

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 27

[Doc. # CN-01-004]

RIN 0581-ACOO

### Revision of Regulations for Determining Price Quotations for Spot Cotton

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service is proposing to amend the regulation concerning designation of the spot markets used to calculate differences for tenderable qualities delivered against cotton futures contracts. The re-designated spot markets will better reflect the trading value of tenderable qualities. Presently, regulations provide for the Secretary of Agriculture to determine and designate spot markets from which spot cotton price information can be collected. Currently, there are seven designated markets that qualify under the Cotton Futures Act requirements and five of those are designated to determine differences for the settlement of futures contracts. The Commodity Futures Trading Commission, in an effort to better reflect market transparency, approved a request from the New York Board of Trade that the spot markets used to calculate commercial differences in Cotton Futures Exchange deliveries be re-designated. The requested changes were as follows: Replace the South Delta quote with the West Texas quote; and replace the North Delta quote with the average of the combined North and South Delta quotes. Including West Texas quotes and combining and averaging North and South Delta quotes provides a more accurate reflection of cotton that is traded for cotton futures contracts.

**DATES:** Comments must be received on or before September 23, 2002.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule to Norma McDill, Deputy Administrator, Cotton Program, AMS, USDA, STOP 0224, 1400 Independence Avenue, SW., Washington, DC 20250-0224.

Comments should be submitted in triplicate. Comments may also be submitted electronically to: [cottoncomments@usda.gov](mailto:cottoncomments@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments will be available for public inspection at Cotton Program, AMS, USDA, Room 2641-S, 1400 Independence Avenue, SW., Washington, DC 20250 during regular business. A copy of this notice may be found at: [www.ams.usda.gov/cotton/rulemaking.htm](http://www.ams.usda.gov/cotton/rulemaking.htm).

#### FOR FURTHER INFORMATION CONTACT:

Norma McDill, Deputy Administrator, Cotton Program, AMS, USDA, STOP 0224, 1400 Independence Avenue, SW., Washington, DC 20250-0224. Telephone (202) 720-2145, facsimile (202) 690-1718, or e-mail [norma.mcdill@usda.gov](mailto:norma.mcdill@usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This proposed rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

#### Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small entities.

The New York Cotton Future Market traders include the entire cotton industry: farmers, merchants, and textile

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mill owners. There are an estimated 3,000 traders. This proposed rule would affect all such traders. The majority of the traders are small businesses under the criteria established by the Small Business Administration. Amending the regulations to change the designated spot markets for determining tenderable differences will not significantly affect small businesses as defined under the RFA because:

(1) The information gathered will be more reflective of the cotton traded for cotton futures contracts and add more transparency to the market;

(2) The competitive position or market access of small entities in the cotton industry would not be affected;

(3) No new costs would be imposed on the affected industry.

#### Paperwork Reduction Act

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581-0029 under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Background

The Secretary of Agriculture is authorized under the U.S. Cotton Futures Act (7 U.S.C. 15b) to make such regulations as determined necessary to carry out the provisions of the Act. The Act provides for the designation of at least five bona fide spot markets from which spot cotton price information can be collected. Presently, there are seven such designated markets that qualify under the Cotton Futures Act requirements. The seven designated markets are as follows: Southeastern, North Delta, South Delta, East Texas and Oklahoma, West Texas, Desert Southwest and San Joaquin Valley. For the purposes of determining settlement of futures contracts five of the seven spot markets are used. They are Southeastern, North Delta, South Delta, East Texas and Oklahoma, and Desert Southwest. The Cotton Program of the Agricultural Marketing Service provides market information from these spot markets under the Cotton Statistics and Estimates Act (7 U.S.C. 473b) and the

Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)).

The Commodity Futures Trading Commission, in an effort to better reflect market transparency, approved a request from the New York Board of Trade to change the spot markets used to calculate commercial differences in Cotton Futures Exchange deliveries. This proposed rule would change the designation of the spot markets which are used daily to calculate price differences for cotton futures contracts. The current designations were published in the **Federal Register** on August 4, 1988 (53 FR 29327). As previously stated, differences are quoted for those qualities of cotton which are tenderable on active futures contracts in five designated markets. These differences are averaged to obtain the differences quoted for futures settlement.

This proposed rule would provide that differences would continue to be quoted for those qualities of cotton which are tenderable on active futures contracts in all of the five markets currently designated for this purpose. However, the West Texas spot market would be added as a bone fide spot market for the settlement of futures contracts, and the North Delta and South Delta spot markets would be combined and averaged together when used for this purpose of calculating differences of tenderable qualities for the settlement of futures contracts. This proposed rule would change the calculation of differences of tenderable qualities for the settlement of futures contracts to be the average of the differences of (1) the Southeastern spot market; (2) the East Texas/Oklahoma spot market; (3) the West Texas spot market; (4) the Desert Southwest spot market; and (5) the combination and averaging of the North Delta and South Delta spot markets. The remaining designated spot markets would not change. These proposed modifications are expected to more accurately reflect the trading value of tenderable cotton on futures contracts and add more transparency in the market.

#### List of Subjects in 7 CFR Part 27

Commodity futures, Cotton.

For the reasons set forth in the preamble, 7 CFR Part 27 is proposed to be amended as follows:

#### PART 27—[AMENDED]

1. The authority citation for 7 CFR part 27 continues to read as follows:

**Authority:** 7 U.S.C. 15b, 7 U.S.C. 4736, 7 U.S.C. 1622(g).

2. Section 27.94 is amended by revising paragraph (a) to read as follows:

#### § 27.94 Spot markets for contract settlement purposes.

(a) For cotton delivered in settlement of any No. 2 contract on the New York Cotton Exchange:

Southeastern, North and South Delta, Eastern Texas and Oklahoma, West Texas, and Desert Southwest.

\* \* \* \* \*

Dated: July 15, 2002.

**A.J. Yates,**  
*Administrator, Agricultural Marketing Service.*

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of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

#### FOR FURTHER INFORMATION CONTACT:

Robert Curry, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 385, Portland, Oregon 97204; telephone: (503) 326-2724, Fax: (503) 326-7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-5698, or e-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Agreement No. 98 and Marketing Order No. 945, both as amended (7 CFR part 945), regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the “order.” The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the “Act.”

This proposed rule also is issued under § 608e of the Act, which provides that whenever certain specified commodities, including potatoes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before

#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Parts 945 and 980

[Docket No. FV00-945-2 PR]

#### Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, OR, and Irish Potatoes Imported into the United States; Proposed Modification of Handling and Import Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would remove the reference to Norgold variety potatoes from the handling regulation issued under the marketing order for Idaho-Eastern Oregon potatoes. The Norgold variety is specifically referenced to establish less restrictive maturity requirements for early season shipments. Norgold variety potatoes are no longer produced in the production area covered under the marketing order and the less restrictive requirements are not needed. As required under section 608e of the Agricultural Marketing Agreement Act of 1937, the maturity requirements for potato imports would be changed accordingly.

**DATES:** Comments must be received by September 23, 2002.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-5698, or e-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). All comments should reference the docket number and the date and page number