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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Cotton Marketing Services; Regulatory Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS), in compliance with the requirements for the periodic review of existing regulations, has reviewed the regulations regarding the classification of cotton under the United States Cotton Standards Act, cotton linters classification and cotton classification and market news services for producers. As a result of the review, certain changes in the regulations are being made. These changes amend the wording of the regulations to conform with organizational changes within the Cotton Division of AMS and update terms and definitions.

EFFECTIVE DATE: September 17, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Dickson, Chief, Grading Branch, Cotton Division, AMS, USDA, 4841 Summer Avenue, Memphis, Tennessee 38122, telephone (901) 521-2921.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been determined not to be a "major rule" since it does not meet the criteria for a major regulatory action as stated in the Order. No new costs or additional requirements are being imposed on the affected industry or others.

The Administrator of the Agricultural Marketing Service has determined that this final rule does not have a significant economic impact on a substantial

number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 6701 *et seq.*) because: (i) The amendments reflect AMS organizational changes and other changes made for clarification purposes; (ii) costs of compliance are not increased; (iii) recordkeeping burdens are not increased; (iv) the changes in the regulations do not affect the competitive position or market access of small entities in the cotton industry.

The information collection requirements contained in subparts A, B, and D of 7 CFR Part 28 of the regulations have been previously assigned Office of Management and Budget (OMB) Control Numbers 0581-0008 and 0581-0009 under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Background

Part 28 of Title 7 of the Code of Federal Regulations is divided into five subparts containing regulations governing cotton classing, testing, and standards.

Subpart C—Standards, and Subpart E—Cotton and Fiber Processing Tests, have previously been reviewed and updated by AMS (Subpart C—48 FR 16873, April 20, 1983 and 51 FR 23037, June 25, 1986; and Subpart E—46 FR 30073, June 5, 1981).

Subpart A sets forth in detail the procedures and requirements for cotton classification under the United States Cotton Standards Act. Other regulations in Subpart A provide for the preparation and sale of practical forms of cotton standards, for the establishment of Universal Cotton Standards, and for the classification of cotton linters.

Regulations covering the classification of foreign growth cotton under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) are in Subpart B.

Pursuant to the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471 *et seq.*), Subpart D provides for cotton classification and market news service for cotton producers.

The regulations described above also establish the fees to be charged for such services and delineate the responsibilities and duties of the Cotton Division of AMS in administering these cotton marketing service programs.

Regulation Review

The Cotton Division of AMS has undertaken a general review of existing

regulations in Subparts A, B, and D or Part 28. The review was conducted in accordance with the requirements of Executive Order 12291 and under Departmental Regulation 1512-1.

The regulations have been examined for their effectiveness. It is determined that the procedures currently in effect are useful and efficient methods of providing cotton classification, practical forms of cotton standards, market news, and other cotton marketing services. The fees for services provided under Part 28 have been reviewed and have been revised as appropriate, effective July 1, 1986 (51 FR 22059). These fees are periodically reviewed by AMS and adjusted as necessary. Accordingly, no changes to fees are proposed in this rulemaking.

Changes to Regulations

A proposed rule was published in the May 5, 1987, *Federal Register* (52 FR 16394). Comments were to be received on or before May 26, 1987. No comments were received. Based upon all available information, AMS makes the following changes to Part 28 of the regulations.

The changes made by AMS in Subparts A, B, and D of Part 28 do not affect the services provided or the procedures for providing those services. AMS is eliminating masculine references in favor of gender neutral language. Also, to reflect the nomenclature changes made when the Cotton Division was reorganized in 1978 and in 1986, AMS is substituting the terms "Classing Office" for "Board of Cotton Examiners," substituting the term "Quality Control Section" for "Appeal Board of Review Examiners," substituting the term "Area Director" for "Chairman of the Board of Cotton Examiners," substituting the term "Quality Control Section" for Board of Cotton Linters Examiners, and substituting the term "cotton classer" for "cotton examiner."

Specifically, AMS is amending the following sections:

1. Sections 28.2, 28.15, 28.16, 28.25, 28.29, 28.36, 28.45, 28.56, 28.60, 28.105, 28.117, 28.138, 28.146, 28.177, 28.178, and 28.182 by eliminating masculine references in favor of gender neutral language.

