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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27, 28, and 61

Revision of User Fees for Cotton Classification, Testing, and Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule revises the fees for cotton classification services to producers. The revision, which will result in a fee increase, is in accordance with the recent amendment to section 3a of the Cotton Statistics and Estimates Act which provides continuing authority to the Secretary of Agriculture to recover costs associated with cotton classing services through the fiscal year ending September 30, 1992.

This rule also increases fees for certain other cotton classification and testing services and cottonseed grading services. Fees charged for the purchase of American Upland and American Pima cotton and linters grade and staple standards, and for calibration cotton standards are also increased. The higher fees are necessary to recover, as nearly as practicable, the costs of providing such services including administrative and supervisory costs.

DATES: Effective September 21, 1987; comments must be received on or before 45 days after publication in the **Federal Register.**

ADDRESS: Fred S. Mullins, Cotton Division, AMS, USDA, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Fred S. Mullins, (202) 447–2145.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be "non-major" since it does not meet the criteria for a major regulatory action as stated in the Order.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) The fee increases merely reflect only a modest increase in the cost-per-unit currently borne by those entities utilizing the services; (2) the cost increases will not affect competition in the marketplace; (3) the amounts of the increases in fees are needed to continue to provide services at the levels desired by the industry; and (4) the use of the services is voluntary. The Secretary is authorized to recover the costs of cotton classification, standards and the testing services from users of such services and standards. The fee revisions contained herein reflect the recent amendment of the Cotton Statistics and Estimates Act, as well as the added costs incurred for providing the various services.

The information collection requirements contained in this interim rule have been previously approved by the Office of Management and Budget and assigned OMB control numbers under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Classification Fee for Producers

Section 3a of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 473a), as amended on August 20, 1987, extends the Secretary's authority to recover costs associated with cotton classification services through fiscal year 1992. Absent the amendment, authority to collect fees would have expired at the end of fiscal year 1988. The statute directs the Secretary, within certain limitations, to set the user fee at a level that when combined with the proceeds from the sale of samples submitted for classification would recover, as nearly as practicable, the cost of the service provided, including administrative and supervisory costs. Prior to the recent amendment, the law (1) prohibited the amount of the uniform per bale classification fee in any year from exceeding the uniform fee collected in the previous year by more than the percentage increase in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which statistics were available, and (2) prohibited an increase in the fee for any year if the accumulated reserve exceeded 20 percent of the cost of the classification program in the previous year. Under the amendment, the uniform classing fee will be established each year by adjusting the base fee for the previous year for inflation (Implicit Price Deflator for Gross National Product). After adjusting for inflation, the Secretary may increase or decrease the inflation adjusted fee by a percentage factor based on the size of the crop. Adjustments cannot exceed 15 percent, except when fees and other income will not provide a 10 percent operating reserve for the current fiscal year. The Secretary is authorized to make adjustments whenever the income generated from fees and other sources is insufficient to maintain an operating reserve of at least 10 percent. The amendment also authorizes an increase in the operating reserve from 20 to 25 percent and if income from fees and other sources is insufficient to maintain a 25 percent reserve, the Secretary is authorized to add a special surcharge of up to 5 cents per bale. However, the Secretary to the extent practicable shall not establish a fee when combined with all other sources of revenue and adjusted for expenses that would result in a projected operating reserve greater than 25 percent.

The fee for manual classification of producers' cotton was set at $1.08 per sample during the 1986 harvest season (7 CFR 28.909(b); 51 FR 22059 at 22063). This rule increases the classification fee for manual classification services to producers in § 28.909 from $1.08 to $1.20 per sample. This new fee is calculated using the 1986 classing fee ($1.08) and adding a three percent increase over the 1986 fee due to the Implicit Price Deflator amounting to an increase of three cents and a five cents per bale surcharge to re-establish the operating reserve. However, the resulting eight cents per bale increase, in addition to all other sources of revenue, has been determined to be inadequate to produce the ten percent operating reserve. Therefore, a supplemental fee adjustment of four cents per bale is added resulting in a twelve cents per bale increase and a manual classing fee of $1.20 per sample. The current 1987–1988 cotton crop is estimated to be 12.5

million running bales. Therefore, no adjustment in the fees is based upon the size of the projected crop. The additional fee for High Volume Instrument (HVI) classification is established presently at 50 cents per sample, resulting in an HVI classing fee of $1.70 per sample. The discount to voluntary centralized billing and collecting agents will remain five cents per bale.

The fee in paragraph (b) of § 28.910 for issuance of a new memorandum of classification at the request of the owner of the cotton for the business convenience of the owner without the reclassification of such cotton is increased from $3.00 to $4.00 per sheet due to the increased costs of providing this service, including clerical costs.

The fee for a manual review classification in § 28.911 is also increased from $1.15 to $1.20 per sample. The fee for HVI review classification is increased from $1.65 to $1.70 per sample. These fees reflect the increased costs of performing these services, including overhead and equipment costs.

Costs of Cotton Standards

Practical forms of the cotton standards are prepared and sold by the Cotton Division offices in Memphis, Tennessee, under the authority of the United States Cotton Standards Act (7 U.S.C. 51 *et seq.*). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) directs that the price for standards will cover, as nearly as practicable, the costs of providing the standards.

This rule increases the fees listed in §§ 28.123 and 28.151 for practical forms of the cotton standards, including both grade aud staple standards for American Upland cotton, American Pima cotton and for cotton linters. The fees need to be adjusted due to increased costs for salaries, packaging, handling, delivery, and postage. Current and estimated demand for the standards has also been factored into the fee revision since per unit costs are directly related to volume.

Costs have increased due to the new Federal Employees Retirement System (FERS) which became effective in January 1987. Under this system the Agency is required to pay the full contribution for retirement benefits for employees hired before January 1, 1984, who convert to FERS and all employees hired on or after January 1, 1984, who are automatically entered in FERS. Previously, a portion of these costs were subsidized by an appropriation from another federal agency. AMS' contribution for retirement benefits can increase by as much as 15.5 percent. Finally, the charges must be adjusted upward to cover losses incurred between January of this year and the effective date of the fee increase.

The fees for American Upland cotton grade standards are increased from $94.00 to $100.00 f.o.b. Memphis, Tennessee, or overseas air freight collect. The price is increased from $98.00 to $104.00 for domestic surface delivery and from $134.00 to $140.00 for overseas air parcel post delivered. The fees for American Upland staple standards f.o.b. Memphis and overseas air freight collect are increased from $13.00 to $14.00. The domestic surface delivered fee is increased from $15.00 to $16.00 and the overseas air parcel post delivered fee is increased from $27.00 to $28.00. The fees for American Pima grade standards are raised from $120.00 to $126.00 f.o.b. Memphis or overseas air freight collect. The fee increases from $124.00 to $130.00 for domestic surface delivered and from $160.00 to $166.00 for overseas air parcel post delivered. Fees for American Pima staple standards increase from $14.00 to $15.00 for f.o.b. Memphis and overseas air freight collect. The domestic surface delivered fee increases from $16.00 to $17.00 and the overseas air parcel post delivered fee is increased from $28.00 to $29.00. The fees for linters grade standards is increased from $94.00 to $100.00 f.o.b. Memphis or overseas air freight collect. The price for domestic surface delivery increases from $98.00 to $104.00 and the price for overseas air parcel post delivery is increased from $134.00 to $140.00. The f.o.b. Memphis or overseas air freight collect fees for linters staple standards are raised from $15.00 to $16.00. The delivered price increases from $17.00 to $18.00 for domestic and from $29.00 to $30.00 for overseas air parcel post.

Other Classification Services

Certain other cotton classification services are conducted under the United States Cotton Standards Act. Fees for these services have been reviewed. In order to recover increased costs, including supervision and overhead, fees for classification of cotton or samples in § 28.116 are increased by 15 cents: for grade, staple and micronaire readings from $1.15 per sample to $1.30; for grade and staple only from $1.00 per sample to $1.15; and for grade only or staple only from 75 cents to 90 cents.

