

its constituents equitably, both geographically and on a volume basis.

#### List of Subjects in 7 CFR Part 1160

Fluid milk, Milk, Promotion.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1160 be amended as follows:

#### PART 1160—FLUID MILK PROMOTION PROGRAM

1. The authority citation for 7 CFR Part 1160 continues to read as follows:

**Authority:** 7 U.S.C. 6401–6417.

2. In § 1160.200, paragraph (a) is revised to read as follows:

##### § 1160.200 Establishment and membership.

(a) There is hereby established a National Fluid Milk Processor Promotion Board of 20 members, 15 of whom shall represent geographic regions and five of whom shall be at-large members of the Board. To the extent practicable, members representing geographic regions shall represent fluid milk processing operations of differing sizes. No fluid milk processor shall be represented on the Board by more than three members. The at-large members shall include at least three fluid milk processors and at least one member from the general public. Except for the non-processor member or members from the general public, nominees appointed to the Board must be active owners or employees of a fluid milk processor. The failure of such a member to own or work for such fluid milk processor shall disqualify that member for membership on the Board except that such member shall continue to serve on the Board for a period not to exceed 6 months following the disqualification or until appointment of a successor Board member to such position, whichever is sooner, provided that such person continues to meet the criteria for serving on the Board as a processor representative. Should a member representing the general public cease to be employed by the entity employing that member when appointed, gain employment with a new employer, or cease to own or operate the business which that member owned or operated at the date of appointment, such member shall be disqualified for membership on the Board, except that such member shall continue to serve on the Board for a period not to exceed 6 months, or until appointment of a successor Board member, whichever is sooner.

\* \* \* \* \*

Dated: January 5, 2005.

**Kenneth C. Clayton,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 05–580 Filed 1–11–05; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

#### 7 CFR Part 1205

[Doc. No. CN–04–001]

#### Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports (2004 Amendments)

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

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is proposing to amend the Cotton Board Rules and Regulations by adjusting the total rate of assessment per kilogram for imported cotton collected for use by the Cotton Research and Promotion Program. The proposed total rate of assessment would be calculated by adding together the \$1 per bale equivalent assessment and the supplemental assessment, and adjusting the sum to account for the estimated amount of U.S. cotton contained in imported textile products. The proposed adjustment would reduce the assessable portion of the cotton content of imported textile products by the estimated average amount of U.S. cotton contained therein. Exemptions and refunds would continue to be provided for importers wishing to document the U.S. cotton content of specific goods. The proposed rule would continue to ensure that the total assessment collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton, and that the U.S. cotton content of imported products is not subject to more than one assessment.

**DATES:** Comments must be received on or before March 14, 2005.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule to Whitney Rick, Assistant to the Deputy Administrator, Cotton Program, Agricultural Marketing Service, USDA, 1400 Independence Ave., SW., STOP 0224 Washington, DC 20250–0224. Comments should be submitted in triplicate. Comments may also be submitted electronically to: <http://www.cottoncomments@usda.gov> or <http://www.regulations.gov>. All

comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at Cotton Program, AMS, USDA, Room 2641–S, 1400 Independence Ave., SW., Washington, DC 20250 during regular business hours. A copy of this notice may be found at: <http://www.ams.usda.gov/cotton/rulemaking.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Whitney Rick, Assistant to the Deputy Administrator, Cotton Program, AMS, USDA, 1400 Independence Ave., SW., Stop 0224, Washington, DC 20250–0224, telephone (202) 720–2259, facsimile (202) 690–1718, or e-mail at [whitney.rick@usda.gov](mailto:whitney.rick@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

##### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Cotton Research and Promotion Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

##### 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.

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. The majority of these importers are small businesses under the criteria established by the Small Business Administration.

The proposed rule would reduce the total rate of assessment per kilogram for imported cotton products collected for use by the Cotton Research and Promotion Program. The proposed total rate of assessment would be calculated by adding together the \$1 per bale equivalent assessment and the supplemental assessment, and adjusting the sum to account for the estimated amount of U.S. cotton contained in imported textile products. The proposed adjustment to the sum would reduce the assessable portion of the cotton content of imported products by 22.2 percent, the current average estimated by AMS of U.S. cotton contained therein. The proposed total rate of assessment per kilogram for imported raw cotton and cotton textile products would be calculated using the following formula:

*1. One Dollar per Bale Assessment  
Converted to Kilograms*

A 500 pound bale equals 226.8 kg. ( $500 \times .453597$ ). \$1 per bale assessment equals \$0.002000 per pound ( $1/500$ ) or \$0.004409 per kg. ( $1/226.8$ ).

*2. Supplemental Assessment of  $5/10$  of  
One Percent of the Value of the Cotton  
Converted to Kilograms*

The 2003 calendar year weighted average price received by producers for Upland cotton is \$0.55 per pound or \$1.2125 per kg. ( $0.55 \times 2.2046$ ). Five tenths of one percent of the average price in kg. equals \$0.006063 per kg. ( $1.2125 \times .005$ ).

