

northwest of the Lake Charles AFB non-directional radio beacon (LKC).

20. Section 601.2377 is amended to read:

§ 601.2377 *Shreveport, La., control zone.* Within a 5-mile radius of Greater Shreveport Municipal Airport and within 2 miles either side of the Greater Shreveport ILS localizer front and back courses extending from the localizer to a point 15 miles southeast of the localizer and to a point 5 miles northwest of the ILS outer marker compass locator.

21. Section 601.4013 is amended by changing the caption to read: "*Green civil airway No. 3 (Oakland, Calif., to New York, N. Y.)*", and by deleting the following reporting point: "San Francisco, Calif., radio range station;"

22. Section 601.4016 is amended by changing the caption to read: "*Green civil airway No. 6 (Alice, Tex., to Norfolk, Va.)*", by deleting the following reporting point: "Laredo, Tex., radio range station;" and by changing the name of the facility "Lake Charles, La., radio range station" to read: "Lake Charles, La., nondirectional radio beacon;"

23. Section 601.4108 *Amber civil airway No. 8 (Los Angeles, Calif., to Ellensburg, Wash.)* is amended by changing the reporting point which reads: "the intersection of the northwest course of the San Francisco, Calif., radio range and the southwest course of the Travis AFB, Calif., radio range;" to read: "the intersection of the southwest course of the Travis AFB, Calif., radio range and a line bearing 309° True from the San Francisco Gap, Calif., nondirectional radio beacon;"

24. Section 601.4215 is amended to read:

§ 601.4215 *Red civil airway No. 15 (Reno, Nev., to Phoenix, Ariz.)*. No reporting point designation.

25. Section 601.4654 is amended to read:

§ 601.4654 *Blue civil airway No. 54 (Richmond, Calif., to Hamilton AFB, San Rafael, Calif.)*. No reporting point designation.

26. Section 601.4667 is amended to read:

§ 601.4667 *Blue civil airway No. 67 (Yuma, Ariz., to Las Vegas, Nev.)*. The intersection of the north course of the Needles, Calif., radio range and the southeast course of the Las Vegas, Nev. radio range.

27. Section 601.4232 is amended to read:

§ 601.4232 *Red civil airway No. 32 (Laredo, Tex., to Houston, Tex.)*. Laredo, Tex., radio range station; Kelly, Tex., radio range station; Smithville, Tex., nondirectional radio beacon; Richmond, Tex., radio range station.

28. Section 601.6035 *VOR civil airway No. 35 control areas (Miami, Fla. to Syracuse, N. Y.)* is amended by adding a new last sentence to read: "The airspace between the main airway and its east alternate between the point of in-

tersection of the Tampa, Fla., omnirange 153° True radial with the Tampa International Airport ILS localizer south course and the Cross City, Fla., omnirange station is excluded."

29. Section 601.6076 is amended to read:

§ 601.6076 *VOR civil airway No. 76 control areas (Lubbock, Tex., to Galveston, Tex.)*. All of VOR civil airway No. 76 including a north alternate, but excluding the airspace between the main airway and its north alternate between the San Angelo, Tex., omnirange station and the Austin, Tex., omnirange station.

30. Section 601.6097 is amended to read:

§ 601.6097 *VOR civil airway No. 97 control areas (Miami, Fla., to Minneapolis, Minn.)*. All of VOR civil airway No. 97 including east and west alternates, but excluding all of the airspace below 2000 feet above mean sea level which lies beyond the continental limits of the United States.

31. Section 601.6114 is amended to read as follows:

§ 601.6114 *VOR civil airway No. 114 control areas (Amarillo, Tex., to New Orleans, La.)*. All of VOR civil airway No. 114 including north and south alternates.

32. Section 601.6159 is amended to read:

§ 601.6159 *VOR civil airway No. 159 control areas (Miami, Fla., to Albany, Ga.)*. All of VOR civil airway No. 159 including an east alternate and west alternate, but excluding the airspace between the main airway and its west alternate from the West Palm Beach, Fla., omnirange station to the Orlando, Fla., omnirange station.

33. Section 601.6216 is amended to read:

§ 601.6216 *VOR civil airway No. 216 control areas (Lamoni, Iowa, to Saginaw, Mich.)*. All of VOR civil airway No. 216.

34. Section 601.6272 is amended to read:

§ 601.6272 *VOR civil airway No. 272 control areas (Sayre, Okla., to Oklahoma City, Okla.)*. All of VOR civil airway No. 272 including a north and a south alternate.

35. Section 601.6292 is added to read:

§ 601.6292 *VOR civil airway No. 292 control areas.* [Unassigned.]

36. Section 601.6293 is added to read:

§ 601.6293 *VOR civil airway No. 293 control areas (West Palm Beach, Fla., to Tampa, Fla.)*. All of VOR civil airway No. 293.

37. Section 601.6294 is added to read:

§ 601.6294 *VOR civil airway No. 294 control areas.* [Unassigned.]

38. Section 601.6295 is added to read:

§ 601.6295 *VOR civil airway No. 295 control areas (Vero Beach, Fla., to Cross*

City, Fla.). All of VOR civil airway No. 295.

39. Section 601.7001 *VOR domestic reporting points* is amended by adding the following reporting point:

Gainesville, Fla., omnirange station.

and by revoking the following reporting points:

Los Banos Intersection: The intersection of the Modesto, Calif., omnirange 176° True and the Fresno, Calif., omnirange 287° True radials.

Half Moon Bay Intersection: The intersection of the Oakland, Calif., omnirange 217° True, the Salinas, Calif., omnirange 319° True and the San Francisco, Calif., omnirange 281° True radials.

San Bruno Intersection: The intersection of the San Francisco, Calif., omnirange 305° True and the Oakland, Calif., omnirange 218° True radials.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This amendment shall become effective 0001 e. s. t., January 16, 1958.

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

DECEMBER 20, 1957.

[F. R. Doc. 57-10765; Filed, Dec. 27, 1957; 8:47 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108-353]

PART 40—VISAS: DIPLOMATIC VISAS UNDER THE IMMIGRATION AND NATIONALITY ACT

EQUIVALENT OF DIPLOMATIC PASSPORT

Paragraph (e) of § 40.1 *Definitions*, is amended to read as follows:

(e) "Equivalent of a diplomatic passport" means a national passport, other than a specifically described diplomatic passport, which is issued by a foreign government to which the bearer owes allegiance and which indicates the career diplomatic or consular status of the bearer, the issuing government being one which does not issue diplomatic passports to its career diplomatic and consular officers.

The regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulation contained therein involves foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

Dated: December 18, 1957.

RODERIC L. O'CONNOR,
Administrator, Bureau of Security and Consular Affairs,
Department of State.

[F. R. Doc. 57-10695; Filed, Dec. 27, 1957; 8:45 a. m.]

[Dept. Reg. 108.352]

PART 41—VISAS: DOCUMENTATION OF NON-IMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

BORDER CROSSING IDENTIFICATION CARDS

Part 41, Chapter I, Title 22 of the Code of Federal Regulations, is amended in the following respect:

Section 41.20 *Nonresident aliens' border crossing identification cards*, is amended to read as follows:

§ 41.20 *Nonresident aliens' border crossing identification cards*—(a) *Aliens eligible to apply*. Under the conditions prescribed in this section, a consular officer may issue a border crossing identification card, as that term is defined in section 101 (a) (6) of the act, to a nonimmigrant alien who, upon application therefor, satisfactorily establishes that: (1) He is a citizen and resident of Canada or a British subject having his residence in Canada, or (2) he is a citizen and resident of Mexico; and (3) he is a bona fide nonimmigrant, and, if applying for a nonimmigrant visa, he would be eligible to receive such visa under the provisions of section 212 of the act; (4) he cannot reasonably be expected to make application to the Immigration and Naturalization Service for such card because of his remote residence from the border or some other exceptional reason; and (5) he desires to enter the continental United States for a period or periods of not more than seventy-two hours each.

(b) *Nonresident alien's Mexican border crossing identification card*. A Mexican citizen who is eligible to apply for a nonresident alien border crossing identification card under the provisions of paragraph (a) of this section shall make application therefor on Form I-190 (revised July 30, 1956) at a United States consular office in Mexico. The applicant shall appear in person, execute the application form in triplicate under oath or by affirmation before a consular officer, and shall, except in the cases of children under the age of fourteen years, be fingerprinted on Form FD-258. Four identical photographs of the alien one and one-half inches square shall be submitted with the application. If the applicant is found to be a bona fide nonimmigrant and to be eligible in other respects to receive a border crossing identification card, the consular officer shall prepare Form I-186. Except in the cases of students, a child under the age of fourteen years who is named in his parent's or guardian's passport or other document issued in lieu thereof may, in the discretion of the consular officer, be exempted from filing a separate application for a nonresident alien's border crossing identification card and from furnishing photographs if the name of such child is included in the Form I-186 which is issued to his parent or guardian. The original and duplicate of the executed Form I-190, together with Form I-186 and Form FD-258, shall be enclosed with three unattached photo-

graphs in a sealed envelope of appropriate size so as to eliminate folding of any of the forms, and handed to the applicant for delivery to an immigration officer at one of the following immigration offices: Nogales, Arizona, Calexico or San Ysidro, California; El Paso, Eagle Pass, Laredo, Hidalgo, or Brownsville, Texas. The Immigration and Naturalization Service will subsequently laminate the border crossing identification card and effect delivery to the applicant. The laminated card will have an indefinite period of validity.

(c) *Nonresident alien's Canadian border crossing identification card*. A Canadian citizen or British subject having his residence in Canada who is eligible to apply for a nonresident alien's border crossing identification card under the provisions of paragraph (a) of this section shall make application therefor at a United States consular office in Canada on Form I-175 or on such other form as may be authorized by the Department. Four identical photographs of the alien one and one-half inches square shall be submitted with the application. The photograph requirement may, in the discretion of the consular officer be waived in the case of an alien under fourteen years of age at the time of issuance of the card. One photograph shall be attached to each copy of the application forms and to the identification card if issued to the applicant. If the applicant is found to be a bona fide nonimmigrant and to be eligible in other respects to receive a border crossing identification card, the consular officer shall issue such card to the applicant on Form I-185, or on such other form as may be authorized by the Department, attaching thereto the original of the application form, duly executed, for delivery to an immigration officer at the time of the alien's application for admission into the United States.

(d) *Supporting documents*. Every alien applying for a border crossing identification card shall furnish to the consular officer, with his application, certified copies of such documents pertaining to him as may be required under the provisions of § 41.10.

(e) *Invalidation of nonresident alien's border crossing identification card*. A nonresident alien's border crossing identification card issued by a consular officer shall be invalidated if the consular officer knows or has reason to believe that (1) it was procured by fraud, a willfully false or misleading representation, the willful concealment of a material fact, or by other unlawful means; (2) it is found in the possession of an alien other than the rightful holder; (3) improper use is being made of the card; (4) a ground of ineligibility to receive a nonresident alien's border crossing card is established; or (5) an immigrant visa is issued to the bearer of such a card. The bearer of a border crossing identification card shall, for purposes of invalidation, surrender such card upon request of a consular officer who shall, in the case of an invalidated Canadian border crossing identification card, submit a report of

the reasons for his action to the Department. In the case of an invalidated Mexican border crossing identification card, the consular officer shall transmit a Form I-190 showing the reasons for his action to the immigration office at which the alien originally received his laminated border crossing identification card.

The regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulation contained therein involves foreign affairs functions of the United States.

(Sec. 104; 66 Stat. 174; 8 U. S. C. 1104)

Dated: December 18, 1957.

RODERIC L. O'CONNOR,
Administrator, Bureau of Security and Consular Affairs,
Department of State.

[F. R. Doc. 57-10694; Filed, Dec. 27, 1957; 8:45 a. m.]

[Dept. Reg. 108.351]

PART 41—VISAS: DOCUMENTATION OF NON-IMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

MISCELLANEOUS AMENDMENTS

Parts 41 and 42, Chapter I, Title 22 of the Code of Federal Regulations, are hereby amended in the following respects:

1. Subparagraph (1) of paragraph (g) *Disposition of supporting documents* of § 41.10 *Documents required in connection with application for nonimmigrant visa; medical examination; police certificates*, is amended to read as follows:

(1) When issuing a nonimmigrant visa to any alien, the consular officer shall return to the alien for presentation to the immigration authorities at the port of entry the original of all supporting documents furnished by the alien with his application, except police and medical certificates which shall be disposed of as provided in paragraph (e) of this section. The duplicate of each such document shall be retained at the consular office for at least two years and filed with Form 257 during such period.

2. Paragraph (b) *Form of nonimmigrant visa stamp* of § 41.12 *Procedure in issuing nonimmigrant visa*, is amended to read as follows:

(b) *Form of nonimmigrant visa stamp*. The nonimmigrant visa stamp shall be in the following form or in such other form as may be prescribed by the Department:

(Title of office)	
[Seal]	(Location)
NONIMMIGRANT VISA ()	
No. _____	Date _____
To: _____	

Valid for _____ applications for entry into the United States if presented before _____	
_____ Consul	

3. Paragraph (c) *Notation on visa of § 41.12 Procedure in issuing nonimmigrant visa*, is amended to read as follows:

(c) *Insertion of name in visa* The name of the alien to whom a nonimmigrant visa is issued shall be inserted in the space provided therefor in the visa stamp. If the visa is being issued upon the basis of a petition filed with and approved by the Attorney General, in the case of a nonimmigrant who is classifiable under the provisions of section 101 (a) (15) (H) of the act, the number and approval date of the petition shall be noted in the visa stamp, and the period for which the alien's admission has been authorized shall be noted immediately below the visa stamp.

4. Section 41.13 *More than one person included in nonimmigrant visa*, is amended to read as follows:

§ 41.13 *More than one person included in nonimmigrant visa*. A single nonimmigrant visa may be issued to include more than one eligible alien if each alien to be included in the visa executes a separate application. When several members of a family are to be included in the same visa, the name of each such member, in addition to the principal applicant, shall be written in the space provided therefor in the visa stamp. The visa fee to be collected in such a case shall be equal to the total of the fees prescribed by the Secretary of State in accordance with the provisions of section 281 of the act and § 41.14 for each alien so included in the visa.

5. Paragraph (a) of § 41.16 *Revalidation of nonimmigrant visa*, is amended to read as follows:

(a) A nonimmigrant visa issued to a nonimmigrant under the provisions of section 101 (a) (15) of the act may be revalidated in the same classification at the original visa-issuing office or other consular office: *Provided*, That (1) such visa was originally issued for less than the maximum period of validity of forty-eight months or for less than multiple applications for admission or both; (2) such visa is about to expire, or has expired, or has become invalid by reason of having been used for the number of applications for admission specified therein; and (3) the consular officer is satisfied that the alien is a bona fide nonimmigrant and is otherwise eligible to receive such a nonimmigrant visa, in-

cluding the possession of a valid passport, if required.

6. Paragraph (c) of § 41.16 *Revalidation of nonimmigrant visa*, is amended to read as follows:

(c) In revalidating a nonimmigrant visa, the consular officer shall follow the procedure prescribed in § 41.12, except that a new Form 257 need not be executed. The visa stamp shall be impressed in the alien's passport and all pertinent data contained in the original visa shall be transferred to the revalidated visa. The word "Revalidated" shall be inserted above the words "Nonimmigrant Visa" in the visa stamp or inserted diagonally across the face of the visa. Following the revalidation of a nonimmigrant visa, an appropriate notation thereof, regardless of where the revalidation occurs, shall be made on the pertinent index card on file at the original visa-issuing office.

7. Paragraph (a) of § 41.21 *Transfer of visa to new passport*, is amended to read as follows:

(a) A valid nonimmigrant visa, including pertinent data contained therein, may be transferred from a passport which has expired or is about to expire to a new passport where (1) the alien is required to surrender the visaed passport to the foreign-issuing authority in exchange for a new passport, or (2) the alien is permitted to retain the expired or expiring passport containing a valid nonimmigrant visa but, nevertheless, requests a consular officer to transfer such visa to a new valid passport, and (3) the alien is found otherwise eligible to receive such a nonimmigrant visa.

8. Paragraph (a) *First preference class of § 42.11 Classes of quota immigrants*, is amended to read as follows:

(a) *First preference class*. The first preference class of quota immigrants shall consist of the selected immigrants referred to in section 203 (a) (1) of the act, including the spouses and children of such immigrants accompanying or following to join them, who shall be entitled to preferential consideration under the first half of the quota to which they are chargeable and within any other portion of such quota not required for the issuance of visas to immigrants primarily entitled thereto.

9. Paragraph (a) of § 42.13 *Determination of quota to which an immigrant is chargeable*, is amended to read as follows:

(a) An immigrant born in a quota area shall be chargeable to the quota of such quota area unless (1) he is classifiable as a nonquota immigrant under section 101 (a) (27) of the act, (2) he is classifiable as a nonquota immigrant under section 4, 9, 12, or 15 of the Act of September 11, 1957 (Public Law 85-316, 71 Stat. 639), (3) his case falls within one of the exceptions to the general rule of quota chargeability as provided in section 202 of the Immigration and Nationality Act, or (4) he is a Chinese person who is chargeable to the quota for Chinese persons as provided in § 42.15.

10. Paragraph (d) of § 42.23 *Removal of names of registrants from quota waiting list*, is amended to read as follows:

(d) The registrant abandons his intention to immigrate to the United States. An alien who for any reason fails to apply formally or informally for a visa within sixty days after being duly notified that his name has been reached on the waiting list shall be considered to have abandoned his intention to immigrate: *Provided*, That any such alien who can establish to the satisfaction of the consular officer that his failure to apply formally or informally for a visa was for reasons beyond his control and for which he was not responsible may make an application for a visa under his original priority on the waiting list when the circumstances which prevented him from applying formally or informally for a visa cease to exist, or within sixty days thereafter: *Provided further*, That an alien who is the beneficiary of a valid first, second, third, or fourth preference petition shall in any event be entitled to a registration priority as of the filing date of the petition.

11. Paragraph (e) of § 42.41 *Procedure in issuing immigrant visa*, is amended to read as follows:

(e) *Passport of unrecognized government*. No seal, stamp, or notation of any kind shall be placed in a passport or other travel document issued by a government not recognized de jure by the United States.

12. Paragraph (e) of § 42.47 *Validity of immigrant visa*, is amended to read as follows:

(a) The period of validity of an immigrant visa, quota or nonquota, shall not exceed four months, beginning with the date of issuance, except that any visa issued to an eligible orphan under section 4 of the act of September 11, 1957, or under any other immigration law to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business.

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

Dated: December 18, 1957.

RODERIC L. O'CONNOR,
Administrator, Bureau of Security
and Consular Affairs, Department of State.

[F. R. Doc. 57-10693; Filed, Dec. 27, 1957; 8:45 a. m.]

TITLE 32—NATIONAL DEFENSE**Chapter V—Department of the Army****Subchapter G—Procurement****PART 590—GENERAL PROVISIONS****PART 591—PROCUREMENT BY FORMAL ADVERTISING****PART 592—PROCUREMENT BY NEGOTIATION****PART 606—SUPPLEMENTAL PROVISIONS****MISCELLANEOUS AMENDMENTS**

1. Sections 590.306 through 590.306-52 are added as follows:

§ 590.306 Transportation costs.

§ 590.306-1 *General.* Proper consideration of the transportation aspects of procurement is necessary in the placement of contracts to insure that procurement is on the basis most advantageous to the Government, all factors considered, and that supplies arrive at the proper destination at the time required and in proper condition. Disregard of the transportation aspects of a procurement may lead to improper award of contracts, waste of time and money, and failure to have items available when and where needed.

§ 590.306-2 *Place of delivery.* See Subchapter A, Chapter I of this title.

§ 590.306-3 *Quantity analysis.* See Subchapter A, Chapter I of this title.

§ 590.306-4 *Commodity description.* See Subchapter A, Chapter I of this title.

§ 590.306-5 *Delivery terms.* See Subchapter A, Chapter I of this title.

§ 590.306-6 *Consignment and marking instructions.* See Subchapter A, Chapter I of this title.

§ 590.306-7 *Scheduling of deliveries to permit consolidation of shipments.* See Subchapter A, Chapter I of this title.

§ 590.306-8 *Transit arrangements.* See Subchapter A, Chapter I of this title.

§ 590.306-9 *Rates.* See Subchapter A, Chapter I of this title.

§ 590.306-10 *Volume shipments.* See Subchapter A, Chapter I of this title.

§ 590.306-11 *Unusually large or heavy shipments.* See Subchapter A, Chapter I of this title.

§ 590.306-12 *Mode of transportation.* See Subchapter A, Chapter I of this title.

§ 590.306-50 *General responsibilities—(a) Contracting Officers and Contract Administrators.* (1) To afford, during the procurement cycle, proper analysis and consideration of transportation factors affecting both domestic and export purchases.

(2) To seek advice, assistance, or traffic information from appropriate sources as indicated in § 590.306-51.

(3) To incorporate the soundest available transportation provisions in contracts and to see that transportation requirements are met during the performance of contracts.

(4) To bring to the attention of appropriate authorities any practicable improvements in procedures, practices, contract clauses, the terms or quantities of requirements, or similar methods by which transportation factors and other procurement elements may be better coordinated to the advantage of the Government.

(5) At the earliest possible phase in the procurement cycle, to provide, through installation transportation officers, information of prospective procurements or movements so as to facilitate rate negotiation or other traffic management actions.

(b) *Transportation Officers.* (1) To analyze and determine the effect of transportation factors on purchases.

(2) To advise contracting officers of transportation costs, methods of shipment, and other transportation information for the evaluation of bids and award of contracts in a manner most advantageous to the Government.

§ 590.306-51 *Sources of transportation assistance.* (a) The primary sources of transportation assistance are:

(1) *The Chief of Transportation.* For freight rate quoting service and general transportation assistance for contracting officers located in Military District of Washington, U. S. Army.

(2) *Regional Director, Military Traffic Management Agency.* For freight rate quoting service and general transportation assistance for contracting officers within their respective transportation zone boundaries.

(3) *Army Transportation Officers.* For general transportation assistance for contracting officers within their respective Army areas.

(4) *Installation Transportation Officers.* For general transportation assistance for contracting officers located on or adjacent to their respective installations. This particularly includes transportation officers in procuring installations.

(b) The procedure for obtaining freight rate quoting service is set forth in SR 55-155-30 (Special Regulations pertaining to freight rate quoting service).

(c) Transportation officers will furnish the best rates available for appropriate means of shipment and any other transportation information which would assist the contracting officer in evaluating the bids and awarding the contract in a manner most advantageous to the Government. The best rates available may be rates in effect or to become effective at a later date. The use of freight rates to become effective at a later date for evaluation of bids will be limited to those rates or rate changes on file in the rate furnishing office prior to the date of opening bids. Whenever a rate request to a rate-furnishing office does not specify a date, rates furnished will be those on file in that office at the time the files are examined.

§ 590.306-52 *Transportation considerations in the procurement cycle.*

Transportation considerations that should be made by contracting officers during the procurement cycle, when transportation is involved, are set forth below:

(a) *Preliminary phase.* This phase covers the period from receipt of the procurement directive or other notice to effect procurement, to the preparation of invitations for bids or requests for proposals.

(1) From the destination data provided in the procurement directive, the contracting officer should determine whether origin or f. o. b. destination procurement is required, or whether bids or proposals should be solicited on both bases (§ 1.306 of this title). When items are to be procured for destination outside the United States, the specific port(s), or point(s) of exit, to be used as the basis for evaluation of Government cost of transportation will be determined by appropriate coordination between the contracting officer and the Department of the Army transportation contacts. The transportation cost factors which are to be included in the invitation for bids or the request for proposals will be determined during this phase.

(2) A review of the delivery schedule should be made to insure that shipments are made as economically as possible under the circumstances. A shipment made in less-than-carload (LCL), or less-than-truckload (LTL) lots is unnecessarily costly when consolidation into carload (CL), or truckload (TL) lots can be effected.

(3) The physical characteristics of shipments should be considered. For example, shipments of items separately or setup when they could be shipped nested or knocked down is one cause of excess transportation costs.

(4) Unusually large or heavy items may not be susceptible to being shipped by regular modes of transportation. In such cases special arrangements will have to be made for their shipment. This should be determined prior to and reflected in the issuance of the invitation for bids or requests for proposals.

(5) Whenever requirements or specifications admit of discretion in the selection of methods of packing and packaging of supplies, contracting officers should select that method which will provide low transportation costs consistent with physical protection and overall economy.

(6) Every reasonable effort should be made to determine precise or general destinations of supplies, including overseas area for which delivery is intended.

(b) *Solicitation phase.* This phase covers the preparation and issuance of invitations for bids or requests for proposals.

(1) Invitations for bids and proposals should set forth as clearly as possible those transportation responsibilities of the bidder or offeror in order that he can bid correctly and the Government can benefit by the inclusion of economical transportation charges in the bid or proposal.

(2) If destination of shipment is unknown, the invitation or request should specify that bids or proposals will be submitted f. o. b. origin, and shipment will be made on Government bill of lading and, if appropriate, in CL or TL lots.