The fee in § 28.117 for each new memorandum or certificate issued in substitution for a prior one is increased from $3.00 per sheet to $4.00. The additional hourly fee charged for Form C determinations in §§ 28.120 and 28.149 increases from $17.00 per hour or each portion thereof to $18.00 per hour, or each portion thereof, plus traveling expenses and subsistence or per diem. The fee in § 28.122 for a complete practical classing examination for cotton or cotton linters is increased from $120.00 to $125.00 and the fee for reexamination for a failed part, either grade or staple, increases from $70.00 to $75.00. Fees for the classification, comparison, or review of linters in § 28.148 are increased from $1.05 to $1.20 per bale or sample involved. In § 28.184, the fee for classification or comparison of cotton linters and the issuance of a memorandum is raised from $1.05 to $1.20 per sample.

The United States Cotton Futures Act (7 U.S.C. 15b) authorizes the Secretary to make such regulations as are necessary to carry out the provisions of that Act. Pursuant to that authority, Part 27 of the regulations (7 CFR Part 27) provides for cotton classification under the Cotton Futures Act including fees to recover the costs of classification and micronaire. Under this rule, the fees charged for the services are increased to cover the costs of providing such services, including overhead costs.

These fees have been reviewed and the fees in § 27.80 for initial classification are increased from $1.05 per bale to $1.20 per bale; for review classification is increased from $1.25 per bale to $1.40 per bale; and for combination service from $2.30 per bale to $2.60 per bale. All supervision fees are increased by five cents. Pursuant to § 27.85, fees for withdrawal of requests or applications for review, after such services have been started, are the same as the fees in § 27.80 for services completed, so such charges are affected by this rule. Fees for certificates which appear in § 27.81 increase from 55 cents to 60 cents.

Cottonseed Grading Fees

Pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) the Secretary is authorized to assess and collect such fees as will be reasonable and cover as nearly as practicable the cost of services rendered under the Act. The regulations promulgated pursuant to that Act for the inspection, sampling, and certification of cottonseed sold or offered for sale for crushing purposes (7 CFR Part 61) includes such fees. Under this rule, the fees charged for cottonseed grading purposes are increased to cover the costs of providing these services, including increased overhead costs.

The fee in § 61.43 for a sampler's license is increased from $19.00 to $20.00 for the examination while the fee for renewal of such a license is increased from $17.00 to $18.00. In § 61.44, the fee for a chemist's license is increased from $350.00 to $360.00 for the examination while the fee for renewal of such a license increases from $120.00 to $125.00. In § 61.45, those fees charged to each licensed cottonseed chemist to cover the cost of administering the regulations in Part 61 are increased from $1.30 per certificate issued by the chemist to $1.35. The fee in § 61.46 for the review of the grading of any lot of cottonseed is increased from $51.00 to $54.00 with the disbursement to each of the two licensed chemists who performed the reanalysis increasing from $17.00 to $18.00. All of these increases reflect increases in program costs including clerical and administrative costs and rent, utilities, and communications.

Testing Services

Cotton testing services are provided by a USDA Laboratory in Clemson, South Carolina under the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–478). The tests are available, upon request, to private sources on a fee basis. The Cotton Service Testing Amendment (7 U.S.C. 473d) specifies that the fees for the services be reasonable and cover as nearly as practicable the costs of rendering the services.

Operating costs for providing testing services have increased due to higher costs for salaries, rent, utilities, communications, supplies and materials. Costs have also increased due to the new Federal Employees Retirement System (FERS) which became effective in January 1987. Under this system the Agency is required to pay the full contribution for retirement benefits for employees hired before January 1, 1984, who convert to FERS and all employees hired on or after January 1, 1984, who are automatically entered in FERS. Previously, a portion of these costs were subsidized by an appropriation from another federal agency. AMS' contribution for retirement benefits can increase by as much as 15.5 percent. Finally, the charges must be adjusted upward to cover losses incurred between January of this year and the effective date of the fee increase.

The fees for fiber and processing tests in § 28.956, except item 14.1, are increased.

AMS is removing item 1.0, the USDA calibration cotton series, from the list of fiber and processing tests of § 28.956. These cottons have been used primarily for the calibration of the length by Fibrograph and ⅛-inch gage fiber strength tests. Standard values for these tests have been added to the International Calibration Cotton Series, item 2.0. The USDA calibration cotton series also has standard values for the length by array and causticaire tests. The array and causticaire tests are performed in very few laboratories and demand for the USDA calibration cottons for use with these tests is nonexistent. AMS has determined that it is no longer cost effective to maintain the USDA calibration cottons. Therefore, item 1.0 is removed and the items following 1.0 are renumbered as set forth below.

The current item numbers and new item numbers are as follows:

Previous item No.	New item No.	Fee	
		Previous	New
1.0a		$22.00	Remove
1.0b		24.00	Remove
1.0c		22.00	Remove
1.0d		36.00	Remove
2.0a	2.0a	14.00	$15.00
2.0b	2.0b	15.00	16.00
2.0c	2.0c	14.00	15.00
2.0d	2.0d	24.00	25.00
2.1a	2.1a	22.00	23.00
2.1b	2.1b	24.00	25.00
2.1c	2.1c	22.00	23.00
2.1d	2.1d	36.00	37.00
3.0a	13.0a	60.00	65.00
3.0b	13.0b	95.00	103.00
3.0c	13.0c	115.00	125.00
3.1a	13.1a	45.00	48.00
3.1b	13.1b	65.00	70.00
3.1c	13.1c	90.00	97.00
3.2	13.2	110.00	117.00
3.5a	14.0a	20.00	22.00
3.5b	14.0b	25.00	27.00
3.5c	14.0c.5c	30.00	32.00
4.0	7.0	8.00	8.50
4.1	7.1	5.00	5.50
5.0	8.0	8.00	8.75
5.1	8.1	5.00	5.50
5.2a	9.0a	8.00	8.75
5.2b	9.0b	6.00	6.50
5.2c	9.0c	5.00	5.50
6.0	11.0	9.00	10.00
Minimum		45.00	50.00
6.1	12.0	5.00	6.00
7.0	10.0	.50	.55
7.1	10.1	.25	.30
8.0	16.0	13.00	14.00
9.0	20.0	100.00	105.00
9.1	20.1	75.00	80.00
10.0	21.0	90.00	95.00
11.0	22.0	130.00	140.00
12.0	23.0	185.00	200.00
13.0	24.0	205.00	220.00
14.0	19.0	75.00	80.00
14.1	18.0	25.00	25.00
15.0	25.0	27.00	29.00
15.1	25.1	37.00	40.00
16.0a	26.0a	70.00	75.00
16.0b	26.0b	20.00	22.00
17.0	27.0	10.00	11.00
17.1	28.0	4.00	4.50
17.2	28.1	6.00	6.50
18.0	29.0	16.00	17.00
18.1	29.1	27.00	29.00
19.0	6.0	1.00	1.08
20.0	3.0	90.00	95.00
20.1	3.1	10.00	15.00
20.2	4.0	20.00	25.00
20.3	4.1	10.00	12.00
21.0	31.0	2.00	2.50
22.0a	15.0a	7.00	7.50
22.0b	15.0b	12.00	13.00
23.0	32.0	2.50	3.00
24.0	33.0	1.00	1.10
24.1	33.1	10.00	12.00
25.0	5.0	1.60	1.60
26.0a	1.0a	80.00	84.00
26.0b	1.0b	84.00	88.00
26.0c	1.0c	80.00	84.00
26.0d	1.0d	120.00	124.00
27.0	27.0	4.00	4.50
Minimum		20.00	22.50
28.0	34.0		
29.0	30.0	10.00	12.00
Minimum		30.00	36.00

Pursuant to 5 U.S.C. 553, it is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with regard to this action and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the fee increases contained herein need to be put into effect as soon as possible to adequately fund the various services provided and to comply with the recent amendment to the Cotton Statistics and Estimates Act. The current crop season is already under way and the AMS should start billing under the new fee schedules as soon as possible.