2. Sections 28.2, 28.4, 28.7, 28.8, 28.15, 28.17, 28.18, 28.25, 28.26, 28.27, 28.28, 28.32, 28.37, 28.40, 28.47, 28.55, 28.56, 28.59, 28.60, 28.66, 28.115, 28.117, 28.178,

28.180, and 28.181 by substituting the term "Classing Office" for "Board of Cotton Examiners."

3. Sections 28.6, 28.7, 28.18, 28.19, 28.25, 28.36, 28.37, 28.59, 28.60, 28.115, 28.177, 28.178, 28.180, and 28.182 by substituting the term "Area Director" for "Chairman of the Board of Cotton Examiners."

4. Sections 28.66, 28.177, and 28.181 by substituting the term "Quality Control Section" for "Appeal Board of Review Examiners."

5. Sections 28.139, 28.140, 28.142, and 28.146 by substituting the term "Quality Control Section" for "Board of Cotton Linters Examiners."

6. Section 28.8 by substituting the term "cotton classers" for "cotton examiners."

The term "Quality Control Section" is added to the list of terms defined in § 28.2. This new term is designated paragraph (j) in § 28.2, and the present paragraphs (j) through (u) is redesignated paragraphs (k) through (v) respectively.

The term "cotton examiner", also defined in § 28.2, is changed to "cotton classer" and the definition is revised to reflect the requirement that classers must pass the practical cotton classing examination.

Section 28.4 is condensed to delete the obsolete term "Board of Supervising Cotton Examiners," the duties of which had been previously transferred to the "Appeal Board of Review Examiners" which under this final rule is renamed the "Quality Control Section" and defined in § 28.2.

Sections 28.5 and 28.6 describe the duties of the secretary of the board of cotton examiners and the acting secretary. In the 1978 Cotton Division reorganization, secretaries were reclassified as office assistants and the responsibilities of the office assistants were transferred to the Area Directors of the then Marketing Services Offices. Under this final rule the boards are renamed Classing Offices in accordance with a 1986 Cotton Division reorganization. Accordingly, §§ 28.5 and 28.6 are removed and § 28.7 is revised to reflect these changes. References to secretaries in §§ 28.17 and 28.178 are also deleted. Duplicative language in § 28.17 is also deleted.

Additional conforming changes are also made. Section 28.19 is amended to reflect that authority to reject classification requests is with Area Directors and the Head of the Quality Control Section instead of with the Chairman of the Board or the Director. Section 28.28 is amended to state that the Area Director instead of the secretary of the board is responsible for

informing applicants of lost or damaged samples. Section 28.36 is changed to reference Area Directors instead of the Chairman of the Board and permits Area Directors more discretion than the present emergency criteria in assigning classification priority. With the new definition of the Quality Control Section in § 28.2, § 28.137 becomes unnecessary and it is removed in this final rule.

Obsolete references to the Board of Cotton Linter Examiners and its secretary are deleted. Their duties are added to the "Quality Control Section" defined in § 28.2. Accordingly, all references to the secretary and the board are removed from §§ 28.139, 28.142, and 28.146.

Section 28.105 is amended to substitute the term "Administrator" for all references to the term "Secretary" in this section including with regard to signatures on practical forms. Presently practical forms are to be certified under the Seal of the United States Department of Agriculture and under the Secretary's own signature or some other official or employee of the Department duly authorized by the Secretary.

Section 28.107 is amended by removing the requirement that the Second Reserve Set of each Universal Cotton Standards Conference be retained by the Cotton Division until a new or revised set of standards is adopted. This requirement is not necessary since the First Reserve Set will continue to be retained, along with the original Universal Standards. The First Reserve Set is sufficient as a true copy of the standards approved at each of the Universal Cotton Standards Conferences, and recent practice has been to refer directly to the original standards when revisions to the standards are at issue. The Second Reserve Set would be retained, if that set is used in place of the First Reserve Set.

Section 28.165, Publications media, was proposed to be deleted from the regulations. This section stated that publications under the U.S. Cotton Standards Act would be made through service and regulatory announcements. Service and regulatory announcements are no longer issued by AMS. However, the final rule provides for a new § 28.165 that will collect and display the control numbers assigned to information collection requirements by OMB in Part 28 under the Paperwork Reduction Act of 1980. The information collection requirements contained in 7 CFR Part 28 have been previously assigned OMB control numbers 0581-0008 and 0581-0009.