(3) Invitations for bids or requests for proposals to be solicited on an f. o. b. origin basis will include the following information:

(i) The evaluation of bids or proposals will be made on the basis of bid price plus transportation cost to the Government from point of origin to destination(s) named.

(ii) The best available freight rates in effect or to become effective at a later date, for the selected method of shipment, will be used for the evaluation.

(iii) The use of freight rates to become effective at a future date for evaluation, will be limited to those rates or rate changes on file in the rate-furnishing office prior to the opening date.

(iv) Bidders and offerors will be informed, to the extent possible and practicable, when any of the following factors apply to shipments:

(a) Method of shipment such as rail, water, air, or truck.

(b) Minimum quantities or lots such as LCL, LTL, CL, or TL.

(c) Actual or designated destinations for evaluation purposes.

(d) Packing, crating, and other preparations.

(e) Use of transit arrangements (§ 1.306-52 (c) (4) of this title).

(f) Special arrangements for shipment such as the movement of unusually large or heavy items.

(v) When items to be procured are for destinations outside the United States, transportation cost factors (other than inland) will be included in the invitation for bids or request for proposals, and the specific port(s) or point(s) of exit to be used as a basis for evaluation of the transportation cost to destination(s) will be named. When only one such port or point of exit is involved, transportation cost factors need not be shown in the invitation for bids or request for proposals, unless weight and cube of the items to be procured vary with the different bidders or offerors. Ports or points of exit specified will be consistent with Transportation Corps publications and guidance. In the event a contracting officer has reason to believe utilization of port(s) and point(s) of exit, other than those set forth in Transportation Corps publications, would be advantageous to the Government he will submit a request to the Department of the Army transportation contact for approval prior to the issuing of the invitation for bids or request for proposals.

(4) The invitation or request should specify, whenever possible, the exact origin or destination of a shipment as appropriate; for example, f. o. b. receiving dock, ----- General Depot, ----- State.

(5) As appropriate, each invitation or request should specify who is to be responsible for the following:

(i) Loading, unloading, and handling costs.

(ii) Processing required to prepare for shipment.

(iii) Drayage costs.

(iv) Transportation marking requirements.

(v) Transportation penalties.

(vi) Transportation taxes.

(vii) Supply of dunnage and lashing materials.

(viii) Transportation claims.

(6) Whenever f. o. b. destination procurement may be involved, the invitation or request should inform prospective suppliers of any destination transportation factors which may affect the suppliers' transportation costs.

(7) For certain types of procurement, the invitation or request should elicit information of the minimum size of shipments which the prospective supplier will make, so that freight evaluation may be on a realistic basis (carload, truckload, less-carload, less truckload). The supplier should be cautioned also that if he ships in lesser quantities he may be charged with any excess costs resulting, unless the Government caused the deviation.

(8) When it is considered necessary in the interest of safe transportation to prescribe particular carloading methods, the required methods shall be specified in adequate detail in the invitations for bids or requests for proposals, or in related transportation instructions or packaging specifications. However, no provision shall require carloading methods which will prevent contractors from employing commercial methods in general use which provide protection equivalent to or better than the recommended methods contained in the Association of American Railroads carloading pamphlets. Carloading methods prescribed by the Association of American Railroads for loading shipments in or upon open topped cars are considered to be mandatory. However, if a contractor desires to use carloading methods other than those prescribed in the invitations for bids or request for proposals or related instructions, the contractor shall be required to provide sufficient evidence to satisfy the interested transportation officer who will advise the contracting officer that such proposed substitute methods are adequate. This subparagraph applies only to transportation of freight by railroads within the United States.

(c) *Evaluation and award phase.* (1) In evaluating bids or proposals submitted on an f. o. b. origin basis when destinations or distribution patterns are known, the cost of transportation must be added to the bid or proposal in establishing the actual cost to the Government. Accurate weights and cubage, current transportation rates, and use of proper modes of transportation are essential in this process. When a destination outside the United States is known and more than one United States port or point of exit is appropriate for use in the evaluation, the differences in transportation costs (ocean, port handling, and inland transportation costs) will be considered, so that the award will reflect the most advantageous basis of cost of the supplies

landed at the overseas port. Only ports or points of exit specified in the invitations for bids or request for proposals shall be used for purposes of evaluating competitive bids or proposals. Information pertaining to ocean transportation costs, port handling costs, and inland transportation costs can be obtained from the Department of the Army transportation contact.

(2) Contracting officers will consider transportation costs, methods of shipment, and other transportation factors in the evaluation of f. o. b. origin bids or proposals and in the award of contracts. The best available freight rates in effect or to become effective at a later date should be used. The use of rates to become effective at a later date will be limited to those on file in the rate-furnishing office prior to the opening date.

(3) In determining, by pre-award survey or otherwise, the capabilities of a bidder or offeror to carry out a contract, definite consideration should be given to the adequacy of transportation facilities at the bidder's plant, including his ability to accumulate and ship in carload or truckload lots.

(4) Consideration should be given to the possibility of obtaining benefit for the Government through the use of transit arrangements. Such arrangements permit the forwarding of a shipment in the same direction after it has been halted in transit (sometimes for as much as 2 years), for storage, processing, fabrication, or other purpose as specified by the carriers; all at the through rate (as contrasted with the combination of rates in and out of the transit point) plus nominal surcharges. Transit arrangements are not universal and are varied; traffic management personnel can furnish necessary information and analysis of situations where transit may be beneficial.

(5) When comparing the unreserved portion of a procurement and the "Set-aside" portion in conjunction with "Set-asides" under Defense Manpower Policy No. 4 (§§ 1.302-4, 2.205 and 3.219 of this title) or partial Small Business Set-asides, the transportation aspects involved in each portion must be considered to insure correct comparison.

(6) Whenever it appears to the contracting officer that award to shipment to the designated destination will plainly result in cross-hauling or back-hauling to the disadvantage of the Government, considering subsequent moves of the supplies, the matter will be brought to the attention of the requiring agency or appropriate distribution authorities.

(7) If information for possible rate negotiation purposes has not been furnished earlier, or if adjustment in such information is required, appropriate advice will be furnished the Chief of Transportation, through the local transportation officer, immediately upon execution of a contract indicating firm shipment plans.

(8) Contracts, when executed, must be specific with respect to all transportation responsibilities.

(d) *Contract administration phase.* This phase covers the period from contract award through completion or termination of contract.

(1) During this phase numerous factors must be kept under control to assure the best results for the Government in transportation costs and service. Among these are:

- (i) Ordering out.
- (ii) Routing; release for port shipment; coordination of routing with basis of evaluation.
- (iii) Policing of delivery schedules; shipment of carload and truckload lots whenever practicable; meeting minimum weights attached to such rates; adjustment of payments as appropriate.
- (iv) Documenting; showing f. o. b. point properly; distribution and validation of documents.
- (v) Contract changes affecting transportation.
- (vi) Special shipping arrangements, as for oversize and overweight shipments.
- (vii) Reporting information for special rate or rating adjustments when opportunities are newly discovered.
- (viii) Control of irregularities in packing, loading, loss and damage causes, sealing vehicles, tallies, ordering cars, description of articles, documented weights, and export requirements.
- (ix) Small shipments problems; parcel post.
- (x) State tax problems.
- (xi) Use of transit arrangements.
- (xii) Effect of inspection, acceptance, or rejection on transportation.
- (xiii) Safety for dangerous shipments.

The foregoing and other questions must frequently be the subject of collaboration between the local transportation officer and the contract administrator.

(2) It is important to insure that the transportation factor is considered in the termination of contracts.

2. In § 591.201, revise paragraph (j) to read as follows:

§ 591.201 *Preparation of forms.* * * *

(j) *Availability, identification, and review of specifications.* Each invitation for bids shall list for each item included therein the applicable specifications as authorized for procurement in § 590.305 (a), or will contain a description as provided in § 590.305 (c). Such reference to specifications shall include the title and symbols, with any revision letters, and dates, including any amendments identified by numbers and dates. Prior to issuance of invitations for bids the proposed specifications shall be reviewed in accordance with procedures prescribed by heads of procuring activities:

- (1) To insure compliance with the provisions of § 590.305, and (2) to eliminate subsequent procurement actions which would be prejudicial to the Government and to potential bidders. Such review is intended to eliminate or correct unduly restrictive specifications and to prevent, insofar as practicable, the necessity for amendment of invitations after issuance, and the cancellation of invitations after opening, with consequent disclosure of bids where no award is to be made.

3. Section 592.201-2 is added and § 592.201-50 is revised, as follows:

§ 592.201-2 *Application.* (a) 10 U. S. C. 2304 (a) (1) may be used and recorded only with respect to the following:

- (1) Labor surplus and disaster area programs.
- (2) Small business programs.
- (3) Nonperishable subsistence.
- (4) Research and development contracts and each amendment thereof, for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test, when the estimated cost of either is \$100,000 or less (§ 3.201-2 of this title). Except that this authority shall not be used to negotiate a contract or an amendment thereof, regardless of amount, for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test, where the contract is entered into with an educational institution (§§ 592.205-2 (a) and 592.211).
- (5) Modifications authorized by terms of definitive contracts previously negotiated under 10 U. S. C. 2304 (a) (1).

(i) The term "modifications authorized by the terms of definitive contracts" as used in this subparagraph includes:

(a) Increase or decrease of funds obligated on letter contracts and cost-reimbursement type contracts; provided, however, such increase or decrease is not the result of a change in the scope of work or quantities to be delivered.

(b) Change orders, supplemental agreements, or contract amendments issued pursuant to contractual provisions relating to changes, changed conditions, price escalation, price redetermination, incentive, termination for convenience, default, taxes, and variation in quantity caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes.

(ii) Except in connection with contracts which have been or will be negotiated pursuant to subparagraphs (1), (2), (3), (4), and (6) of this paragraph 10 U. S. C. 2304 (a) (1) will not be used for:

(a) Increase or decrease of funds obligated on contract amendments issued pursuant to provisioning procedures incorporated in the contract for concurrent spare parts or other accessorial equipment specified to be delivered under contract.

(b) Supplemental agreements or contract amendments issued pursuant to contractual provisions relating to increase-decrease quantity options or extras.

(c) Supplemental agreements or contract amendments for concurrent spare parts or other accessorial equipment not originally provided for in the contract.

(d) Orders (which obligate funds) against contracts or amendments upon which funds were not obligated.

(e) Contracts in excess of \$1,000 but not exceeding \$2,500.

(i) The extension of the authority of 10 U. S. C. 2304 (a) (1) to cover small purchases in excess of \$1,000 but not ex-

ceeding \$2,500 will be used to supplement the authority currently available under 10 U. S. C. 2304 (a) (3). Pending revision of § 3.600 of this title and § 592.600 of this chapter authority to utilize small purchase procedures is not authorized except as indicated below:

(a) Authority is granted to deviate from § 16.303 of this title on an interim basis, to extend the use of DD Form 1155 as a purchase order for purchases in excess of \$1,000 but not to exceed \$2,500. In such cases there shall be attached thereto the following clauses, pending availability, from Adjutant General publications centers, of DD Form 1155s, "Additional General Provisions and Acceptance":

- (1) Changes (§ 7.103-2 of this title).
- (2) Responsibility for Supplies. (§ 7.103-6 of this title).
- (3) Default (§ 7.103-11 of this title).
- (4) Renegotiation (§ 7.103-13 of this title).
- (5) Examination of Records (§ 7.104-15 of this title); and
- (6) Termination for Convenience of the Government.

The performance of work (supplies or services) under this contract may be terminated, in whole or in part, whenever the Contracting Officer shall determine that such action is in the best interest of the Government. Any such termination shall be effected by delivery to the contractor of a Notice of Termination specifying the extent to which performance of work under this contract is terminated, and the date upon which such termination becomes effective. If this contract is for supplies and is so terminated, fair compensation within the meaning of, and as provided by section VIII of the Armed Services Procurement Regulation, as in effect on the date of this contract, will be paid to the Contractor, and any termination inventory will be disposed of in accordance with said section VIII. If this contract is for services and is so terminated, the Government shall be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.

(b) DD Form 1155 shall not be used in the increased amount (\$1,000-\$2,500) as a public voucher, but in lieu thereof Standard Form 1034 shall be used. Funds involved shall be obligated only as prescribed in paragraph 2, AR 37-21 (Administrative Regulations of the Army, 18 Mar 57), as to paragraph 4.D. (1) and (2) of Department of Defense Directive 7220.6 (Apr. 28, 1955) quoted therein.

(c) In order to reduce the processing of numerous public vouchers in this small dollar area the purchase order may limit the numbers of payments to one, under the Payments clause, as provided in § 592.650-7. If contractors are reluctant to wait until final delivery and multiple payments are to be authorized as prescribed in § 592.650-7, DD Form 1155 will be numbered as required by § 606.203-3 (c) of this subchapter.

(ii) Procurement actions taken under this authority shall be reported on DA Form 377 (Monthly Summary of Procurement Actions) on Line 12c. (§ 606.305-3 (d) (1) of this subchapter.)

§ 592.201-50 *Limitations.* (a) See §§ 592.211-3 (a) and 592.211-3 (b).

(b) This authority will be used only to the extent authorized in § 3.201-2 of this title and § 592.201-2.

4. In § 606.207-2, paragraph (a) is revised to read as follows:

§ 606.207-2 *Fixed price contracts*—
(a) *General*. (1) Audit is an aid to pricing and should therefore be used by contracting officers to the fullest extent appropriate. The determination as to the necessity of an audit for pricing purposes is the responsibility of the contracting officer; however, in fulfilling this responsibility contracting officers are expected to work closely with auditors so that determinations as to whether or not an audit is to be performed will reflect agreement between the contracting officer and auditor concerned. The contracting officer is responsible for requesting an audit in instances where the Regional Director, U. S. Army Audit Agency considers that an audit should be performed for pricing purposes because doubt exists as to the reliability of the contractor's cost submission. The doubt as to the reliability of the cost submission may result from:

(i) Prior audit experience which indicated that the contractor's cost submission did not present fairly the cost of performing the contract, or

(ii) Lack of prior or recent experience in auditing the contractor's records.

(2) Time is a critical element in price redetermination. Contracting officers and auditors must be keenly aware of the importance of the time element and of the duties, responsibilities, and problems of each other. (§ 592.403-50 (b) (3) of this subchapter).

(3) It is not considered sound policy to arbitrarily exempt from audit any contract or group of contracts in which pricing or payment is based on cost information furnished by the contractor. However, where there is adequate knowledge of the contractor's accounting policies and cost systems and previous favorable experience, both the contracting officer and the Regional Director, U. S. Army Audit Agency, should consider the propriety of conducting repricing negotiations on the basis of the contractor's cost submission, without recourse to audit, after a satisfactory review and analysis by qualified personnel in either or both offices. This procedure is particularly adaptable to contracts of limited amounts. On the other hand, previous unfavorable experience, or lack of any previous experience, may indicate the advisability of initiating an audit immediately after receipt by the U. S. Army Audit Agency of a contract containing progress payment or price redetermination clauses. Such an audit ordinarily will be performed concurrently as work under the contract progresses. The U. S. Army Audit Agency shall notify the contracting officer within 5 days after a decision to make a concurrent audit has been reached.

(4) Should situations arise wherein contracting officers and auditors, after consideration of all factors concerned, cannot agree upon the necessity

for an audit of a contractor's records, each will promptly prepare a statement of reasons why the audit should or should not be performed, exchange statements and independently submit a copy of both statements on a priority basis in the manner prescribed in paragraph (c) (2) of this section with request that the matter be resolved.

5. In Part 606, Subpart J is revoked and Subpart K is revised, as follows:

Subpart K—Indefinite Delivery Type Contracts
Sec.

606.1101 Purpose.
606.1102 General.
606.1103 Policy.
606.1104 Payment of higher unit prices.
606.1105 Review of procurement directives.

AUTHORITY: §§ 606.1101 to 606.1105 issued under sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply 70A Stat. 127; 10 U. S. C. 2301-2314.

§ 606.1101 *Purpose*. This subpart sets forth the policy on utilization of indefinite delivery type contracts.

§ 606.1102 *General*—(a) *Definite quantity contract*. A definite quantity contract is an indefinite delivery type contract calling for a stated quantity of certain supplies or services to be delivered pursuant to delivery orders furnished during a designated period of time. Funds are obligated for the total amount upon execution of the contract. It normally specifies the individuals or activities authorized to issue orders for delivery on behalf of the Government and in most cases provides for the direct shipment of the supplies involved from the vendor's establishment to the using agency, thereby minimizing expense of Government handling. Although this type of contract is used primarily for commercial type items readily available, or which will be available after a short lead time, it may also be used for non-commercial items.

(b) *Requirements contract*. A requirements contract is an indefinite delivery type contract under which the Government agrees that designated activities are obligated to order all of their purchase requirements for specified supplies or services and the contractor agrees to furnish the specified supplies or services during a designated period of time upon receipt of a delivery order from the Government. Under such an arrangement, funds are obligated for individual purchases each time a delivery order is issued except where the terms of the contract require an acceptance of the order by the contractor. When the contract requires such acceptance, funds are obligated when the contractor has accepted the delivery order. When the contract provides no limitation as to the maximum quantity which may be ordered at one time, the contracting officer should not issue delivery orders for what, under the circumstances, may be unreasonable quantities. Generally, the function, purpose, and use of a requirements contract are similar to those of the definite quantity contract.

(c) *Indefinite quantity contract*. An indefinite quantity contract is a combination of a definite quantity contract

and a requirements contract, in that the Government is obligated to order a stated minimum quantity of supplies or services, during a specified period and has the option to order quantities in excess of the minimum. Under this arrangement the contractor is obligated to furnish such stated minimum and any additional quantities ordered by the Government under the option. The optional provision of the contract shall state a maximum quantity. In the determination of such maximum, the contracting officer should not establish a quantity greater than may be reasonably expected to be ordered from, or furnished by, the contractor. Up to the stated minimum the contract is in effect a definite quantity contract and funds are obligated upon execution of the contract. If and when the Government exercises its option of ordering quantities in excess of the minimum, with respect to such quantities, the contract, is, in effect, a requirements contract, and funds are obligated on the issuance of the delivery order.

§ 606.1103 *Policy*. (a) Contracting officers at all procurement levels shall execute indefinite delivery type contracts to fill current requirements whenever:

(1) Net benefits to the Government are evident, and

(2) Requirements cannot be obtained from an existing mandatory source of supply.

(b) Indefinite delivery type contracts to fill requirements that are nationwide in scope or at least cover a large geographic area shall be executed by contracting officers of major procurement activities.

(c) Contracting officers at depot or station level shall execute indefinite delivery type contracts to fill requirements of the depot or station as appropriate, when the requirements are not obtainable from an existing indefinite delivery type contract which is available for mandatory or optional use. An example of a requirements type contract executed by a station is one executed for manufacture of wooden boxes, towel service or refilling of Government owned gas cylinders.

§ 606.1104 *Payment of higher unit prices*. When appropriate and necessary, contracting officers may pay higher unit prices for commercial type items for direct delivery from manufacturers, distributors or regular dealers to using installations or ports than would be obtainable by delivery of bulk shipments to Army depots. This authorization is based on the eventual savings accruing to the Government due to the elimination of or reductions in Department of the Army procurement and distribution costs, viz, purchasing actions, transportation, multiple handling, warehousing, packaging and stock control activities.

§ 606.1105 *Review of procurement directives*. In order to insure maximum utilization of indefinite delivery type contracts for commercial type nonmilitary items of supply, heads of procuring activities or their designated representatives shall, when no mandatory source of supply exists:

(a) Review each procurement directive containing commercial type non-military line items or groups of commercial repair parts (particularly those applicable to a single end item of equipment) having an estimated value of \$10,000 or more in order to determine the feasibility of executing indefinite delivery type contracts to provide such items or groups of parts.

(b) Insert in each procurement directive for each of the items or groups of parts contained therein a signed statement which will either:

(1) Direct the contracting officer to execute an indefinite delivery type contract for the item or group of parts, or

(2) Set forth sound reasons why an indefinite delivery type contract should not be executed.

(c) Include in each contract file resulting from the procurement directive a copy of the procurement directive containing the statement in paragraph (b) of this section. When indefinite delivery type contracting has been specified but cannot or should not be accomplished, the contracting officer will include in the contract file a signed statement setting forth in reasonable detail the causes therefor. When the procurement directive results in two or more contracts, include the copy of the procurement directive in one contract file and cross reference it in the other contract files.

(d) Refer to the Deputy Chief of Staff for Logistics, Department of the Army, ATTN: Chief, Contracts Branch any case where a doubt exists as to whether the execution of an indefinite delivery type contract is in the best interest of the Government because of price factors.

[APP. Nov. 1957] (Sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply 70A Stat. 127; 10 U. S. C. 2301-2314)

[SEAL] HERBERT M. JONES,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 57-10763; Filed, Dec. 27, 1957; 8:46 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

Subchapter A—Commodity Standards and Standard Container Regulations

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

PART 28—COTTON STANDARDS

Subchapter C—Regulations and Standards Under the Farm Products Inspection Act

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION, SAMPLING, AND CERTIFICATION)

COTTON AND COTTONSEED STANDARDS AND REGULATIONS

On November 15, 1957, there appeared in the FEDERAL REGISTER (22 F. R. 9110) a notice of rule making concerning certain amendments of the provisions in

7 CFR Parts 27, 28, and 61, as amended. After consideration of all relevant matters presented with respect to the amendments and pursuant to the authority contained in the cotton futures provisions of the Internal Revenue Code of 1954 (26 U. S. C. 4851 et seq.), the United States Cotton Standards Act, as amended (7 U. S. C. 51 et seq.), the Cotton Statistics and Estimates Act, as amended (7 U. S. C. 471 et seq.) and the Agricultural Marketing Act of 1946, as amended (7 U. S. C. 1621 et seq.), the provisions of said Parts 27, 28, and 61 are hereby amended and published to read as set forth in the document annexed hereto and made a part hereof. Parts 27, 28, and 61 as set forth in said document incorporate the changes specifically proposed in the notice of rule making, as well as changes relating to agency management or editorial, clarifying, or supplementary changes of a nonsubstantive nature, with respect to which it is therefore found upon good cause under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that public rule-making procedure is impracticable and unnecessary.

This order and the provisions of 7 CFR Parts 27, 28, and 61 as issued hereby shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 24th day of December 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

Subpart A—Regulations

DEFINITIONS

- Sec. 27.1 Meaning of words.
27.2 Terms defined.

GENERAL

- 27.3 Requirements of section 4863 of the act.
27.4 Obligations and rights under act; not affected by regulations.
27.5 Effect of amendments.
27.7 Effect of regulations.

ADMINISTRATION

- 27.8 Director.
27.9 Boards of cotton examiners; Appeal Board; Micronaire examiners.
27.10 Supervisor of cotton inspection.
27.11 Chairman, board of cotton examiners; responsibility.

CLASSIFICATION REQUESTS

- 27.12 Classification request for each lot of cotton.
27.13 Micronaire determination request incidental to classification request.
27.14 Filing of classification and Micronaire determination requests.
27.15 Withdrawal or rejection of classification or Micronaire determination requests.

INSPECTION AND SAMPLES

- 27.16 Inspection; sampling; preparation.
27.17 Cotton to be made available for classification.
27.18 Persons not to be employed for inspection or sampling.
27.19 Rejection of cotton for classification.
27.20 Drawing of samples of cotton.
27.21 Preparation of samples of cotton.

- Sec. 27.22 Wrapping and marking of samples of cotton.
27.23 Duplicate sets of samples of cotton.
27.24 Delivery of samples of cotton.
27.25 Additional samples of cotton; drawing.
27.26 Handling of samples of cotton.
27.27 Rejection of sample; resampling.
27.28 Disposition of samples.

CLASSIFICATION AND MICRONAIRE DETERMINATIONS

- 27.31 Classification of cotton and Micronaire determinations; by whom made.
27.32 Order of classification.
27.33 Exposing of samples for classification.
27.34 Classification procedure.
27.35 Lower class of two samples to prevail.
27.36 Classification and Micronaire determinations based on official standards.
27.37 Reduction in value of cotton; determination.
27.38 Terms defined for purposes of classification.

COTTON CLASS CERTIFICATES

- 27.39 Issuance of certificates.
27.40 New certificates; conditions of issuance.
27.41 Lost certificate; duplicate.
27.42 Surrender of certificate.
27.43 Validity of cotton class certificates.
27.44 Invalidity of cotton class certificates.
27.45 No storage of cotton for classification at disapproved place.
27.46 Cotton withdrawn from storage.
27.47 Tender or delivery of cotton; conditions.

DELAYED CERTIFICATION

- 27.52 Delivery without certification.
27.53 Notice for delayed certification; requirements.
27.54 Inspection and sampling for delayed certification.
27.55 Requirements in lieu of cotton class certificates on delivery day.
27.56 Obligations of person making tender.

POSTPONED CLASSIFICATION

- 27.57 Request for postponement.
27.58 Postponed classification; must be within 30 days.
27.59 Postponed classification; interference.
27.60 When original request deemed withdrawn.