List of Subjects

7 CFR Part 27

Cotton, Classification, Samples, Micronaire, Spot markets.

7 CFR Part 28

Cotton, Samples, Standards, Cotton Linters, Grades, Staples, Market news, Testing.

7 CFR Part 61

Cottonseed, Chemists, Samplers, Grades.

Accordingly, for reasons set forth in the preamble, 7 CFR Parts 27, 28, and 61 are amended as follows:

PART 27—[AMENDED]

1. The authority citation for Part 27 continues to read as follows:

Authority: 90 Stat. 1841–1846; 7 U.S.C. 15b.

2. Sections 27.80 (a), (b) and (d) through (h), and 27.81 are revised to read as follows:

§ 27.80 Fees; classification, micronaire, and supervision.

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

(a) Initial classification and certification—$1.20 per bale.

(b) Review classification and certification—$1.40 per bale.

* * * * *

(d) Combination service—$2.60 per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class certificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together—$1.35 per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—$1.35 per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates—$2.45 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates—$1.70 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 the purpose of business convenience, or when made necessary by the transfer of cotton under the supervision of any exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of 60 cents for each certificate issued.

PART 28—[AMENDED]

3. The authority citation for Subpart A of Part 28 continues 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).

Subpart A—[Amended]

4. Section 28.116 is amended by revising paragraph (a) to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the services shall pay a fee, as follows, subject to the additional fee provided by paragraph (c) of this section.

(1) Grade, staple, and micronaire reading—$1.30 per sample.

(2) Grade, staple only—$1.15 per sample.

(3) Grade only or staple only—90 cents per sample.

* * * * *

5. Sections 28.117, 28.120, and 28.122 are 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 his business convenience, the person requesting such substitution shall pay a fee of $4.00 per sheet.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expenses of inspection and sampling, the preparation of the samples and delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting the classification. For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $18.00 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.

§ 28.122 Fee for practical classing examination.

The fee for the complete practical classing examination for cotton or cotton linters shall be $125.00. Any applicant who passes both parts of the examination may be issued a certificate indicating this accomplishment. Any person who passes one part of the examination, either grade or staple, and fails to pass the other part, may be reexamined for that part that was failed. The fee for this practical reexamination is $75.00.

6. Section 28.123 is revised to read as follows:

§ 28.123 Costs of practical forms of cotton standards.

The costs of practical forms of the cotton standards of the United States shall be as follows:

Effective date: September 21, 1987	Dollars each box or roll			
	Domestic shipments		Shipments delivered outside the continental United States	
	F.o.b. Memphis Tenn.	Surface delivery	Air freight collect	Air parcel post delivered
Grade Standards:				
American Upland	$100.00	$104.00	$100.00	$140.00
American Pima	126.00	130.00	126.00	166.00
Standards for Length of Staple:				
American Upland (prepared in one-pound rolls for each length)	14.00	16.00	14.00	28.00
American Pima (prepared in one-pound rolls for each length)	15.00	17.00	15.00	29.00

7. Sections 28.148 and 28.149 are revised to read as follows:

§ 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 $1.20 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 determination.

For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $18.00 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred or account of each request, in accordance with the fiscal regulations of the Department applicable to the

Division employee supervising the sampling.

8. Section 28.151 is revised to read as follows:

§ 28.151 Cost of practical forms for linters, 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 such 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 practical forms of cotton linters standards of the United States shall be as follows:

Effective date: Sept. 21, 1987	Dollars each box or roll			
	Domestic shipments	Shipments delivered outside the continental United States		
	F.o.b. Memphis Tenn.	Surface delivery	Air freight collect	Air parcel post delivered
Linters grade standards (6 sample box for each grade)	$100.00	$104.00	100.00	$140.00
Linters staple standards (prepared in one pound rolls for each length)	16.00	18.00	16.00	30.00

Subpart B—[Amended]

9. 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.

10. Section 28.184 is revised to read as follows:

§ 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 Cotton Division. 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 $1.20 per sample.

Subpart D—[Amended]

11. The authority citation for Subpart D of Part 28 continues 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); unless otherwise noted.

12. Paragraph (b) of § 28.909 is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of manual cotton classification service to producers is $1.20 per sample.

* * * * *

13. Paragraph (b) of § 28.910 is amended by revising it to read as follows:

§ 28.910 Classification of samples and issuance of classification data.

* * * * *

(b) Upon request of an owner of cotton for which classification memoranda have been issued under this subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be $4.00 per sheet.

14. Section 28.911 is amended by revising it to read as follows:

§ 28.911 Review classification.

A producer may request one manual or one High Volume Instrument (HVI) review classification for each bale of eligible cotton. The fee for manual review classification is $1.20 per sample. The fee for HVI review classification is $1.70 per sample. Samples for review classification must be drawn by gins or warehouses licensed pursuant to § 28.20–28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 25 cents per sample in addition to the fee established above in this section.

Subpart E—[Amended]

15. The authority citation for Subpart E of Part 28 continues to read as follows:

Authority: Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c); Sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

16. Section 28.956 is amended by revising entry numbers and fees to read as follows:

§ 28.956 Prescribed fees.

Fees for the fiber and processing tests shall be assessed as listed below:

Item No.	Kind of test	Fee per test
1.0	Calibration cotton for use with High Volume Instruments, per 5 pound package:	
	a. f.o.b. Memphis, Tennessee	$84.00
	b. By surface delivery within continental United States	88.00
	c. By air freight collect outside continental United States	84.00
	d. By air parcel post delivery outside continental United States	124.00
2.0	Furnishing international calibration cotton standards with standard values for micronaire reading and fiber strength at zero and ⅛-inch gage and Fibrograph length:	
	a. f.o.b. Memphis, Tennessee, ½-lb. sample	15.00
	b. By surface delivery within continental United States, ½-lb sample	16.00
	c. By air freight collect outside continental United States, ½-lb sample	15.00
	d. By air parcel post delivery outside continental United States, ½-lb sample	25.00
2.1	Furnishing international calibration cotton standards with standard values for micronaire reading only:	
	a. f.o.b. Memphis, Tennessee, 1-lb sample	23.00
	b. Surface delivery within continental United States, 1-lb sample	25.00
	c. By air freight collect outside continental United States, 1-lb sample	23.00
	d. By air parcel post delivery outside continental United States, 1-lb sample	37.00
3.0	Furnishing color standards, including a set of standard tiles and a master diagram for use in calibrating Nickerson-Hunter Cotton Colorimeters, per set	95.00
3.1	Furnishing replacement calibration tiles for above sets, each tile	15.00

