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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 27

[Doc. #AMS-CN-14-0050]

RIN 0581-AD38

#### Defining Bona Fide Cotton Spot Markets for the World Cotton Futures Contract

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

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is amending the regulatory language to designate which bona fide cotton spot markets will be used to determine actual commercial differences in value for various grades above or below the basis grade in the settlement of World cotton futures contracts on the Intercontinental Exchange (ICE). Designating bona fide cotton spot markets for the World cotton futures contract in the regulatory language will allow for AMS to collect spot market price data and publish spot quotes for the settlement of these specific contracts.

**DATES:** *Effective Date:* November 23, 2015.

**FOR FURTHER INFORMATION CONTACT:** Darryl Earnest, Deputy Administrator, Cotton & Tobacco Program, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Telephone (901) 384-3060, facsimile (901) 384-3021, or email [darryl.earnest@ams.usda.gov](mailto:darryl.earnest@ams.usda.gov).

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to access all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory

approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a “non-significant regulatory action” under section 3(f) of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

#### Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

#### Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that 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. 601-612), 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 businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are approximately sixty cotton merchant organizations of various sizes active in trading U.S. cotton. Many of these cotton merchants are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). Small business entities that are merchants in the U.S. cotton industry are defined as having fewer than 100 employees. Amendments to the regulation concerning bona fide cotton spot market designations will not significantly affect small businesses as defined in the RFA because:

(1) How spot prices are estimated are not expected to be impacted by this action;

(2) Business practices of the U.S. cotton industry are not expected to change as a result of this action;

(3) Costs associated with providing market news services will not be significantly changed by this action;

(4) Market news services are paid for by appropriated funds, therefore users are not charged fees for the provision of the services.

#### Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581-0009, Cotton Classification and Market News Service.

#### Background

The Secretary of Agriculture is authorized under the United States Cotton Futures Act (7 U.S.C. 15b) to designate at least five bona fide cotton spot markets from which cotton price information can be collected. A spot market—also called the “cash market” or “physical market”—is a market where commodities are sold on the spot for cash at current market prices and delivered immediately. Designation of these bona fide cotton spot markets and the determination of which counties and states compose each of these spot markets was most recently published in the **Federal Register** on April 30, 2013 (78 FR 25181). For each of these bona fide cotton spot markets, the Cotton and Tobacco Program of the Agricultural Marketing Service collects market price information under the United States Cotton Futures Act (7 U.S.C. 15b), the Cotton Statistics and Estimates Act (7 U.S.C. 473b) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)). This price information is then used to calculate price differences for the settlement of cotton futures contracts.

In order to better manage price risk in the global cotton market, the American Cotton Shippers Association (ACSA) and the International Cotton Association (ICA) requested that the Intercontinental Exchange (ICE) offer a World cotton futures contract. In response, ICE

announced its intention to begin offering World cotton contracts beginning in the fourth quarter of 2015. To determine actual commercial differences in value for various grades above or below the basis grade in the settlement of this new World cotton futures contract, AMS was asked by these same stakeholders to collect and publish cotton spot market price information relevant to the World cotton contract. Therefore, AMS is amending § 27.94 to designate the same bona fide cotton spot markets for the World cotton futures contract as have been designated for the No. 2 cotton futures contract.

**Summary of Comments**

A proposed rule was published in the **Federal Register** on December 16, 2014, with a comment period of December 16, 2014 through January 16, 2015 (79 FR 74654). No comments were received by AMS.

The U.S. cotton industry and ICE requested that AMS, Cotton and Tobacco Program to collect and publish cotton spot market price information relevant to the World cotton contract prior to the offering of this new futures contract, which is scheduled for the fourth quarter of 2015.

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

Commodity futures, Cotton.

For the reasons set forth in the preamble, 7 CFR part 27 is 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. 473b, 7 U.S.C. 1622(g).