CLASSIFICATION REVIEWS, AND MICRONAIRE DETERMINATIONS

- 27.61 One review of classification.
27.62 Conditions for review of classification and for incidental Micronaire determination for original applicant.
27.63 Conditions for review of classification and for Micronaire determination for receiver.
27.64 Application for review of classification and for Micronaire determination; filing.
27.65 Completion of review of classification.
27.66 Dismissal of application for review.
27.67 Use of new samples in reviews and Micronaire determinations.
27.69 Classification review; notations on certificate.
27.72 Withdrawal of application for review.

TRANSFERS OF COTTON

- 27.73 Supervision of transfers of cotton.

COSTS OF CLASSIFICATION AND MICRONAIRE

- 27.80 Fees; classification and Micronaire determination.
27.81 Fees; certificates.

Sec.	
27.83	No fees for certain certificates.
27.85	Fees; withdrawn requests or applications.
27.87	Fees; classification and Micronaire determination information.
27.88	Travel expense.
27.89	Expenses: inspection; sampling.
27.90	Bills for payment of fees and expenses.
27.91	Advance deposit may be required.
27.92	Method of payment; advance deposit.

SPOT MARKETS

27.93	Bona fide spot markets.
27.94	Spot markets (for certain determinations only).

PRICE QUOTATIONS AND DIFFERENCES

27.95	Spot markets to conform to act and regulations.
27.96	Basis of prices in bona fide spot markets.
27.97	Quotation committees; establishing.
27.98	Duties of quotation committees.
27.99	Value of grade where no sale; determination.
27.100	Values of grades.
27.101	Values; expression.
27.102	Administration.

Subpart B—Official Cotton Standards of the United States for Fiber Fineness and Maturity

27.210	Standards for fiber fineness and maturity of American upland cotton.
27.211	Terms of designation.
27.212	Procedure for use of Micronaire instrument.
27.213	Applicability of standards for fiber fineness and maturity of American upland cotton.

SUBPART A—REGULATIONS

AUTHORITY: §§ 27.1 to 27.102 issued under secs. 4862, 4863, 68A Stat. 581, 582; 26 U. S. C. 4862, 4863.

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 provisions of the Internal Revenue Code of 1954 (68A Stat. 580-586; 26 U. S. C. 4851-4877) derived from the United States Cotton Futures Act (39 Stat. 476) as amended and the Internal Revenue Code of 1939 (53 Stat. 210; 26 U. S. C. 1920-1935).

(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 his 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 his stead.

(g) *Board of cotton examiners.* A board of cotton examiners established under the act at any point.

(h) *Appeal Board of Review Examiners.* The Appeal Board of Review Examiners at Memphis, Tennessee.

(i) *Exchange.* Exchange, board of trade, or similar institution or place of business, at, on, or in which a section 4863 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) *Section 4863 contract.* Contract of sale of cotton for future delivery mentioned in the act, made at, on, or in any exchange in compliance with section 4863 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 determination of the grade and staple length of cotton by a cotton examiner.

(o) *Micronaire determination.* The measure of the fiber fineness and maturity of cotton, in combination, as determined by an authorized employee of the Department using the Micronaire instrument.

GENERAL

§ 27.3 *Requirements of section 4863 of the act.* The inspection, sampling, classification, and Micronaire determination of cotton pursuant to section 4863 of the act shall be performed as prescribed in this subpart. All tenders of cotton and settlements therefor under section 4863 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 section 4863 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 section 4863, 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 section 4863.

§ 27.4 *Obligations and rights under act; not affected by regulations.* Nothing in this subpart shall be construed as relieving any party to a section 4863 contract of any obligation imposed upon him, or as depriving him of any right to which he 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.

§ 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 section 4863 contracts entered into prior, as well as subsequent, to such effective date.

§ 27.7 *Effect of regulations.* As far as applicable, the regulations in this sub-

part shall have the same force and effect for the purposes of section 4864 as for the purposes of section 4863 of the act.

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 *Boards of cotton examiners; Appeal Board; Micronaire examiners.* Boards of cotton examiners shall be maintained at points designated for the purpose by the Administrator. The members of such boards and the chairman of each such board shall be designated by the Director. The Appeal Board of Review Examiners established at Memphis, Tennessee, and committees of such board authorized to serve at other points shall review the classification of any cotton in accordance with §§ 27.61 to 27.72. A Board of Supervising Cotton Examiners shall perform duties as assigned. Authorized employees of the Cotton Division shall make Micronaire determinations when such service is requested in accordance with this subpart.

§ 27.10 *Supervisor of cotton inspection.* The Director or the chairman of a board of cotton examiners may when necessary designate an official or employee of the Department to supervise the inspection and sampling and the preparation of samples of cotton for classification by a board of cotton examiners, and to perform such other duties as may be required of him for the purposes of this subpart.

§ 27.11 *Chairman, board of cotton examiners; responsibility.* Subject to this subpart and the instructions of the Director, the chairman of each board of cotton examiners shall be responsible for the proper performance of the duties imposed on such board and on the persons connected therewith.

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 he shall make a separate written request in a form prescribed or supplied by the Cotton Division for that purpose.

§ 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 chairman of the board of cotton examiners through the exchange inspection agency at the point where the cotton is sampled and shall be transmitted to the chairman by the exchange inspection agency in accordance with procedure approved by the Director. If there is no board of cotton examiners at the point where the cotton is sampled, requests shall be filed through a supervisor of cotton inspection or the exchange inspection agency at such point, or at some

other place designated in particular cases by the Director. 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 section 4863 contract. Requests for Micronaire determinations may also be filed as provided in §§ 27.62 and 27.63.

§ 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 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; sampling; preparation.* The inspection and sampling and the preparation of samples of cotton of which classification is desired shall be by or under the direction of an exchange inspection agency and subject to the supervision and in accordance with the instructions of a supervisor of cotton inspection or a cotton examiner whose duties include such supervision.

§ 27.17 *Cotton to be made available for classification.* The owner of the cotton shall cause it to be made available to such supervisor or cotton examiner for such examination as may be necessary for the purposes of its classification, and shall take such steps as may be necessary to secure its proper inspection and sampling and the proper preparation and delivery of representative samples thereof at the place designated therefor, in accordance with this subpart, without expense to the Department.

§ 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.

§ 27.19 *Rejection of cotton for classification.* No cotton covered by a classification request filed as provided in this subpart shall be rejected by any person other than a cotton examiner, on account of grade or staple or otherwise, unless the request for the classification of the cotton so rejected shall be withdrawn by the person by whom it was made.

§ 27.20 *Drawing of samples of cotton.* 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 head of the bale shall be properly inspected, and any conditions not fully indicated by the samples shall be specified by the inspector or the sampler of the cotton in a written memorandum, which shall accompany the samples to the board of cotton examiners.

§ 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 chairman of the board to which the samples are to be delivered.

§ 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 for 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 board of cotton examiners with which the classification request was filed, at its classification room. If there is no board of cotton examiners at the point where the cotton is sampled, the samples shall be delivered to a supervisor of cotton inspection or to the exchange inspection agency at such point, for forwarding to the proper board. 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 chairman of the board of cotton examiners or the Director.

§ 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.

§ 27.26 *Handling of samples of cotton.* All persons in any way connected with the inspection and sampling and handling of samples of cotton for the purpose of classification pursuant to this subpart shall carefully handle them in such manner as not to cause loss of sand therefrom or any change otherwise in their representative character.

§ 27.27 *Rejection of sample; resampling.* Any sample or set of samples which does not meet the requirements of the regulations in this subpart or which does not correctly represent the bale or bales from which drawn may be rejected by a supervisor of cotton inspection or a cotton examiner whose duties include the supervision or examination of such cotton. Whenever the supervisor of cotton inspection or the chairman of the board shall find it necessary in order to determine the true classification of any bale, such bale shall be re-inspected and, if necessary, resampled, and the new samples shall be delivered at the place designated therefor in accordance with this subpart.

§ 27.28 *Disposition of samples.* Samples representing bales for classification or Micronaire determination, which come into the custody of the Department on or after April 1, 1957, shall become the property of the Department after classification or Micronaire determination and shall be disposed of in accordance with the property regulations of the Department. Samples in the custody of the Department on March 31, 1957, representing bales which are covered by outstanding cotton class certificates issued pursuant to this subpart, will be retained by the Department until the certificates are surrendered for cancellation and will then be made available to the persons who surrender the certificates for cancellation.

CLASSIFICATION AND MICRONAIRE DETERMINATIONS

§ 27.31 *Classification of cotton and Micronaire determinations; by whom made.* For the purposes of section 4863 of the act the classification of any cotton shall be determined only by cotton examiners designated as such by the Director. Official Micronaire determinations, when requested, shall be made only by authorized employees of the Cotton Division.

§ 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 board of cotton examiners whose duties include the examination thereof, except as otherwise provided in this subpart or when the chairman of the board or the Director shall find that an emergency exists and shall order otherwise.

§ 27.33 *Exposing of samples for classification.* Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the judgment of the chairman shall be sufficient to put them in proper condition for the purpose.

§ 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 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 *Reduction in value of cotton; determination.* If cotton be reduced in value, by reason of the presence of extraneous matter of any character or irregularities or defects, below its grade or below its apparent length of staple according to the official cotton standards of the United States, the grade or length of staple from which it is so reduced, and the grade or length of staple to which it is so reduced, and the quality or condition which so reduces its value, shall be determined and stated.

§ 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) *Cotton of immature staple.* Cotton that has been picked and baled before the fiber has reached a normal state of maturity, resulting in a weakened staple of inferior value.

(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.

(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 samples drawn therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color gradations, or (3) a difference of two or more grades and two or more color gradations, or (4) a difference in length of staple of one-eighth inch or more.

(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.

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 board of cotton examiners the board 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 chairman of the board that classified the cotton. The certificate shall show the identification of the cotton according to the information in the possession of the board, 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 will be certified by the board of cotton examiners or by the Appeal Board of Review Examiners on the classification certificate 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 board of cotton examiners shall notify the Appeal Board of Review Examiners of the results of the classification and the latter will review the classification and make the Micronaire determination, and notify the board of cotton examiners of the results. The latter will issue a cotton class certificate over the signature of the chairman of the Appeal Board of Review Examiners, 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 board of cotton examiners or the Appeal Board of Review Examiners 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 such board, notwithstanding any other provisions of this section.

§ 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.

§ 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 chairman of the board of cotton examiners 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.

§ 27.42 *Surrender of certificate.* For good cause any certificate issued under this subpart shall be surrendered to a board of cotton examiners for correction or cancellation. If such certificate be not surrendered upon request it shall nevertheless be invalid under section 4863 of the act and this subpart.

§ 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 section 4863 contract made in accordance with the act and this subpart and the rules of an exchange not inconsistent therewith.

§ 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 section 4863 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 re-stored under the supervision of an exchange inspection agency.

§ 27.45 *No storage of cotton for classification at disapproved place.* No cotton submitted for classification under section 4863 of the act shall be located or

stored at a place disapproved for the purpose by the chairman of board of cotton examiners 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 so far as he may be involved therein. Notice of such disapproval shall be given in such manner as the Director may direct. Thereafter every cotton class certificate, if any, previously issued for cotton located or stored at such place shall be invalid for the delivery of such cotton on a section 4863 contract, unless the cotton shall be removed under the supervision of the exchange inspection agency, or a representative of the Department designated for the purpose by the chairman of the board of cotton examiners or the Director, 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 to him.

§ 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 board of cotton examiners 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 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.

§ 27.47 *Tender or delivery of cotton; conditions.* Subject to the provisions of §§ 27.52-27.56, 27.65, no cotton shall be tendered or delivered on a section 4863 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 section 4863 contract.

DELAYED CERTIFICATION

§ 27.52 *Delivery without certification.* If upon the date fixed for delivery in accordance with section 4863 of the act cotton class certificates shall not have been issued by a board of cotton examiners for cotton to be delivered pursuant to such notice, samples of which cotton shall have been in the custody of the board for the time hereinafter prescribed, the delivery of such cotton may be made upon

compliance with and subject to the conditions specified in §§ 27.52-27.56. Sections 27.52-27.56 shall not apply to cotton upon which a board of cotton examiners has already issued cotton class certificates pursuant to this subpart.

§ 27.53 *Notice for delayed certification; requirements.* On the date of giving the transferable notice of the delivery in accordance with section 4863 of the act the person issuing such notice or the person on whose behalf it was issued shall also give written notice to the board or officer with whom 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 board, he shall specify the lot numbers of the cotton so to be delivered.

§ 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 board not later than the date of the 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 board 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.

§ 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 chairman of the board of cotton examiners, or to his representative authorized for the purpose, a written notice stating to the best of his knowledge and belief the true grade of each individual bale to be delivered, properly identifying each bale with its grade. If the foregoing requirements of §§ 27.52-27.56 shall have been complied with, the chairman of the board, or his duly authorized representative, shall cause to be written or stamped on such notice a statement validating it for use in the tender only on such delivery day of the cotton covered thereby pending the issuance of cotton class certificates in accordance with this subpart. The tenderer shall on such delivery day deliver such notice to the receiver of the cotton, together with the warehouse receipts and such other papers as may be necessary to the delivery of the cotton on such day.

§ 27.56 *Obligations of person making tender.* The person making the tender shall deliver the cotton class certificates therefor to the receiver of the cotton before the close of business hours on the date of the issuance thereof, if delivered to such tenderer before 11 a. m. on that day. If the cotton class certificates be

delivered to him after 11 a. m. on that day, the tenderer shall in turn deliver them to the receiver before 11 a. m. on the next following business day. There shall be no right of replacement of bales shown by such certificates to be untenderable.

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 board in writing before the classification has been entered upon. Such request must show cause and that it is not made merely for dilatory reasons.

§ 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 board or under its control.

§ 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.

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 Appeal Board of Review Examiners. Micronaire determinations are not subject to review.

§ 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 section 4863 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.

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

upon a section 4863 contract who has not re-delivered such cotton on a section 4863 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 to him 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, he may, upon proper showing of the facts, be allowed 5 additional business days for filing his application for the 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 to him, 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.

§ 27.64 *Application for review of classification and for Micronaire determination; filing.* (a) Every application for review of classification or for Micronaire determination under § 27.62 or § 27.63 shall be filed with the board of cotton examiners or in the absence of a board, with the supervisor of inspection at the point where the cotton was or may be delivered in settlement of a contract under the act and this subpart. The application shall in each case be in the hands of such board or supervisor within the time specified in § 27.62 or § 27.63 for applying for review: *Provided*, That any board of cotton examiners may designate any officer of the Cotton Division located at another point to receive applications, and in such cases the applications shall be in the hands of the officer so designated within the time so specified. Any person making such application shall, upon call of the person with whom such application was filed under this section, surrender the cotton class certificate or 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 section 4863 contract; (2) the lot numbers of the cotton; and (3) the warehouse bale numbers.

§ 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 section 4863 contract.

§ 27.66 *Dismissal of application for review.* Any application for review may be dismissed whenever it shall be found by the chairman of the board or the Director that it was filed without good cause or for dilatory purposes.

§ 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 chairman of the board of cotton examiners, 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 board; but if the use of new samples is deemed necessary by the chairman of said board, or if there are no samples of the cotton in the possession of the board, or if the samples of the cotton have been in the possession of the board 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 board in accordance with this subpart.

§ 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 chairman of the Appeal Board of Review Examiners shall be entered on the cotton class certificate. Thereupon the certificate shall be returned to the person who requested the review.

§ 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 §§ 27.80-27.92.

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 he holds valid cotton class certificates, desires to transfer such cotton to a different place, or to a different warehouse at the same place, for the purpose of having it made available for delivery upon a section 4863 contract, such transfer shall be effected under the supervision of the exchange inspection agency in accordance with procedures approved by the Director. For transfers of cotton between different places the owner of the cotton shall surrender the cotton class certificates for the cotton involved to the exchange inspection agency at the place from which the cotton is being transferred. The exchange inspection agency shall cancel the cotton class certificates and forward them, together with other necessary transfer papers, to the exchange inspection agency at the location to which the cotton is being transferred. When the cotton has been delivered for storage at the place of its destination and new warehouse receipts have been issued

therefor, the exchange inspection agency at that point shall surrender the cancelled cotton class certificates, other transfer papers, and the new warehouse receipts for the cotton to the board of cotton examiners. Thereupon the board will issue a new cotton class certificate for each bale involved, valid for use at such destination without the reclassification of the cotton or a new Micronaire determination with respect to the cotton. Transfers between different warehouses at the same place shall be under the supervision of the exchange inspection agency at that place and the procedure as nearly as possible shall be the same as that for transfers between different places. The exchange inspection agency shall report the facts of all transfers to the board of cotton examiners in accordance with § 27.46. Supervision of transfers in accordance with this subpart shall not be granted, nor shall any certificate be issued with respect to any bale which appears, upon examination by the exchange inspection agency, or by a supervisor of cotton inspection or other authorized representative of the Cotton Division, to be in such condition that its grade or staple length or fiber fineness and maturity is different from that shown by the cotton class certificate, until such bale has been reclassified, and, if a Micronaire determination is shown on such certificate, until a new Micronaire determination has been made for the bale in accordance with this subpart.

COSTS OF CLASSIFICATION AND MICRONAIRE

§ 27.80 *Fees; classification and Micronaire determination.* For the initial classification, review of classification, Micronaire determination, and certification of cotton pursuant to this subpart, whether such cotton be tenderable or not, the person requesting these services shall pay fees as follows: (a) If the same request covers initial classification, review of classification, and Micronaire determination, and only the review of classification and Micronaire determination results are to be certified on cotton class certificates covering the cotton involved, the entire fee shall be 60 cents per bale; or (b) under all other conditions the fee for initial classification and certification shall be 25 cents per bale, the fee for review of classification and certification shall be 50 cents per bale, and the fee for Micronaire determination and certification shall be 25 cents per bale.

§ 27.81 *Fees; certificates.* For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for his business convenience, or when made necessary by the transfer of the cotton as provided in § 27.73, the person making the request shall pay a fee of 15 cents for each certificate issued, to cover the cost of such service and the handling of samples incident thereto.

§ 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 of 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.

§ 27.88 Travel expense. When the inspection and sampling or the supervision of the transfer of any cotton shall be performed at a place other than that where a board of cotton examiners or supervisor of cotton inspection is regularly located, the person making the request for the classification or the supervision of the transfer of the cotton shall pay, in accordance with the fiscal regulations of the Department, in addition to the costs hereinbefore prescribed, the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, by the persons employed by the Department to supervise such inspection and sampling or transfer.

§ 27.89 Expenses; inspection; sampling. The 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 board of cotton examiners, the expense of inspection, sampling, preparation of samples, and delivery of the samples to the board of cotton examiners shall be borne by the party requesting the service.

§ 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 chairman of the board 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.

§ 27.91 Advance deposit may be required. If requested by the chairman of the board of cotton examiners with which 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.

§ 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:

Atlanta, Ga.	Greenwood, Miss.
Augusta, Ga.	Houston, Tex.
Charleston, S. C.	Little Rock, Ark.
Dallas, Tex.	Lubbock, Tex.
Fresno, Calif.	Memphis, Tenn.
Galveston, Tex.	Montgomery, Ala.
Greenville, S. C.	New Orleans, La.

§ 27.94 Spot markets (for certain determinations only). The following are designated as spot markets for the purpose of determining, as provided in paragraph 4863 (c) of the act, the differences above or below the contract price which the receiver shall pay for grades other than the basis grade tendered or delivered in settlement of a section 4863 contract:

(a) For cotton delivered in settlement of any such contract at delivery points on or near the Gulf of Mexico:

Dallas, Tex.	Memphis, Tenn.
Galveston, Tex.	New Orleans, La.
Houston, Tex.	

(b) For cotton delivered in settlement of any such contract at delivery points on the Atlantic coast:

Atlanta, Ga.	Memphis, Tenn.
Augusta, Ga.	Montgomery, Ala.
Charleston, S. C.	

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 for the purposes of the act, conform to section 4862 and paragraph 4863 (c) of the act and the requirements of §§ 27.96-27.102.

§ 27.96 Basis of prices in bona fide spot markets. The prices or values of Middling cotton and the differences between the prices or values of Middling cotton and of other grades of cotton in each bona fide spot market shall be based solely upon the grades of the official cotton standards of the United States and

shall be the actual commercial prices or values and differences established by the sale of spot cotton in such bona fide spot market. Such prices or values and differences shall be determined as provided in said sections of the act and §§ 27.96-27.102.

§ 27.97 Quotation committees; establishing. There shall be established and maintained in each bona fide spot market a competent quotation committee. The organization of such committee and its personnel shall be subject to the approval of the Director, and any member of such committee who for good cause is disapproved by the Director shall, after due notice, be replaced by another person acceptable for the purpose to the Director. Such committee shall impartially and carefully ascertain and publish on each business day the value of Middling cotton and the differences between the prices or values of Middling cotton and of other grades of cotton represented by the official cotton standards of the United States. The committee shall disregard any transactions which it finds were not bona fide, or were made for the purpose of influencing its action improperly, or for other good reasons do not represent truly the commercial values of spot cotton in its market. The time or times of ascertaining and publishing such prices or values and differences shall be uniform in all the bona fide spot markets and shall be fixed subject to the approval of the Director so as to carry out the purposes of section 4863 of the act. The committee shall cause its action to be communicated at once to each futures exchange and to the Cotton Division.

§ 27.98 Duties of quotation committees. Each such quotation committee shall provide itself with, or have ready access to, a full valid set of the practical forms of the official cotton standards of the United States for grade of upland cotton. Such committee, or a person authorized to act for it, shall obtain complete and satisfactory information not later than the close of business on each business day as to all sales of spot cotton since the close of the next preceding business day, including the grades, the prices or price basis, and other terms of sale in sufficient detail to enable the committee to perform its duties accurately. Such committee shall also have access to the samples representing the cotton involved in such sales. Any record of such information shall be subject to examination at any reasonable time by a duly authorized representative of the Department, and the samples of the cotton as long as they remain in the possession of any party to the transaction in such market shall also be available for such examination.

§ 27.99 Value of grade where no sale; determination. Whenever no sale of a particular grade of cotton shall have been made on a given day in a particular bona fide spot market, the value of such grade in that market on that day, which shall be used in calculating the commercial differences to be applied, pursuant to paragraph 4863 (c) of the act, in the settlement of a section 4863 contract,

shall be determined in accordance with § 27.100.

§ 27.100 *Values of grades.* (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.

§ 27.101 *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.

§ 27.102 *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 him.

SUBPART B—OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR FIBER FINENESS AND MATURITY

AUTHORITY: §§ 27.210 to 27.213 issued under sec. 4854, 68A Stat. 580; 26 U. S. C. 4854.

§ 27.210 *Standards for fiber fineness and maturity of American upland cotton.* The official cotton standards of the United States for fiber fineness and maturity of American upland cotton, for the purposes of the cotton futures legislation in the Internal Revenue Code of 1954, shall be the measure of such qualities, in combination, provided by the use of the Micronaire instrument, model 60600 (or other model used by the Department of Agriculture giving the same results) in accordance with the procedure specified in § 27.212 (subject to any changes in such procedure made by amendments of § 27.212 which do not perceptibly affect the results obtained).

§ 27.211 *Terms of designation.* The fiber fineness and maturity of any American upland cotton shall be designated by the scale reading shown on the Micronaire instrument for the specimen of the cotton, as determined under § 27.212, e. g., 4.1, 4.2, 4.3, or 4.4.

§ 27.212 *Procedure for use of Micronaire instrument.* In determining in terms of Micronaire scale units, the fiber fineness and maturity, in combination, of American upland cotton, the following procedure shall apply:

(a) Facilities and equipment shall include:

(1) Laboratory controlled atmospheric conditions of 65 percent relative humidity ± 2 and a temperature of 70° F. ± 2 .

(2) Micronaire instrument used by the Department of Agriculture, complete with accessories, including:

(i) Calibrating pressure manometer or similar device used by the Department of Agriculture.

(ii) Two calibrating orifices (one fine and one coarse).

(iii) Special scale for indicating the float position in the instrument flow tube. (Curvilinear scale for American upland cotton adopted September 1950 by the Department of Agriculture, or its equivalent.)

(iv) A continuous supply of compressed air with a minimum line pressure of 65 pounds per square inch.

(3) Scales suitable for accurately weighing 50.0 grain specimens.

(b) Calibration of the Micronaire instrument shall be performed as described in this paragraph. The instrument, which shall be set up in accordance with the manufacturer's instructions and connected to a continuous supply of compressed air with a minimum line pressure of 65 pounds per square inch, shall be checked each day before being operated, as follows:

(1) The air shall be allowed to flow through the instrument for a period of 5 minutes before calibration.

(2) The regulating valve or valves shall be adjusted to obtain proper pressures in accordance with the manufacturer's instructions.

(3) The calibration screws on the instrument shall be adjusted until the fine and coarse calibration orifices produce readings on the instrument which coincide with the lower and upper calibration lines, respectively, on the scale and at the same time maintain the proper pressure.