Item No.	Kind of test	Fee per test
4.0	Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Hunter Cotton Colorimeter, per box	25.00
4.1	Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box	12.00
5.0	High Volume Instrument (HVI) measurement. Reporting micronaire, length, length uniformity, 1/8-inch gage strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample	1.60
6.0	Color of ginned cotton lint. Reporting data on the reflectance and yellowness in terms of Rd and b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5×6-1/2 inches and weigh approximately 50 grams, per sample	1.08
7.0	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sample, per sample	8.50
7.1	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample	5.50
8.0	Pressley strength of ginned cotton lint by flat bundle method for either zero of 1/8-inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample	8.75
8.1	Pressley strength of ginned cotton lint by flat bundle method for either zero or 1/8-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample	5.50
9.0	Stelometer strength and elongation of gainned cotton lint by the flat bundle method for 1/8-inch gage. Reporting the average strength and elongation:	
	a. Based on 6 specimens from each blended sample, per sample	8.75
	b. Based on 4 specimens from each blended sample, per sample	6.50
	c. Based on 2 specimens from each blended sample, per sample	5.50
10.0	Micronaire readings on ginned lint. Reporting the micronaire based on 2 specimens per sample	.55
10.1	Micronaire reading based on 1 specimen per sample	.30
11.0	Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and micronaire reading as based on 2 specimens from a blended sample, per sample	10.00
	Minimum fee	50.00
12.0	Fiber fineness and maturity of ginned cotton lint by the IIC-Shirley Fineness/Maturity Tester method, reporting the average micronaire, maturity ratio, percent mature fibers and fineness (linear density) based on 2 specimens from a blended sample, per sample	6.00
13.0	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length and average length variability as based on 3 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	65.00
	b. Cotton comber noils, per sample	103.00
	c. Other cotton wastes, per sample	125.00
13.1	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length, and average length variability as based on 2 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	48.00
	b. Cotton comber noils, per sample	70.00
	c. Other cotton wastes, per sample	97.00
13.2	Fiber length array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length and average length variability as based on 3 specimens from a blended sample, per sample	117.00
14.0	Fiber Length and Length Distribution of cotton samples by the Almeter method. Reporting the upper 25 percent length, mean length, coefficient of variation, and short fiber percentages by weight, number of tuft in each 1/8-inch group, as based on 2 specimens from a blended sample:	
	a. Report percentages of fiber by weight only	22.00
	b. Report percentages of fiber by weight and number of tuft	27.00
	c. Report percentages of fiber by weight, number and tuft	32.00
15.0	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.	
	a. For samples of ginned lint or comber noils, per 100-gram specimen	7.50
	b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	13.00
16.0	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	14.00
17.0	Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample	4.50
	Minimum fee	22.50
18.0	Miniature carded cotton spinning test. Reporting data on tenacity (centinewtons per tex) of 22's yarn and HVI data (see item 5.0). Based on the processing of 50 grams of cotton in accordance with special procedures per sample	25.00
19.0	Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps and the classification and the fiber length of the cotton 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 two standard carded yarn numbers employing a standard twist multiplier, per sample	80.00
20.0	Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification, and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6-1/2, 9-1/2, or 12-1/2 pounds-per-hour into two of the standard carded yarn number of 8s, 14s, 22s, 36s, 44s, or 50s, employing a standard twist multiplier unless otherwise specified, per sample	105.00
20.1	Cotton carded yarn spinning test (open-end) for short staple (31/32nd inches and shorter) cottons. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at a carding rate of 12-1/2 pounds-per-hour into 8s using a sliver weight of 60 grains per yard; a rotor speed of 45,000 RPM; and opening roll speed of 7,200 RPM; a twist multiple of 4.5; and a rotor diameter of 46 millimeters	80.00
21.0	Spinning potentials test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test requires an additional 4 pounds of cotton, per sample	95.00
22.0	Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4-1/2, 6-1/2, or 9-1/2 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	140.00
23.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 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	200.00
24.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 9 pounds of cotton into two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample	220.00
25.0	Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn	29.00
25.1	Processing and furnishing of additional yarn: Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn	40.00
26.0	Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:	
	(a) Single yarns based on 40 specimens per lot of yarn	75.00
	(b) Plied or cabled yarns based on 10 specimens, per lot of yarn	22.00
27.0	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	11.00
28.0	Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin	4.50
28.1	Furnishing yarn wound on boards in connection with yarn appearance tests	6.50
29.0	Strength of cotton fabric. Reporting the average warp and filling strength by the garb method as based on 5 breaks for both warp and filling of fabric furnished by the applicant, per sample	17.00
29.1	Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and weight per yard of fabric as based on at least three (3) 6×6-inch specimens of fabric which were processed or furnished by the applicant, per sample	29.00
30.0	Chemical finishing tests on finisher drawing sliver. The Ahiba Texomat Dyer is used for scouring, bleaching and dyeing of a 3-gram sample. Color measurements are made on the unfinished, bleached and dyed cotton samples, using a Hunterlab Colorimeter, Model 25 M-3. The color values are reported in terms of reflectance (Rd), yellowness (+b) and blueness (−b)	12.00
	Minimum fee	36.00
31.0	Furnishing copies of test data worksheets. Includes individual observations and calculations which are not routinely furnished to the applicant, per sheet	2.50

Item No.	Kind of test	Fee per test
32.0	Furnishing identified cotton samples. Includes samples of ginned lint stock at any stage or processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample	3.00
33.0	Furnishing additional copies of test reports. Include extra copies in addition to the 2 copies routinely furnished in connection with each test item, per additional sheet	1.10
33.1	Furnishing a certified relisting of test results. Includes samples or sub-samples selected from any previous tests, per sheet	12.00
34.0	Classification of ginned cotton lint is available in connection with other fiber tests, under the provisions of 7 CFR § 28.56, at the fees prescribed by 7 CFR § 28.116. Classification includes grade, staple, and micronaire reading based on a 6 oz (170 g) sample.	

PART 61—[AMENDED]

16. The authority citation for Subpart A of Part 61 continues to read as follows:

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

Subpart A—[Amended]

17. Sections 61.43, 61.44, 61.45 and 61.46 are revised to read as follows:

§ 61.43 Fee for sampler's license.

In the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $20.00, but no additional charges shall be made for the issuance of a license. For each renewal of a sampler's license, the fee shall be $18.00.

§ 61.44 Fee for chemist's license.

For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $360.00, 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 $125.00.

§ 61.45 Fee for certificates to be paid by licensee to Service.

To cover the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service $1.35 for each certificate of the grade of cottonseed issued by the licensee. 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 the review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be $54.00. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA" shall accompany each application for review. Of each such fee collected, $18.00 shall be disbursed to each of the two licensed chemists designated to make reanalysis of such seed.

Dated: September 14, 1987.

J. Patrick Boyle,

Administrator, Agricultural Marketing Service.

[FR Doc. 87-21467 Filed 9-17-87; 8:45 am]

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Food and Nutrition Service

7 CFR Parts 272 and 277

[Amd. No. 284]

Food Stamp Program; Automation of Data Processing (ADP) Model Plan

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule/analysis of comments.

SUMMARY: This action contains final regulations setting forth a model plan and requirements for State agency plans for the comprehensive automation of data processing (ADP) and computerization of information systems (CIS) under the Food Stamp Program (FSP), as required by the Food Security Act of 1985. This action will improve automation in the Food Stamp Program. State agencies must submit ADP plans by October 1, 1987. Proposed regulations were published in the **Federal Register** of February 6, 1987. Comments on the proposal were solicited through March 23, 1987. This final rulemaking takes the comments received into account.

DATES: Effective September 18, 1987, except for § 272.1(g)(92) which is not effective until OMB clearance is obtained. State agencies must submit ADP/CIS plans by October 1, 1987. They must begin to implement these plans October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be directed to Patricia Warner, Chief, Administration and Design Branch, Program Development Division, Food and Nutrition Service, USDA, 22302, (703) 756-3383.

SUPPLEMENTARY INFORMATION:

Effective Date

Since the law requires submission of the ADP model plan by October 1, 1987, good cause exists pursuant to 5 U.S.C. 553(d) for publication of this rule less than 30 days from its effective date.

Classification

Executive Order 12291

The Department has reviewed this action under Executive Order 12291 and Secretary's Memorandum No. 1512-1. It has been determined that this action would not result in an annual effect on the economy of $100 million or more; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified this action as "not major".

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 stat. 1164, September 19, 1980). S. Anna Kondratas, Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities. This action simply results in development of a model plan and State agency plans which will improve the efficiency and cost effectiveness of the FSP through the effective use of ADP and information retrieval systems.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been submitted to the Office of Management and Budget under the provisions of the Paperwork Act of 1980 (Pub. L. 96-511) and will not be effective until OMB has approved them.

