

Rules and Regulations

Federal Register

Vol. 70, No. 103

Tuesday, May 31, 2005

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN-05-001]

RIN 0581-AC43

Revision of User Fees for 2005 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) will raise user fees for cotton producers for 2005 crop cotton classification services under the Cotton Statistics and Estimates Act. The 2004 user fee for this classification service was \$1.65 per bale. This rule will raise the fee for the 2005 crop to \$1.85 per bale with the program. This fee and the existing reserve are sufficient to cover the costs of providing classification services, including costs for administration and supervision.

DATES: *Effective Date:* July 1, 2005.

FOR FURTHER INFORMATION CONTACT: Darryl Earnest, Acting Deputy Administrator, Cotton Program, AMS, USDA, Room 2641-S, STOP 0224, 1400 Independence Avenue, SW., Washington, DC 20250-0224. Telephone (202) 720-2145, facsimile (202) 690-1718, or e-mail darryl.earnest@usda.gov.

SUPPLEMENTARY INFORMATION: A proposed rule detailing the revisions was published in the **Federal Register** on April 26, 2005 (70 FR 21342). A 15-day comment period was provided for interested persons to respond to the proposed rule. No comments were received and no changes have been made in the provisions of the final rule.

Executive Order 12866

This 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This 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 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 *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 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 an estimated 35,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). The increase above the 2004 crop level as stated will not significantly affect small businesses as defined in the RFA because:

(1) The fee represents a very small portion of the cost-per-unit (less than 0.4 cents per lb) currently borne by those entities utilizing the services. (The 2004 user fee for classification services was \$1.65 per 500 pound bale; the fee for the 2005 crop will be increased to \$1.85 per 500 pound bale; the 2005 crop is estimated at 18,750,000 bales).

(2) The fee for services will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 2004 crop, 22,815,000 bales were produced. Almost all of these bales were voluntarily submitted by growers for the classification service.

(4) Based on the average price paid to growers for cotton from the 2003 crop of 61.8 cents per pound, 500 pound bales of cotton are worth an average of \$309 each. The user fee for classification services, \$1.85 per bale, is less than one percent of the value of an average bale of cotton.

Paperwork Reduction Act

In compliance with 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 provisions to be amended by this rule have been previously approved by OMB and were assigned OMB control number 0581-AC34.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was \$1.65 per bale during the 2004 harvest season, as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102-237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, and supervision.

This final rule establishes the user fee charged to producers for HVI classification at \$1.85 per bale during the 2005 harvest season.

Public Law 102-237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 2004. Therefore, the 2005 producer's user fee for classification service is based on the 2004 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102-237. The 2004 base fee for HVI classification exclusive of adjustments, as provided by the Act, was \$2.32 per bale. An increase of 2.51 percent, or 5 cents per bale, due to the implicit price deflator of the gross domestic product added to the \$2.32 would result in a 2005 base fee of \$2.37

per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, gross *national* product has been replaced by gross *domestic* product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 2005 crop is estimated at 18,096,563 bales. The 2005 base fee was decreased 15 percent based on the estimated number of bales to be classed (1 percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum decreased adjustment of 15 percent). This percentage factor amounts to a 35 cents per bale reduction and was subtracted from the 2005 base fee of \$2.37 per bale, resulting in a fee of \$2.02 per bale.

With a fee of \$2.02 per bale, the projected operating reserve would be 32.45 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of \$2.02 was required to be reduced by 17 cents per bale, to \$1.85 per bale, to provide an ending accumulated operating reserve for the fiscal year of not more than 25 percent of the projected cost of operating the program. This would establish the 2005 season fee at \$1.85 per bale.

Accordingly, § 28.909, paragraph (b) is revised to reflect the increase of the HVI classification fee from \$1.65 to \$1.85 per bale.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if classification data is requested only once. The fee for each additional retrieval of classification data in § 28.910 will remain at 5 cents per bale. The fee in § 28.910(b) for an owner receiving classification data from the National database will remain at 5 cents per bale, and the minimum charge of \$5.00 for services provided per monthly billing period will remain the same. The provisions of § 28.910(c) concerning the fee for new classification memoranda issued from the National database for

the business convenience of an owner without reclassification of the cotton will remain the same at 15 cents per bale or a minimum of \$5.00 per sheet.

The fee for review classification in § 28.911 will be increased from \$1.65 to \$1.85 per bale.

The fee for returning samples after classification in § 28.911 will remain at 40 cents per sample.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and record keeping requirements, Standards, Staples, Testing, Warehouses.

■ For the reasons set forth in the preamble, 7 CFR part 28 is amended as follows:

PART 28—[AMENDED]

■ 1. The authority citation for 7 CFR part 28, subpart D, continues to read as follows:

Authority: 7 U.S.C. 471–476.

■ 2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is \$1.85 per bale.

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■ 3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is \$1.85 per bale.

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Dated: May 26, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–10834 Filed 5–27–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 116

Viruses, Serums, Toxins, and Analogous Products; Records and Reports

CFR Correction

In Title 9 of the Code of Federal Regulations, Parts 1 to 199, revised as of January 1, 2005, on page 748, in § 116.1,

paragraph (b) is corrected to read as follows:

§ 116.1 Applicability and general considerations.

* * * * *

(b) In the case of imported products, each permittee shall maintain at the permittee's place of business detailed and accurate records that are relevant to each imported product and that include, but are not limited to, importation documents, sampling records, test summaries, shipping records, and inventory and disposition records as required in § 116.2.

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[FR Doc. 05–55507 Filed 5–27–05; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 10

RIN 3150–AH69

Delegation Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is revising its regulations to change the references from Deputy Executive Director for Management Services to Deputy Executive Director for Information Services and Administration and Chief Information Officer. The revision is necessary to reflect a recent realignment in the Office of the Executive Director for Operations. This final rule is necessary to inform the public of organizational changes within the NRC.

DATES: Effective May 31, 2005.

FOR FURTHER INFORMATION CONTACT: Alzon Shepard, Regulations Specialist, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone (301) 415–6864, e-mail aws1@nrc.gov.

SUPPLEMENTARY INFORMATION: On January 6, 2005, the NRC announced a realignment of functions of the Office of the Executive Director for Operations. With the realignment, some of the functions assigned previously to the Deputy Executive Director for Management Services are assigned to the Deputy Executive Director for Information Services and Administration and Chief Information Officer.

Because these amendments constitute minor administrative changes to the