(c) An untreated specimen from the sample of cotton shall be tested. The specimen shall be taken from the center of both sides of each sample to be tested. The specimen shall weigh 50.0 grains, except that if the Micronaire testing is conducted under conditions other than those specified in paragraph (a) (1) of this section, the specimen shall be the equivalent in weight to a specimen weighing 50.0 grains under the conditions specified in said paragraph.

(d) Testing of the cotton specimen shall be performed as follows:

(1) The weighed specimen shall be tested in a properly calibrated instru-

ment. (See paragraph (b) of this section on calibration.)

(2) The specimen shall be inserted into the specimen holder of the instrument so that the mass of fibers is well distributed across the area of the specimen holder.

(3) The plunger shall be pushed down on the specimen until the flange of the plunger rests against the shoulder of the specimen holder and remains in contact.

(4) The air shall then be allowed to flow through the specimen in accordance with the method of operation of the instrument.

(5) The scale reading shall be determined at the uppermost edge of the float in the flow tube when the float becomes stable.

§ 27.213 *Applicability of standards for fiber fineness and maturity of American upland cotton.* The standards provided for in § 27.210 for the fiber fineness and maturity of American upland cotton shall be official cotton standards of the United States for purposes of the cotton futures legislation in the Internal Revenue Code of 1954, but not for the purposes of the United States Cotton Standards Act, as amended (7 U. S. C. 51, 52-65).

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

Subpart A—Regulations Under the United States Cotton Standards Act

DEFINITIONS

Sec.	
28.1	Meaning of words.
28.2	Terms defined.
ADMINISTRATIVE AND GENERAL	
28.3	Director.
28.4	Boards of cotton examiners.
28.5	Secretary, board of cotton examiners.
28.6	Acting secretary of board.
28.7	Chairman of board; responsibility.
28.8	Classification of cotton; determination.
28.9	Inspection; sampling; classification.

REQUESTS FOR CLASSIFICATION AND COMPARISON

28.15	Classification and comparison; requests.
28.16	Request for return of samples.
28.17	Filing of requests for classification or comparison.
28.18	One request only for classification.
28.19	Withdrawal or rejection of classification request.

DRAWING, SUBMISSION AND DISPOSITION OF SAMPLES FOR FORM A, FORM C, AND FORM D DETERMINATIONS

28.25	Drawing of samples.
28.26	Submission of samples.
28.27	Preparation of samples.
28.28	Lost or damaged samples.
28.29	Return of samples.
28.30	Samples not removed, property of Department.

CLASSIFICATION

28.35	Method of classification.
28.36	Order of classification.
28.37	Exposing of samples for classification.
28.38	Lower grade (of two samples) to determine classification.
28.39	Cotton reduced in value; effect.
28.40	Terms defined; cotton classification.

SAMPLE OR TYPE COMPARISON	
28.45	Scope of comparison; requests.
28.46	Method of submitting samples and types.
28.47	Statement of finding of board in comparisons.
CERTIFICATES AND MEMORANDA	
28.55	Issuance of memoranda and certificates.
28.56	Form A and Form D memoranda.
28.57	Form C certificate.
28.58	New memorandum or certificate; issuance.
28.59	Lost memorandum or certificate may be replaced by duplicate.
28.60	Surrender of memoranda or certificates.
REVIEWS	
28.65	Provisions for reviews.
28.66	Review procedure.
28.67	Review of licensed classer's certificate.
28.68	Withdrawal of application for review.
LICENSED CLASSERS	
28.80	Applications for licenses to classify cotton.
28.81	Examination of applicant.
28.82	Examination; scope of "limited license."
28.83	Examination of licensees.
28.84	Period of license.
28.85	Conditions as to licensing of classer.
28.86	Fee for classifying cotton.
28.87	Copies of class certificates; retention period; other requirements.
28.88	Supervisory samples and reports.
28.89	Information of violations.
28.90	Suspension of license.
28.91	Suspended license to be returned to Division.
28.92	Hearings granted licensees.
28.93	Lost license may be duplicated.
28.94	Classer; misrepresentation.
28.95	Class certificate; form.
28.96	Certificate by licensed classer not final.
28.98	Review of classification.
PRACTICAL FORMS OF COTTON STANDARDS	
28.105	Practical forms of cotton standards.
28.106	Universal cotton standards.
28.107	Containers of "original" cotton standards; where kept; reserve sets.
FEES AND COSTS	
28.115	Fees and costs; payment.
28.116	Amounts of fees for classification; exemption.
28.117	Fee for new memorandum or certificate.
28.118	When no fee collected for new certificate or memorandum.
28.119	Fee when request for classification is withdrawn.
28.120	Expenses to be borne by party requesting classification.
28.121	Advance deposits.
28.122	Fee for examination of applicant for license; renewals.
28.123	Costs of practical forms of cotton standards.
28.124	Payments; procedure.
28.125	No voiding or modifying claims for payment.
28.126	Loaning of forms and exhibits.
UNITED STATES COTTON LINTERS	
28.136	Applicability of other sections of regulations.
28.137	Boards of cotton linters examiners.
28.138	Classification and comparison; requests, memorandums and certificates.
28.139	Filing of requests.
28.140	Samples; weight; drawing.
28.141	Inspection of bales for special conditions.
28.142	Submission of samples.

Sec.	
28.143	Method of classification.
28.144	Samples falling between grades or staples.
28.145	Terms defined; linters classification.
28.146	Reviews.
28.147	Licensed classers.
28.148	Fees and costs; classification; reviews; other.
28.149	Fees and costs; Form C determinations.
28.150	Fee; licenses; renewals.
28.151	Cost of practical forms; period effective.
ADJUSTMENT OF CONTRACT DISPUTES	
28.160	Cotton examiners on foreign exchanges.
28.161	Disputes involving contracts for shipment of cotton from United States.
28.162	Procedure.
PUBLICATIONS	
28.165	Publication media.
Subpart B—Classification for Foreign Growth Cotton and Cotton Linters	
28.175	Administrative and general.
28.176	Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.
28.177	Requests for classification and comparison of cotton.
28.178	Submission of cotton samples.
28.179	Methods of cotton classification and comparison.
28.180	Issuance of cotton classification memoranda.
28.181	Review of cotton classification.
28.182	Surrender of memoranda.
28.183	Fees and costs; payment.
28.184	Cotton linters; general.
Subpart C—Standards	
OFFICIAL COTTON LINTERS STANDARDS OF THE UNITED STATES FOR GRADE	
28.201	Grade 1.
28.202	Grade 2.
28.203	Grade 3.
28.204	Grade 4.
28.205	Grade 5.
28.206	Grade 6.
28.207	Grade 7.
28.208	Chemical Grade.
OFFICIAL COTTON LINTERS STANDARDS OF UNITED STATES FOR STAPLE	
28.215	Staple 1.
28.216	Staple 2.
28.217	Staple 3.
28.218	Staple 4.
28.219	Staple 5.
28.220	Staple 6.
28.221	Staple 7.
28.222	Below 7 staple.
OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR LENGTH OF STAPLE	
28.301	Measurement; humidity; temperature.
28.302	Terms of designation.
28.303	Original representations of staple lengths.
28.304	Over $1\frac{1}{16}$ inch staple.
28.305	Bale of different staple lengths.
OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF AMERICAN UPLAND COTTON	
White Cotton	
28.401	Strict Good Middling.
28.402	Good Middling.
28.403	Strict Middling.
28.404	Middling.
28.405	Strict Low Middling.
28.406	Low Middling.
28.407	Strict Good Ordinary.
28.408	Good Ordinary.

Sec.	
Spotted Cotton	
28.409	Good Middling Spotted.
28.410	Strict Middling Spotted.
28.411	Middling Spotted.
28.412	Strict Low Middling Spotted.
28.413	Low Middling Spotted.
Tinged Cotton	
28.414	Good Middling Tinged.
28.415	Strict Middling Tinged.
28.416	Middling Tinged.
28.417	Strict Low Middling Tinged.
28.418	Low Middling Tinged.
Yellow Stained Cotton	
28.419	Good Middling Yellow Stained.
28.420	Strict Middling Yellow Stained.
28.421	Middling Yellow Stained.
Gray Cotton	
28.422	Good Middling Gray.
28.423	Strict Middling Gray.
28.424	Middling Gray.
28.425	Strict Low Middling Gray.
General	
28.426	General.
28.427	Alternate title for standards.
OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF AMERICAN EGYPTIAN COTTON	
28.501	Grade No. 1.
28.502	Grade No. 2.
28.503	Grade No. 3.
28.504	Grade No. 4.
28.505	Grade No. 5.
28.506	Grade No. 6.
28.507	Grade No. 7.
28.508	Grade No. 8.
28.509	Grade No. 9.
28.510	Grade No. 10.
OFFICIAL STANDARDS OF THE UNITED STATES FOR THE GRADES OF SEA ISLAND COTTON	
28.551	Grade 1.
28.552	Grade 2.
28.553	Grade 3.
28.554	Grade 4.
28.555	Grade 5.
28.556	Grade 6.
28.557	Intermediate grades.
28.558	Below Grade 6.
28.559	Extraneous matter.
28.560	Permissive use.
TENTATIVE STANDARDS FOR THE PREPARATION OF LONG-STAPLE COTTON	
28.591	Set of samples; Grade No. 4.
28.592	Set of samples; Grade No. 5.
28.593	Set of samples; Grade No. 6.
28.594	Long-staple cotton; definition.
Subpart D—Cotton Classification and Market News Services for Organized Groups of Producers	
DEFINITIONS	
28.901	Definitions.
ADMINISTRATION	
28.902	Director.
CLASSIFICATION AND MARKET NEWS SERVICES	
28.903	Classification of samples.
28.904	Market news.
ORGANIZED GROUPS	
28.905	Organized groups.
SAMPLING	
28.906	Approval and bonding of samplers.
28.907	Responsibilities of sampling agents.
28.908	Samples.
28.909	Costs.
CLASSIFICATION	
28.910	Classification of samples.

APPLICATIONS

- Sec.
 28.911 Application forms.
 28.912 Contents of application.
 28.913 Time limitation.
 28.914 Rejection.
 28.915 Authority.
 28.916 Withdrawal.
 28.917 Renewal.
 28.918 Expenses.

LIMITATION OF SERVICES

- 28.919 Limitation of services.

Subpart E—Cotton Fiber and Processing Tests

DEFINITIONS

- 28.950 Terms defined.

ADMINISTRATION

- 28.951 Director.

FIBER AND PROCESSING TESTS

- 28.952 Testing of samples.
 28.953 Requirements as to samples.
 28.954 Costs of submitting samples.
 28.955 Disposition of samples.
 28.956 Prescribed fees.
 28.957 Fees for special tests.
 28.958 Payment of fees.
 28.959 Limitation of testing services.
 28.960 Confidential information.
 28.961 False and misleading information.

SUBPART A—REGULATIONS UNDER THE UNITED STATES COTTON STANDARDS ACT

AUTHORITY: §§ 28.1 to 28.165 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61.

DEFINITIONS

§ 28.1 *Meaning of words.* Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 28.2 *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 Standards Act, approved March 4, 1923 (42 Stat. 1517; 7 U. S. C. 51 et seq.) with such amendments as may be made from time to time.

(b) *Regulations.* Regulations mean the provisions in this subpart.

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

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

(e) *Service.* The Agricultural Marketing Service of the United States Department of Agriculture.

(f) *Administrator.* The Administrator of the Agricultural Marketing 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 his stead.

(g) *Division.* The Cotton Division of the Agricultural Marketing Service.

(h) *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 his stead.

(i) *Board.* Board of cotton examiners.

(j) *Cotton examiner.* An officer of the Department so designated by the Director.

(k) *License.* A license issued under the act by the Secretary.

(l) *Licensed classifier.* A person licensed under the act by the Secretary to classify cotton according to the official cotton standards of the United States and to certificate the classification of the same.

(m) *Cotton.* The word "cotton" as used in the act means cotton of any variety produced within the continental United States, including linters. In this subpart, for administrative convenience, the word "cotton" is used to signify vegetable hair removed from cottonseed in the usual process of ginning, and the word "linters" as defined in paragraph (n) of this section.

(n) *Linters.* Vegetable hair removed from cottonseed subsequent to the usual process of ginning.

(o) *Upland cotton.* All cotton grown anywhere within the continental United States including the growths sometimes referred to as Upland, Gulf, and Texas cotton, but excluding the Sea Island and American Egyptian growths.

(p) *Official cotton standards.* Official cotton standards of the United States for the grade of American upland cotton, American Egyptian cotton, and Sea Island cotton, and for length of staple, adopted by or established pursuant to the act, or any change or replacement thereof.

(q) *Universal standards.* The official cotton standards of the United States for the grade of American upland cotton.

(r) *Person.* Individual, association, partnership, or corporation, or two or more individuals having a joint or common interest.

(s) *Owner.* Person who through financial interest, owns, controls, or has the disposition either of cotton or of samples.

(t) *Custodian.* Person who has possession or control of cotton or of samples, as agent, controller, broker, or factor, as the case may be.

(u) *State.* A State, Territory, or district of the United States.

ADMINISTRATIVE AND GENERAL

§ 28.3 *Director.* The Director shall perform for and under the supervision of the Secretary and the Administrator, such duties as the Secretary or the Administrator may require in enforcing the provisions of the act and the regulations issued thereunder.

§ 28.4 *Boards of cotton examiners.* Boards of cotton examiners shall be maintained at points designated for the purpose by the Administrator. A board of supervising cotton examiners shall be constituted for duty as assigned; and an Appeal Board of Review Examiners shall be constituted to which may be referred requests for the review of the classification and/or comparison of cotton performed by other boards appointed in accordance with this section. The Appeal Board of Review Examiners shall be located at Memphis, Tennessee, except when the Director shall require that committees of the board meet to perform its functions elsewhere. The mem-

bers of all boards and the chairman of each shall be designated for the purpose by the Director.

§ 28.5 *Secretary, board of cotton examiners.* The Director shall designate a secretary for each board. It shall be the duty of the secretary of the board to receive all correspondence relating to the classification of cotton under the act and to see that all samples are prepared for classification and/or comparison in such manner that the name of the owner and/or the custodian shall be unknown to the members of the board, who are detailed to classify or compare the cotton, until after the samples are classified.

§ 28.6 *Acting secretary of board.* In the event of the absence or incapacity of the secretary of the board the chairman of the board shall designate temporarily an acting secretary of the board in his stead. Any person thus designated shall be thereby disqualified to act as a member of the board in the classification of cotton during the term of such temporary appointment.

§ 28.7 *Chairman of board; responsibility.* Subject to this subpart and the instructions of the Director, the chairman of each board shall be responsible for the proper performance of the duties imposed on such board and on the persons connected therewith.

§ 28.8 *Classification of cotton; determination.* For the purposes of the act, the classification and comparison of any cotton, samples, or types submitted to the Department shall be determined or made only by cotton examiners properly qualified and designated as such by the Director, and the certificate of a board of cotton examiners with respect to any cotton shall be deemed to be the certificate of the Department.

§ 28.9 *Inspection; sampling; classification.* The inspection, sampling, and classification of cotton and cotton linters in the United States pursuant to the act shall be performed as prescribed in this subpart. Subject in general to the provisions of this subpart the Director may issue from time to time instructions for the sampling, classification, and issuance of classification memoranda for cotton or cotton linters classed for special programs and other Government agencies, including the review of any classification performed pursuant to §§ 28.901 through 28.919.

REQUESTS FOR CLASSIFICATION AND COMPARISON

§ 28.15 *Classification and comparison; requests.* All requests for classification and comparison shall be in writing on a form supplied by the Division and shall contain such information as the Director may require. For each lot or mark of cotton which the applicant desires classified or compared separately he shall specify which of the following forms of service is desired:

(a) *Form A determination.* The classification or comparison of samples freshly drawn and submitted to a board of cotton examiners direct from a public warehouse, at the request of the owner

of the cotton or his agent. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in § 28.66.

(b) *Form C determination.* The classification of bales of cotton inspected and sampled under the supervision of an employee of the Division. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in § 28.66.

(c) *Form D determination.* The classification or comparison of samples submitted by the owner of the cotton or his agent. Such classification or comparison shall be evidenced by a Form D memorandum which shall be subject to review as provided in § 28.66.

§ 28.16 *Request for return of samples.* Any applicant desiring return of the samples after classification or comparison is completed, at his expense, shall indicate this service on the form used for requesting such classification or comparison.

§ 28.17 *Filing of requests for classification or comparison.* All requests for classification or comparison leading to Form A memoranda and Form C certificates shall be filed with the secretary of the board which serves the territory in which the cotton is located. All requests for classification or comparison leading to Form D memoranda shall be filed with the secretary of the board which serves the territory in which the samples are located. Samples which are submitted to any board for classification or comparison may be referred by such board to another board for classification or comparison.

§ 28.18 *One request only for classification.* Not more than one request each for a Form A determination, or a Form C determination, or a Form D determination of the same cotton, except a request for a review determination, shall be filed by the same owner within any 30-day period. Any subsequent request shall be accompanied by redrawn samples and the chairman of the board may require that any Form A or Form D memoranda, Form C certificates, or other classification data previously issued by a board with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

§ 28.19 *Withdrawal or rejection of classification request.* Any classification request may be withdrawn by the applicant at any time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in these regulations. Any classification request may be rejected by the chairman of the board or the Director for noncompliance with the act or this subpart.

DRAWING, SUBMISSION AND DISPOSITION OF SAMPLES FOR FORM A, FORM C, AND FORM D DETERMINATIONS

§ 28.25 *Drawing of samples.* (a) Each sample to be submitted for Form A, C, or D determination shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side

of the bale. Each sample must be representative of the bale from which drawn. 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 sample or set of samples which does not meet these requirements may be rejected by the chairman of a board.

(b) Samples to be submitted for Form A determination shall be drawn under the supervision of a public warehouseman and shall be delivered immediately to the secretary of the board by such warehouseman. The samples shall not be handled by any person other than the sampling agent prior to shipment or delivery to the secretary of the board.

(c) Samples to be submitted for Form C determination shall be drawn under the supervision of a Division employee who shall retain custody or control of the samples until they are shipped or delivered to the secretary of the board.

§ 28.26 *Submission of samples.* Samples of cotton submitted to a board of cotton examiners for classification and/or comparison shall be delivered to the secretary of the board with which the request was filed, as soon as possible after the filing of such request. All transportation charges incident to the submission of samples for Form A, Form C, and Form D determinations shall be prepaid by the person making the request or his agent.

§ 28.27 *Preparation of samples.* For each sample to be submitted for classification a tag or coupon showing the bale number from which the sample was drawn shall be inserted between the two halves of the sample. The samples shall be enclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples contained in each wrapper, and such other information as may be necessary in accordance with the instructions of the chairman of the board or of the Director. Each sample of sandy or dusty cotton shall be enclosed in a separate wrapper.

§ 28.28 *Lost or damaged samples.* If any samples are lost, damaged, or mutilated, or are received in packages arriving in a condition which may be considered to alter the representative character of the sample, the secretary of the board shall note all the facts, including the number of missing samples and the tag numbers identifying the samples received, and shall so inform the person who made the request.

§ 28.29 *Return of samples.* When so stipulated in the classification request for a Form A, C, or D determination, the samples submitted shall be returned to the person making the request, at his expense, at the time the memorandum is issued or when the request for classification is withdrawn or rejected.

§ 28.30 *Samples not removed, property of Department.* Samples not removed in accordance with this subpart and loose cotton separated from samples

in the handling and classification thereof shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

CLASSIFICATION

§ 28.35 *Method of classification.* All cotton samples shall be classified on the basis of the official cotton standards of the United States in effect at the time of classification.

§ 28.36 *Order of classification.* All samples for which classification requests are pending shall be classified, as far as practicable, in the order in which the samples are delivered for classification. When in the opinion of the chairman of the board an emergency exists, he shall designate which samples will be given priority in classification.

§ 28.37 *Exposing of samples for classification.* Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the judgement of the chairman shall be sufficient to put them in proper condition for the purpose.

§ 28.38 *Lower grade (of two samples) to determine classification.* If a sample drawn from one portion of a bale is lower in grade or shorter in length 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 grade or shorter length.

§ 28.39 *Cotton reduced in value; effect.* If cotton be reduced in value, by reason of the presence of extraneous matter of any character or irregularities or defects below its grade or below its apparent length of staple according to the official cotton standards of the United States, the grade or length of staple from which it is so reduced, and the grade or length of staple to which it is so reduced, and the quality or condition which so reduces its value shall be determined and stated.

§ 28.40 *Terms defined; cotton classification.* For the purposes of classification of any cotton or of its comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has had 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) *Cotton of immature staple.* Cotton that has been picked and baled before the fiber has reached a normal state of maturity, resulting in a weakened staple of inferior value.

(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.

(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 samples drawn therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color gradations, or (3) a difference of two or more grades and two or more color gradations, or (4) a difference in length of staple of one-eighth inch or more.

(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.

SAMPLE OR TYPE COMPARISON

§ 28.45 *Scope of comparison; requests.* A comparison of cotton samples with a type may be requested with respect to grade, or to staple, including any of the component qualities embodied in the grade, or to all these factors. The classification of the type and the samples in accordance with the official cotton standards of the United States may also be requested. The applicant must specify in his written request the scope of service he desires.

§ 28.46 *Method of submitting samples and types.* The method of submitting samples and types for comparison shall be the same as that prescribed in this subpart for submitting samples for classification.

§ 28.47 *Statement of finding of board in comparisons.* For each quality factor (grade, staple, etc.) of the samples that the applicant has requested to be compared to the type, the board shall state in its findings whether such quality factor for each sample is "better," "equal," or "deficient" in comparison with the type. When appropriate, the findings of the board may also show the amount of difference in grade and in length between the sample and the type as measured by the official cotton standards of the United States, and other explanatory notations as needed.

CERTIFICATES AND MEMORANDA

§ 28.55 *Issuance of memoranda and certificates.* As soon as practicable after the classification of cotton has been completed by a board of cotton examiners, there shall be issued a cotton class memorandum or certificate of the appropriate kind showing the results of such classification. Upon request from an applicant, classification results may

be issued in preliminary form on record sheets.

§ 28.56 *Form A and Form D memoranda.* (a) When a classification and/or comparison has been made of any samples submitted to a board of cotton examiners direct from a public warehouse, the results of such classification and/or comparison may be stated in a Form A memorandum.

(b) When a classification and/or comparison has been made of any samples submitted by the owner of the cotton or his agent, the results of such classification and/or comparison may be stated in a Form D memorandum.

(c) Form A and Form D memoranda shall not be deemed to be final certificates within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54).

§ 28.57 *Form C certificate.* When classification has been made of cotton inspected and sampled under supervision of a Division employee there shall be issued a cotton class certificate known as a Form C certificate. Each Form C certificate shall show the true classification of the cotton in the respects specified in the request. Such certificate, when it has been once reviewed in accordance with § 28.66, shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54), in all cases except when superseded by a certificate or award made as provided in § 28.161.

§ 28.58 *New memorandum or certificate; issuance.* Upon the written request of a holder of a cotton class memorandum or certificate issued under this subpart, a new memorandum or certificate shall be issued, without the reclassification of the cotton, to take the place of the former memorandum or certificate for any cotton covered thereby, when necessary on account of the breaking or splitting of a lot or otherwise for the business convenience of such holder. In any case where a new memorandum or certificate is requested in accordance with this section the former memorandum or certificate shall be surrendered for cancellation, and such new memorandum or certificate shall bear a new number and the date of its issuance and the date of original classification and shall otherwise comply with this subpart.

§ 28.59 *Lost memorandum or certificate may be replaced by duplicate.* Upon the written request of the last holder of a valid Form A or Form D memorandum, or Form C certificate and a showing to the satisfaction of the chairman of the board which issued such memorandum or certificate that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new memorandum or certificate shall be issued without the reclassification of the cotton. Such new memorandum or certificate shall bear the same number and date of issuance as the lost or destroyed memorandum or 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.

§ 28.60 *Surrender of memoranda or certificates.* For good cause any memorandum or certificate issued under this subpart shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Director. A new memorandum or certificate complying with this subpart may be issued in substitution therefor. If such memorandum or certificate be not surrendered upon such request, it shall nevertheless be invalid for the purposes of the act and this subpart.

REVIEWS

§ 28.65 *Provisions for reviews.* Reviews of classifications or comparisons represented by Form A or D memoranda or Form C certificates shall be governed by § 28.66.

§ 28.66 *Review procedure.* A review of any Form A, C, or D determination may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such review shall cover all of the quality factors for which the original determination was made. Requests for reviews of Form A or D determinations may be filed with, and the review made by, the board which issued such memorandum or the Appeal Board of Review Examiners. Requests for reviews of Form C determinations shall be filed with, and the reviews made by, the Appeal Board of Review Examiners. Redrawn samples shall be required for reviews of Form A and Form C determinations except in cases where the original samples have remained, identity preserved, in the custody of the Division. When redrawn samples are necessary, they shall be drawn and submitted as prescribed in this subpart. As evidence of a review determination, a Form A or D memorandum or Form C certificate appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The applicant may be required by the board or Appeal Board issuing such review determination to surrender the original classification memorandum or certificate. In any event the review determination shall supersede and invalidate the original determination.