Background

On February 6, 1987, the Department published in the **Federal Register** (52 FR 3817) a Notice of Proposed Rulemaking (NPRM) which proposed a model plan and requirements for State agency plans for the Comprehensive automation of data processing (ADP) and computerization of information systems (CIS) under the Food Stamp Program, as required by the Food Security Act of 1985. Although the comment period on the NPRM closed March 23, 1987, the Department accepted comments until April 14, 1987. This action contains an analysis of the *significant* comments received, addresses the changes made and not made, and sets forth the final rulemaking. Readers may need to refer to the NPRM for a more complete understanding of the Department's actions or public comments on those actions.

The Department received 94 comments from a total of 16 commenters. The Department received comments from 13 individual State agencies, one private industry organization, the Department Office of the Inspector General, and the State agency Advisory Committee which had assisted in the development of the NPRM. (This group represented seven State agencies and met with FNS March 19 and 20, 1987.) FNS has carefully considered all of the comments received. As a result, clarifications have been made to the preamble and the rule. These changes, along with significant comments which were not adopted, are explained below.

Preamble

Several commenters had questions and concerns about the Functionally Automated Client Transaction System (FACTS) document (a detailed model for States to use in developing Statewide automated program systems) which FNS had offered to provide as technical assistance for State agencies. More than a dozen individuals and organizations requested copies of FACTS and copies were provided to the seven members of the State Advisory Committee. One commenter suggested that FACTS be mandated because of its controls designed to reduce fraud and inefficiency and its compliance with OMB Circular A–90. The same commenter wanted FACTS to be updated at least annually. Other commenters wanted FACTS and the Family Assistance Management Information System (FAMIS) to be consistent whenever possible and one commenter wondered whether FNS would rely heavily on FACTS to approve ADP/CIS plans or Advance Planning Documents (APDs).

In response to these comments, FNS wants to clarify that FACTS was offered in the NPRM as a technical assistance document. It was not intended that State agencies attempt to be certified under the FACTS system, as they may be under the FAMIS system, or that FNS Regional Offices would use FACTS to approve State ADP/CIS plans. Although FACTS *is* similar to the FAMIS system and is compatible with that system, to the extent possible, its basic purpose is somewhat different from FAMIS. FACTS was intended as a possible tool for State agencies which have not yet proceeded far in automation and are interested in knowing detailed functional requirements for the Food Stamp Program. It can be a useful starting point for discussions between State agencies as they consult with one another in developing and implementing their State plans, and it can be used as a checklist or tool for State agencies in evaluating their discussions. FACTS is not intended to be a substitute for State agency consultations, which FNS is strongly encouraging from the earliest stages of ADP/CIS plan development. Furthermore, the emphasis which will be placed on transfers of existing systems will make such consultations more important, and reliance on FACTS less important as the FACTS system has not actually been implemented in any State and so could not be transferred. Thus, we repeat that FACTS is technical assistance only and not a mandated document.

Section 272.2(e)(8)—Submittal Requirements.

Some commenters objected to the October 1, 1987 date for submission of their State plans and the October 1, 1988 date to begin implementing their plans. Some commenters objected to the 30-day turnaround State agencies are required to meet in making changes to their timely-submitted State plans in order to bring them into conformance with FNS standards. The Department is changing the time period for most State agencies to make revisions in their ADP/CIS plans. Based on comments from a number of commenters, the time period is being extended to 60 days because the previous 30-day period did not afford enough time in States where coordination among many different parts of the organization would have to take place. Some commenters suggested that FNS also have a deadline for reviewing State ADP plans. Section 272.2(e) already requires that State plan documents be approved or denied or additional information be requested within 30 days. Thus, ADP/CIS plans will automatically be approved within 30 days as a part of the State plan, unless a State agency hears otherwise. This does not mean that the State agency's APD would be approved, however.

There is no change in the dates State agencies must submit their ADP plans (October 1, 1987) or begin to implement them (October 1, 1988). These dates were specified by Pub. L. 99–198, section 1537. However, FNS believes that some commenters objected to these dates primarily because they believed that the amount of work involved on their parts was greater than that which is really expected by FNS. Thus, FNS is clarifying that a State ADP/CIS plan does not need to be as detailed as an APD. This is discussed further in the section of the preamble entitled § 272.10(a)—"Requirement to Automate". In addition, because of the limited time period between now and October 1, 1987, when State ADP/CIS plans are due, some State agencies may find it difficult to accomplish all of the planning necessary to develop their plans. Those State agencies may submit their ADP/CIS plans in two parts. The first part, which is required to be submitted October 1, 1987, would consist of an assessment of ADP status and needs. In this initial submission State agencies would indicate which functions in § 272.10 are automated and which are not. By January 1, 1988, the State agency would submit either a justification for not automating the functions which are not automated or a timetable and overall plan for the automation process. This two-step process should ease the burden in State ADP/CIS plan development. However, because of the need for the Department to send a report to the Congress on State agencies' automation status by April 1, 1988, the January 1, 1988 date cannot be extended and all State agencies must have approved ADP/CIS plans by March 1, 1988. Finally, FNS has clarified that when it is considering whether or not a State agency has "begun" to implement their ADP/CIS plan FNS will consider reasonable and substantial efforts on the part of the State agency to be a "beginning".

Section 272.10(a)—Requirement to Automate.

A number of commenters noted that FNS had a strong bias toward automation in the NPRM. One commenter supported this bias, noting that automation would increase productivity in the Food Stamp Program. However, four commenters objected, stating that the bias toward automation was inconsistent with the statutory language, was not what Congress intended, and did not give State agencies flexibility.

In response to comments, FNS reviewed the statute and the legislative history. When a similar provision was first introduced by Senator Boschwitz of Minnesota (*Congressional Record*, S 16270, November 22, 1985), he noted that, under it, States would be encouraged to automate the Food Stamp Program (FSP) and that the provision would increase the level of automation in the FSP.

H. Rpt. 99–271 on H.R. 2100, dated September 13, 1985, also addresses a provision similar to the enacted statute stating that the Secretary would not mandate a *particular* approach and that the Secretary's ability to mandate the use of computers would be intended to be limited to specific severe problems in a State.

FNS agrees with the commenters that the Congress intended to provide State agencies with some flexibility, consistent with sound program administration. However, the Department interprets the Congressional purpose behind the enacted statute to be to motivate State agencies to consider some additional automation as a result of this provision. Furthermore, the language of the statute specifically states that the Secretary's approval is required for a State's plan to reflect the State agency's existing system, thus emphasizing that maintenance of the status quo is not automatically intended. Thus, some bias toward automation would seem to be appropriate and consistent with the reason for passage of this legislation.

The *degree* of automation intended is at issue, however. Under the proposed rule, "State agencies are required to appropriately and efficiently automate their FSP operations." The proposal notes that some State agencies may have less automation than others depending on the efficiency and effectiveness of their programs. The preamble in the NPRM states that State agencies may, with FNS approval, elect to continue use of a manual system where that would be dictated by the individual circumstances of the State. Thus, a manual system is not precluded by the NPRM. What State agencies seem to be objecting to is the requirement in § 272.10(a)(2) that State agencies which do not plan to automate some of the activities specified in § 272.10(b) must include as part of their plans their reasons for not automating, and these reasons must include cost-effectiveness.

FNS believes that this is a reasonable requirement. However, State agencies may have differing expectations concerning what is an appropriate justification in the ADP/CIS plan for not automating a particular program area. Therefore, FNS' expectations need to be clarified. FNS is not requiring State agencies to undergo extensive studies or extensive cost/benefit analyses. Nor is it requiring State agencies to automate when automation would not be appropriate. Its primary interest is for State agencies to review the possibilities for automation in their States. If the State agency is automated in a particular area, it does not need to provide further information other than to state that it *is* automated in that area. If a State agency is not automated in an area, then a brief discussion of whether additional automation is needed is required. FNS does *not* intend to mandate automation in a particular State unless there is a significant problem that automation can solve. On the other hand, FNS is not willing to pay for unnecessary automation efforts, so State agencies should keep in mind that they should plan for *appropriate* levels of automation.

