

Rules and Regulations

Federal Register

Vol. 66, No. 100

Wednesday, May 23, 2001

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB-00-04]

RIN 0581-AB86

Tobacco Fees and Charges for Permissive Inspection and Certification; Fee Revisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the fee structure and increases fees for domestic permissive inspection and grading of tobacco. Under the Tobacco Inspection Act, fees collected must cover, as nearly as practicable, the Department's costs for performing the inspection service, including administrative and supervisory costs. The fee for permissive inspection of tobacco at receiving points will be based upon poundage and will be set at the same rate as for mandatory inspection at auction, which is \$.01 per pound. The fee for permissive inspection at redrying plants will continue to be on an hourly basis and will be increased by about 46 percent. These revisions do not affect the fee for the mandatory inspection of tobacco sold at designated auction markets or permissive export certification.

DATES: Effective May 24, 2001; comments received by June 22, 2001 will be considered prior to issuance of a final rule.

ADDRESSES: Send comments to John P. Duncan III, Deputy Administrator, Tobacco Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456; or

Fax: (202) 205-0235. Comments will be made available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, Stop 0280, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090-6456; telephone: (202) 205-0567, Fax: (202) 205-0235.

SUPPLEMENTARY INFORMATION:

Permissive inspections, as authorized under the Tobacco Inspection Act (7 U.S.C. 511-511q), are made available to interested parties on a fee basis sufficient to cover the costs incurred by the Department for the inspection and certification, and other services, including administrative and supervisory costs. This rule revises the fee structure and increase fees for domestic permissive inspection and grading of tobacco.

The AMS conducts reviews of the financial status of this program to determine whether a fee is sufficient. As a result of this review, it has been determined that, at the current fees, insufficient revenue is generated to meet the costs of the program and to maintain an adequate reserve fund. The current hourly fee schedule for domestic permissive inspection has been in effect since October 1, 1991, as published in the *Federal Register* (56 FR 41921) on August 26, 1991. The major factors causing the need for additional funds are increases in Government salaries and benefits, travel allowances, and overall administrative costs since 1991. The crop-year 2000 revenues for permissive inspection and certification services at redrying plants were \$213,000 and obligations were \$300,000. Without a fee increase, crop-year 2001 and crop-year 2002 revenues for permissive inspection and certification services at redrying plants are projected at about \$213,000 per year and obligations are projected at about \$300,000 per year, and with a fee increase, crop-year 2001 and crop-year 2002 revenues are projected at \$312,000 and obligations are projected at \$300,000. This interim final rule will increase the hourly rates charged to users of domestic permissive inspection and certification services performed at redrying plants by about 46 percent. The AMS estimates that the increase in the hourly rate will yield about an

additional \$100,000 during crop-year 2001 and maintain an adequate reserve.

This rule also revises the fee structure for permissive inspection and certification at receiving points from an hourly basis to a poundage basis at the same rate as for mandatory inspection at auction. A poundage-basis structure is more appropriate for the permissive inspection of tobacco at receiving points. Although it is anticipated that 60-75 percent of the 2001 tobacco crop will be sold by direct contract, and that some of this will be permissively inspected at receiving points, it would be difficult to predict the number of pounds for which permissive inspection will be requested and the resulting revenues. However, based upon the experience of the AMS with mandatory inspection at auction, a fee of \$.01 per pound is estimated to cover costs of \$841,115 and an adequate reserve (assuming 120 million pounds of contract tobacco will be inspected in crop-year 2001 with revenue of \$1,200,000). The costs to entities would be proportional to their use of the service so that costs are shared equitably by all interested parties.

In the past, virtually all quota tobacco was marketed through the auction system under the mandatory inspection program. Mandatory inspection, as required under the Act, takes precedence over other services and fees are assessed based on the pounds graded. AMS has maintained a core grading staff for mandatory inspection and utilized personnel from this staff to provide permissive grading. Other than recertification services performed at redrying plants, only a small amount of tobacco was inspected under the permissive grading program. Consequently, overhead costs and a reserve fund for permissive inspection were covered by the mandatory inspection fees.