List of Subjects in 7 CFR Part 28

Cotton, Samples, Standards, Cotton linters, Grades, Staple, Market news, Testing.

For the reasons set forth in the preamble, Subparts A, B, and D of Part 28, Chapter 1, Title 7 of the Code of Federal Regulations are amended as follows. The Table of Contents is amended accordingly.

PART 28—[AMENDED]

1. The authority citation for Subpart A of Part 28 is revised to read as follows:

Authority: Sec. 5, 50 Stat. 62, as amended (7 U.S.C. 55); Sec. 10, 42 Stat. 1519 (7 U.S.C. 61).

2. The authority citation for Subpart B of Part 28 continues to read as follows:

Authority: Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624).

3. The authority citation for Subpart D of Part 28 is revised to read as follows:

Authority: Sec. 3a, 50 Stat. 62, as amended (7 U.S.C. 473a); Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c).

4. Section 28.2 is amended by redesignating paragraphs (j) through (u) as paragraphs (k) through (v) respectively, by adding a new paragraph (j), and by revising paragraphs (d), (f), (h), (i), and the redesignated paragraph (k) to read as follows:

§ 28.2 Terms defined.

* * * * *

(d) *Secretary*. The Secretary of Agriculture of the United States, or any officer or employee of the Department who has been delegated, or who may hereafter be delegated the authority to act for the Secretary.

* * * * *

(f) *Administrator*. The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, who has been delegated, or who may hereafter be delegated the authority to act for the Administrator.

* * * * *

(h) *Director*. The Director of the Cotton Division, or any officer or employee of the Division who has been delegated, or who may hereafter be delegated the authority to act for the Director.

(i) *Classing Office*. A facility of the Cotton Division established under the act at any point.

(j) *Quality Control Section*. The national classing supervision office at Memphis, Tennessee performing final review of cotton classification and the classification of cotton linters.

(k) *Cotton classer*. An employee of the Department so designated by the

Director after having passed the prescribed practical cotton classing examination.

* * *

5. Section 28.4 is revised to read as follows:

§ 28.4 Classing Offices.

Classing Offices shall be maintained at points designated by the Administrator. Requests for the review of the classification and/or comparison of cotton performed by Classing Offices may be referred to the Quality Control Section.

§§ 28.5 and 28.6 [Removed]

6. Sections 28.5 and 28.6 are removed.
7. Section 28.7 is revised to read as follows:

§ 28.7 Area Director, Classing Office; responsibility.

Subject to this subpart and the instructions of the Director, the Area Director of each Classing Office shall be responsible for the proper performance of the duties imposed on such office and on the persons connected therewith. The Area Director shall be responsible for receiving all correspondence relating to the classification of cotton under the act and for providing 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 cotton classers until after the samples are classified.

8. Section 28.8 is revised to read as follows:

§ 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 classers properly qualified and designated as such by the Director, and the certificate of a Classing Office or the Quality Control Section with respect to any cotton shall be deemed to be the certificate of the Department.

9. Section 28.15 is amended by revising paragraphs (a) and (c) to read as follows:

§ 28.15 Classification and comparison; requests.

* * *

(a) *Form A determination.* The classification or comparison of samples freshly drawn and submitted to a Classing Office direct from a licensed warehouseman, at the request of the owner of the cotton or the owner's agent. Such classification or comparison shall be evidenced by a Form A

memorandum 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 the owner's agent. Such classification or comparison shall be evidenced by a Form D memorandum which shall be subject to review as provided in § 28.66.

* * *

10. Section 28.16 is revised to read as follows:

§ 28.16 Request for return of samples.

Any applicant desiring return of the samples after classification or comparison is completed, at the applicant's expense, shall indicate this service on the form used for requesting such classification or comparison.

11. Section 28.17 is revised to read as follows:

§ 28.17 Filing of requests for classification or comparison.

All requests for classification or comparison leading to Form A, Form D memoranda or, Form C certificates shall be filed with the Classing Office which serves the territory in which the cotton is located. Samples which are submitted to any Classing Office for classification or comparison may be referred by such Classing Office to another Classing Office for classification or comparison.

12. Section 28.18 is revised to read as follows:

§ 28.18 One request only for classification.

Not more than one request 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 accomplished by redrawn samples and the Area Director may require that any Form A or Form D memoranda, Form C certificates, or other classification data previously issued by a Classing Office with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

13. Section 28.19 is revised to read as follows:

§ 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 Area Director or the Head of the

Quality Control Section for noncompliance with the act or this subpart.