One commenter suggested that FNS provide a model format to help guide State agencies on what information should be in their plans and how FNS would like to see it presented. A checklist to guide State agencies in comparing their systems to the model plan is available from FNS Regional offices. Also, State agencies may wish simply to take the provisions in the model plan or in FACTS, section by section, and develop their own checklist or format.

Several comments were received on the relationship between the APD process and the ADP/CIS plans. One commenter suggested that FNS accept approved APDs in place of the ADP/CIS plan and that FNS identify any areas of incompleteness in the APD. Another commenter thought that State APDs needed to be updated to include the model plan requirements. One commenter wondered if the ADP/CIS plan and the APD need to be submitted simultaneously. In an effort to avoid duplication and to minimize the burden on State agencies, we are making some changes. All State agencies are now required to submit some type of ADP/CIS plan. However, the format and length of that plan will differ depending on the degree of automation within each State. The ADP/CIS plan will consist of one of the following:

1. For State agencies which are sufficiently automated in each area specified in § 272.10(b), a certification that they are automated in each area will be sufficient.

2. For State agencies which are sufficiently automated in some, but not all, areas specified in § 272.10(b), the State ADP/CIS plan would consist of two parts. The first part would be the State agency's certification as to the areas in which they *are* automated. The second part would concern the areas which are not automated or which, in the State agency's opinion, are not automated sufficiently. For each of these areas State agencies would include their plans for automating these areas, including their timeframes for any planned activities. State agencies which are not planning to automate each of the areas specified in § 272.10(b) or which are not already automated in these areas would have to provide justification.

3. For State agencies which are not sufficiently automated in any of the areas specified in § 272.10(b), the longest and most detailed ADP/CIS plan would have to be submitted. This would have to include timeframes for each activity planned or a justification of why they would not automate.

Regardless of the type of plan submitted, any justification for not automating must take cost/effectiveness into consideration.

Under §§ 276.4 and 277.16, State agencies which do not comply with food stamp regulations or the provisions of the FNS-approved plan of operation may have their administration of the FSP determined to be inefficient and/or ineffective and funds that would otherwise be paid may be disallowed. According to section 1537(c) of Pub. L. 99–198, funds may also be disallowed for failure to comply with provisions relating to the ADP/CIS plan. This is clarified in § 272.10(a), which had proposed that State agencies must automate appropriately and effectively. In response to comments, FNS is clarifying precisely which requirements must be met so as to avoid funds being disallowed. State agencies may have funds withheld for failure to submit, revise, or timely implement their ADP plans. Section 272.10(a) states:

> Appropriate and efficient automation levels are those which result in effective programs or in cost effective reductions in errors and improvements in management efficiency, such as decreases in administrative costs.

This should be the goal of any automation effort under the Food Stamp Program. Automation for automation's sake is not the objective of this rule. Although FNS considered the possibility of actually quantifying measures of "appropriate and effective" by suggesting that administrative costs or errors must decrease by a particular amount in a specified time period, FNS felt that it would be too narrow to focus on automation alone to reduce administrative costs and errors. However, FNS is replacing the words "appropriate and efficient" with a synonym, "sufficient," in order to more closely tie in the regulation with the statute, which specifies that State agencies with sufficient ADP/CIS systems may have their State plans reflect their existing systems. We believe that this will provide State agencies with more flexibility because State agencies will not necessarily have to automate in order to retain funding. State agencies must consider automation, however; and they would have to either plan to automate or receive FNS approval of their plans justifying why they are not automating. If the planned automation is extensive enough or enhanced funding is desired, State agencies will have to submit or revise an APD. This would not be different from current rules when a rethinking of State agency needs results in a change in the APD. Thus, the goal of the ADP/CIS plan is not to displace existing State initiatives but to supplement them as appropriate.

One commenter wanted State agencies to have the right to appeal an FNS decision on whether they should automate a particular area. FNS will not, in general, be making the initial decision whether or not a State will automate an area. State agencies will be making these decisions and these will be approved by FNS. If FNS decides to withhold funds from a State agency as a result of its failure to develop or implement an approved ADP/CIS plan, State agencies retain the right to appeal this decision under § 276.1(b).

Section 272.10(a)(2) of the proposed rule also addressed the transfer of ADP systems from one State to another. What it proposed was that State agencies consider transferring a system from another State agency as part of the process of determining how the State agency would fulfill an identified automation need. Further, the proposal specified several reasons why a State agency might reject a possible transfer and said that these reasons would not be deemed adequate bases for such a rejection. The Department was strongly indicating its belief that the most cost effective means of fulfilling an identified automation need was through transfer.

Many comments were received on this proposed provision. Two commenters supported the strong emphasis on transfers, but many commenters opposed it. Those opposing it did not seem to be opposed to transfer *per se*. Rather, they were opposed to the restriction of State agency flexibility in planning ADP systems that was embodied in the rule. Many of these commenters pointed out that the reasons set forth in the preamble as unacceptable justifications for rejecting transfers were actually the best reasons for not doing transfers. Other commenters were confused as to how the assessment of transfers fit into this ADP planning process. In their view, the actual assessment of whether a particular transfer would be appropriate was more properly a part of the Advance Planning Document process rather than this process.

The Department carefully considered these comments and has made changes in the rule. One change made by the Department in this provision was to clarify how the consideration of transfers is to fit into the ADP planning process. After reviewing the proposal, the Department determined that much of the specific activity with regard to assessing the appropriateness of transfers needs to be done as part of the Advance Planning Document process. It is during that process that State agencies must develop specifications for systems and make choices as to how an operation is best automated. The ADP planning process which this rule establishes is much more general in nature. The Department is not expecting State agencies to be making choices of systems and commitments to particular methods of automation as part of the ADP planning process. Consequently, the Department decided to amend the Advance Planning Document process rules to ensure that transfers are given proper attention then. A proposed rule changing those procedures will be issued shortly and will reflect this change.

While the Department is adding language regarding transfers to the Advance Planning Document rules, it is not removing the language from the ADP plan rules. Even though the Department believes that the vast amount of work needed to be done in asssessing transfers will be done during the Advance Planning Document process, it also believes that the general ADP plans required by these rules must show that such work is scheduled. Therefore, these rules require that State agencies show in the plans they develop that they will consider transfers.

Another change has been in the way the reasons for rejecting transfers will be considered. In the proposal, the Department listed five reasons commonly cited for rejecting transfers and said that these would be unacceptable. In the final rule, we say that State agencies which cite any of these reasons should not expect *automatic* approval. Any State agency that cites one of these reasons for rejecting transfer will need to show why the barriers cannot be overcome. As noted above, this presentation by State agencies would be done as part of their development of an Advance Planning Document.

The final area of concern raised by commenters was how State agencies would find out about possible systems that could be transferred. Suggestions centered on having FNS act as a clearinghouse of information or a facilitator, matching State agencies with others that have potentially transferable systems. The Department recognizes that FNS has an important role to play in this regard and has changed this rule to indicate that State agencies that want assistance can turn to FNS to get it. The Agency will provide assistance as needed to any State agency needing help in identifying systems operated elsewhere that could fulfill their needs.

Section 272.10(b).

Several comments were made suggesting additional elements be added to the model plan and several commenter objected to items which were included. Some elements are being added to the provisions of the model plan, not to impose new requirements but to clarify proposed requirements. In response to comments, the listing of "other" elements that affect household eligibility in § 272.10(b)(1)(ii) will be expanded. No more elements will be required; more elements will be mentioned. Additional items mentioned will included disqualification actions, categorical eligibility, and employment and training status.

One commenter opposed the requirement in § 272.10(b)(1)(vi) that an approvable system must be able to "generate notices to other appropriate programs or recipient eligibility, changes, and referrals." We are, accordingly, clarifying this provision to read, "generate information, as appropriate, to other programs."