However, tobacco marketing practices are changing. During the 2000 marketing year, tobacco companies implemented programs with producers to procure tobacco through direct contracting. Permissive grading services were requested for tobacco beginning in 2000. Tobacco companies also have indicated they will request increased permissive grading services for tobacco purchased directly from producers through contractual sales during the 2001 marketing year. It is anticipated that 60-

75 percent of the 2001 tobacco crop will be sold by contractual sales. With the projected increase in permissive grading requests from contractual tobacco sales, it is necessary for the permissive grading program to be self-supporting. The procedures for grading tobacco and the associated costs are virtually the same at both auction markets and receiving points. The National Advisory Committee for Tobacco Inspection Services, which is mandated by the Omnibus Budget Reconciliation Act of 1981, met on March 6, 2001, and unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction. Accordingly, the fee structure for permissive inspection at receiving points will be based on poundage and will be set at the same level as for mandatory inspection, which is \$.01 per pound.

It is also necessary to increase the hourly rates for permissive inspection and to specify that the hourly rates are for permissive inspection at redrying plants. In the past, virtually all permissive inspection was provided at redrying plants for grower cooperatives. These grading services involve confirming the grade previously assigned to tobacco sold on the auction markets to maintain blend consistency for the grower cooperatives. Accordingly, the hourly fee structure will be retained. However, as necessary, the hourly rate will be increased to recover costs. The base hourly rate of \$32.40 is raised to \$47.40, the overtime rate of \$38.70 is raised to \$53.70, and Sunday and holiday rate of \$48.45 is raised to \$64.45. These fees would cover expenses and maintain a reserve that would meet any reasonable contingency. The Department is required by law to fix and collect fees and charges to cover the Department's cost in operating the permissive tobacco inspection program.

Finally, although the provisions are seldom used, the same changes in hourly rates are made for the inspection and certification of nonquota tobacco produced and marketed in a quota area, because this is a similar kind of permissive inspection.

Further, it is hereby found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The tobacco marketing season will begin in June and this action

is needed, as soon as possible, so as to treat all types of tobacco on an equal basis, (2) the National Advisory Committee for Tobacco Inspection Services unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction, and (3) this interim final rule provides a 30-day comment period, which is considered appropriate in this action, and all comments timely received will be considered prior to the finalization of this 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.

Regulatory Flexibility Act

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$500,000 and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. There are about 300 tobacco warehouses and about 90,000 producers and almost all warehouses and producers may be classified as small entities. The AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This rule revises the fee structure and increases fees for domestic permissive grading of tobacco. Under the Tobacco Inspection Act of 1935, as amended (7 U.S.C. 511-511q), fees collected must cover, as nearly as practicable, the Department's cost for performing the inspection service, including administrative and supervisory costs. These revisions do not affect the fee for the mandatory inspection of tobacco sold at designated auction markets or permissive export certification.

The AMS conducts reviews of the financial status of this program to determine whether the fee is sufficient. As a result of this review, it has been determined that, at the current fees, insufficient revenue is generated to meet the costs of the program and to maintain an adequate reserve fund. The major factors causing the need for additional funds are increases in Government salaries and benefits, travel allowances, and overall administrative costs since 1991. The crop-year 2000 revenues for

permissive inspection and certification services at redrying plants were \$213,000 and obligations were \$300,000. Without a fee increase, crop-year 2001 and crop-year 2002 revenues for permissive inspection and certification services at redrying plants are projected at about \$213,000 per year and obligations are projected at about \$300,000 per year, and with a fee increase, crop-year 2001 and crop-year 2002 revenues are projected at \$312,000 and obligations are projected at \$300,000. This interim final rule will increase the hourly rates charged to users of domestic permissive inspection and certification services performed at redrying plants by about 46 percent. The AMS estimates that the increase in the hourly rate will yield about an additional \$100,000 during crop-year 2001 and maintain an adequate reserve.

This rule also revises the fee structure for permissive inspection and certification at receiving points from an hourly basis to a poundage basis at the same rate as for mandatory inspection at auction. The procedures for grading tobacco and associated costs are virtually the same at both auction markets and receiving points. The National Advisory Committee for Tobacco Inspection Services, which is mandated by the Omnibus Reconciliation Act of 1981, met on March 6, 2001, and unanimously recommended that the fee structure and rates for permissive inspection at receiving points be the same as for mandatory inspection at auction.