§ 28.67 *Review of licensed classifier's certificate.* In case a review is desired of the classification of any cotton represented in a certificate issued by a licensed classifier, the procedure shall be as provided in § 28.98.

§ 28.68 *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 prescribed in this subpart.

LICENSED CLASSERS

§ 28.80 *Applications for licenses to classify cotton.* (a) Applications for licenses to classify cotton under section 3 of the act (42 Stat. 1517; 7 U. S. C. 53) shall be made to the Director on forms furnished by the Division.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he has passed his 21st birthday and that he is an actual resident of the continental United States, (2) satisfactory evidence of his training and experience in the actual classification of cotton, (3) a statement of the standards for cotton for the classification of which a license is desired, (4) a statement by the applicant that he agrees to comply with and abide by the terms of the act and this subpart so far as they may relate to him, and (5) such other information as may be required.

(c) The applicant shall furnish with his application a statement of the reasons he desires and needs a license.

§ 28.81 Examination of applicant. Each applicant for a license as a classer and each licensed classer shall, when requested by the Director submit to an examination or test to show his ability to classify cotton, and each applicant who already holds a license under the act shall make available for inspection copies of the standards for classification used or to be used by him. An applicant who fails in an examination may be denied immediate reexamination.

§ 28.82 Examination; scope of "limited license." Examinations of applicants for licenses shall cover the classification of cotton in accordance with any or all of the standards listed below:

(a) The official cotton standards of the United States for grades and for all lengths of staple of American upland cotton.

(b) The official cotton standards of the United States for the grades of American upland cotton and for staple lengths not exceeding 1½ inches.

(c) The official cotton standards of the United States for grades and staple lengths of American Egyptian cotton.

(d) The official cotton standards of the United States for grades and staple lengths of Sea Island cotton.

Each license under the act and each identification card shall specify the standards with respect to which it is issued. Any license which merely authorizes the licensee to determine the grade of American upland cotton and staple lengths not exceeding 1½ inches shall be conspicuously marked "Limited License."

§ 28.83 Examination of licensees. Examination of licensees, when required, shall cover the classification of cotton with respect to any or all of the standards specified in their licenses. In addition any licensee who makes the necessary application and pays the fee specified in this subpart may be examined and licensed with respect to the classification of cotton according to any of the foregoing standards for which he does not already hold a license.

§ 28.84 Period of license. The period for which a license may be issued shall be from the first day of August until and including the thirty-first day of July following. Renewals shall be for not more than 1 year beginning with the

first day of August of each year: *Provided*, That licenses issued on and after June 1 of each year shall be for the period ending on July 31 of the following year.

§ 28.85 Conditions as to licensing of classer. (a) It shall be a condition of the licensing of any cotton classer under this subpart and of the retention by him of a license, that he shall be actively engaged in the classification of cotton; that all cotton classified by him shall be graded and stapled in accordance with the official cotton standards of the United States; that his sample and type comparisons, if any, shall be truly and accurately made; that he shall not use his license or allow the same to be used for any improper purpose; and that he shall comply with the act and with the regulations in this subpart.

(b) It shall be a condition of the renewal of the license of any licensed cotton classer who has not issued any licensed classer's certificates in the three years immediately preceding his application for renewal that he take and satisfactorily pass the practical classing examination required for initial issuance of a license. When such re-examination is required, the applicant for renewal shall be required to pay the fee prescribed in this subpart for examination and issuance of a license.

§ 28.86 Fee for classifying cotton. Whenever any classer licensed under the act in accordance with this subpart shall classify and/or certificate any cotton or samples in consideration of a stated fee, the fee charged shall be reasonable.

§ 28.87 Copies of class certificates; retention period; other requirements. Each licensed classer shall keep for 1 year after date of issuance in a place accessible to interested persons a copy of each certificate issued by him as a licensed classer under this subpart. The Director may require that a copy of each such certificate be forwarded to a supervising office of the Division designated by him immediately after issuance of the certificate. Each licensed cotton classer who places his certificate of classification directly on warehouse receipts, weight certificates, or on other documents approved by the Director for showing such certificate of classification shall keep for 1 year after date of classification a record listing each individual bale or sample classified by him in his capacity as a licensed classer. Such record shall show the bale number, grade, length of staple, or other class of each bale or sample, and date classed. A copy of the record shall be mailed weekly to the supervising office of the Service designated by the Director.

§ 28.88 Supervisory samples and reports. The Director may require each licensed classer to submit supervisory samples to a supervising office of the Division in accordance with instructions furnished to licensed classers from time to time. Any such samples submitted to the Division shall become the property of the Government and be disposed of in accordance with law and applicable regulations unless the licensee requests return of the samples at his expense.

The Director may also require each licensed classer to make reports on forms furnished by the Division, or otherwise, bearing upon his activities as such licensed classer.

§ 28.89 Information of violations. Every person licensed under the act shall immediately furnish the Director any information which comes to the knowledge of such person tending to show that any provision of the act or this subpart has been violated.

§ 28.90 Suspension of license. Pending investigation the Secretary or an authorized official of the Department may, whenever he deems necessary, suspend the license of a licensed classer temporarily without hearing. Whenever a licensed classer shall voluntarily surrender his license for suspension or cancellation the same may be suspended or canceled by the Secretary or an authorized official of the Department without a hearing. The Secretary, or an authorized official of the Department may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or cancel a license issued to a licensed classer when such licensed classer (a) has ceased to perform services as such classer, (b) has knowingly or carelessly classified cotton improperly, (c) has violated or evaded any provisions of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of such licensed classer. Before the license of any licensed classer is finally suspended or revoked pursuant to section 3 of the act (42 Stat. 1517; 7 U. S. C. 53), such licensed classer shall be furnished by the Secretary, or by an authorized official of the Department, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be accorded if requested in accordance with § 28.92.

§ 28.91 Suspended license to be returned to Division. If a license issued to a licensed classer is suspended, revoked, or canceled, such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed classer to whom it was originally issued.

§ 28.92 Hearings granted licensees. For the purpose of a hearing under the act or this subpart, the licensee involved shall be allowed a reasonable time, fixed by the Secretary or by an authorized official of the Department, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before and at the time and place fixed by the Secretary or an authorized official of the Department. The testimony of the witnesses at such oral hearing shall be upon oath or af-

firmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a designated time and place and before an authorized official of the Department. Every written entry in the records of the Department made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department. Such records, and when there has been an oral hearing the recommendation of the official holding such oral hearing, shall be transmitted to the Secretary or an authorized official of the Department for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

§ 28.93 *Lost license may be duplicated.* Upon satisfactory proof of the loss or destruction of a license issued to a licensed classer, a duplicate thereof may be issued under the same or a new number, in the discretion of the Director.

§ 28.94 *Classer; misrepresentation.* No person shall in any way represent himself to be a classer licensed under the act unless he holds an unsuspended, unrevoked, unexpired, and uncanceled license issued under the act.

§ 28.95 *Class certificate; form.* Each class certificate issued under the act by a licensed classer shall be in a form approved for the purpose by the Director and shall embody within its written or printed terms:

(a) The caption "Licensed Cotton Classer's Certificate."

(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) That the certificate is issued by a classer licensed under the United States Cotton Standards Act and this subpart.

(e) A list of the standards with respect to which the classer is licensed.

(f) The exact location of the cotton at the time of classification.

(g) A statement in accordance with the facts in each case, either (1) that the classer has drawn or supervised the drawing of the samples upon which his classification is based, or (2) that the samples were submitted to the classer by another person, in which case the name and address of such person shall be stated.

(h) The identification of each bale of cotton by the tag number or mark by which the bale was identified at the time the sample was taken.

(i) The grade, length of staple, or other class of each bale or sample of cotton covered thereby.

(j) The signature of the licensed classer.

§ 28.96 *Certificate by licensed classer not final.* A certificate issued by a li-

censed classer shall in no case be deemed a final certificate within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54). The certificate or memorandum of a board of cotton examiners covering any cotton represented in a licensed cotton classer's certificate shall at once invalidate and supersede a licensed classer's certificate as to such classification.

§ 28.98 *Review of classification.* In case a review is desired of the classification of any cotton represented in a valid certificate issued by a licensed classer as provided in this subpart, the holder of such certificate shall surrender the same, together with samples of the cotton, to a board and receive in its stead a certificate signed by the chairman of such board. The certificate of the board issued in lieu of the licensed classer's certificate in accordance with this section shall be subject to review by the Appeal Board of Review Examiners, provided a review would have been granted if the classification had been performed originally by a board.

PRACTICAL FORMS OF COTTON STANDARDS

§ 28.105 *Practical forms of cotton standards.* (a) Practical forms of the cotton standards of the United States prepared in physical form, each certified under the seal of the United States Department of Agriculture and under the signature of the Secretary, thereto affixed by himself or by some other official or employee of the Department duly authorized by him, and in the case of the standards for grade accompanied by photographs representing the cotton in such practical forms on the date of certification, are available for sale to any person requesting the same, subject to the other conditions of this section.

(b) Each application for practical forms of the cotton standards shall be upon an application form furnished by the Division, shall be signed by the applicant, and shall incorporate the following conditions:

(1) That no practical form of any of the cotton standards for grade, or the 6-sample guide boxes for the grade of American upland cotton shall be considered or used as representing such standards after the date of its cancellation in accordance with this section or in any event after the expiration of 12 months following the date of its certification: *Provided*, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

(2) That said practical forms and the photographs accompanying them shall be subject to inspection on any business day, between the hours of 9 a. m. and 4 p. m., by the Secretary or by an officer or agent of the Department authorized by him for the purpose.

(3) That the signature of the Secretary certifying to any practical form, or any photograph of said practical form accompanying the same, or both, may be cancelled if it be found, upon such inspection, either that any of said forms

for any reason misrepresents the cotton standards or that any such photograph has been altered or mutilated.

§ 28.106 *Universal cotton standards.* Whenever any of the official cotton standards shall have been adopted as universal standards by an association or exchange located in a country other than the United States, the name of such association or exchange may be shown on the outside of the box or container.

§ 28.107 *Containers of "original" cotton standards; where kept; reserve sets.* (a) The containers of the original universal standards and other official cotton standards of the United States currently adopted, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishment, wrapped, and sealed with wax seals. When so marked, wrapped, and sealed they shall be deposited in a suitable vault or in a steel safe or safes, which safe or safes shall be kept sealed with an imprinted seal. Such containers shall remain in the custody of the Director until the original standards contained therein are superseded by new or revised standards. The dies used to seal the first reserve set of the universal standards shall be deposited in the Treasury of the United States subject to the order of the Secretary of Agriculture; those used to seal the other official cotton standards of the United States shall remain in the custody of the Director. Such safes shall be sealed in the presence of the General Counsel of the Department and the Director, or of persons temporarily acting in their stead, and shall thereafter be opened only in the presence of the same.

(b) At each Universal Cotton Standards Conference held for approving key copies of the universal standards there shall be prepared two full sets of practical forms of copies of the universal standards for grades of American upland cotton, which shall be known as "reserve sets" and which, upon the certification and recommendation of qualified experts, shall be certified by such experts as true copies of the currently adopted standards as and when established. Such reserve sets shall be enclosed in metal-lined cases, likewise sealed in the presence of the General Counsel of the Department and the Director, or of persons temporarily acting in their stead. One such set, to be known as the "first reserve set," shall then be delivered to agents of the Treasury Department of the United States to be deposited in the United States Treasury, and the other, to be known as the "second reserve set," shall be deposited in the vaults of the Division in the immediate control and custody of the Director. Such reserve sets shall remain so deposited until such time as they shall be required for examination, reproduction, and use, as set forth in paragraph (c) of this section. When so required they shall be withdrawn only upon the order of the Secretary or of the person temporarily acting in his stead. The seals upon the cases and containers of the practical forms shall be broken only in the presence of the Gen-

eral Counsel and the Director, or persons temporarily acting in their stead, and experts qualified in the classification of American upland cotton authorized to be present.

(c) As soon as practicable after the opening, as provided in paragraph (b) of this section, of the first reserve set, two new reserve sets shall be prepared by comparison with the first reserve set, which shall be taken to represent so far as possible the currently adopted standards as and when established, and which shall, in turn, be numbered, incased, sealed, and stored in the manner prescribed in paragraph (b) of this section. The first reserve set of the preceding 3-year period shall then be again sealed and shall remain in the custody of the Director. If, upon the opening and examination of the first reserve set as herein provided, it shall appear that such set has undergone any substantial change, the second reserve set shall, for the purposes of this paragraph, be used in its stead. The first and second reserve sets of each 3-year period shall be retained by the Division until the currently adopted standards which they represent have been superseded by new or revised standards.

FEEES AND COSTS

§ 28.115 *Fees and costs; payment.* All charges for practical forms of cotton standards and all fees and expenses for services of inspection of bales and supervision of sampling, classification, comparison, or review by a board of examiners shall be paid at the time of filing the request for the service desired, except that in the discretion of the Director bills may be delivered to persons from whom payment for charges or fees may become due. Such bills shall be rendered as soon as practicable after the last day of each month for amounts due and unpaid on such dates. When necessary, in the discretion of the chairman of the board, any bill may be rendered at an earlier date for any charges or fees then due from the person to whom such bill may 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 the expiration of 2 weeks thereafter.

§ 28.116 *Amounts of fees for classification; exemption.* (a) For the classification and certification of any cotton or samples or for the review of a licensed cotton classer's certificate, the person requesting the classification or review shall pay a fee, as follows, subject to the minimum fee provided in paragraph (d) of this section:

- (1) If the classification is with respect to grade only, at the rate of 25 cents a sample.
- (2) If the classification is with respect to staple only, at the rate of 25 cents a sample.
- (3) If the classification is with respect to any other single quality, at the rate of 25 cents a sample.

(4) In other cases where the classification is with respect to two or more of the qualities specified in subparagraphs (1), (2), or (3) of this paragraph at the rate of 25 cents a sample.

(b) When a comparison is requested of any samples with a type or with other samples, the fees prescribed in paragraph (a) of this section shall apply to every sample involved, including each of the samples of which the type is composed.

(c) For any review of the classification or comparison of any cotton, the fee shall be 25 cents per sample, regardless of the number of quality factors involved in the review.

(d) A minimum fee of \$3.00 shall be assessed for services described in paragraphs (a), (b), and (c) of this section for each lot or mark of cotton reported or handled separately, unless the request for service is so worded that the samples become Government property immediately after classification.

(e) The fees provided for in paragraphs (a) and (b) of this section may be waived in whole or in part, as to the classification and comparison and the review, if any, of any cotton (1) for any governmental agency; (2) to facilitate a cotton program of any governmental agency, and (3) for a charitable or philanthropic organization if such cotton will be used in accordance with an act of Congress or a congressional resolution for the relief of distress or will be exchanged for goods to be so used. The samples accumulated in the classification or certification of cotton for a governmental agency or to facilitate a cotton program of any governmental agency shall be disposed of as required by such agency.

§ 28.117 *Fee for new memorandum or certificate.* For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of 25 cents when the number of bales covered by the new memorandum or certificate is 10 or less, or a fee of 50 cents per sheet when the number of bales covered by such memorandum or certificate is more than 10.

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

§ 28.119 *Fee when request for classification is withdrawn.* When the request for the classification or comparison of any cotton or an application for review shall be withdrawn after the classification of such cotton has been started pursuant thereto, the person filing the same shall pay the prescribed fee as to any such cotton already classified.

§ 28.120 *Expenses to be borne by party requesting classification.* For any samples submitted for Form A or Form D determinations, the expense of inspection and sampling, the preparation of the samples, and the delivery of such sam-

ples to the classification room of the board or other place specifically designated for the purpose by the Director or by the chairman of such board, shall be borne by the party requesting the classification. For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$3 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.121 *Advance deposits.* Upon request, 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 of the Division requesting the same.

§ 28.122 *Fee for examination of applicant for license; renewals.* For the practical classing examination of an applicant for a license to classify cotton in accordance with this subpart, the fee shall be \$50.00, but no additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. For each renewal of a classer's license the fee shall be \$25.00. The fee for the practical classing examination for persons not desiring a license shall be \$40.00. Any such person who passes the examination may be issued a certificate indicating this accomplishment.

§ 28.123 *Costs of practical forms of cotton standards.* The cost of practical forms of the cotton standards of the United States shall be as follows:

	Domestic shipments f. o. b. Washington	Shipments delivered outside the Continental United States
<i>Grade Standards</i>		
American Upland: 12—sample official boxes (Universal Standards).....	Dollars each box 10.00	Dollars each box 12.00
6—sample guide boxes.....	5.00	6.50
American Egyptian: 6—sample official boxes.....	10.00	12.00
Sea Island: 12—sample official boxes.....	10.00	12.00
<i>Tentative Standards for Preparation of American Upland Long-Staple Cotton</i>		
6—sample boxes.....	5.00	6.50
<i>Standards for Length of Staple</i>		
American Upland (prepared in one pound rolls for each length).....	Dollars each length 2.00	Dollars each length 2.50
American Egyptian (prepared in one pound rolls for each length).....	2.00	2.50
Sea Island (prepared in one pound rolls for each length).....	2.00	2.50

§ 28.124 *Payments; procedure.* Any payment or advance deposit under §§ 28.115 through 28.123 shall be by check, draft, or money order, payable to the order of the "Agricultural Marketing Service, USDA", and may not be made in cash except in cases where the total payment or deposit does not exceed \$1.

§ 28.125 *No voiding or modifying claims for payment.* Nothing in this subpart shall be construed to void or modify any claim which a person or party requesting and paying for a service may have against any other person or party for the payment of part or all of such costs.

§ 28.126 *Loaning of forms and exhibits.* In the discretion of the Director, limited numbers of copies of the practical forms of any of the official standards, or specially prepared exhibits illustrating any of such standards or cotton samples, may be loaned to governmental agencies for official purposes or to educational and other institutions or organizations for demonstration purposes.

UNITED STATES COTTON LINTERS

§ 28.136 *Applicability of other sections of regulations.* Insofar as applicable, and not inconsistent with §§ 28.136 through 28.151, the provisions of this subpart relating to cotton shall likewise apply to cotton linters.

§ 28.137 *Boards of cotton linters examiners.* There shall be located at Washington, D. C., and, when necessary in the opinion of the Administrator, at any other point that he shall designate for the purpose, a board of cotton linters examiners. The members of all such boards and the chairman of each shall be designated by the Director.

§ 28.138 *Classification and comparison; requests, memorandums and certificates.* For each lot or mark of linters which the applicant desires classified or compared separately he shall make a separate written request specifying which of the following forms of service is desired. Only one request within a 30-day period shall be made by the same owner for the classification or comparison of the same linters, except a request for a review determination. If the applicant desires that the samples be returned to him, at his expense, he must indicate this in the request for classification or comparison. If the return of samples is not requested they shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

(a) *Form A determination.* The classification or comparison of samples of linters that have been freshly drawn by a licensed linters classer and submitted direct to a Board of Cotton Linters Examiners without classification or further handling by such classer. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in § 28.146. Composite samples composed of portions of linters drawn from more than one bale are not eligible for Form A determinations.

(b) *Form C determination.* The classification of bales of linters sampled under the supervision of an employee of the Department. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in § 28.146. Such certificate when it has been reviewed in accordance with § 28.146 shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U.S.C. 54).

(c) *Form D determination.* The classification or comparison of samples submitted for other than Form A or Form C determinations. Such classification or comparison shall be evidenced by a Form D memorandum which shall not be subject to review.

§ 28.139 *Filing of requests.* All requests for classification or comparison leading to Form A memoranda, Form D memoranda, or Form C certificates shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., unless otherwise directed by the Director.

§ 28.140 *Samples; weight; drawing.* Each sample submitted to a Board of Cotton Linters Examiners shall weigh not less than 8 ounces; shall be wrapped separately; shall contain a coupon or tag showing the bale number or identity of bale from which drawn; and shall be drawn in the following manner:

(a) *Condenser system linters.* Separate portions shall be drawn from three different places in either head of the bale so as to provide as representative sample as possible, each portion to be approximately 6 by 8 inches in size. All portions of the bale sample shall be placed in a single paper sack or wrapper together with an identifying tag stub or other identification. The portions together shall constitute the sample representing one bale.

(b) *Flue and beater system linters.* A sample of not less than 8 ounces, consisting of equal portions drawn from two sides of a bale, or from two shoulders of a bale, shall be drawn.

§ 28.141 *Inspection of bales for special conditions.* A licensed linters classer drawing samples for submission to a Board of Cotton Linters Examiners for Form A classification or comparison shall inspect each bale and shall specify on his sampler's certificate accompanying the samples any conditions not fully indicated by the samples.

§ 28.142 *Submission of samples.* All samples submitted to a Board of Cotton Linters Examiners for classification or comparison under this subpart shall be delivered or sent to the secretary of the board with all transportation charges incident thereto prepaid. All samples submitted by a licensed linters classer for Form A classification must have been freshly drawn by such classer, must be submitted direct to the board without classification or further handling, and must be accompanied by a sampler's certificate. Such certificate shall be on a form furnished by the Division for this purpose.

§ 28.143 *Method of classification.* The classification of all cotton linters samples shall be in accordance with the official cotton linters standards of the United States and §§ 28.143 through 28.145. The grade, staple, and character of each sample shall be determined and designated separately, together with any special conditions of the sample or bale.

§ 28.144 *Samples falling between grades or staples.* In classification, a sample which is determined to be between two adjacent grades or between two adjacent staples shall be assigned the lower of the two grades or two staples.

§ 28.145 *Terms defined; linters classification.* For the purposes of classification of any cotton linters or comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Grade.* The term grade means the color and trash in cotton linters.

(b) *Staple.* The staples of cotton linters as defined in the official cotton linters standards of the United States for staple, §§ 28.215 through 28.222.

(c) *Character.* The term character means the relative harshness of linters. In linters classification, character shall be described as follows: Soft (symbol S); Average (symbol A); Harsh (symbol H); or Extra Harsh (symbol EH).

(d) *Prime linters.* Prime linters are cotton linters which are equivalent in grade to the official grade standards and do not show evidence of excess trash, physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards.

(e) *Off grade linters.* Cotton linters which show evidence of physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards shall be designated as "Off Grade," and no specific grade assigned.

(f) *Excess trash.* Cotton linters that contain more trash than is represented in the grades described in §§ 28.201 through 28.208 shall be assigned that grade to which it is equal in color and further described by the term "Excess Trash." Such linters shall not be considered as prime linters.

(g) *Compound grades.* Cotton linters which in grade show a variation equal to that shown in any 2 or 3 adjacent grades of those described in §§ 28.201 through 28.208 shall be designated by the compound name of such grades.

(h) *Compound staples.* Cotton linters which in staple show a variation equal to that shown in any 2 or 3 adjacent staples of those listed in §§ 28.215 through 28.222 shall be designated by the compound name of such staples.

(i) *Mixed packed grades.* Cotton linters which in grade show a variation greater than that shown in any 3 adjacent grades of those described in §§ 28.201 through 28.208 shall be designated as "Mixed Packed" for grade on classification certificates and memoranda and the grades constituting the mixture shown.

(j) *Mixed packed staples.* Cotton linters which in staple show a variation greater than that shown in any 3 adjacent staples of those listed in §§ 28.215 through 28.222 shall be designated as "Mixed Packed" for staple on classification certificates and memoranda and the staples constituting the mixture shown.

(k) *Weak staple.* Cotton linters in which the strength of staple is below

that normally found in linters of otherwise comparable staple shall be designated by the term "Weak" and no specific staple assigned.

(l) *False packed linters.* Linters in a bale (1) containing substances entirely foreign to linters; (2) containing damaged linters in the interior with or without any indication of such damage upon the exterior; (3) composed of good linters upon the exterior and decidedly inferior linters in the interior, in such manner as not to be detected by customary examination; or (4) containing motes, sweepings, or hull fiber worked into the bale.

(m) *Repacked linters.* Linters that are composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or linters in a bale which is composed of linters from two or more smaller bales or parts of bales.

(n) *Water-packed linters.* Linters 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.

§ 28.146 *Reviews.* A review of any Form A or Form C determination may be requested by the owner of the linters from which the sample was drawn, or his agent, within 30 days after the issuance of the original memorandum or certificate. Such request shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., and shall be accompanied by the original classification memorandum or certificate if it is in the possession of the applicant. The application shall state the reason for failure to submit such document. Form D determinations are not subject to review.

(a) *Form A and Form C Reviews.* Redrawn samples will be required except in cases where the original samples have remained in the custody of the Board of Cotton Linters Examiners. When redrawn samples are necessary, they shall be drawn and submitted in accordance with the applicable provisions of §§ 28.138, 28.140, 28.141, and 28.142. A Form A memorandum or Form C certificate, as applicable, appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The review classification memorandum shall supersede the original classification memorandum.