Two commenters had comments concerning the eventual direct transmisison of required data from State agencies to FNS. One commenter wanted FNS to allow for the manual adjustment of data in some cases, rather than it being entirely automated. Another commenter thought that the cost of a State agency's achieving compability with FNS' system should be borne by FNS. We agree that data should be manually adjusted at times, and we do not see human intervention as incompatible with a fully automated system. We are not adopting the second comment. FNS funding authority is not increased by Public Law 99-198 so FNS could provide up to 75 percent funding for certain approved systems. However, State agencies are reminded that the NPRM only required them to provide for the *eventual* direct transmission of data to FNS.

A number of comments were received on the provision in the NPRM to withhold administrative funds from State agencies for noncompliance with this rule. One commenter supported this provision and proposed that the requirements in the FACTS document be used as the basis for determining what is an appropriate level of automation. FNS did not adopt this suggestion. As already discussed, FNS is not mandating use of the FACTS document in order for a State to receive its regular levels of funding.

The preamble of the proposed rule had noted that funds could be withheld if State agencies did not automate sufficiently and effectively. Two commenters wanted FNS to define "sufficiently and effectively".

We have given some consideration whether or how to define "sufficiently and effectively" in determining whether to withhold State Administrative funds. FNS wants to emphasize that we were not intending to establish "sufficient and effectively" as the sole criteria for withholding funds but was using this phrase as a shorthand for the provisions contained in the enacted statute and in § 276.4 of the regulations. Section 1537 of Pub. L. 99-198 states that State agencies which already have "sufficient" ADP and CIS systems may submit State plans which reflect their existing systems. We assume that the commenters required guidance on what is a sufficient system.

Therefore, FNS has revised § 272.10 to state that "sufficient automation levels are those which result in effective programs or in cost effective reductions in errors and improvements in management efficiency, such as decreases in program administrative costs." As noted earlier, FNS may withhold funds if a State agency does not submit an approvable plan in accordance with the deadlines or if the State agency does not comply with their approved plan.

A number of commenters also wanted FNS to provide for enhanced funding for the development and operation of automated systems, with one commenter wanting 90 percent enhanced funding, as HHS provides. One commenter stated that the model plan is almost identical to the basic requirements for enhanced funding while it, in itself, does not provide enhanced funding. State agencies are aware of the statutory and regulatory language describing the requirements which must be met in order to qualify for enhanced funding. FNS wants to acknowledge that State agencies which automate every area specified in § 272.10(b) would probably be eligible for 75 percent enhanced funding for the development of their systems if they were to apply for it. However, FNS does not have the legal authority to provide funding over 75 percent for the development of systems or funding over 50 percent for the operation of systems. FNS does not want to automatically provide enhanced funding for developing the State ADP/CIS plan because the State ADP/CIS plan could consist of a certification of an existing system or a type of exception report on an existing system, which would not necessarily involve procedures that would qualify for enhanced funding.

In the review process it was noted that the revision to § 277.18(a)(2) could mistakenly be interpreted to require implementation of the model plan as a requirement for receipt of 75 percent funding of State agency ADP efforts. As stated in the NPRM, this was not intended and the language of the final regulation has been modified to reflect the actual intent of FNS. In addition, the language of the regulation reflects that State agencies do not have to provide for the capability of directly transmitting data to FNS in order to receive 75 percent funding. The requirement to eventually directly transmit data to FNS was added to the program functional standards that had been in § 277.18(c) when they were proposed to be moved to § 272.10. It was intended that this requirement be taken into consideration when the State agencies developed their ADP/CIS plans and was meant to affect the ADP/CIS plans only. Accordingly, the language of the regulation is being amended to reflect the original intent that the eventual capability to directly transmit data to FNS is not a requirement to receive 75 percent funding.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 277

Food stamps, Government procurement, Grant programs—social programs, Investigations, Reporting and recordkeeping requirements.

Accordingly, Parts 272 and 277 are amended as follows:

1. The authority citation for Parts 272 and 277 continues to read as follows:

Authority: 7 U.S.C. 2011-2029.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g)(92) is added.

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(92) Amendment No. 284. State agencies shall submit their ADP/CIS plans to FNS for approval no later than October 1, 1987. Portions of ADP/CIS plans may be submitted no later than January 1, 1988. Plans must be approvable within 60 days of State agency receipt of FNS comments but no later than March 1, 1988. State agencies must begin to implement provisions contained in their approved plans by October 1, 1988.

3. Section 272.2 is amended by:

a. Adding a new sentence at the end of paragraph (a)(2);

b. Adding a new paragraph (d)(1)(vi); and

c. Adding a new paragraph (e)(8).

The additions read as follows:

§ 272.2 Plan of operation.

(a) *General Purpose and Content*— * * *

(2) *Content.* * * * The ADP/CIS Plan is considered part of the State Plan of Operation but is submitted separately as prescribed under section 272.2(e)(8).

* * * * *

(d) *Planning Documents.*

(1) * * *

(vi) ADP/CIS Plan as required by section 272.10

* * * * *

(e) *Submittal Requirements* * * *

(8) *ADP/CIS Plan.* The ADP/CIS Plan shall be signed by the head of the State agency and submitted to FNS by October 1, 1987. State agencies which require additional time to complete their ADP/CIS plan may submit their plan in two phases as described in § 272.10(a)(2), with the first part of the plan being submitted October 1, 1987. State agencies requiring additional time shall submit the second part of their plans by January 1, 1988. If FNS requests additional information to be provided in the State agency ADP/CIS Plan or if FNS requests that changes be made in the State agency ADP/CIS Plan, State agencies must comply with FNS comments and submit an approvable ADP/CIS Plan within 60 days of their

receipt of the FNS comments but in no event later than March 1, 1988. Requirements for the ADP/CIS plan are specified in § 272.10.

* * * * *

3. A new § 272.10 is added to read as follows:

§ 272.10 ADP/CIS Model Plan.

(a) *General Purpose and Content*—(1) *Purpose*. All State agencies are required to sufficiently automate their food stamp program operations and computerize their systems for obtaining, maintaining, utilizing and transmitting information concerning the food stamp program. Sufficient automation levels are those which result in effective programs or in cost effective reductions in errors and improvements in management efficiency, such as decreases in program administrative costs. Thus, for those State agencies which operate exceptionally efficient and effective programs, a lesser degree of automation may be considered sufficient than in other State agencies. In order to determine a sufficient level of automation in each State, each State agency shall develop an ADP/CIS plan. FNS may withhold State agency funds under § 276.4(a) for failure to submit an ADP/CIS plan in accordance with the deadlines for submission, for failure to make appropriate changes in their ADP/CIS plan within 60 days of their receipt of FNS comments, or for failure to implement the approved ADP/CIS plan in accordance with the dates specified therein, unless extensions of time or deviations from the plan or schedules have been approved by FNS.

(2) *Content*. In developing their ADP/CIS plans, State agencies shall use one of the following three formats:

(i) State agencies which are sufficiently automated in each area specified in § 272.10(b) may provide a single certification statement that they are sufficiently automated in each area.

(ii) State agencies which are sufficiently automated in some, but not all, areas specified in § 272.10(b) shall submit an ADP/CIS plan which consists of two parts. The first part would be the State agency's certification as to the areas in which they are sufficiently automated. The second part would describe the areas of § 272.10(b) which the State agency has not automated or, in its opinion, has not automated sufficiently and include the State agency's plans for sufficiently automating these areas. State agencies shall include a description of how they intend to automate each area and a timetable for each planned activity, including a consideration of transfers as discussed in paragraph (a)(3) of this section. State agencies which are not planning to automate each of the areas specified § 272.10(b) or which are not already automated in these areas shall provide justification. Any such justification shall include a cost-effectiveness analysis.

(iii) State agencies which are not sufficiently automated in any of the areas specified in § 272.10(b) shall submit an ADP/CIS plan which describes their plans for sufficiently automating each area, including a timetable for each planned activity, including a consideration of transfers as discussed in paragraph (a)(3) of this section. State agencies which are not planning to automate each of the areas specified in § 272.10(b) or which are not, in their opinion, sufficiently automated in these areas shall provide justification. Any such justification shall include a cost-effectiveness analysis.