Although it is anticipated that 60-75 percent of the 2001 tobacco crop will be sold by direct contract, and that some of this will be permissively inspected at receiving points, it would be difficult to predict the number of pounds for which permissive inspection will be requested and the resulting revenues. However, based upon the experience of the AMS with mandatory inspection at auction, a fee of \$.01 per pound is estimated to cover the costs of \$841,115 and an adequate reserve (assuming 120 million pounds of contract tobacco will be inspected in crop-year 2001 with the revenue of \$1,200,000). The costs to entities would be proportional to their use of the service so that costs are shared equitably by all interested parties.

Finally, although the provisions are seldom used, the same changes in hourly rates are made for the inspection and certification of nonquota tobacco produced and marketed in a quota area, because this is a similar kind of permissive inspection.

These fees represent the minimum level needed to cover costs for the 2001

crop-year. In the future, AMS will continue to review the program to ensure that fees are adequate. Accordingly, we believe that the impact of this rule would not be significant on the users of the inspection and certification services.

Civil Justice Reform

This interim final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action 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.

Lists of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

Subpart B—Regulations

1. The authority citation for Part 29, subpart B continues to read as follows:

Authority: 7 U.S.C. 511m and 511r.

2. In § 29.123, paragraph (b) is revised to read as follows:

§ 29.123 Fees and charges.

* * * * *

(b) *Domestic permissive inspection and certification.* (1) Fees and charges for inspection at redrying plants shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for the actual time required to render the service calculated to the nearest 30-minute period. The hourly rate shall be \$47.40 per hour. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be \$53.70 per hour. The rate of \$64.45 per hour shall be charged for work performed on Sundays and holidays. These same fees shall be applicable for hogshead, bale, cases or sample inspections. (2) Fees and charges for inspection of tobacco performed at receiving points is \$.01 per pound.

Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Tobacco Produced and Marketed in a Quota Area

3. The authority citation for subpart F continues to read as follows:

Authority: Pub. L. 97–98, 95 Stat. 1266, as amended (7 U.S.C. 1314f).

§ 29.9251 Fees and charges.

4. In § 29.9251 the words “\$32.40”, “\$38.70” and “\$48.45” are removed and the words “\$47.40” “\$53.70” and “\$64.45” are added in their place, respectively.

Dated: May 17, 2001.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 01–12935 Filed 5–22–01; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Part 650

RIN 3052–AB56

Federal Agricultural Mortgage Corporation; Risk-Based Capital Requirements; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under part 650 on April 12, 2001 (66 FR 19048). In this final rule, we amended our regulations, through the Office of Secondary Market Oversight (OSMO), by establishing risk-based capital regulations for the Federal Agricultural Mortgage Corporation (Farmer Mac). The final rule in part 650 sets forth the risk-based capital regulations for Farmer Mac, including definitions, methods, parameters and guidelines for developing and implementing the risk-based capital stress test; specifies capital calculation, reporting, and compliance requirements; and delineates our monitoring, examination, supervisory, and enforcement activities with respect to Farmer Mac's compliance with the rule's risk-based capital requirements; and prescribes certain requirements for business and capital planning. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of

Congress, the effective date of the regulations is May 23, 2001.

EFFECTIVE DATE: The regulation amending 12 CFR part 650 published on April 12, 2001 (66 FR 19048) is effective May 23, 2001.

FOR FURTHER INFORMATION CONTACT:

Carl A. Clinefelter, Director, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TDD (703) 883–4444, or

Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or

Joy Strickland, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: May 18, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–13071 Filed 5–22–01; 8:45 am]

BILLING CODE 6705–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–08–AD; Amendment 39–12235; AD 2001–10–09]

RIN 2120–AA64

Airworthiness Directives; Honeywell KC 225 Automatic FlightControl Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Honeywell KC 225 automatic flight control systems (AFCS) that are installed on airplanes. This AD requires you to inspect the KC 225 AFCS to determine the computer modifications (Mods) that are incorporated, deactivate any units with only Mods 1 and/or 2 incorporated, and fabricate and install an appropriate placard if the unit is deactivated/inoperative. The AD would provide, as an alternative method of compliance, the option of installing a unit that incorporated MOD 3 or higher. This AD is the result of several reports that the AFCS is disconnecting without warning