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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

Cotton Classification Under Cotton Futures Legislation

CFR Correction

In Title 7 of the Code of Federal Regulations, parts 27 to 45, revised as of January 1, 1996, §§ 27.62 through 27.67, 27.69, 27.72, 27.73, 27.80, 27.81, 27.83, 27.85, 27.87, and 27.89 through 27.98 were inadvertently omitted. The omitted sections should immediately precede § 27.99 on page 15, and should read as follows:

§ 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 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 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.)

(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, 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.

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 Delta, South Delta, Eastern Texas and Oklahoma, and Desert Southwest.

(b) [Reserved]

[53 FR 29327, Aug. 4, 1988]

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 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:

(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]

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 308 and 342

RIN 3064-AB81

Rules of Practice and Procedure; Applications for a Stay or Review of Actions of Bank Clearing Agencies

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) has conducted a review of its regulations pursuant to Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. As a result, the FDIC is deleting its rules and regulations which pertain to Applications for a Stay or Review of Actions of Bank Clearing Agencies, and replacing them with new, more concise provisions. At the same time, the FDIC is moving those shorter provisions to a new subpart, which contains the FDIC's Rules of Practice and Procedure. The changes are intended to streamline the FDIC's regulations and to remove duplicative provisions, while maintaining uniformity in approach among the other banking agencies and the Securities and Exchange Commission (SEC).

EFFECTIVE DATE: October 15, 1996.

FOR FURTHER INFORMATION CONTACT: John F. Harvey, Trust Review Examiner, (202) 898-6762, or Andrea Winkler, Counsel, (202) 736-0762, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

I. Background

The Securities Exchange Act of 1934 (Exchange Act) (15 U.S.C. 78 *et seq.*)

requires the registration of clearing agencies and implements a system of self-regulation by registered clearing agencies. Registered clearing agencies have the authority to impose certain disciplinary sanctions upon participants, to deny participation in the clearing agency, or to prohibit or limit a participant's access to services provided by clearing agencies. (15 U.S.C. 78q-1 (b)(3)(g), (b)(5)(C)). Persons aggrieved by such adverse actions by clearing agencies may request a stay of such action or may appeal the action to the appropriate regulatory agency. The FDIC is the appropriate regulatory agency with regard to FDIC-insured banks (other than members of the Federal Reserve System), when the appropriate regulatory agency for the clearing agency is not the SEC. The Office of the Comptroller of the Currency (OCC) and the Board of Governors of the Federal Reserve System (FRB) have similar regulatory responsibilities with regard to banks under their jurisdiction.

The FDIC's current regulations are contained in Part 342 of its Rules and Regulations. (12 CFR Part 342) Those regulations are identical in substance to the regulations of the SEC. (17 CFR 240.19d-2 to 240.19d-3) Therefore, the FDIC is shortening its regulatory provisions by deleting those provisions contained in Part 342 which are the same as those contained in the regulations of the SEC. Instead, the FDIC is including a cross-reference to the SEC regulations in new Subpart S to Part 308 of its Rules and Regulations.

II. Section-by-Section Summary

Part 308—Rules of Practice and Procedure

Subpart S—Applications for a Stay or Review of Actions of Bank Clearing Agencies

Section 308.400 Scope

This section is identical to current section 342.1 of the FDIC's regulations and sets forth the authority for the regulations and the entities to which the regulations apply.

Section 308.401 Applications for Stays of Disciplinary Sanctions or Summary Suspensions by a Bank Clearing Agency

This section has been shortened to reflect that applications for a stay of a disciplinary action pursuant to section 17(b)(3)(G) of the Exchange Act, or summary suspension or limitation or prohibition of access to services under section 17(b)(5)(C) of the Exchange Act, may be filed with the Corporation according to the procedures set forth in

the regulations of the SEC (17 CFR 240.19d-2), which are identical in substance to those currently contained in § 342.2 of the FDIC's regulations. References to the Commission in the regulations of the SEC will be deemed to be references to the Corporation for purposes of this section.

Section 308.402 Applications for Review of Final Disciplinary Sanctions, Denials of Participation, or Prohibitions or Limitations of Access to Services Imposed by Bank Clearing Agencies

This section has been shortened to reflect that an application to the Corporation under section 19(d)(2) of the Exchange Act for review of any final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by bank clearing agencies shall be conducted according to the procedures set forth in the regulations of the SEC (17 CFR 240.19d-3), which are identical in substance to those currently contained in § 342.3 of the FDIC's regulations. References to the Commission in the regulations of the SEC will be deemed references to the Corporation for purposes of this section.

III. Regulatory Flexibility Act

Chapter 6 of Title 5 of the United States Code which pertains to "The Analysis of Regulatory Functions" does not apply to the final rule regarding Part 342. The revision to Part 342 is not a "rule" for purposes of that statute (see 5 U.S.C. 601(2)) as it is not a rule for which the FDIC is required to publish a general notice of proposed rulemaking under section 553(b) of Title 5 of the United States Code. This is because the final rule contains only technical changes and makes no substantive or procedural changes to existing rules, and therefore, the FDIC has determined for good cause that public notice and comment is unnecessary, and that the rule should be published in final form.

IV. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121, 104th Cong., 2d Sess. (1996)) provides generally for agencies to report rules to Congress and for Congress to review the rules. The reporting requirement is triggered in instances where the FDIC issues a final rule as defined by the Administrative Procedure Act at 5 U.S.C. 551. The FDIC will file the appropriate reports pursuant to the statute.

The Office of Management and Budget has determined that this final revision