(3) *Transfers*. (i) State agencies planning additional automation shall consult with other State agencies and with the appropriate Regional Office to determine whether a transfer or modification of an existing system from another jurisdiction would be more efficient and cost effective than the development of a new system. In assessing the practicability of a transfer, State agencies should consult with other State agencies that have similar characteristics such as whether they are urban or rural, whether they are county or State administered, the geographic size of the States and the size of the caseload.

(ii) State agencies that plan to automate operations using any method other than transfers will need to be able to justify why they are not using transfers. The justification will need to include the results of the consultations with other State agencies, the relative costs of transfer and the system the State agency plans to develop, and the reasons for not using a transfer. Common reasons for not using transfers include: The State agency is required to use a central data processing facility and the (otherwise) transferable system is incompatible with it; the State agency's data base management software is incompatible with the transferable system; the State agency's ADP experts are not familiar with the software/hardware used by the transferable system and acquiring new expertise would be expensive; the transferable system is interactive or uses "generic" caseworkers, the receiving State agency does not and it would be expensive to modify the existing system and/or procedures; and transfer would provoke disputes with the State agency's personnel union. State agencies that cite any of these reasons shall not automatically receive approval to develop non-transferred systems. State agencies shall show what efforts were considered to overcome the problems and that those efforts are cost ineffective. This justification will need to be included as part of the Advance Planning Document that the State agency must submit for approval of its proposed system.

(iii) FNS will assist State agencies that request assistance in determining what other States have systems that should be considered as possible transfers.

(b) *Model Plan*. In order to meet the requirements of the Act and ensure the efficient and effective administration of the program, a food stamp system, at a minimum, shall be automated in each of the following program areas in paragraphs (b)(1), Certification, and (b)(2), Issuance Reconciliation and Reporting of this section. The food stamp system must further meet all the requirements in paragraph (b)(3), General, of this section.

(1) *Certification*. (i) Determine eligibility and calculate benefits or validate the eligibility worker's calculations by processing and storing all casefile information necessary for the eligibility determination and benefit computation (including but not limited to all household members' names, addresses, dates of birth, social security numbers, individual household members' earned and unearned income by source, deductions, resources and household size). Redetermine or revalidate eligibility and benefits based on notices of change in households' circumstances;

(ii) Identify other elements that affect the eligibility of household members such as alien status, presence of an elderly person in the household, status of periodic work registration, disqualification actions, categorical eligibility, and employment and training status;

(iii) Provide for an automatic cutoff of participation for households which have not been recertified at the end of their certification period;

(iv) Notify the certification unit (or generate notices to households) of cases requiring Notices of:

(A) Case Disposition,

(B) Adverse Action and Mass Change, and

(C) Expiration;

(v) Prior to certification, crosscheck for duplicate cases for all household members by means of a comparison with food stamp records within the relevant jurisdiction;

(vi) Meet the requirements of the IEVS system of § 272.8. Generate information, as appropriate, to other programs.

(vii) Provide the capability to effect mass changes: those initiated at the State level, as well as those resulting from changes at the Federal level (eligibility standards, allotments, deductions, utility standards, SSI, AFDC, SAA benefits);

(viii) Identify cases where action is pending or follow-up must be pursued, for example, households and verification pending or households containing disqualified individuals or a striker;

(ix) Calculate or validate benefits based on restored benefits or claims collection, and maintain a record of the changes made;

(x) Store information concerning characteristics of all household members;

(xi) Provide for appropriate Social Security enumeration for all required household members; and

(xii) Provide for monthly reporting and retrospective budgeting as required.

(2) *Issuance, reconciliation and reporting.* (i) Generate authorizations for benefits in issuance systems employing ATP's, direct mail, or online issuance and store all Household Issuance Record (HIR) information including: name and address of household, household size, period of certification, amount of allotment, case type (PA or NA), name and address of authorized representative, and racial/ethnic data;

(ii) Prevent a duplicate HIR from being established for presently participating or disqualified households;

(iii) Allow for authorized under- or over-issuance due to claims collection or restored benefits;

(iv) Provide for reconciliation of all transacted authorization documents to the HIR masterfile. This process must incorporate any manually-issued authorization documents, account for any replacement or supplemental authorization documents issued to a household, and identify cases of unauthorized and duplicate participation;

(v) Provide a mechanism allowing for a household's redemption of more than one valid authorization document in a given month;

(vi) Generate data necessary to meet Federal issuance and reconciliation reporting requirements, and provide for the eventual capability of directly transmitting data to FNS including:

(A) Issuance:

(*1*) FNS-259—Summary of mail issuance and replacement;

(*2*) FNS-250—Reconciliation of redeemed ATPs with reported authorized coupon issuance.

(B) Reconciliation: FNS-46—ATP Reconciliation Report.

(vii) Generate data necessary to meet other reporting requirements and provide for the eventual capability of directly transmitting data to FNS, including:

(A) FNS-101—Program participation by race;

(B) FNS-209—Status of claims against households; and

(C) FNS-388—Coupon issuance and participation estimates.

(viii) Allow for sample selection for quality control reviews of casefiles, and for management evaluation reviews;

(ix) Provide for program-wide reduction or suspension of benefits and restoration of benefits if funds later become available and store information concerning the benefit amounts actually issued;

(x) Provide for expedited issuance of benefits within prescribed timeframes;

(xi) Produce and store a participation history covering three (3) year(s) for each household receiving benefits.

(xii) Provide for cutoff of benefits for households which have not been recertified timely; and

(xiii) Provide for the tracking, aging, and collection of recipient claims and preparation of the FNS-209, Status of Claims Against Households report.

(3) *General.* The following functions shall be part of an overall State agency system but need not necessarily be automated:

(i) All activities necessary to meet the various timeliness and data quality requirements established by FNS;

(ii) All activities necessary to coordinate with other appropriate Federal and State programs, such as AFDC or SSI;

(iii) All activities necessary to maintain the appropriate level of confidentiality of information obtained from applicant and recipient households;

(iv) All activities necessary to maintain the security of automated systems to operate the Food Stamp Program;

(v) Implement regulatory and other changes including a testing phase to meet implementation deadlines, generally within 90 days;

(vi) Generate whatever data is necessary to provide management information for the State agency's own use, such as caseload, participation and actions data;

(vii) Provide support as necessary for the State agency's management of Federal funds relative to Food Stamp Program administration, generate information necessary to meet Federal financial reporting requirements;

(viii) Routine purging of case files and file maintenance, and

(ix) Provide for the eventual direct transmission of data necessary to meet Federal financial reporting requirements.

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

5. In § 277.18:

(a) paragraph (a)(2) is revised;

(b) paragraph (c) is removed; and

(c) paragraphs (d), (e), (f), (g), and (h) are redesignated as paragraphs (c), (d), (e), (f) and (g).

The revision reads as follows:

§ 277.18 Establishment of an Automatic Data Processing (ADP) and Information Retrieval System.

(a) *General.* * * *

(2) Meet the program standards specified in § 272.10 (b)(1), (b)(2), and (b)(3), except for the requirements in § 272.10 (b)(2)(vi), (b)(2)(vii), and (b)(3)(ix) to eventually transmit data directly to FNS.

* * * * *

Date: September 10, 1987.

Anna Kondratas,

Administrator.

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Agricultural Stabilization and Conservation Service

7 CFR Parts 725 and 726

Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule, with minor corrections, the proposed rule published in the **Federal Register** on May 20, 1987 (52 FR 18918). This rule redefines the term "leaf account" and provides that a tobacco dealer, warehouseman, or other person who acquires tobacco from a processor or manufacturer and wishes purchase credit for such tobacco for a leaf account must obtain from the processor or manufacturer a certification stating that the tobacco is in the form normally marketed by producers. This rule provides that no purchase credit will be allowed for tobacco acquired by any person from a processor or manufacturer