristics for classification of cotton grew to the extent that industry representatives requested that High Volume Instrument colormeter readings be used for the official determination of color grade.

AMS conducted a pilot project during the 1998 and 1999 cotton classing seasons to implement an adjustment to the existing High Volume Instrument

color measurement so that it would more closely match the Official Cotton Standards used by classers for official color grade determination. Data from the project, which the AMS Cotton Program conducted in cooperation with the National Cotton Council's Quality Task Force, showed that the HVI color measurement closely matched the Official Cotton Grade Standards for color. Results from the 1998 and 1999 crops showed that the HVI colormeter determines Official color grades as accurately as cotton classers. In December of 1999, the National Cotton Council Quality Task Force recommended that AMS replace the cotton classer determination with the HVI colormeter determination for color grade. AMS proposes to use the HVI colormeter determination as the official component of classification of American Upland cotton for color grade.

For the reasons set forth above, this proposal would amend the sections in Parts 28—COTTON CLASSING, TESTING, AND STANDARDS, Subpart A—Regulations Under the United States Cotton Standards Act, which establish the procedures for determining official cotton classification based on the Official Cotton Grade Standards. Since cotton classification services under the United States Cotton Futures Act must conform to the requirements of the Cotton Standards Act, this proposal would also amend the sections in Part 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION which establish the procedures for determining cotton classification for cotton submitted for futures certification.

Accordingly, under Part 27, in § 27.2 (n), the definition of the term classification would be changed to reflect the changes in procedures made under Part 28.

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

In Part 28, § 28.8 would be revised to reflect the proposed change in cotton classification procedures to replace classer visual examinations to fix color with instrument color measurement by High Volume Instruments. Miscellaneous other changes are made to the sections to better reflect current procedures in view of color determination change. For example, those determinations made by cotton

classers or by authorized Cotton Program employees would be specified.

AMS anticipates that the change in procedures for official cotton classification, if adopted, would become effective on July 1, 2000, when classification of newly harvested 2000 crop cotton will begin. Further, a 30 day comment period is provided and deemed appropriate in order to allow adequate time to complete this rulemaking for the 2000 cotton crop.

#### List of Subjects

##### 7 CFR Part 27

Commodity Futures, Cotton.

##### 7 CFR Part 28

Administrative practice and procedure, Cotton, Reporting and recordkeeping requirements, Warehouses.

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

#### PART 27—[AMENDED]

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

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

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

##### § 27.2 Terms defined.

\* \* \* \* \*

(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 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.

\* \* \* \* \*

3. Section 27.31 is revised to read as follows:

##### § 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 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.

#### PART 28—[AMENDED]

1. The authority citation for 7 CFR part 28, subpart A, is revised to read as follows:

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

2. Section 28.8 is revised to read as follows:

##### § 28.8 Classification of cotton; determination.

For the purposes of the Act, the classification of any cotton shall be determined by the quality of a sample in accordance with Official Cotton Standards of the United States for the color grade and the leaf grade of American upland cotton, the length of staple, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except leaf grade and extraneous matter. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers will determine the official leaf grade and extraneous matter, and authorized Cotton Program employees will determine all fiber property measurements using High Volume Instruments. The classification record of a classing office or the Quality Assurance Unit with respect to any cotton shall be deemed to be the classification record of the Department.

Dated: February 28, 2000.

**Kathleen A. Merrigan,**

*Administrator, Agricultural Marketing Service.*

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