(b) *Review of licensed classer's certificate.* In case a review is desired of the classification of any linters represented in a valid certificate issued by a licensed linters classer, the holder of such certificate shall surrender the same, together with samples of the linters involved, to the Board of Cotton Linters Examiners and receive in its stead a Form D memorandum signed by the chairman of such board. Such Form D memorandum shall be appropriately marked to show it represents a review of a licensed classer's certificate. The Form D memorandum issued in lieu of the licensed classer's certificate shall not be subject to further

review. The provisions of this paragraph do not prohibit the drawing of new samples and filing of a request with the Board of Cotton Linters Examiners leading to a Form A or Form D memorandum or a Form C certificate.

§ 28.147 *Licensed classers.* Subject to the applicable terms and conditions of §§ 28.80 through 28.99, any person may, upon presentation of evidence of competency, be licensed to grade or classify linters, and to certificate the grade or class thereof in accordance with the official cotton linters standards of the United States.

(a) *Class certificates; form; mailing to board.* Each class certificate issued by a licensed linters classer under this subpart shall be on a form furnished by the Division. A copy of each certificate shall be mailed to the Board of Cotton Linters Examiners at Washington, D. C., within 3 days after issuance.

(b) *Supervisory samples.* Some samples from each lot or mark of samples on which a licensed linters classer issues a certificate under this subpart shall be sent to the Board of Cotton Linters Examiners for supervisory purposes. Such supervisory samples shall be submitted to the board in accordance with instructions furnished licensees by the Director from time to time.

§ 28.148 *Fees and costs; classification; reviews; other.* The fee for the classification, comparison, or review of linters with respect to grade, staple, and character, or any of these qualities, shall be at the rate of 20 cents for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable, apply to services performed with respect to linters.

§ 28.149 *Fees and costs; Form C determinations.* For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$3 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.150 *Fee; licenses; renewals.* The fee for the examination of an applicant for a license to classify linters shall be \$10. No additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. The fee for each renewal of such license shall be \$5.

§ 28.151 *Cost of practical forms; period effective.* Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.105: *Provided*, That no practical form of any of the official cotton linters standards of the United States for grade shall be considered as representing any of said standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12

months following the date of its certification. The cost of the official standards for grade shall be at the rate of \$5.00 each, f. o. b., Washington, D. C., for shipments within the continental United States, and \$6.50 each, delivered to destination, for shipments outside the United States. The cost of the official standards for staple shall be at the rate of \$1.00 each, f. o. b., Washington, D. C., for shipments within the continental United States, and \$1.50 each, delivered to destination, for shipments outside the continental United States.

ADJUSTMENT OF CONTRACT DISPUTES

§ 28.160 *Cotton examiners on foreign exchanges.* Whenever any association or exchange in any country other than the United States shall adopt the universal standards and establish them as the basis of all transactions and contracts for American upland cotton, made and executed according to its rules, the Director may appoint certain members or officials of such exchanges as cotton examiners. Insofar as the administration of the act applies to cotton involved in contracts made in accordance with the rules of such exchange, the administration shall be as prescribed in §§ 28.161 through 28.162.

§ 28.161 *Disputes involving contracts for shipment of cotton from United States.* When an association or exchange located in a country other than the United States shall adopt any of the official cotton standards of the United States and when the members of the committee of such association or exchange having final jurisdiction in the matter of appeals have been designated as cotton examiners by the Director, such committee may be constituted for the purposes of this act a Board of the Department and authorized to act as follows:

(a) Insofar as the exchange has adopted the universal standards the committee may pass upon the classification of cotton involved in a dispute between a party in the United States and a party without the United States to a contract made under the rules of the association or exchange.

(b) The submission of samples of cotton involved in such a dispute to such association or exchange or such committee in accordance with the rules of the association or exchange shall be deemed to be a submission to the Department.

(c) Determinations of classification made by the boards so constituted shall be final. When so provided in the articles, rules, or bylaws of the association or exchange, such determinations may be evidenced by awards. If an award is made which does not state the classification, such board will, upon request of the owner or custodian of the cotton and the payment of a reasonable additional fee, issue a certificate showing in detail the true classification for grade and color of such cotton, based upon a comparison of the samples with the universal standards or with a type or other samples on which the cotton has been sold, as the case may be.

§ 28.162 *Procedure.* The manner of procedure in submitting and handling samples, in classification and in instituting and conducting arbitrations and appeals shall be as prescribed in the articles, bylaws, and rules of the association or exchange.

PUBLICATIONS

§ 28.165 *Publication media.* Publications under the act and this subpart may be made in service and regulatory announcements and by such other means as the Director shall from time to time designate for the purpose.

SUBPART B—CLASSIFICATION FOR FOREIGN GROWTH COTTON AND COTTON LINTERS

AUTHORITY: §§ 28.175 to 28.184 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624.

§ 28.175 *Administrative and general.* Insofar as applicable, and not inconsistent with this subpart, the provisions of Subpart A of this part shall likewise apply to the classification and comparison of cotton and cotton linters produced outside the continental United States.

§ 28.176 *Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.* Subsection 203 (h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this subpart, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this subpart to certify with respect to the inspection, sampling, class, grade, quality, quantity, or conditions of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling, pursuant to this subpart, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this subpart, and any report made by an authorized person of services performed pursuant to this subpart.

(c) "Official mark" means the grade mark, inspection mark, and any other mark, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U. S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this subpart.

(d) "Official identification" means any United States (U. S.) standard designation of class, grade, quality, quantity, or condition specified in this subpart or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, quantity, or condition of the product, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

§ 28.177 *Requests for classification and comparison of cotton.* The applicant shall make a separate written request, on a form supplied by the Division, for each lot or mark of cotton which he desires classified or compared separately. The same applicant shall not file more than one request for the classification or comparison of the same cotton within any 30-day period except for a review classification or comparison as provided in § 28.181. All requests for classification or comparison in the United States shall be filed with the Board of Cotton Examiners which serves the territory in which the samples are located. If the cotton is stored outside the United States the request shall be filed with the board designated by the Director. The chairman of any board may refer any request and the samples submitted to another board or to the Appeal Board of Review Examiners for classification or comparison.

§ 28.178 *Submission of cotton samples.* Samples of cotton submitted to a board of cotton examiners for classification and/or comparison shall be drawn from both sides of the bale and shall be delivered to the secretary of the board with which the request was filed, as soon as possible after the filing of such request. All such samples shall be inclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples in each wrapper, and such other information as may be necessary in accordance with the instructions of the chairman of the board. All transportation charges incident to the submission of samples shall be prepaid by the party making the request or his agent.

§ 28.179 *Methods of cotton classification and comparison.* The classification of samples from cotton produced outside the continental United States shall be on the basis of the official cotton standards of the United States in effect at the time of classification. When a comparison of such cotton samples with other actual samples or with a type is requested, the procedure and methods shall be as outlined in §§ 28.45 through 28.47.

§ 28.180 *Issuance of cotton classification memoranda.* As soon as practicable after the classification or comparison of cotton has been completed by a board of cotton examiners, there shall be issued a cotton classification memorandum which shall embody within its written or printed terms:

(a) The results of the classification or comparison.

(b) The name of the country in which the cotton was produced.

(c) The source from which the samples were received for classification.

(d) A statement that any classification made has been on the basis of the official cotton standards of the United States in effect at the time of such classification.

(e) The signature of the chairman of the board, the location of the board, and the date of issuance of the memorandum.

§ 28.181 *Review of cotton classification.* A review of any classification or comparison made pursuant to this subpart may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such request, accompanied by the original memorandum, may be filed with either the board which issued the original memorandum or the Appeal Board of Review Examiners. Redrawn samples shall be required except in cases where the original samples have remained, identity preserved, in the custody of the board which issued the original memorandum. As evidence of any review determination, a classification memorandum marked to indicate that it represents a review determination shall be issued to the applicant requesting the review.

§ 28.182 *Surrender of memoranda.* For good cause any memorandum issued under this subpart shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Director, and a new memorandum complying with this subpart issued in substitution therefor. If the memorandum be not surrendered upon such request, it shall nevertheless be invalid for the purposes of this subpart.

§ 28.183 *Fees and costs; payment.* The provisions of §§ 28.115 through 28.126 relating to fees, costs, and method of payment shall apply to services performed with respect to cotton produced outside the continental United States.

§ 28.184 *Cotton linters; general.* Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Board of Cotton Linters Examiners at Washington, D. C. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be 20 cents per sample.

SUBPART C—STANDARDS

OFFICIAL COTTON LINTERS STANDARDS OF THE UNITED STATES FOR GRADE

AUTHORITY: §§ 28.201 to 28.208 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61.

or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 68A Stat. 580; 7 U. S. C. 56, 26 U. S. C. 4854.

White Cotton

§ 28.401 *Strict Good Middling*. Strict Good Middling shall be American upland cotton which in color, leaf, and preparation is better than Good Middling. This standard is effective on and after August 1, 1957.

§ 28.402 *Good Middling*. Good Middling shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Good Middling, effective August 1, 1954."

§ 28.403 *Strict Middling*. Strict Middling shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Middling, effective August 15, 1953."

§ 28.404 *Middling*. Middling shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling, effective August 15, 1953."

§ 28.405 *Strict Low Middling*. Strict Low Middling shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low Middling, effective August 15, 1953."

§ 28.406 *Low Middling*. Low Middling shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling, effective August 15, 1953."

§ 28.407 *Strict Good Ordinary*. Strict Good Ordinary shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary, effective August 15, 1953."

§ 28.408 *Good Ordinary*. Good Ordinary shall be American upland cotton

which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Good Ordinary, effective August 15, 1953."

Spotted Cotton

§ 28.409 *Good Middling Spotted*. Good Middling Spotted shall be American upland cotton which in leaf and preparation is Good Middling, but which in spot or color or both is between Good Middling and Good Middling Tinged.

§ 28.410 *Strict Middling Spotted*. Strict Middling Spotted shall be American upland cotton which in leaf and preparation is Strict Middling, but which in spot or color or both is between Strict Middling and Strict Middling Tinged.

§ 28.411 *Middling Spotted*. Middling Spotted shall be American upland cotton which in leaf and preparation is Middling, but which in spot or color or both is between Middling and Middling Tinged.

§ 28.412 *Strict Low Middling Spotted*. Strict Low Middling Spotted shall be American upland cotton which in leaf and preparation is Strict Low Middling, but which in spot or color or both is between Strict Low Middling and Strict Low Middling Tinged.

§ 28.413 *Low Middling Spotted*. Low Middling Spotted shall be American upland cotton which in leaf and preparation is Low Middling, but which in spot or color or both is between Low Middling and Low Middling Tinged.

Tinged Cotton

§ 28.414 *Good Middling Tinged*. Good Middling Tinged shall be American upland cotton which in color, leaf, and preparation is better than Strict Middling Tinged.

§ 28.415 *Strict Middling Tinged*. Strict Middling Tinged shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Middling Tinged, effective August 15, 1953."

§ 28.416 *Middling Tinged*. Middling Tinged shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Middling Tinged, effective August 15, 1953."

§ 28.417 *Strict Low Middling Tinged*. Strict Low Middling Tinged shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department

of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Low Middling Tinged, effective August 15, 1953."

§ 28.418 *Low Middling Tinged*. Low Middling Tinged shall be American upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Upland, Low Middling Tinged, effective August 15, 1953."

Yellow Stained Cotton

§ 28.419 *Good Middling Yellow Stained*. Good Middling Yellow Stained shall be American upland cotton which in leaf and preparation is Good Middling Tinged, but which in color is deeper than Good Middling Tinged.

§ 28.420 *Strict Middling Yellow Stained*. Strict Middling Yellow Stained shall be American upland cotton which in leaf and preparation is Strict Middling Tinged, but which in color is deeper than Strict Middling Tinged.

§ 28.421 *Middling Yellow Stained*. Middling Yellow Stained shall be American upland cotton which in leaf and preparation is Middling Tinged, but which in color is deeper than Middling Tinged.

Gray Cotton

§ 28.422 *Good Middling Gray*. Good Middling Gray shall be American upland cotton which in leaf and preparation is Good Middling, but which is more gray in color than Good Middling and no darker in color than the duldest bale in Strict Low Middling.

§ 28.423 *Strict Middling Gray*. Strict Middling Gray shall be American upland cotton which in leaf and preparation is Strict Middling, but which is more gray in color than Strict Middling and no darker in color than the duldest bale in Low Middling.

§ 28.424 *Middling Gray*. Middling Gray shall be American upland cotton which in leaf and preparation is Middling, but which is more gray in color than Middling and no darker in color than the duldest bale in Strict Good Ordinary.

§ 28.425 *Strict Low Middling Gray*. Strict Low Middling Gray shall be American upland cotton which in leaf and preparation is Strict Low Middling, but which is more gray in color than Strict Low Middling and no darker in color than the duldest bale in Good Ordinary.

General

§ 28.426 *General*. American upland cotton which in color, leaf, and preparation is within the range of the standards established by this subpart, but which contains a combination of color, leaf, and preparation not within any one of the standards set out in this subpart, shall be designated according to the standard which is equivalent to, or if there be no exact equivalent is next be-

low, the average of all the factors that determine the grade of the cotton: *Provided*, That in no event shall the grade assigned to any cotton or sample be more than one grade higher than the grade classification of the color or leaf contained therein.

§ 28.427 *Alternate title for standards.* Since these standards have been agreed upon and accepted by the leading European cotton associations and exchanges, they may also be termed and referred to as the "Universal Standards for American Cotton."

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF AMERICAN EGYPTIAN COTTON

AUTHORITY: §§ 28.501 to 28.510 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 68A Stat. 580; 7 U. S. C. 56, 26 U. S. C. 4854.

§ 28.501 *Grade No. 1.* Grade No. 1 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 1, effective August 1, 1957."

§ 28.502 *Grade No. 2.* Grade No. 2 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 2, effective August 1, 1957."

§ 28.503 *Grade No. 3.* Grade No. 3 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 3, effective August 1, 1957."

§ 28.504 *Grade No. 4.* Grade No. 4 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 4, effective August 1, 1957."

§ 28.505 *Grade No. 5.* Grade No. 5 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 5, effective August 1, 1957."

§ 28.506 *Grade No. 6.* Grade No. 6 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture

in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 6, effective August 1, 1957."

§ 28.507 *Grade No. 7.* Grade No. 7 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 7, effective August 1, 1957."

§ 28.508 *Grade No. 8.* Grade No. 8 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 8, effective August 1, 1957."

§ 28.509 *Grade No. 9.* Grade No. 9 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 9, effective August 1, 1957."

§ 28.510 *Grade No. 10.* American Egyptian cotton which in grade is inferior to grade No. 9 shall be designated as "American Egyptian Grade No. 10."

OFFICIAL STANDARDS OF THE UNITED STATES FOR THE GRADES OF SEA ISLAND COTTON

AUTHORITY: §§ 28.551 to 28.560 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 68A Stat. 580; 7 U. S. C. 56, 26 U. S. C. 4854.

§ 28.551 *Grade 1.* Grade No. 1 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 1, effective August 10, 1939."

§ 28.552 *Grade 2.* Grade No. 2 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 2, effective August 10, 1939."

§ 28.553 *Grade 3.* Grade No. 3 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 3, effective August 10, 1939."

§ 28.554 *Grade 4.* Grade No. 4 shall be Sea Island cotton which in grade is within the range represented by a set of

samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 4, effective August 10, 1939."

§ 28.555 *Grade 5.* Grade No. 5 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 5, effective August 10, 1939."

§ 28.556 *Grade 6.* Grade No. 6 shall be Sea Island cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, Sea Island, Grade No. 6, effective August 10, 1939."

§ 28.557 *Intermediate grades.* Sea Island cotton which in grade is between any two adjoining grades shall be designated by the word "Grade" and the grade number of the higher of such two grades, followed by the fraction $\frac{1}{2}$.

§ 28.558 *Below Grade 6.* Sea Island cotton which in grade is inferior to Grade No. 6 shall be designated "Below Grade No. 6."

§ 28.559 *Extraneous matter.* The grade assigned to Sea Island cotton which contains appreciable quantities of seed, seed kernels, or sand shall be that which most nearly approximates its grade value in terms of the respective grades herein defined.

§ 28.560 *Permissive use.* Until their effective date, August 10, 1939, the foregoing standards may be used as permissive standards in the purchase and sale of Sea Island cotton.

TENTATIVE STANDARDS FOR THE PREPARATION OF LONG-STAPLE COTTON

AUTHORITY: §§ 28.591 to 28.594 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 68A Stat. 580; 7 U. S. C. 56, 26 U. S. C. 4854.

§ 28.591 *Set of samples; Grade No. 4.* The tentative standards for preparation of American upland long-staple cotton of the Grade No. 4 or Strict Middling shall be the preparation of a set of samples in the custody of the United States Department of Agriculture, in the city of Washington, in containers marked, respectively:

(a) Original Tentative Standards of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 4 or Strict Middling (otherwise designated as Preparation Type A for Strict Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type B for Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of

Long-Staple American Upland cotton of the Grade No. 4 or Strict Middling (otherwise designated as Preparation Type C for Strict Middling) as announced May 20, 1929.

§ 28.592 *Set of samples; Grade No. 5.* The tentative standards for preparation of American upland long-staple cotton of the Grade No. 5 or Middling shall be the preparation of a set of samples in the custody of the United States Department of Agriculture, in the city of Washington, in containers marked, respectively:

(a) Original Tentative Standard of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type A for Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type B for Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type C for Middling) as announced May 20, 1929.

§ 28.593 *Set of samples; Grade No. 6.* The tentative standard for preparation of American upland long-staple cotton of the Grade No. 6 or Strict Low Middling shall be the preparation of a set of samples in the custody of the United States Department of Agriculture, in the city of Washington, in containers marked, respectively:

(a) Original Tentative Standard of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling (otherwise designated as Preparation Type A for Strict Low Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling (otherwise designated as Preparation Type B for Strict Low Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling (otherwise designated as Preparation Type C for Strict Low Middling) as announced May 20, 1929.

§ 28.594 *Long-staple cotton; definition.* The term long-staple cotton, as used in this subpart, shall, until further notice, be construed to mean cotton which is $1\frac{1}{2}$ inches and above in length of staple.

SUBPART D—COTTON CLASSIFICATION AND MARKET NEWS SERVICES FOR ORGANIZED GROUPS OF PRODUCERS

AUTHORITY: §§ 28.901 to 28.919 issued under sec. 10, 42 Stat. 1519, sec. 3c, 50 Stat. 62; 7 U. S. C. 61, 473c.

DEFINITIONS

§ 28.901 *Definitions.* When used in the regulations in this subpart:

(a) "Act" means the applicable provisions of the act of Congress of March

3, 1927 (44 Stat. 1372), as amended by the act of Congress of April 13, 1937 (50 Stat. 62) (7 U. S. C. 471-476), and the United States Cotton Standards Act, as amended (42 Stat. 1517; 7 U. S. C. 51 et seq.).

(b) "Service" means the Agricultural Marketing Service of the United States Department of Agriculture.

(c) "Administrator" means the Administrator of the Agricultural Marketing 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 his stead.

(d) "Division" means the Cotton Division of the Agricultural Marketing Service.

(e) "Director" means 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 his stead.

ADMINISTRATION

§ 28.902 *Director.* The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

CLASSIFICATION AND MARKET NEWS SERVICES

§ 28.903 *Classification of samples.* The Director, or his authorized representatives, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with the regulations in this subpart shall, as hereinafter provided, furnish to such producers without charge the classification in accordance with the official cotton standards of the United States of samples representing the cotton produced by them. It appearing that funds appropriated for the administration of the act may at times be insufficient to provide for the classification of all of the cotton grown by members of such groups, the Director may, when necessary, direct that only samples representing that portion of members' cotton produced from seed of an adopted variety, or from seed replanted on land first planted during any growing season to seed of such adopted variety, shall be eligible for classification under the regulations in this subpart; and, in any event, such classification may be limited to samples representing cotton produced by members whose cotton acreage for any growing season is first planted in whole or in part to seed of an adopted variety.

§ 28.904 *Market news.* The Director shall cause to be distributed to groups of producers organized to promote the improvement of cotton who comply with the regulations in this subpart, and to others on request, for posting at gins, in post offices, or other public or conspicuous places in cotton growing communities, timely information on prices for various grades and staple lengths of cotton.

ORGANIZED GROUPS

§ 28.905 *Organized groups.* Groups of producers organized to promote the improvement of cotton may be recognized as such within the meaning of the

act if they meet the following requirements:

(a) Such an organization may be an unincorporated association or it may be incorporated.

(b) The cotton fields of members of an organized group shall be located within the area generally recognized by the group as its community and any fields of members in which planting seed of the adopted variety and strain is produced shall be so located as to prevent or minimize cross pollination with other varieties or strains. The seed planted pursuant to the crop improvement program of any group shall be of such variety and seed stock of proven merit as shall have been agreed upon by the group, and the cotton produced shall be ginned in such a manner as to prevent the mixing of the seed or lint of an adopted variety with the seed or lint of other varieties or strains. Provision shall be made by the group for the procurement, production, and economical distribution of approved planting seed of the adopted variety and strain for use by members of the group.

(c) Each organized group shall assume responsibility for obtaining, identifying, and shipping samples to be classified and for posting market information furnished to it in accordance with the regulations in this subpart; shall see that samples are drawn, handled, and shipped in accordance with instructions furnished from time to time by representatives of the Director; and shall designate a responsible representative and an alternate representative to act for members of the group in matters pertaining to compliance with the regulations in this subpart. Such representative or alternate representative need not be a producer or a member of the group.

SAMPLING

§ 28.906 *Approval and bonding of samplers.* The cotton of members of organized groups may be sampled at a cotton gin, or at a warehouse which issues negotiable warehouse receipts. Sampling agents at these sampling locations are subject to the approval of the Director or his representatives. Each sampling agent, other than an approved warehouse sampler or an employee of the Department of Agriculture, serving one or more cotton gins shall, as a condition for approval, execute and file with the Division a good and sufficient bond to the United States to secure the faithful performance of his duties as a sampler under the terms of the act and this subpart. Said bond shall be in such form and amount and shall have such surety or sureties as shall be approved by the Service: *Provided*, That said bond shall be in an amount not less than \$1,000 for each gin serviced less than five, and not less than \$5,000 for five or more gins serviced: *Provided further*, That such surety or sureties shall be subject to service of process in suits on the bond within the State, district, or territory in which such sampler shall perform services under the act and this subpart.

§ 28.907 *Responsibilities of sampling agents.* Each sampling agent shall be primarily responsible for drawing, iden-

tifying, handling, and shipping samples of cotton in accordance with this subpart and with instructions furnished by the Director or his representatives from time to time.

§ 28.908 *Samples*—(a) *Only one sample to be submitted.* Only one sample from each bale of eligible cotton shall be submitted for classification under this subpart. This does not prohibit the submission of an additional sample from a bale for review classification on a fee basis if the producer so desires.

(b) *Drawing of samples manually.* Each cut sample shall be drawn from the bale after it is tied out following the ginning process, and shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale.

(c) *Mechanical sampling.* Samples may be drawn at gins equipped with mechanical samplers approved by the Division. Such samples shall be not less than 6 ounces in weight.

(d) *Samples must be representative.* Each sample must be representative of the bale from which drawn.

(e) *Handling samples.* 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. Samples shall not be handled by any person other than the sampling agent prior to shipment or delivery to the cotton classing office of the Division.

(f) *Identifying and shipping samples.* Each sample shall be identified with a tag, supplied or approved by the Division, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the sampling agent for the organized group. The packages shall be shipped or delivered direct to the cotton classing office serving the territory in which the cotton is ginned.

§ 28.909 *Costs.* Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be without expense to the Government, but tags and containers for the shipment of samples may be furnished and shipping charges by common carriers paid by the Service. After classification the samples shall become the property of the Government.

CLASSIFICATION

§ 28.910 *Classification of samples.* The samples submitted as provided in this subpart shall be classified by employees of the Division and a classification memorandum showing the grade and staple length of each sample according to the official cotton standards of the United States will be mailed or made available to the producer whose name appears on the tag accompanying the sample, or to a representative designated by the producer or the organized group

to receive the classification memorandum.

APPLICATIONS

§ 28.911 *Application forms.* Applications shall be made on forms furnished or approved by the Division.

§ 28.912 *Contents of application.* Each such application shall include (a) the date; (b) the name and location of the organized group; (c) the name and address of each member of the group and the name of the variety adopted by the group; (d) a statement that the designated variety adopted by the group has been agreed upon by a majority of the members; (e) a statement that the group is organized for the purpose of promoting the improvement of cotton; (f) copies of the organization papers of the group, such as articles of association and bylaws, and copies of ginners' agreements and other documents relating to cotton improvement by members of the group; (g) the names, titles, and post office addresses of the representative and alternate representative designated to act for the group; (h) a statement as to the estimated total number of acres of the adopted variety and the estimated total acreage of other varieties to be grown during the year; (i) a statement with regard to the arrangements that have been made for posting market information; (j) a statement with regard to the arrangements for procuring and distributing planting seed; (k) other information that may be required by the Director; (l) a statement that the group agrees to comply with the act and the regulations in this subpart; and (m) the signature of an authorized official or leader of the group. It shall be further required that each application be accompanied by a recommendation for approval or disapproval from (n) the cooperating state extension service or other state agency, or (o) from a committee designated for the purpose. In making each such recommendation, consideration should be given, among other things, to the status of the organization of the group; the extent of isolation of the group members' fields on which seed stocks are produced; the adaptability of the variety and the quality of the seed stocks; the completeness of the arrangements for the ginning of the cotton so as to promote cotton improvement; and the adequacy of the arrangements for the procurement and distribution of planting seed. In arriving at a decision with respect to the final approval or disapproval of any application, approving officers of the Division shall give due consideration to the recommendation of the Extension Service, other state agency or designated committee.

