

Rules and Regulations

Federal Register

Vol. 60, No. 83

Monday, May 1, 1995

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN-95-001]

RIN 0581-AB15

Revision of User Fees for 1995 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is reducing user fees for cotton producers for 1995 crop cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 1994 user fee for this classification service was \$1.80 per bale. This final rule will reduce the fee for the 1995 crop to \$1.60 per bale. The reduced fee is due to increased efficiency in classing operations, and it is sufficient to recover the costs of providing classification services, including costs for administration, supervision, and development and maintenance of standards.

EFFECTIVE DATES: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Lee Cliburn, 202-720-2145.

SUPPLEMENTARY INFORMATION: A proposed rule detailing the revisions was published in the **Federal Register** on February 24, 1995, (60 FR 10335). A 30-day comment period was provided for interested persons to respond to the proposed rule; no comments were received.

This final 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.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will 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.

The Administrator, Agricultural Marketing Service (AMS), has considered the economic impact of this final rule on small entities pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be disproportionately burdened. There are about 40,000 cotton growers who voluntarily submit their cotton for the classification service. The majority of the growers are small businesses under the criteria established by the Small Business Administration. The Administrator of AMS has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the RFA because:

- (1) The fee reduction reflects a decrease in the cost-per-unit currently borne by those entities utilizing the services;
- (2) The cost reduction will not affect competition in the marketplace; and
- (3) The use of classification services is voluntary.

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions amended by this final rule have been previously approved by OMB and were assigned OMB control number 0581-0009 under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The changes will be made effective July 1, 1995, as provided by the Cotton Statistics and Estimates Act.

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 \$1.80 per bale during the 1994 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, cost of equipment and supplies, and other overhead costs, including costs for administration, supervision, and development and maintenance of cotton standards.

This final rule establishes the user fee charged to producers for HVI classification at \$1.60 per bale during the 1995 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 1994. Therefore, the 1995 producer's user fee for classification service is based on the 1994 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 1994 base fee for HVI classification exclusive of adjustments, as provided by the Act, was \$1.96 per bale. A 2.3 percent, or five cents per bale increase due to the implicit price deflator of the gross domestic product added to the \$1.96 results in a 1995 base fee of \$2.01 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, this has been replaced by the 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 1995 crop is estimated at 19,202,000. The 1995 base fee was decreased 15 percent based on the estimated number of bales to be classed (one percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 30 cents per bale reduction and was subtracted

from the 1995 base fee of \$2.01 per bale, resulting in a fee of \$1.71 per bale.

Assuming a fee of \$1.71 per bale, the projected operating reserve would be 30 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 \$1.71 must be reduced by 11 cents per bale, to \$1.60 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This establishes the 1995 season fee at \$1.60 per bale.

Accordingly, § 28.909, paragraph (b) is revised to reflect the reduction in the HVI classification fees.

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

Growers or their designated agents will continue to incur no additional fees if only one method of receiving classification data is requested. The fee for each additional method of receiving classification data in § 28.910 will remain at five cents per bale, and it will be applicable even if the same method was requested. The other provisions of § 28.910 concerning the fee for an owner receiving classification data from the central database and the fee for new classification memoranda issued for the business convenience of such an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 will be reduced from \$1.80 per bale to \$1.60 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 procedures, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping 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 Subpart D of Part 28 is revised to read as follows:

Authority: 7 U.S.C. 473a; 7 U.S.C. 473c.

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 \$1.60 per bale.

* * * * *

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 \$1.60 per bale.

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Dated: April 25, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95-10602 Filed 4-28-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 75

[Docket No. LS-94-011]

RIN 0581-AB35

Increase Seed Inspection Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the applicable fees for testing seed under the voluntary seed inspection and certification program. The fees which will be paid by the users of the service are intended to generate sufficient revenue to offset the cost of operating the program.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: James P. Triplitt, Chief, Seed Regulatory and Testing Branch, Livestock and Seed Division, Agricultural Marketing Service, USDA, Building 506, BARC-E, Beltsville, Maryland 20705, 301-504-9430.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. The 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 judicial challenge to the provision of this rule.

This action was also reviewed under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Administrator of AMS has determined that this action will not

have a substantial economic impact on a significant number of small entities. Although some seed growers and shippers using this service may be classified as small entities, the effect of the increased fees will be minimal. Under the proposal the cost for a typical test will increase from about \$57.00 to approximately \$64.50. It is estimated that the total revenue generated by this increase will be approximately \$15,000 annually.

Background

This rule is authorized by the Agricultural Marketing Act (AMA) of 1946, as amended, 7 U.S.C. 1621 *et seq.* Section 203(h) of the AMA authorizes the Secretary to inspect and certify the quality of agricultural products and collect such fees as reasonable to cover the cost of service rendered. This revision is to increase the fees to be charged for the inspection and certification of quality of agricultural and vegetable seeds to reflect the Department's cost of operating the program.

The purpose of the voluntary program is to promote efficient, orderly marketing of seeds, and assist in the development of new and expanding markets. Under the program samples of agricultural and vegetable seeds submitted are tested for factors such as purity and germination at the request of the applicant for the service. In addition, grain samples, submitted at the applicant's request, by the Grain Inspection, Packers and Stockyards Administration are examined for the presence of certain weed and crop seed. A Federal Seed Analysis Certificate is issued giving the test results. Of 1,650 samples tested in fiscal year 1994 most represented seed or grain scheduled for export. Many importing countries require a Federal Seed Analysis Certificate on United States seed.

After reviewing the current costs the department has determined that the present fee is insufficient to cover the program's cost of operation. The fee increase is necessary to offset increased salaries and fringe benefits to personnel, as well as increases in rent and other program costs. Based on the Agency's analysis of costs and revenue, AMS is proposing to increase the hourly rate for the voluntary service from \$35.40 to \$40.40 per hour. In addition, the cost of issuing additional duplicate original certificates will be increased from \$8.85 to \$10.10. Approximately one-fourth hour is required to issue additional duplicate certificates.

A proposed rule was published in the **Federal Register** on January 4, 1995 (60 FR 379). Comments on the proposed