14. Section 28.25 is amended by revising the introductory text and paragraphs (f), (g), and (h) to read as follows:

§ 28.25 Samples for Form A determination.

Samples for Form A determination shall be drawn, handled, identified, and shipped by a licensed warehouse according to the methods and procedures specified in this section. Any samples or set of samples which do not meet these specified requirements may be rejected by the Area Director.

* * *

(f) Samples shall be identified and sacked immediately after they are cut without further handling prior to shipment to the Classing Office.

(g) Samples shall be addressed to and mailed, shipped, or delivered direct to the Classing Office serving the territory in which the warehouse is located. Samples shall in no case be consigned or routed through the owner or custodian of the cotton. Samples mailed or shipped shall be prepaid.

(h) The Area Director may require that any licensed warehouse shall provide the crop year, gin name and gin bale number for each sample submitted whenever the Area Director deems that such information is necessary in order to assure that each sample is properly identified with the correct bale of cotton.

* * *

15. Section 28.26 is revised to read as follows:

§ 28.26 Samples for Form C determination.

Samples 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 prepaid or delivered at the applicant's expense to the Classing Office serving the territory in which the bales of cotton are located.

16. Section 28.27 is revised to read as follows:

§ 28.27 Samples for Form D determination.

Samples for Form D determination shall be shipped or delivered at the owner's expense to the Classing Office serving the territory in which the samples are located. A tag or coupon showing the bale number of the bale from which the sample was drawn, or other identification, shall be placed between the two portions of each sample.

17. Section 28.28 is revised to read as follows:

§ 28.28 Lost or damaged samples.

If any samples are lost, damaged, or mutilated, the Area Director shall inform the applicant.

18. Section 28.29 is revised to read as follows:

§ 28.29 Return of samples.

When so stipulated in the classification request for Form A, C or D determination, the samples submitted shall be returned to the applicant at the applicant's expense, at the time the memorandum is issued or when the request for classification is withdrawn or rejected.

19. Section 28.32 is amended by revising paragraph (a) to read as follows:

§ 28.32 Misrepresentation; deceptive or fraudulent acts or practices; violations.

(a) Any knowing misrepresentation or deceptive or fraudulent act or practice made or committed, or attempted to be committed, by any person in connection with (1) any request for classification, (2) the drawing, handling, identifying, or submitting of any samples for classification, (3) the making, issuing, or using of any memorandum or certificate of classification issued by a Classing Office or the Quality Control or (4) the changing of any warehouse bale tags or numbers after the cotton has been sampled for classification.

20. Section 28.36 is revised to read as follows:

§ 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 Area Director there is a need to deviate from this order of classification, the Area Director shall designate which samples will be given priority in classification.

21. Section 28.37 is revised to read as follows:

§ 28.37 Exposing of samples for classification.

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

22. Section 28.40 is amended by revising paragraph (b) to read as follows:

§ 28.40 Terms defined; cotton classification.

(b) *Micronaire (mike) reading.* The measurement of the fiber fineness and maturity, in combination, of cotton as determined by an airflow instrument. For any cotton that has a micronaire reading of 2.6 or lower, the Classing Office will enter the micronaire reading on all classification memoranda issued for such cotton.

23. Section 28.45 is revised to read as follows:

§ 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 a written request the scope of service desired.

24. Section 28.47 is revised to read as follows:

§ 28.47 Statement of finding of Classing Office in comparisons.

For each quality factor (grade, staple, etc.) of the samples that the applicant has requested to be compared to the type, the Classing Office 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 Classing Office 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.

25. Section 28.55 is revised to read as follows:

§ 28.55 Issuance of memoranda and certificates.

As soon as practicable after the classification of cotton has been completed by a Classing Office, 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.

26. Section 28.56 is amended by revising paragraphs (a) and (b) to read as follows:

§ 28.56 Form A and Form D memorandum.

(a) When a classification and/or comparison has been made of any

samples submitted to a Classing Office 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 the owner's agent, the results of such classification and/or comparison may be stated in a Form D memorandum.

27. Section 28.59 is revised to read as follows:

§ 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 Area Director of the Classing Office 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. Section 28.60 is revised to read as follows:

§ 28.60 Surrender of memoranda or certificates.