§ 28.913 *Time limitation.* Application shall be filed with an authorized representative of the Division or mailed to such representative within a period of time to be announced by the Division for the receipt of applications for services during the year to which such application relates. To receive consideration, any such application submitted by mail shall have been postmarked before midnight of the last day of such announced period.

§ 28.914 *Rejection.* Applications may be rejected for noncompliance with the act or the regulations in this subpart, or when funds or facilities are not available to provide the services requested.

§ 28.915 *Authority.* Proof of authority of any person to make application on behalf of an organized group may be required.

§ 28.916 *Withdrawal.* An organized group may withdraw its application at any time.

§ 28.917 *Renewal.* Applications shall be subject to renewal from year to year in accordance with a procedure to be prescribed by the Director or his authorized representatives.

§ 28.918 *Expenses.* Any expense involved in the preparation and filing of applications and requests for renewal shall be paid by the applicants.

LIMITATION OF SERVICES

§ 28.919 *Limitation of services.* The Director, or his authorized representatives, may suspend, terminate, or withhold cotton classing and market news services to any organized group upon its request, or upon its failure to comply with the act or these regulations, or when funds or facilities are insufficient to provide or continue such services.

SUBPART E—COTTON FIBER AND PROCESSING TESTS

AUTHORITY: §§ 28.950 to 28.961 issued under 55 Stat. 131; 7 U. S. C. 473d.

DEFINITIONS

§ 28.950 *Terms defined.* As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *Regulations.* Regulations mean the provisions in this subpart.

(b) *Service.* The Agricultural Marketing Service of the United States Department of Agriculture.

(c) *Administrator.* The Administrator of the Agricultural Marketing 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 his stead.

(d) *Division.* The Cotton Division of the Agricultural Marketing Service.

(e) *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 his stead.

(f) *Laboratories.* Laboratories of the Cotton Division that perform the fiber and processing tests described in this subpart.

ADMINISTRATION

§ 28.951 *Director.* The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

FIBER AND PROCESSING TESTS

§ 28.952 *Testing of samples.* The director or his authorized representatives, upon written requests, shall make

RULES AND REGULATIONS

fiber and processing tests of the properties of cotton samples and report the results thereof to the persons from whom such requests are received, subject to compliance by such persons with the regulations in this subpart and to the payment by them of fees as prescribed herein.

§ 28.953 *Requirements as to samples.* Each sample of ginned cotton lint submitted for fiber and processing tests shall weigh approximately as shown below unless otherwise specified in the particular test item as prescribed herein:

- 1 ounce or more for fiber tests.
- 6 pounds or more for carded yarn spinning tests.
- 8 pounds or more for combed yarn spinning tests.
- 10 pounds or more for carded and combed yarn spinning tests.

Each individual sample submitted for testing shall contain a tag or coupon bearing a number or other identification symbol. Individually labelled samples may be sent in one or more parcels, each of which shall bear on the outside thereof the name and address of the person submitting it. Persons who submit samples to laboratories for testing shall comply with any Federal or State quarantine requirements applicable to counties from which such samples are shipped.

§ 28.954 *Costs of submitting samples.* The transportation of samples to a laboratory for testing shall be without expense to the Government.

§ 28.955 *Disposition of samples.* The remnants of samples and the other materials accumulated in the making of tests under the regulations in this subpart shall be the property of the Government. Portions of such samples and materials, however, may be used for illustrative purposes in connection with laboratory reports submitted to persons applying for such tests or may be returned to such persons as prescribed herein for specific test items.

§ 28.956 *Prescribed fees.* Fees for fiber and processing tests shall be assessed in accordance with items 1 to 35, inclusive, as listed below:

Item No.	KIND OF TEST	Fee per test
1.	Truncated fiber length array of cotton samples (reporting the percentage of fibers $\frac{1}{2}$ -inch and longer and the mean length and uniformity of length of such fibers as based on 3 specimens from a blended sample):	
	a. Ginned cotton lint, per sample	\$9.00
	b. Comber noils, per sample	14.00
	c. Other cotton waste, per sample	19.00
2.	Fiber length array of cotton samples (reporting the average length and the average length variability as based on 3 specimens from a blended sample):	
	a. Ginned cotton lint, per sample	10.00
	b. Cotton comber noils, per sample	15.00
	c. Other cotton wastes, per sample	20.00

Item No.	KIND OF TEST	Fee per test	Item No.	KIND OF TEST	Fee per test
2.1.	Fiber length array of cotton samples (reporting the average percentage of fibers by weight in each $\frac{1}{2}$ -inch group, the average length, and the average length variability as based on 3 specimens from a blended sample):		6.3.	Fiber fineness and maturity of ginned cotton lint by array method (reporting the weighted average according to the distribution of the fibers in the arrays for both weight-per-inch and percentage of mature fibers as based on 2 determinations on the fibers in each $\frac{1}{2}$ -inch group from a composite of 2 length arrays):	
	a. Ginned cotton lint, per sample	\$12.50		a. From raw stock, per sample	\$15.00
	b. Cotton comber noils, per sample	17.50		b. From arrayed specimens prepared in connection with items 2, 2.1, or 2.2, per sample	7.50
	c. Other cotton wastes, per sample	22.50	7.	Neps content of ginned cotton lint (reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender), per sample	2.00
2.2.	Fiber array of cotton samples including purified or absorbent cotton (reporting the average percentage of fibers $\frac{1}{2}$ -inch and longer by weight, the average of fibers shorter than $\frac{1}{4}$ -inch by weight, the average length, and the average length variability as based on 3 specimens from each sample), per sample	12.50		Minimum fee unless performed in connection with other tests requiring a blended specimen	6.00
3.	Fiber length of ginned cotton lint by Fibrograph method (reporting the average length and the average length uniformity as based on 4 specimens from a blended sample), per sample	1.50	8.	Furnishing American cotton for laboratory check test (including data for length by both array and Fibrograph methods, strength by flat bundle method $\frac{1}{2}$ -inch gauge, maturity and fineness by the Caustic method):	
	Minimum fee unless performed in connection with other tests requiring a blended specimen	3.00		a. Short staple, per 1-pound sample	7.50
3.1.	Fiber length of ginned cotton lint by Fibrograph method (reporting the length of each sub-sample and the average length and the average length uniformity for each group of replicate sub-samples as based on 2 specimens from each of 3 or more replicate unblended sub-samples), per sub-sample	.75		b. Medium staple, per 1-pound sample	7.50
	Minimum fee	3.00		c. Long staple, per 1-pound sample	7.50
4.	Foreign matter content in unginned seed cotton (reporting the percentage of foreign matter as based on a fractionation test on a 300-gram specimen), per sample	1.00		d. Extra long staple, per 1-pound sample	7.50
	Minimum fee	3.00	9.	Blending samples of ginned cotton lint (including the blending of a 10-gram sample on the mechanical fiber blender and returning the blended sample to the applicant), per sample	1.00
5.	Fiber strength of ginned cotton lint by flat bundle method (reporting the average strength as based on 4 or more specimens from a blended sample), per sample	1.50	10.	Moisture content of ginned cotton lint, cotton stock at various stages of processing, and cotton lint waste of various types (reporting the percentage of moisture content by the oven-drying method as based on a 20-gram specimen), per sample	.75
	Minimum fee unless performed in connection with other tests requiring a blended specimen	3.00		Minimum fee	3.00
5.1.	Fiber strength of ginned cotton lint by flat bundle method (reporting the strength of each sub-sample and the average strength for each group of replicate sub-samples as based on 2 specimens for each of 3 or more replicate unblended sub-samples), per sub-sample	.75	10.1.	Moisture content of unginned seed cotton (reporting the percentage of moisture content by the oven-drying method as based on a 50-gram specimen), per sample	1.25
	Minimum fee	3.00		Minimum fee	5.00
6.	Fiber maturity and fineness of ginned cotton lint by the Caustic method (reporting the average maturity and fineness as based on 2 specimens from a blended sample), per sample	1.50	10.2.	Moisture regain of ginned cotton lint at 92 percent relative humidity (reporting the average percentage of moisture regain as based on the bone-dry weight of two $\frac{1}{2}$ -gram specimens), per sample	1.25
	Minimum fee	6.00		Minimum fee	5.00
6.1.	Micronaire tests on ginned cotton lint (reporting the average Micronaire reading as based on 2 specimens from a blended sample), per sample	.75	11.	Cotton carded yarn spinning test (reporting data on the wastes extracted, the neps in card web, the yarn skein strength, the yarn appearance, and classification and fiber length as specified in items 28 and 3 as well as comments summarizing any unusual observations as based on the processing of 5 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of $6\frac{1}{2}$, 9 $\frac{1}{2}$, or 12 $\frac{1}{2}$ pounds-per-hour into two of the standard carded yarn numbers of 8s, 14s, 22s, 36s, 44s, 50s, or 60s, employing a standard twist multiplier unless otherwise specified), per sample	30.00
	Minimum fee unless performed in connection with other tests requiring a blended specimen	3.00		Minimum fee	60.00
6.2.	Micronaire tests on ginned cotton lint (reporting the Micronaire reading for each sub-sample and the average Micronaire reading for each group of replicate sub-samples as based on 1 specimen from each of 2 or more replicate unblended sub-samples), per sub-sample	.25			
	Minimum fee	3.00			

Item No.	KIND OF TEST	Fee per test	Item No.	KIND OF TEST	Fee per test	Item No.	KIND OF TEST	Fee per test	
12.	Cotton combed yarn spinning test (reporting data on the wastes extracted, the neps in card web, the yarn skein strength, the yarn appearance, and classification and fiber length as specified in items 28 and 3 as well as comments summarizing any unusual observations as based on the processing of 7 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4½, 6½, or 9½ pounds-per-hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified), per sample-----	\$40.00	16.1.	Processing and furnishing of additional yarn (any yarn number processed in connection with spinning tests as specified in items 11 through 14):		19.	Processing, weaving, and testing of fabric (reporting data on the warp and the filling strength by the grab method for any standard cotton fabric for which the laboratories are equipped to produce which are processed in accordance with standard laboratory procedures):		
	Minimum fee-----	80.00	a.	Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn-----	\$10.00	a.	Processed in connection with spinning tests as specified in item numbers 11 through 14, per lot of fabric-----	\$70.00	
13.	Cotton carded and combed yarn spinning test (reporting the results specified in item numbers 11 and 12 in combination as based on the processing of 9 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns), per sample-----	50.00		In the following quantities wound on paper tubes:		b.	Processed from yarns furnished by the applicant, per lot of fabric-----	60.00	
	Minimum fee-----	100.00				20.	Strength of cotton fabric (reporting the average warp and filling strength by the grab method as based on 5 breaks for both warp and filling of fabric furnished by the applicant), per lot of fabric-----	2.50	
14.	Cotton carded and combed yarn spinning test (reporting the results specified in item numbers 11 and 12 in combination as based on the processing of 9 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns), per sample-----	60.00	17.	Spinning twist test (reporting data on the skein strength of any yarn number processed from ginned lint or stock in process employing 6 different spinning twist multipliers as specified by the applicant for determining the optimum twist) processed as follows:		20.1.	Cotton Fabric Analysis (reporting data on the number of warp and filling threads per inch and the weight per yard of fabric as based on at least three (3) 6 x 6-inch specimens of fabric which was processed as specified in item number 19, or furnished by the applicant), per lot of fabric-----	5.00	
	Minimum fee-----	120.00	a.	From ginned lint or picker lap, per sample-----	40.00		Minimum fee-----	10.00	
15.	Two-pound cotton carded yarn spinning test (available to cotton breeders only reporting data on the neps in card web, the yarn skein strength, the yarn appearance and the classification and the fiber length of the cotton as specified in item numbers 28 and 3 as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into 22s and 36s carded yarns employing a standard twist multiplier), per sample-----	20.00	b.	From sliver, per sample-----	35.00	20.2.	Sizing content of cotton fabric or yarn (reporting data on sizing content as based on the desizing of a 20 to 40 gram specimen of sized and, if available, unsized fabric or yarn which was processed as specified in item number 19 or furnished by the applicant), per lot of fabric or yarn-----	5.00	
	Minimum fee-----	40.00	c.	From roving, per sample-----	30.00		Minimum fee-----	20.00	
16.	Processing and testing of additional yarn (any carded or combed yarn number processed in connection with spinning tests as specified in item numbers 11 through 14 including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers):		17.1.	Additional spinning twist test (from the same material and in connection with a spinning test or a spinning twist test as specified in item numbers 11 through 14 and 17 reporting data on yarn skein strength for an additional yarn number or additional twists on the same yarn number), per 6 lots of yarn-----	25.00	20.3.	Air-permeability of cotton fabric (reporting the average cubic feet of air per minute per square foot of fabric at a pressure drop of 0.5 inches of water across the fabric as based on five 10 x 10-inch specimens), per lot of fabric-----	2.50	
a.	Single yarn reporting data on skein strength and appearance, per additional lot of yarn-----	5.00	18.	Skein strength of yarn (reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant), per sample-----	2.50		Minimum fee-----	5.00	
b.	2- or 3-ply yarn reporting data on skein strength only, per lot of yarn-----	10.00	18.1.	Single strand strength of yarn (reporting data on the strength as based on a minimum of 10 breaks on yarn from each of 7 bobbins employing an automatic testing machine), per sample-----	3.00	21.	Neps and waste test (reporting data on neps in card web and wastes extracted in the processing of a 5-pound specimen of ginned cotton lint through the picking and carding processes in accordance with standard procedures as specified in item number 11), per sample-----	7.50	
				Minimum fee-----	6.00	21.1.	Determination of neps in card web of cotton (reporting the average number of neps per 100 square inches of web in specimens furnished by the applicant on boards covered with black velvet not to exceed 10 specimens or a total of 360 square inches), per test-----	1.50	
			a.	Furnishing copy of chart record, per test-----	1.00	22.	Sugar content and acid-alkalinity of ginned cotton lint (reporting data on the percentage of soluble reducing sugar content and the acid-alkalinity in pH units as based on chemical-colorimetric and electronic meter tests on water extracts), per sample-----	1.00	
			18.2.	Single strand strength of ply yarn or cord (reporting data on the strength as based on 25 breaks employing a pendulum type testing machine), per sample-----	2.50		Minimum fee-----	5.00	
			18.3.	Appearance grade of yarn on bobbins furnished by applicant (reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin), per bobbin-----	1.00				
			a.	Furnishing yarn wound on boards in connection with yarn appearance tests as specified in item numbers 11 through 15 and 18.3, per yarn number-----	1.00				

Item No.	KIND OF TEST	Fee per test	Item No.	KIND OF TEST	Fee per test
22.1.	Sugar content only, per sample.....	\$0.75	29.1.	Combination fiber test including test items 3, 5 and 6.1, per sample.....	\$3.00
	Minimum fee.....	3.75		a. When tested in connection with spinning test item numbers 11, 12, 13, 14 and 15, per sample.....	1.75
22.2.	Acid-alkalinity only, per sample.....	.75	29.2.	Combination fiber test including test items 3.1, 5.1 and 6.2 (on 3 or more replicate sub-samples), per sub-sample.....	1.50
	Minimum fee.....	3.75		Minimum fee.....	4.50
23.	Color of ginned cotton lint (reporting data on the reflectance in terms of R_d values and the degree of yellowness in terms of b values as based on color tests employing the Nickerson-Hunter colorimeter on samples which have a uniform surface measuring 5 x 6½ inches and weighing approximately 50 grams in order to provide specimens which are sufficiently thick to be opaque), per sample.....	.25	30.	Mercerizing and testing of cotton yarn (reporting data on the luster of two 120-yard skeins and strength of the yarn as based on twenty-five 120-yard skeins mercerized in accordance with standard laboratory procedures):	
	Minimum fee.....	2.00		a. Including the processing of the extra yarn in connection with spinning test item numbers 11 through 14, per lot of yarn.....	12.50
23.1.	Furnishing color diagrams of official grade standards (reporting color values plotted on a diagram as based on tests employing the Nickerson-Hunter colorimeter for standards purchased by the applicant), per set or portion of set.....	15.00		Minimum fee.....	50.00
23.2.	Furnishing color standards (including a set of standards and a master diagram for use in calibrating Nickerson-Hunter cotton colorimeters), per set.....	25.00		b. For yarn furnished by the applicant (27 skeins of 120 yards each required), per lot of yarn.....	10.00
24.	Furnishing copies of test data work sheets (includes individual observations and calculations which are not routinely furnished to the applicant), per sheet.....	1.00		Minimum fee.....	40.00
25.	Foreign matter content of cotton samples (reporting data on the non-lint content as based on the Shirley Analyzer separation of lint and foreign matter):		31.	Bleaching and testing of cotton yarn (reporting data on the color of the yarn in terms of R_d reflectance values and plus b degree of yellowness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item numbers 11 through 14 or furnished by the applicant and bleached in accordance with standard laboratory procedures), per lot of yarn.....	6.00
	a. For samples of ginned lint or comber nolls, per 100-gram specimen.....	2.00		Minimum fee.....	90.00
	Minimum fee.....	4.00	32.	Bleaching, dyeing and testing of cotton yarn (reporting data on the color of the dyed yarn in terms of R_d reflectance values and minus b degree of blueness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item numbers 11 through 14 or furnished by the applicant and bleached then dyed in accordance with standard laboratory procedures), per lot of yarn.....	10.00
	b. For samples of ginning and processing wastes other than comber nolls, per 100-gram specimen.....	5.00		Minimum fee.....	150.00
	Minimum fee.....	10.00	33.	Dyeing and testing of grey cotton yarn (reporting data on the color of the dyed yarn in terms of R_d reflectance values and minus b degree of blueness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item numbers 11 through 14 or furnished by the applicant and dyed in accordance with standard laboratory procedures), per lot of yarn.....	6.00
26.	Furnishing identified cotton samples (includes samples of ginned lint, stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests), per identified sample.....	.75		Minimum fee.....	90.00
27.	Furnishing additional copies of test reports (includes extra copies in addition to the 2 copies routinely furnished in connection with each test item), per additional sheet.....	.50	34.	Luster of cotton yarn (reporting data on the percent luster of grey or mercerized yarn either processed in connection with spinning test item numbers 11 through 14 or furnished by the applicant as based on the measurement of two 120-yard skeins), per lot of yarn.....	1.00
27.1.	Furnishing a certified relisting of test results (includes samples selected from any previous tests except sub-sample tests as specified in item numbers 3.1, 5.1 and 6.2 which may not be relisted unless all replicate sub-samples in a group are included), per sheet.....	2.50		Minimum fee.....	3.00
28.	Classification of ginned cotton lint in connection with fiber and/or processing tests (includes grade and staple classification of 4-ounce samples in accordance with the applicable American standards for the cotton submitted), per sample.....	.25	35.	Color of cotton yarn (reporting data on the color of grey, bleached, dyed or bleached and dyed yarn either processed in connection with spinning test items 11 through 14 or furnished by the applicant as based on the measurement of two 120-yard skeins), per lot of yarn.....	1.00
29.	Combination fiber test including test item numbers 3, 5, and 6, per sample.....	3.75		Minimum fee.....	3.00
	a. When tested in connection with spinning test item numbers 11, 12, 13, 14 and 15, per sample.....	2.50			

§ 28.957 *Fees for special tests.* In the discretion of the Director, special tests not listed in § 28.956 may be made to the extent that available facilities will permit, subject to the payment of fees as determined by him.

§ 28.958 *Payment of fees.* As soon as practicable after the last day of each calendar month, bills shall be rendered by officers in charge of testing laboratories to all persons from whom payment of fees and costs under the regulations in this subpart shall become due, provided that when desirable any bill may be rendered at an earlier date. Payment shall be by check or by draft or post office or express money order, payable to the order of "Agricultural Marketing Service, USDA."

§ 28.959 *Limitation of testing services.* If at any time funds available for services under the regulations in this subpart may be insufficient to provide for the testing of all samples that may be submitted for the purpose, the Director may place reasonable limitations upon the quantities of samples to be submitted by individuals during any one fiscal year or any one calendar month, and may direct that samples received from cotton breeders shall take precedence over those received from other persons.

§ 28.960 *Confidential information.* No information concerning individual tests under the regulations in this subpart shall be published or communicated in such a way as to disclose to others the identity of the owners of cotton represented by samples submitted for testing, except with the written permission of such owners.

§ 28.961 *False and misleading information.* The publication or communication by any person of false or misleading information concerning the results of tests as reported by laboratories under the regulations in this subpart shall be deemed sufficient cause for denial of testing services to such persons.

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION, SAMPLING, AND CERTIFICATION)

Subpart A—Regulations

DEFINITIONS

Sec.	
61.1	Words in singular form.
61.2	Terms defined.
61.2a	Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.

ADMINISTRATIVE AND GENERAL

61.3	Director.
61.4	Supervisor of cottonseed inspection.
61.5	Regulations to govern.
61.6	Denial of further services.
61.7	Misrepresentation.
61.8	Application for review.
61.9	Cost of review.

LICENSED COTTONSEED CHEMISTS

61.10	Application for license as cottonseed chemist; form.
61.11	Examination of applicant.
61.12	Period of license; renewals.

- Sec.
 61.13 Conditions in licensing.
 61.14 Fees for grading and certification.
 61.15 Records of analyses; inspection of records.
 61.16 Official and unofficial samples; analyses; certificate.
 61.17 Grade certificate; form.
 61.18 Reports of licensed chemists.
 61.19 Information of violations.
 61.20 Licensed chemists; suspension of license.
 61.21 Suspended license to be returned to Division.
 61.22 Duplicate license.
 61.23 Unlicensed persons must not represent themselves as licensed.
 61.24 Information on grading to be kept confidential.

LICENSED COTTONSEED SAMPLERS

- 61.25 Application for license as sampler; form.
 61.26 Bonds of licensed samplers.
 61.27 Period of license; renewals.
 61.28 Renewal of license; bond.
 61.29 Approval of bond.
 61.30 Examination of sampler.
 61.31 License must be posted.
 61.32 No discrimination in sampling.
 61.33 Equipment of sampler; contents of certificate.
 61.34 Drawing and preparation of sample.
 61.35 Inspection of records of sampler.
 61.36 Cause for suspension or revocation.
 61.37 License may be suspended.
 61.38 Suspended license to be returned to Division.
 61.39 Duplicate license.
 61.40 Reports of licensed samplers.
 61.41 Unlicensed persons must not represent themselves as licensed samplers.
 61.42 Information on sampling to be kept confidential.

FEES AND COSTS

- 61.43 Fees and costs.
 61.44 Fees for examination for license as chemist.
 61.45 Fees for certificates to be paid by licensee to Service.
 61.46 Fees for review of grading of cottonseed.

Subpart B—Standards for Grades of Cottonseed Sold or Offered for Sale for Crushing Purposes Within the United States

- 61.101 Determination of grade.
 61.102 Determination of quantity index.
 61.103 Determination of quality index.
 61.104 Sampling, analysis, and certification of samples and grades.

SUBPART A—REGULATIONS

AUTHORITY: §§ 61.1 to 61.46 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624.

DEFINITIONS

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

§ 61.2 *Terms defined.* As used throughout the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively to mean:

(a) *The act.* The applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.) or any other act of Congress conferring like authority.

(b) *Regulations.* Regulations mean the provisions in this subpart.

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

No. 251—9

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

(e) *Service.* The Agricultural Marketing Service of the United States Department of Agriculture.

(f) *Administrator.* The Administrator of the Agricultural Marketing 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 his stead.

(g) *Division.* The Cotton Division of the Agricultural Marketing Service.

(h) *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 his stead.

(i) *Custodian.* Person who has possession or control of cottonseed or of samples of cottonseed as agent, controller, broker, or factor, as the case may be.

(j) *Owner.* Person who through financial interest owns or controls, or has the disposition of either cottonseed or of samples of cottonseed.

(k) *Official cottonseed standards.* The official standards of the United States for the grading, sampling, and analyzing of cottonseed sold or offered for sale for crushing purposes.

(l) *Supervisor of cottonseed inspection.* An officer of the Division designated as such by the Director.

(m) *License.* A license issued under the act by the Secretary.

(n) *Licensed cottonseed chemist.* A person licensed under the act by the Secretary to make quantitative and qualitative chemical analyses of samples of cottonseed according to the methods prescribed by the Director and to certificate the grade according to the official cottonseed standards of the United States.

