

Agricultural Marketing Service, USDA

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persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall—

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Cotton Board under any contracts or agreements entered into by it pursuant to § 1205.332 (c);

(3) From time-to-time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and the trustees, to such person or persons as the Secretary may direct; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all funds, property and claims vested in the Board or the trustees pursuant to this § 1205.345.

(c) Any person to whom funds, property or claims have been transferred or delivered pursuant to this § 1205.345 shall be subject to the same obligation imposed upon the Cotton Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practicable, in the interest of continuing one or more of the cotton research or promotion programs hitherto authorized.

[31 FR 16758, Dec. 31, 1966. Redesignated and amended at 56 FR 64472, 64475, Dec. 10, 1991]

§ 1205.346 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder, or (b) release or extinguish any violation of this subpart or any

regulation issued thereunder, or (c) affect or impair any rights or remedies of the United States, or of the Secretary, or of any other person, with respect to any such violation.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

§ 1205.347 Personal liability.

No member or alternate member of the Cotton Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or alternate, except for acts of dishonesty or willful misconduct.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

§ 1205.348 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

[31 FR 16758, Dec. 31, 1966. Redesignated at 56 FR 64472, Dec. 10, 1991]

Subpart—Members of Cotton Board

§ 1205.401 Definitions.

(a) *Cotton Division.* *Cotton Division* means the Cotton Division of the Agricultural Marketing Service of the U.S. Department of Agriculture.

(b) *Director.* *Director* means the Director of the Cotton Division.

[32 FR 1084, Jan. 31, 1967, as amended at 41 FR 37092, Sept. 2, 1976]

§ 1205.402 Determination of Cotton Board membership.

(a) In determining whether any cotton-producing state is entitled to be represented by more than one member of the Cotton Board as provided in § 1205.322, average annual production of Upland cotton in terms of 480-pound net weight bales for the five most recent marketing years will be used as

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the criteria for determination of such additional members.

(b) In determining whether importers of cotton and cotton-containing products are entitled to be represented by more than a minimum of two members on the Cotton Board as provided in §1205.322, the average annual volume of imported cotton and the cotton content of imported products on which assessments have been collected will be used as the criteria for determination of such additional members. This volume of cotton will be expressed in terms of 480-pound net weight bales for the five most recent calendar years. The initial importer representation on the Board shall consist of four importer representatives.

(c) All members appointed from a state will be entitled to serve a full three-year term even though it is determined in a subsequent year that a state should have fewer additional members by using the average production of the five most recent marketing years as specified in paragraph (a) of this section.

(d) All members appointed to represent importers will be entitled to serve a full three-year term even though it is determined in a subsequent year that importers should be represented by fewer additional members by using the average volume of imports of cotton and the cotton content of products on which assessments have been collected as specified in paragraph (b) of this section.

(e) Each year the Director shall:

(1) Based on the average annual production of Upland cotton in terms of 480-pound net weight bales for the five most recent marketing years, notify all certified cotton producer organizations in each cotton-producing state of the number of vacancies to be filled by cotton producers on the Cotton Board; and

(2) Based on the average annual volume of imports of cotton and the cotton content of cotton-containing products on which assessments as provided for in §1205.335 have been collected in terms of 480-pound net weight bales for the five most recent calendar years, notify all certified cotton importer organizations of the number of vacancies

to be filled by cotton importers on the Cotton Board.

[56 FR 65980, Dec. 20, 1991]

§ 1205.403 Nomination procedure.

(a) The Director shall notify all certified producer organizations within each cotton-producing state and all certified importer organizations of the location, date, and time of the caucus for nominating producer and importer representatives for the Cotton Board as specified in §1205.324. The Director will designate a representative from the Cotton Division to attend the caucus meeting of cotton producer organizations in each state, and of cotton importer organizations. Each eligible cotton producer organization within each cotton-producing state and each importer organization will be entitled to only one representative at the caucus for the purpose of nominating two qualified persons for each member and for each alternate member to be selected. The representative of a cotton producer organization shall be a cotton producer and resident of such state, an officer or member of the Board of Directors of such organization, and duly and unqualifiedly authorized in writing by such organization to make nominations on its behalf. The representative of an importer organization shall be an importer of cotton and/or products containing cotton, an officer or member of the Board of Directors of such organization, and duly and unqualifiedly authorized in writing by such organization to make nominations on its behalf. The representative of the Director designated to attend the caucus meeting of cotton producer organizations in each state and of cotton importer organizations will ascertain the qualifications and eligibility of each representative of a cotton producer organization or cotton importer organization to participate in said meeting and to make nominations.

(b) Each caucus will be conducted as follows:

(1) The representative from the Cotton Division will act as temporary chairperson and will explain the procedure for nominations and the duties of the Cotton Board;

(2) The representatives in attendance from the certified organizations will

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then select a chairperson and secretary;

(3) At each caucus there will be presented for nomination and there will be nominated not less than the number of nominees required under the provisions of §§ 1205.322, 1205.324, and 1205.402.

[56 FR 65981, Dec. 20, 1991]

Subpart—Cotton Board Rules and Regulations

SOURCE: 42 FR 35974, July 13, 1977, unless otherwise noted.

DEFINITIONS

§ 1205.500 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall mean:

(a) *ASCS* means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) *Cotton Board* means the administrative body established pursuant to the Cotton Research and Promotion Order.

(c) *CCC* means the Commodity Credit Corporation.

(d) *Current value of Cotton* means the gross price per pound of lint cotton received by the producer for cotton as shown on the producers' settlement document before deductions are made for weight penalties, buyer's commission or brokerage fees, marketing fees, the \$1 per bale cotton research and promotion assessment, picking charges, ginning charges, warehouse receiving charges, warehouse storage charges, transportation charges or any other charges, plus any amount received by a producer in the form of a loan deficiency payment with respect to such cotton.

(e) *Form A* means Cotton Producer's Note, Form CCC Cotton A.

(f) *Gin code number* means the identification number assigned to each cotton gin by the Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(g) *Handle* means to harvest, gin, warehouse, compress, purchase, market, transport, or otherwise acquire ownership or control of cotton.

(h) *Handler* means any person who handles cotton, including CCC.

(i) *Marketing* means any sale of cotton, or the pledging of cotton to CCC as collateral for a price support loan.

(j) *Marketing year* means a consecutive 12-month period ending on July 31.

(k) *Person* means any individual, partnership, corporation, association, or any other entity, whether governmental or private.

(l) *Producer* means any person who owns or shares in a cotton crop (or in the proceeds thereof) as landowner, landlord, tenant, or sharecropper.

(m) *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(n) *Loan deficiency payment* means any payment on Upland cotton made by the Commodity Credit Corporation to a producer in accordance with 7 CFR 713.55.

(o) *Importer* means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States and *import* means any such entry.

(p) *Customs Service* means the United States Customs Service of the United States Department of Treasury.

(q) *Cotton* means:

(1) All Upland cotton harvested in the United States, and, except as used in section 7(e) of the Act, includes cottonseed of such cotton and the products derived from such cotton and its seed, and

(2) Imports of Upland cotton, including the Upland cotton content of the products derived thereof. The term *cotton* shall not, however, include:

(i) Any entry of imported cotton by an importer which has a value or weight less than a de minimis amount established in regulations issued by the Secretary and

(ii) Industrial products as that term is defined by regulation.

(r) *Industrial products* means cotton-containing products which are classified in the Harmonized Tariff Schedule of the United States under classifications other than textile classifications.