For good cause, any memorandum or certificate issued under this subpart shall be surrendered to the Area Director of the Classing Office which issued it, upon the Area Director's 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.

29. Section 28.66 is revised to read as follows:

§ 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 Classing Office which issued such memorandum or the Quality Control System. Requests for reviews of Form C determinations shall be filed with, and the reviews made by, the Quality Control System. 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 Classing Office or the Quality Control Section 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.

30. Section 28.105 is amended by revising paragraphs (a), (b)(2), and (b)(3) to read as follows:

§ 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 U.S. Department of Agriculture and under the signature of the Administrator, thereto affixed by the Administrator or by some other official or employee of the Department duly authorized by the Administrator, 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) * * *

(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 Administrator or by an officer or agent of the Department authorized by the Administrator for that purpose.

(3) That the signature of the Administrator 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 copy of said forms for any reason misrepresents the cotton standards or that any such

photographs have been altered or mutilated.

31. Section 28.107 is amended by revising paragraph (d) to read as follows:

§ 28.107 Original cotton standards and reserve sets.

(d) The First Reserve Set of each conference or the Second Reserve Set, if it has been used in place of the First Reserve Set, as provided in paragraph (c) of this section shall be retained by the Division until the currently adopted standards which they represent have been superseded by new or revised standards.

32. Section 28.115 is revised to read as follows:

§ 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 Classing Office 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 or 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 Area Director, 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.

33. Section 28.117 is revised to read as follows:

§ 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 the holder's business convenience, the person requesting such substitution shall pay a fee of \$3.00 per sheet.

§ 28.137 [Removed]

34. Section 28.137 is removed.

35. Section 28.138 is amended by revising the introductory text to read as follows:

§ 28.138 Classification and comparison; requests, memorandums and certificates.

For each lot or mark of linters which the applicant desires classified or

compared separately the applicant 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 at the applicant's expense, this must be indicated 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.

36. Section 28.139 is revised to read as follows:

§ 28.139 Filing of requests.

All requests for classification or comparison leading to Form D memoranda or Form C certificates shall be filed with the Quality Control Section unless otherwise directed by the Director.

37. Section 28.140 is amended by revising the introductory text to read as follows:

§ 28.140 Samples; weight; drawing.

Each sample submitted to the Quality Control Section 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:

38. Section 28.142 is revised to read as follows:

§ 28.142 Submission of samples.

All samples submitted to the Quality Control Section for classification or comparison under this subpart shall be delivered or sent to the Quality Control Section with all transportation charges thereto prepaid.

39. Section 28.146 is revised to read as follows:

§ 28.146 Reviews.

A review of any Form C or Form D determination may be requested by the owner of the linters from which the sample was drawn, or the owner's agent, within 30 days after the issuance of the original certificate. Such request shall be filed with the Quality Control Section and shall be accompanied by the original classification memorandum or certificate or a statement explaining why the original classification document cannot be submitted. Redrawn samples will be required for reviews except in

cases where the original samples have remained in the custody of the Quality Control Section. When redrawn samples are necessary, they shall be drawn and submitted in accordance with the applicable provisions of §§ 28.138, 28.140, and 28.142. A Form C certificate or Form D memorandum appropriately marked to indicate that it represents a review determination, shall be issued to the applicant requesting the review. The review classification document shall supersede the original classification document.

40. Section 28.165 and the undesignated title preceeding that section are revised to read as follows:

Publications Media

§ 28.165 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements of the Office of Management and Budget contained in 7 CFR Part 28 under the Paperwork Reduction Act of 1980.

(b) *Display.*

7 CFR sections where identified and described	Current OMB control No.
28.15-28.19	0581-0008
28.20-28.24	0581-0008
28.25	0581-0009
28.66	0581-0008
28.105	0581-0008
28.115	0581-0008
28.120	0581-0008
28.122	0581-0008
28.139	0581-0008
28.146	0581-0008
28.177	0581-0008
28.181-28.184	0581-0008
28.904	0581-0009
28.906	0581-0009
28.911	0581-0008

41. Section 28.177 is revised to read as follows:

§ 28.177 Request 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 the applicant 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 Classing Office 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 Classing Office designated by the Director. The Area Director of any Classing Office may refer any

request and the samples submitted to another office or to the Quality Control Section for classification or comparison.