(o) *Licensed cottonseed sampler.* A person licensed by the Secretary to draw and to certificate the authenticity of samples of cottonseed in accordance with the regulations in this subpart.

(p) *Dispute.* A disagreement as to the true grade of a sample of cottonseed analyzed and graded by a licensed chemist.

(q) *Party.* A party to a dispute.

(r) *Commercial laboratory.* A chemical laboratory operated by an individual, firm, or corporation in which one or more persons are engaged in the chemical analysis of materials for the public.

(s) *Cottonseed.* The word "cottonseed" as used in this part means the seed, after having been put through the usual and customary process known as cotton ginning, of any cotton produced within the continental United States.

(t) *Lot.* That parcel or quantity of cottonseed offered for sale or tendered for delivery or delivered on a sale or contract of sale, in freight cars, trucks, wagons, or otherwise in the quantities and within the time limits prescribed from time to time by the Director for the

drawing and preparation of official samples by licensed cottonseed samplers.

(u) *Official sample.* A specimen of cottonseed drawn and prepared by a licensed cottonseed sampler and certified by him as representative of a certain identified lot, in accordance with the regulations in this subpart.

§ 61.2a *Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.* Subsection 203 (h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the inspection, sampling, class, grade, quality, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling, pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grade mark, inspection mark, and any other mark, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U. S. grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this part.

(d) "Official identification" means any United States (U. S.) standard designation of class, grade, quality, quantity, or condition specified in this part, or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, quantity, or condition of the product, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

ADMINISTRATIVE AND GENERAL

§ 61.3 *Director.* The Director shall perform for and under the supervision of the Secretary and the Administrator, such duties as the Secretary or the Administrator may require in enforcing the provisions of the act and the regulations.

§ 61.4 *Supervisor of cottonseed inspection.* The Director, whenever he deems necessary, may designate an officer of the Division as supervisor of cottonseed inspection who shall supervise the inspection and sampling of cottonseed and perform such other duties as may be required of him in administering the act and the regulations.

§ 61.5 *Regulations to govern.* The inspection, sampling, analyzing, and grading of cottonseed in the United States pursuant to the act shall be performed as prescribed in methods approved from time to time by the Director.

§ 61.6 *Denial of further services.* Any person, partnership, or corporation that shall have undertaken to utilize the services of licensed cottonseed samplers and licensed cottonseed chemists under these regulations who shall not make available for official sampling and analysis each lot of cottonseed purchased or sold on grade and received by such person or partnership or corporation, may be denied further services under the act and these regulations: *Provided*, That in cases of persons, partnerships, or corporations operating two or more cottonseed crushing units under separate local managements, such penalty shall apply only to the offending unit, unless it shall be shown that the actions of such unit were at the direction or with the knowledge, approval, or acquiescence of the general management.

§ 61.7 *Misrepresentation.* Any wilful misrepresentation or any deceptive or fraudulent practice made or committed by an applicant for a cottonseed sampler's certificate or for a cottonseed chemist's certificate or for an appeal grade certificate in connection with the sampling or grading of cottonseed by persons licensed under the act and the regulations or the issuance or use of a certificate not issued by a person licensed under the regulations in imitation of or that might mislead anyone to believe that such certificate was in fact issued by a person licensed under the act, or that might be otherwise false, misleading, or deceptive, may be deemed sufficient cause for debarring such applicant from any further benefits of the act.

§ 61.8 *Application for review.* In case of dispute in which a review is desired of the grading of any sample of cottonseed covered by a valid certificate issued by a licensed cottonseed chemist, application therefor shall be filed with or mailed to a supervisor of cottonseed inspection within ten days after the date of the original certificate, whereupon the licensed chemist issuing the certificate shall immediately surrender to such supervisor the retained portion of the original sample, together with such records as may be required, for the determination of the true grade. The supervisor shall assign to such retained portion an

identification number, shall divide such retained portion into two parts and submit the parts to two other licensed cottonseed chemists for reanalysis. Should the supervisor determine that such reanalyses indicate a grade differing from the original by not more than plus or minus one full grade, the original grade shall be considered the true grade. Should he find that such reanalyses indicate a grade differing more than plus or minus one full grade from the original, he shall determine the true grade. In any case, the supervisor shall issue over his name an appeal cottonseed grade certificate showing the true grade as determined in accordance with this section, which shall supersede the licensed chemists' certificates relating to the grade of such seed. Where due solely to errors in calculation or clerical error a grade certificated by a licensed cottonseed chemist is not the true grade, the supervisor shall direct the licensee to cancel the original and to issue a correct certificate. Should such error be found after an application for review has been filed, the supervisor shall nevertheless issue an appeal cottonseed grade certificate showing the true grade of the cottonseed involved.

§ 61.9 *Cost of review.* In cases of review of the grade of any official sample of cottonseed, payment covering the costs of re-analysis shall accompany the application.

LICENSED COTTONSEED CHEMISTS

§ 61.10 *Application for license as cottonseed chemist; form.* (a) Application for licenses to analyze and grade cottonseed shall be made to the Director on forms furnished for the purpose by the Division.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by satisfactory evidence (1) that he has passed his twenty-fifth birthday and that he is an actual resident of the continental United States; (2) that he holds a degree in chemistry or chemical engineering from a recognized college or university and has had not less than three years' practical experience in laboratory work in which he shall have analyzed quantitatively and qualitatively samples of cottonseed; or in the absence of a degree from a recognized college or university, that he has had at least five years' practical laboratory experience, three years of which shall have been devoted chiefly to the analysis of samples of cottonseed; (3) that he will have no financial interest in any cottonseed oil mill or cotton ginning establishment; (4) that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him; (5) that he is an independent analytical chemist or an employee of a commercial analytical laboratory; (6) that he owns or will have the use of all of the apparatus specified in the methods established hereunder for the analysis and grading of cottonseed; and (7) such other information as the Director may deem necessary.

(c) Every chemist licensed hereunder to analyze cottonseed and to certificate

the grade thereof shall follow precisely the methods of analysis approved from time to time by the Director.

(d) The applicant shall furnish such additional information as the Director shall at any time find to be necessary to the consideration of his application.

§ 61.11 *Examination of applicant.* Each applicant for a license as a chemist and each licensed chemist shall when requested submit to an examination or test to show his ability to analyze and grade cottonseed. His failure to pass such test may be considered sufficient ground for withholding the issuance to him of a license or of a renewal of a license.

§ 61.12 *Period of license; renewals.* The period for which a license may be issued shall be from the first day of August until and including the 31st day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year, provided that licenses issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.

§ 61.13 *Conditions in licensing.* It shall be a condition of the licensing of any person, and of the retention by him of a license, that during the active cotton season each year he shall be engaged in or in connection with the grading of cottonseed; that all cottonseed offered for grading shall be analyzed and graded in accordance with the official cottonseed standards of the United States; that each sample of cottonseed received for analysis and grading shall be handled in the order of its receipt at his place of business; and that such license shall not be used or be allowed to be used for any improper purpose.

§ 61.14 *Fees for grading and certification.* Whenever any licensed chemist shall grade and/or certificate any cottonseed or samples in consideration of a fee, the fee charged shall be reasonable, unconditional, non-discriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Division. The schedule shall include the certificate fee provided for in § 61.45.

§ 61.15 *Records of analyses; inspection of records.* Each licensed chemist, shall keep, or shall cause to be kept for him, for a period of at least 1 year after date of analysis, a record of the analysis of each individual sample of cottonseed graded by him. Each licensed chemist shall permit any authorized officer or agent of the Department to inspect or examine, on any business day during the usual hours of business, his books and records relating to analyses of cottonseed samples and issuance of cottonseed grade certificates under the act and the regulations in this subpart.

§ 61.16 *Official and unofficial samples; analyses; certificate.* (a) Each licensed cottonseed chemist shall assign a laboratory number to each sample of cottonseed received by him and shall analyze and certificate over his signature the grade of each sample or lot of cottonseed in the order in which the sample is received.

(b) Each such sample which is in proper condition for analysis under these regulations and which is accompanied by the certificate of a licensed cottonseed sampler certifying it to be an official sample representing an identified lot of cottonseed shall be considered an official sample. In any case where the original sample is lost or destroyed before analysis, the duplicate thereof retained by the licensed cottonseed sampler as provided in § 61.34 shall become the official sample. Each licensed chemist shall retain for at least two weeks a portion of each official sample first analyzed; and in any case where a review is requested under § 61.8 such retained portion shall be considered an official sample for purposes of review analysis.

(c) Each such sample which is (1) not in proper condition for analysis as an official sample under these regulations, or (2) not accompanied by a certificate of a licensed cottonseed sampler, or (3) known to be a duplicate of an official sample (except duplicates of lost or destroyed official samples) shall be considered an unofficial sample and the licensed cottonseed chemist's certificate of the grade thereof shall be plainly marked: "Sample not official; grade applies to sample only." This paragraph shall not apply to mill control or crush samples.

§ 61.17 *Grade certificate; form.* Each grade certificate issued under the act by a licensed chemist shall be in a form approved for the purpose by the Director and shall embody within its written or printed terms:

(a) The caption "Cottonseed Grade Certificate."

(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) A statement certifying that the analysis of the cottonseed sample was made according to the methods approved by the Director of the Cotton Division and that the grade given is according to the official standards of the United States.

(e) A statement of the condition of the lot of cottonseed as reported by the sampler, and in cases where the sample was submitted by a licensed sampler, the name and license number of the sampler.

(f) The identification of each lot of cottonseed by the marks and notations by which the seed was identified at the time the sample was taken, and the origin of the cottonseed by county and state.

(g) All analytical data required by the Director.

(h) The signature of the licensed chemist.

In addition, the grade certificate may include any other matter not inconsistent with the act or the regulations in this part. Two copies of the grade certificate form shall be submitted to and approved by the Division before use by a licensed chemist. A copy of each certificate shall be mailed to a designated office of the Division within 36 hours after its issuance.

§ 61.18 *Reports of licensed chemists.* Each licensed chemist shall from time to time when requested by the Director, make reports on forms furnished for the

purpose by the Division bearing upon his activities as such licensed chemist.

§ 61.19 *Information of violations.* Every person licensed under the act shall immediately furnish the Director any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

§ 61.20 *Licensed chemists; suspension of license.* The Director may, without a hearing, suspend or revoke the license issued to a licensed chemist upon written request and a satisfactory statement of reasons therefor submitted by such licensed chemist. Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed chemist when such licensed chemist (a) has ceased to perform services as such chemist, (b) has knowingly or carelessly analyzed cottonseed improperly, (c) has violated or evaded any provision of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed chemist. In such cases the Director shall give notice of the suspension to the licensed chemist, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

§ 61.21 *Suspended license to be returned to Division.* If a license issued to a licensed chemist is suspended, revoked, or canceled, such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed chemist to whom it was originally issued.

§ 61.22 *Duplicate license.* Upon satisfactory proof of the loss or destruction of a license issued to a licensed chemist, a duplicate thereof may be issued under the same or a new number.

§ 61.23 *Unlicensed persons must not represent themselves as licensed.* No person shall in any way represent himself to be a chemist licensed under the act unless he holds an unsuspended, unrevoked, and uncanceled license issued under the act.

§ 61.24 *Information on grading to be kept confidential.* Every person licensed under the act as a licensed chemist shall keep confidential all information secured

by him relative to cottonseed analyzed and graded by him. He shall not disclose such information to any person except to the owner or custodian of the seed in question, or to an authorized agent of the Department.

LICENSED COTTONSEED SAMPLERS

§ 61.25 *Application for license as sampler; form.* (a) Applications for licenses to sample cottonseed shall be made to the Director on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he is an actual resident of the United States, (2) satisfactory evidence of his experience in the handling and sampling of cottonseed, (3) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as they relate to him, and with instructions issued from time to time governing the sampling of cottonseed, and (4) such other information as may be required.

§ 61.26 *Bonds of licensed samplers.* (a) Each applicant for a license to sample cottonseed shall, as a condition to the granting thereof, execute and file with the Director a good and sufficient bond to the United States to secure the faithful performance of his duties as a licensed sampler under the terms of the act and the regulations in this part. Said bond shall be in such form and amount, not less than \$1,000, and shall have such surety or sureties as shall be approved by the Department, subject to service of process in suits on the bond within the State, district, or territory, in which such licensee shall perform services as a licensed cottonseed sampler. Any person injured by the breach of any obligation to secure which a bond is given under this paragraph shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

(b) If the Director finds that conditions warrant such action, there shall be added to the amount previously required under paragraph (a) of this section such additional amount as he shall deem necessary.

§ 61.27 *Period of license; renewals.* The period for which a license may be issued under the regulations in §§ 61.25 through 61.42 shall be from the first day of August until and including the 31st day of July following. Renewals shall be for 1 year, beginning with the first day of August of each year: *Provided*, That licenses or renewals issued on and after June 1 of any year shall be for the period ending July 31 of the following year.

§ 61.28 *Renewal of license; bond.* It shall be a condition of the renewal of any license hereunder that the licensed sampler shall file a new bond in the required amount with, and that such bond shall be approved by the Director or his authorized representative: *Provided*, That in the discretion of the Director or his authorized representative a properly executed instrument in form approved by

him amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the licensed sampler and otherwise complying with the regulations in §§ 61.25 through 61.42 may be filed in lieu of a new bond.

§ 61.29 *Approval of bond.* No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of the regulations in §§ 61.25 through 61.42 until it has been approved by the Director or his authorized representative.

§ 61.30 *Examination of sampler.* Each applicant for a license as a sampler and each licensed sampler whenever requested by an authorized representative of the Director, shall submit to an examination or test to show his ability properly to perform the duties for which he is applying for a license or for which he has been licensed, and each such applicant or licensee shall furnish the Division any information requested at any time in regard to his sampling of cottonseed.

§ 61.31 *License must be posted.* Each licensed sampler shall keep his license conspicuously posted at the place where he functions as a sampler or in such other place as may be approved by the Director.

§ 61.32 *No discrimination in sampling.* Each licensed sampler, when requested, shall without discrimination, as soon as practicable and upon reasonable terms, sample any cottonseed if the same be made available to him at his place of business, under conditions that will permit proper sampling. Each such licensee shall give preference to those who request his services as such over persons who request his services in any other capacity.

§ 61.33 *Equipment of sampler; contents of certificate.* Each licensed sampler shall have available suitable triers or sampling tools, sample containers, scales, seed cleaners, seed mixers, and air-tight containers for enclosing and forwarding the official samples to licensed chemist, and with tags and samplers' certificates approved or furnished by the Director or his representative for identifying the samples of cottonseed and for certifying the condition of the cottonseed represented by such samples. There shall be clearly written or printed on the face of such certificate (a) a suitable caption; (b) the location of the cottonseed involved and its point of origin; (c) the identification of the lot from which the sample was drawn; (d) the date on which the sample was drawn; (e) the gross weight of the original sample, and the net weight of the cleaned sample; (f) a statement indicating that the sample was drawn in accordance with sampling methods prescribed by the Director of the Cotton Division; and (g) the signature of the licensed sampler as such. The use of such tags and certificates shall be in conformity with instructions issued from time to time by the Division.

§ 61.34 *Drawing and preparation of sample.* Each licensed cottonseed sampler shall draw, prepare, and identify one

official sample of cottonseed and a duplicate thereof from each lot made available to him in such manner as may be required by the Director, and shall promptly prepare it for forwarding to a licensed cottonseed chemist for analysis and grading. The duplicate shall be sealed and retained by the sampler until the original official sample shall have been analyzed by a licensed chemist. If the original official sample shall become lost or destroyed before having been analyzed the duplicate shall become the official sample; otherwise the licensed sampler shall immediately remove the identification marks from the duplicate and discard it. In no case shall the duplicate be offered for analysis unless the original shall have been lost or destroyed before analysis.

§ 61.35 *Inspection of records of sampler.* Each licensed sampler shall permit any authorized representative of the Department to inspect at any time his books and records relating to the performance of his duties under §§ 61.25 through 61.42.

§ 61.36 *Cause for suspension or revocation.* The failure or refusal of any cottonseed sampler, duly licensed as such under the regulations in this subpart, to draw, prepare, identify, and to forward an official sample of every lot of cottonseed made available to him for the purpose, in accordance with these regulations, shall be cause for the suspension or revocation of his license. A sampler's license may also be suspended when the sampler (a) has ceased to perform services as a licensed cottonseed sampler, (b) has knowingly or carelessly sampled cottonseed improperly, (c) has violated or evaded any provision of the act, these regulations, or the sampling methods prescribed by the Director, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed sampler.

§ 61.37 *License may be suspended.* The Director may, without a hearing, suspend or revoke the license issued to a licensed sampler upon written request and a satisfactory statement of reasons therefor submitted by such licensed sampler. Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed sampler by giving notice of such suspension to the licensee, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

§ 61.38 *Suspended license to be returned to Division.* In case a license issued to a sampler is suspended or revoked such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of beginning and termination of such suspension shall be endorsed thereon, it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in § 61.31.

§ 61.39 *Duplicate license.* Upon satisfactory proof of the loss or destruction of a license issued to a sampler hereunder, a new license may be issued under the same or a new number.

§ 61.40 *Reports of licensed samplers.* Each licensed sampler, when requested, shall make reports on forms furnished for the purpose by the Division bearing upon his activity as such licensee.

§ 61.41 *Unlicensed persons must not represent themselves as licensed samplers.* No person shall in any way represent himself to be a sampler licensed under the act unless he holds an unsuspended and unrevoked license issued thereunder.

§ 61.42 *Information on sampling to be kept confidential.* Every person licensed under the act as a sampler of cottonseed shall keep confidential all information secured by him relative to shipments of cottonseed sampled by him. He shall not disclose such information to any person except an authorized representative of the Department.

FEEES AND COSTS

§ 61.43 *Fees and costs.* For the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be \$5.00, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be \$3.00.

§ 61.44 *Fees for examination for license as chemist.* For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be \$50.00, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be \$30.00.

§ 61.45 *Fees for certificates to be paid by licensee to Service.* To cover in part the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service 25 cents for each certificate of the grade of cottonseed issued by him. Upon receipt of a statement from the Service each month showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA."

§ 61.46 *Fees for review of grading of cottonseed.* For the review of the grading of any lot of cottonseed, the fee shall be \$9.00. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Mar-

keting Service, USDA," shall accompany each application for review. Of each such fee collected, \$1.00 shall be covered into the Treasury and \$4.00 disbursed to each of the two licensed chemists designated to make reanalyses of such seed.

SUBPART B—STANDARDS FOR GRADES OF COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES WITHIN THE UNITED STATES

AUTHORITY: §§ 61.101 to 61.104 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624. Interpret or apply sec. 203, 60 Stat. 1087; 7 U. S. C. 1622.

§ 61.101 *Determination of grade.* The grade of cottonseed shall be determined from the analysis of samples, and it shall be the result, stated in the nearest whole or half numbers, obtained by multiplying a quantity index by a quality index and dividing the result by 100. The quantity index and the quality index shall be determined as hereinafter provided.

(a) The basis grade of cottonseed shall be grade 100.

(b) High grades of cottonseed shall be those grades above 100.

(c) Low grades of cottonseed shall be those grades below 100.

§ 61.102 *Determination of quantity index.* The quantity index of cottonseed shall be determined as follows:

(a) For cottonseed that by analysis contain 16.5 percent or more of oil, the quantity index shall equal the result of 4 times (percentage of oil), plus 6 times (percentage of ammonia), plus the applicable linters premium or discount shown in paragraph (c) of this section, plus 5.

(b) For cottonseed that by analysis contain less than 16.5 percent of oil, the quantity index shall equal the result of 6 times (percentage of oil), plus 6 times (percentage of ammonia), plus the applicable linters premium or discount shown in paragraph (c) of this section, minus 28.

(c) The premium or discount for total linters content of cottonseed to be used in paragraphs (a) and (b) of this section will be according to the following table:

Total linters content of cottonseed (percent): ¹	Premium or discount (quantity index units): ²
20.0	+8.5
19.0	+7.5
18.0	+6.5
17.0	+5.5
16.0	+4.5
15.0	+3.5
14.0	+2.5
13.0	+1.5
12.0	+0.5
11.5	0
11.0	-0.5
10.0	-1.5
9.0	-3.5
8.0	-5.5
7.0	-7.5
6.0	-9.5
5.0	-11.5
4.0	-14.0
3.0	-16.5
2.0	-19.0
1.0	-21.5

¹ Total linters content to the nearest 0.1 percent will be used in calculating premiums and discounts.

² Premiums and discounts are calculated on the basis of the following formulas:

Percent linters on cottonseed:	Premium or discount factor
11.6 and over	Premium=(percent linters minus 11.5) × 1.0.
11.5	None.
11.4-10.0	Discount=(11.5 minus percent linters) × 1.0.
9.9-5.0	Discount=(10.0 minus percent linters) × 2.0+1.5.
4.9-0	Discount=(5.0 minus percent linters) × 2.5+11.5.

§ 61.103 *Determination of quality index.* The quality index of cottonseed shall be an index of purity and soundness, and shall be determined as follows:

(a) *Prime quality cottonseed.* Cottonseed that by analysis contains not more than 1.0 percent of foreign matter, not more than 12.0 percent of moisture, and not more than 1.8 percent of free fatty acids in the oil in the seed, shall be known as prime quality cottonseed and shall have a quality index of 100.

(b) *Below prime quality cottonseed.* The quality index of cottonseed that, by analysis, contain foreign matter, moisture, or free fatty acids in the oil in the seed, in excess of the percentages prescribed in paragraph (a) of this section shall be found by reducing the quality index of prime quality cottonseed as follows:

(1) Four-tenths of a unit for each 0.1 percent of free fatty acids in the oil in the seed in excess of 1.8 percent.

(2) One-tenth of a unit for each 0.1 percent of foreign matter in excess of 1.0 percent.

(3) One-tenth of a unit for each 0.1 percent of moisture in excess of 12.0 percent.

(c) *Off quality cottonseed.* Cottonseed that has been treated by either mechanical or chemical process other than the usual cleaning, drying, and ginning (except sterilization required by the United States Department of Agriculture for quarantine purposes) or that are fermented or hot, or that upon analysis are found to contain 12.5 percent or more of free fatty acids in the oil in the seed, or more than 10.0 percent of foreign matter, or more than 20.0 percent of moisture, or more than 25.0 percent of moisture and foreign matter combined, shall be designated as "off quality cottonseed."

(d) *Below grade cottonseed.* Cottonseed the grade of which when calculated according to § 61.101 is below grade 40.0 shall be designated as "below grade cottonseed," and a numerical grade shall not be indicated.

§ 61.104 *Sampling, analysis, and certification of samples and grades.* The drawing, preparation, and certification of samples of cottonseed, and the analysis and certification of grades of cottonseed shall be performed in accordance with methods approved from time to time for the purposes by the Director, or his representatives.

[F. R. Doc. 57-10760; Filed, Dec. 27, 1957; 8:46 a. m.]

PART 55—GRADING AND INSPECTION OF EGG PRODUCTS

MISCELLANEOUS AMENDMENTS

Notice of a proposed amendment to the regulations governing the grading and inspection of egg products (7 CFR Part 55) was published in the FEDERAL REGISTER on December 3, 1957 (22 F. R. 9666). The amendment hereinafter promulgated is pursuant to authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.).

The amendment increases the charges on basic salaries of resident Federal graders from 8 percent to 15 percent to applicants for grading and inspection of egg products performed on a resident grading basis. The increase results from a decision that resident Federal graders should properly be covered under the Federal Leave System which increases benefits to the resident Federal graders and correspondingly increases costs of the more liberal annual and sick leave benefits. A charge, therefore, included in the basic salary cost, equal to 15 percent of the base salary is necessary to cover these increased costs including an amount equal to the cost to AMS for the Employer's tax for Old Age and Survivor's Benefits under the Social Security System and for insurance as provided in the Federal Employees' Group Life Insurance Act of 1954.

After consideration of all relevant material presented, the amendment hereinafter set forth is promulgated to become effective January 1, 1958.

It is hereby found that good cause exists for making this amendment effective January 1, 1958, for the reasons that: (1) Legislation provides that the fees charged shall be reasonable and shall as nearly as possible cover the cost of the service; the cost of the service is peculiarly within the knowledge of the Department and the fees set forth herein are necessary to cover such costs; (2) cost of performing the services have been increased by a recent decision that resident Federal graders should properly be covered under the Federal Leave System which increases benefits to the resident Federal graders, therefore, it is necessary that the charges for the services be increased as soon as practicable, which is January 1, 1958; and (3) additional time is not required in order for the industry to make preparation for compliance with this amendment.

The amendment is as follows:

1. Change paragraph (a) (4) of § 55.68 On a resident inspection basis, to read as follows:

(4) A charge equal to the salary cost paid to each grader assigned to the applicant's plant by AMS: *Provided*, That, no charge, is to be made for salary cost of any assigned grader or inspector of the designated plant while temporarily reassigned by AMS to perform grading service for other than the applicant, except when the assigned grader is performing inspections for the Department of Defense on products accepted for delivery by the applicant to the Department of Defense, in which case the applicant will be given credit for the service rendered, based on a formula