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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[Doc. No. CN-03-007]

RIN 0581-AC34

Revision of User Fees for 2004 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 2004 crop cotton classification services under the Cotton Statistics and Estimates Act. The 2003 user fee for this classification service was \$1.45 per bale. This rule will raise the fee for the 2004 crop to \$1.65 per bale. 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, 2004.

FOR FURTHER INFORMATION CONTACT: Norma McDill, 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 norma.mcdill@usda.gov.

SUPPLEMENTARY INFORMATION: A proposed rule detailing the revisions was published in the **Federal Register** on April 26, 2004 (69 FR 22458). 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 and Executive Order 12988T

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 (OMB).

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 2003 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 currently borne by those entities utilizing the services. (The 2003 user fee for classification services was \$1.45 per bale; the fee for the 2004 crop would be increased to \$1.65 per bale; the 2004 crop is estimated at 18,300,000 bales).

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

(3) The use of classification services is voluntary. For the 2003 crop, 18,224,000 bales were produced; and, 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 2002 crop of 44.5 cents per pound, 500 pound bales

of cotton are worth an average of \$222 each. The user fee for classification services, \$1.65 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 0581-0009 under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

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 \$1.45 per bale during the 2003 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. The fee does not cover the costs for development of cotton standards used in the classification of cotton.

This final rule establishes the user fee charged to producers for HVI classification at \$1.65 per bale during the 2004 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 2003. Therefore, the 2004 producer's user fee for classification service is based on the 2003 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 Pub. L. 102-237. The 2003 base fee for HVI classification exclusive of adjustments, as provided by the Act, was \$2.28 per bale. An increase of 1.61 percent, or 4 cents per bale, increase due to the implicit price deflator of the gross domestic product added to the

\$2.28 would result in a 2004 base fee of \$2.32 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 2004 crop is estimated at 17,662,245 bales. The 2004 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 adjustment of 15 percent). This percentage factor amounts to a 35 cents per bale reduction and was subtracted from the 2004 base fee of \$2.32 per bale, resulting in a fee of \$1.97 per bale.

With a fee of \$1.97 per bale, the projected operating reserve would be 32.37 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 \$1.97 must be reduced by 32 cents per bale, to \$1.65 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 2004 season fee at \$1.65 per bale.

Accordingly, § 28.909, paragraph (b) is revised to reflect the increase of the HVI classification fee from \$1.45 to \$1.65 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 only one method of receiving classification data was requested. The fee for each additional method of receiving classification data in § 28.910 would remain at 5 cents per bale, and it would be applicable even if the same method were requested. The fee in § 28.910(b) for an owner receiving classification data from the central database would remain at 5 cents per bale, and the minimum charge of \$5.00 for services provided per, monthly billing period would remain the same. The provisions of § 28.910(c) concerning

the fee for new classification memoranda issued from the central database for the business convenience of an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 would be increased from \$1.45 to \$1.65 per bale.

The fee for returning samples after classification in § 28.911 would 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 \$1.65 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 \$1.65 per bale.

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Dated: May 25, 2004.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 04–12138 Filed 5–27–04; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 502

[No. 2004–29]

RIN 1550–AB47

Assessments and Fees

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its rules

on assessments and fees. The final rule replaces examination fees for savings and loan holding companies (SLHCs) with semi-annual assessments. OTS will charge a base assessment amount, and will add up to three additional components to this base amount. These assessments are based upon a combination of factors that have proven relevant to the on- and off-site supervisory costs OTS incurs: A SLHC's asset size, its risk or complexity, its organizational form, and its condition. OTS will compute the assessments for conglomerates using this same formula, except that the risk/complexity component will be triple the risk/complexity component charged to a complex or higher risk holding company of the same asset size. OTS also has amended its rules governing the calculation of semi-annual assessments for savings associations to eliminate the alternative calculation for the asset size component.

DATES: *Effective Date:* This final rule is effective July 1, 2004.

FOR FURTHER INFORMATION CONTACT: Linda Duzick, Financial Analyst, Affiliates and Holding Company Supervision, (202) 906–6565; or Karen Osterloh, Special Counsel, Regulations and Legislation Division, Chief Counsel's Office, (202) 906–6639; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

The Home Owners' Loan Act (HOLA) authorizes the OTS Director to assess fees against institutions that OTS supervises, including savings associations and SLHCs, to fund OTS's direct and indirect expenses as the Director deems necessary or appropriate.¹ OTS also may assess savings associations and affiliates of savings associations for the costs of conducting examinations.²

OTS regulations implementing this authority are found at 12 CFR part 502. Under these rules, OTS charges each savings association a semi-annual assessment, which includes a size component, a condition component, and a complexity component. In addition, OTS charges an examination fee for thrifts that have trust assets that are under the \$1 billion complexity component threshold. OTS charges SLHCs and other thrift affiliates fees for investigating and examining their

¹ 12 U.S.C. 1467(k). See also 12 U.S.C. 1462a, 1463, 1467, 1467a.

² 12 U.S.C. 1467(a) and (b) and 1467a(b)(4). See also 12 U.S.C. 1467(d) (trust examinations of savings associations).