42. Section 28.178 is revised to read as follows:

§ 28.178 Submission of cotton samples.

Samples of cotton submitted to a Classing Office for classification and/or comparison shall be drawn from both sides of the bale and shall be delivered to the Classing Office with which the request was filed, as soon as possible after the filing of such request. All such 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 in each wrapper, and such other information as may be necessary in accordance with the instructions of the Area Director. All transportation charges incident to the submission of samples shall be prepaid by the party making the request or the requester's agent.

43. Section 28.180 is amended by revising the introductory text and paragraph (e) as follows:

§ 28.180 Issuance of cotton classification memoranda.

As soon as practicable after the classification or comparison of cotton has been completed by a Classing Office, there shall be issued a cotton classification memorandum which shall embody within its written or printed terms:

* * * * *

(e) The signature of the Area Director of the Classing Office, the location of the office, and the date of issuance of the memorandum.

44. Section 28.181 is revised to read as follows:

§ 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 Classing Office which issued the original memorandum or the Quality Control Section. Redrawn samples shall be required except in cases where the original samples have remained, identity preserved, in the custody of the Classing Office 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.

45. Section 28.182 is revised to read as follows:

§ 28.182 Surrender of memoranda.

For good cause, any memorandum issued under this subpart shall be surrendered to the Area Director which issued it, upon the Area Director's 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 purpose of this subpart.

Dated: August 11, 1987.

William T. Manley,

Deputy Administrator, Marketing Programs,
[FR Doc. 87-18571 Filed 8-17-87; 8:45 am]

BILLING CODE 3410-02-M

Agricultural Stabilization and Conservation Service

7 CFR Part 713

Farm Marketing Quotas, Acreage, Allotments, and Production Adjustment; Feed Grain, Rice, Cotton, and Wheat

AGENCY: Commodity Credit Corporation ("CCC"), and Agricultural Stabilization and Conservation Service ("ASCS"), USDA.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule amends the regulations found at 7 CFR Part 713 effective for the 1987 crops of feed grains, rice, upland cotton, and wheat. Various minor changes are necessary to implement provisions of the Farm Disaster Assistance Act of 1987 (the "1987 Act") with respect to: (1) Making available deficiency payments to producers of winter wheat who plant to wheat less than 50 percent of a farm's permitted wheat acreage ("0/92 provision"); (2) a 0/92 provision, under certain conditions, for producers of other types of wheat; (3) a 0/92 provision, under certain conditions, for producers of feed grains, rice, and upland cotton.

EFFECTIVE DATE: May 27, 1987.

Comments must be received on or before September 17, 1987, in order to be assured of consideration.

ADDRESS: Submit Comments to: Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service,

USDA, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Raymond K. Aldrich, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, P.O. Box 2415, Washington, DC 20013, (202) 447-6688.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that Regulatory Impact Analyses are not required for the changes which are made in this interim rule.

The titles and numbers of the Federal assistance programs to which this interim rule applies are: Cotton Production Stabilization—10.052; Feed Grain Production Stabilization—10.055; Wheat Production Stabilization—10.058; Rice Production Stabilization—10.065 as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since neither the Agricultural Stabilization and Conservation Service ("ASCS") nor the Commodity Credit Corporation ("CCC") is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

A draft environmental impact statement pertaining to agricultural acreage adjustment programs has been prepared. Further information is available from Phillip Yasnowsky, Program Analysis Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013; (202) 447-7887.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

The Office of Management and Budget has approved the information collection requirements contained in these regulations under the provisions of 44

U.S.C. Chapter 35 and OMB Numbers 0560-0030, 0560-0071, 0560-0091, and 0560-0650 have been assigned.

Discussion of Changes

In order to receive benefits under the annual Commodity Credit Corporation ("CCC") price support and production adjustment programs, which are authorized by the Agricultural Adjustment Act of 1949, as amended (the "1949 Act"), a producer may be required to reduce the planting of certain crops on the producer's farm. This acreage must be devoted to uses which have been approved by CCC. With respect to the 1987 crop year, a portion of this acreage must be devoted to "conserving uses", as defined in 7 CFR 713.2.