■ 2. In § 27.94, paragraph (a) is revised to read as follows:

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

\* \* \* \* \*

(a) For cotton delivered in settlement of any Cotton No. 2 or World Cotton contract on the Intercontinental Exchange (ICE); the spot markets are Southeastern, North and South Delta, Eastern Texas and Oklahoma, West Texas, and Desert Southwest.

\* \* \* \* \*

Dated: October 19, 2015.

**Rex A. Barnes,**  
*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2015-26953 Filed 10-21-15; 8:45 am]

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**DEPARTMENT OF AGRICULTURE**

**Farm Service Agency**

**7 CFR Part 789**

**RIN 0560-AH68**

**Agriculture Priorities and Allocations System**

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Farm Service Agency (FSA) is establishing the regulation for the Agriculture Priorities and Allocations System (APAS). Food is a critical commodity essential to the national defense (including civil emergency preparedness and response). To avoid civilian hardship during national defense emergencies, it may be necessary to regulate the production, processing, storage, and wholesale distribution of food. Through the APAS rule, the U.S. Department of Agriculture (USDA) will respond to requests to place priority ratings on contracts or orders (establishing priority on which contracts or orders are filled first) for agriculture commodities up through the wholesale levels, including agriculture production equipment, and allocate resources, as specified in the Defense Production Act (DPA) of 1950, as amended, if the necessity arises. FSA is implementing this rule as a way to redirect the agriculture commodities and resources to areas of hardship or potential hardship due to national emergencies. In most cases, there is likely to be no economic impact in filling priority orders because it would generally just be changing the timing in which orders are completed.

**DATES:** Effective December 21, 2015.

**FOR FURTHER INFORMATION CONTACT:** Robert Haughton, telephone (202) 702-0135. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

APAS is a USDA program that supports not only national defense needs (such as food for combat rations), but also emergency preparedness initiatives by addressing essential civilian needs (food and food resources) through the placing of priorities on contracts for items and services or allocating resources, as necessary. Although a specific Presidential disaster designation is not required, the ability

to prioritize or allocate items or services can be triggered by a determination by the President or designated entities that this action is necessary or appropriate to promote national defense including the imminent need for emergency preparedness. Under DPA (50 U.S.C. App. 2061 to 2170, 2171, and 2172), the term “national defense” includes emergency preparedness, response, and critical infrastructure protection and restoration. Authority for priorities and allocations is specified in DPA and further defined in Executive Order 13603, “National Defense Resources Preparedness,” dated March 16, 2012. Executive Order 13603 replaced Executive Order 12919 (referenced in the proposed rule) and further defined jurisdictional areas and national defense preparedness roles and responsibilities for specific Departments. Executive Order 13603 did not change the intent of DPA as it applies to USDA’s functions in national defense, including emergency preparedness; instead it gave additional jurisdiction to USDA for livestock, veterinary, and plant health resources.

For the final rule, only those sections in the “Supplementary Information” part of the proposed rule preamble that required modifications due to Executive Order 13603 or for other reasons are further discussed in the “Supplementary Information” section of this final rule. A more thorough explanation along with examples of APAS applicability was provided in the proposed rule that was published on May 19, 2011 (76 FR 29084-29106). References in those examples to Executive Order 12919 should be read to mean Executive Order 13603. Also contained in this summary are descriptions of comments received and responses developed on the proposed rule. We are not reiterating the “Section by Section Discussion of Rule” section of the proposed rule preamble in this document. Any changes to those sections are discussed in this document.

**Jurisdiction**

Title I of DPA and Executive Order 13603 authorize jurisdictional areas for each Department that is involved in national defense including emergency preparedness. USDA has jurisdiction for items that fall under the categories of:

- (1) Food resources (including potable water packaged in commercially marketable containers) and food resource facilities;
- (2) Livestock resources, veterinary resources, and plant health resources; and
- (3) Domestic distribution of farm equipment and commercial fertilizer.

USDA cannot use its DPA authority for items or services not in its