One of the benefits made available to producers is a deficiency payment. A deficiency payment is made if certain market prices are not attained during the marketing year which has been established for a crop. Prior to May 27, 1987, the 1949 Act provided that a producer would be eligible to receive a deficiency payment with respect to the acreage of a program crop which had been planted for harvest so long as the quantity planted did not exceed the "permitted acreage" established by CCC for the crop for the farm. The 1949 Act also provided that if a producer planted less than 92 percent but more than 50 percent of the permitted acreage to a program crop, a deficiency payment would be made as if the producer had planted 92 percent of such amount if the "non-planted" acreage was devoted to conserving uses (the "50/92" provision).

On May 27, 1987, the President signed the Farm Disaster Assistance Act of 1987 (the "1987 Act"). The 1987 Act amended the 1949 Act to provide that producers of wheat, feed grains, upland cotton, and rice may, under certain conditions, designate as conserving use acreages, an acreage up to 100 percent of the permitted acreage of a crop, and receive deficiency payment with respect to 92 percent of such acreage. Accordingly, in order to implement these provisions, it is necessary to amend the regulations found at 7 CFR Part 713.

Section 107D of the 1949 Act was amended by the 1987 Act to provide that producers of winter wheat do not have to plant at least 50 percent of the farm's permitted wheat acreage to wheat in order to be eligible to receive a deficiency payment for the 1987 crop of wheat. This interim rule will enable a winter wheat producer to designate as conserving uses an acreage in an amount not to exceed 100 percent of the farm's permitted wheat acreage and thus receive a deficiency payment with

respect to 92 percent of the farm's permitted wheat acreage ("0/92 provision"). Other producers of wheat may utilize the 0/92 provision if they were prevented from planting an intended acreage of wheat for harvest in 1987 because of a natural disaster in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under the Consolidated Farm and Rural Development Act, as amended, as a result of such disaster. Producers of the 1987 crops of wheat, feed grains, upland cotton, and rice also may utilize the 0/92 provision if they were prevented from planting a minimum of 50 percent of the farm's permitted acreage of such a crop as a result of damage to a levee from flooding that occurred in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans under the Consolidated Farm and Rural Development Act, as amended, as a result of such disaster.

It has been determined that, with respect to producers who utilize the 0/92 provision for such a crop, conserving use acreages in an amount in excess of 50 percent of the respective permitted program crop acreage may be hayed or grazed, since this determination was made applicable to producers utilizing the 50/92 provision. However, it has been further determined that, after July 15, 1987, producers using the 0/92 provision may not hay or graze designated conservation use acreage that represents less than 50 percent of the respective permitted program crop acreage.

It has also been determined that land, otherwise eligible to be designated as conserving use acreage, that is flooded in 1987, but which has been planted or considered planted in at least 2 of the last 5 years, will be eligible for designation.

Since producers wishing to utilize the 0/92 provision may already have hayed or grazed the balance of the farm's acreage which is eligible to be designated as ACR, 7 CFR 713.63(a) is amended to include a provision whereby land designated as ACR for acreages designated as conserving uses may have been hayed or grazed prior to July 15, 1987. Haying of such acreage after that date will be prohibited and grazing will be allowed except during the 5-month non-grazing period established by the State Agricultural Stabilization and Conservation committee.

Since the amendments made herein are necessary to implement the Farm Disaster Assistance Act of 1987, which became effective on May 27, 1987 it has

been determined that the interim rule shall be effective May 27, 1987.

List of Subjects in 7 CFR Part 713

Cotton, Feed grains, Wheat and Rice price support programs.

Interim Rule

Accordingly, the regulations found at Part 713 of Chapter VII of Title 7 of the Code of Federal Regulations are amended as follows:

PART 713—[AMENDED]

1. The authority citation is revised to read as follows:

Authority: Secs. 101A, 103A, 105C, 107C, 107D, 107E, 109, 113, 401, 403, 503, 504, 505, 506, 507, 508, and 509 of the Agricultural Act of 1949, as amended; 99 Stat. 1419, as amended, 1407, as amended, 1395, as amended, 1444, 1383, as amended, 1448; 91 Stat. 950, as amended, 63 Stat. 1054, as amended, 99 Stat. 1461, 1461, as amended, 1462, 1463, 1463, 1464, 1464 (7 U.S.C. 1441-1, 1444-1, 1444b, 1445b-2, 1445b-3, 1445b-4, 1445d, 1445h, 1421, 1423, and 1461 through 1469); sec. 1001 of the Food Security Act of 1985, as amended, 99 Stat. 1444 (7 U.S.C. 1308); Sec. 1001 of the Food and Agriculture Act of 1977, as amended, 91 Stat. 950, as amended (7 U.S.C. 1309); Sec. 1009 of the Food Security Act of 1985, 99 Stat. 1453 (7 U.S.C. 1308a).

2. Section 713.63 is amended by revising paragraph (a) to read as follows:

§ 713.63 Use of ACR Acreage.

(a) *State committee determination.* The State committee, after consulting with interested parties, may authorize grazing of ACR acreage, except that:

(1) With respect to ACR acreage designated for the 1987 through 1990 crops of wheat, feed grains, upland cotton, ELS cotton, and rice, grazing shall not be permitted during any 5-consecutive-month period, as determined by the State committee, during the applicable calendar year.

(2) With respect to the 1987 crop year, haying and grazing of ACR, prior to July 15, 1987, is permitted if the ACR is designated for a conserving use acreage credited as the program crop representing less than 50 percent of the respective permitted program crop acreage.

3. Section 713.97 is amended by revising (e) (1) and (2) and adding (3) to read as follows:

§ 713.97 Ineligible land.

(e) ***

(1) Before any flooding occurred, the land was planted or could have been

planted to a crop for harvest in the current crop year.

(2) After flooding, such land could be planted in the current year by no later than the final reporting date for spring planted crops.

(3) Such land has been planted or considered planted in at least 2 of the last 5 years.

4. Section 713.102(f) is revised to read as follows:

§ 713.102 Determination of farm program acreage.

(f) *Haying and grazing.* (1) Haying and grazing of approved nonprogram crops and conserving use acreages credited as the program crop shall only be permitted if haying and/or grazing is requested by the State committee and the Secretary approves such request.

(2) With respect to the 1987 crop year only, haying and grazing of conserving use acreages credited as the program crop that represents less than 50 percent of the respective permitted program crop acreage shall not be hayed or grazed after July 15, 1987. Haying or grazing of such acreage prior to that date shall not affect the eligibility of such land for designation as conserving use acreage.

5. Section 713.108(b)(2)(i) is revised to read as follows:

§ 713.108 Deficiency payments.

(b) ***

(2) ***

(i) If the acreage of the crop planted for harvest is less than 50 percent of the permitted acreage of the crop for the farm, the farm program acreage shall not be increased, unless, for the 1987 crop year:

(A) The farm is one on which winter wheat is produced; or

(B) For farms on which other types of wheat are produced, it is determined that at least 50 percent of the permitted wheat acreage was prevented from being planted due to a natural disaster in 1986 or flooding caused by damage to a levee in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans as a result of such disaster; or

(C) For other program crops, it is determined that at least 50 percent of the permitted acreage of the crop was prevented from being planted due to flooding caused by damage to a levee in 1986 and the farm is located in a county in which producers were eligible to receive disaster emergency loans as a result of such disaster.

(D) The farm program acreage for farms which are subject to subclause

(A), (B), or (C) shall be determined in accordance with clause (ii):

* * * * *

Signed at Washington, DC, on August 11, 1987.

Vern Neppi,

Acting Executive Vice President, Commodity Credit Corporation, and Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87-18693 Filed 8-17-87; 8:45 am]

BILLING CODE 3410-05-N

Agricultural Marketing Service

7 CFR Parts 1033, 1036, 1040

[Docket Nos. AO-166-A56, AO-179-A51, AO-225-A38]

Milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan Marketing Areas; Order Amending Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action modifies the classification provisions of the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan milk orders based on industry proposals considered at a public hearing held October 28, 1986. These modifications will eliminate raw product cost differences for certain uses of milk between regulated handlers in the three specified order markets and nearby markets by providing the same classified price structure for skim milk and butterfat used in the production of ice cream and other related frozen dessert products, eggnog, and buttermilk biscuit mixes throughout the region.

The action also makes several changes in the Southern Michigan order only that makes it easier to qualify milk for pool status. In this regard, the pooling standards for a cooperative-operated plant and unit are relaxed. Also, less-restrictive diversion provisions are adopted. These changes are necessary to reflect current marketing conditions and assure orderly marketing of the Southern Michigan market's reserve milk supplies.

More than the required percentage of the producers in each of the three markets have approved the issuance of the amended orders.

EFFECTIVE DATE: September 1, 1987.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States