*3. Adjustment for U.S. Cotton Content of  
Imported Products*

The adjustment for the U.S. cotton content of assessed imports is obtained by multiplying the sum of Nos. 1 and 2 above by the U.S. cotton share of total net cotton textile imports (0.222) which equals \$0.002325 per kilogram ( $\$0.010472 \text{ per kg.} \times 0.222$ ). Subtracting this amount from the sum of Nos. 1 and 2 above would equal the proposed total rate of assessment for imported products of \$0.008147 per kilogram ( $\$0.010472 \text{ per kg.} - \$0.002325 \text{ per kg.} = \$0.008147$ ).

The current total rate of assessment on imported raw cotton and imported cotton products is \$0.008267 per kilogram. The proposed rule would

increase the assessment on raw cotton to \$0.010472, an increase of \$0.002205. Even though the assessment would be raised for imported raw cotton, the increase is small and will not significantly affect small businesses. The proposed rule would decrease the total rate of assessment for imported cotton products to \$0.008147 per kilogram, a decrease of \$0.00012 per kilogram from last year. The proposed rule would not have a significant economic impact on a substantial number of importers of cotton and cotton-containing products because importers would be paying a small increase on imported raw cotton and a reduced rate of total assessment on imported cotton products.

**Paperwork Reduction**

In compliance with Office of Management and Budget (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 regulation to be amended have been previously approved by OMB and were assigned control number 0581-0093.

**Background**

The Cotton Research and Promotion Act (Act), as amended, 7 U.S.C. 2101 *et seq.*, was enacted by Congress in 1966. Congress intended the Act to:

[E]nable the establishment of an orderly procedure for the development, financing through adequate assessments on all cotton marketed in the United States and on imports of cotton, and carrying out an effective and continuous coordinated program of research and promotion designed to strengthen cotton's competitive position and to maintain and expand domestic and foreign markets and uses for United States cotton.

7 U.S.C. 2101.

The Act authorizes the Secretary of the Department of Agriculture to issue a Cotton Research and Promotion Order. An amended Order was approved by producers and importers voting in a referendum held July 17-26, 1991. The amended Order was published in the **Federal Register** on December 10, 1991 (56 FR 64470). A proposed rule implementing the amended Order was published in the **Federal Register** on December 17, 1991 (56 FR 65450). Implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively. The Order imposes an assessment on the production and importation of cotton in order to pay for the generic research and promotion projects authorized by the Act. The assessment consists of two parts, an assessment of \$1 per bale of

cotton or per bale equivalent of cotton containing products, and a supplemental assessment tied to the value of cotton.

The Act requires the Secretary to establish procedures to ensure that U.S. (upland) cotton content of imported products is not subject to more than one assessment. Under the current procedures established in the regulations, an importer may receive an exemption from paying the assessment or a reimbursement of the assessment paid by submitting sufficient documentation to the Board to verify the U.S. cotton content of the products to be imported or already imported. Because foreign mills frequently mix U.S. cotton with other cottons when formulating cotton yarns and fabrics, the ability of importers, except those purchasing products from mills that use only U.S. cotton, to verify through documentation the U.S. cotton content of the products they are importing may be limited.

AMS believes that changes in the composition of U.S. cotton use and the upcoming completion of the removal of all U.S. import quotas on textile manufactures as outlined in the Agreement on Textile and Clothing necessitates a change to its current regulatory procedures for ensuring that U.S. (upland) cotton content of imported products is not subject to more than one assessment. Prior to the 2001/2002 crop year, the majority of U.S. (upland) cotton (58 percent in the 2000/2001 crop year) was consumed domestically by U.S. mills. Starting with the 2001/2002 crop year, a majority of U.S. cotton was exported (67 percent in 2003/2004). AMS expects this shift in the composition of U.S. cotton use to continue into the foreseeable future and that the ending of U.S. textile quotas will lead to an increase in the amount of U.S. cotton returning to the United States in cotton product imports. AMS, therefore, believes that it is appropriate at this time to make an adjustment to the total rate of assessment to account for the amount of U.S. cotton content of imported textile products.

The estimated amount of U.S. cotton contained in total assessable cotton imports would be calculated by multiplying the U.S. cotton export share of foreign mill use adjusted for location by assessable imports. Adjusting the average amount of U.S. cotton contained in total cotton imports for location would ensure that the U.S. cotton content of total cotton imports would properly account for differences among supplying countries with respect to U.S. cotton's share of their cotton mill use and in their share of U.S. cotton product imports.

AMS will use regularly published statistics on U.S. exports by destination (Weekly Export Sales Report), the world's textile usage of cotton by country (Foreign Agricultural Service Cotton Circular) and the raw cotton equivalent contained in imports and exports of textile manufactures by country (Cotton & Wool Outlook) in the calculations of the U.S. content of U.S. imports of processed cotton products. AMS would determine the percentage of U.S. cotton contained in total assessable cotton imports as follows:

*Step 1.* Define six non-U.S. cotton product supply regions: (i) North America: Bahamas, Belize, Canada, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, (ii) South America: Argentina, Brazil,

Chile, Colombia, Ecuador, Peru, Venezuela, (iii) Asia: China, Hong Kong, Israel, Japan, Malaysia, Philippines, Saudi Arabia, Singapore, South Korea, Sri Lanka, Taiwan, United Arab Emirates, (iv) Europe: Belgium, France, Germany, Ireland, Italy, Netherlands, Poland, Spain, Turkey, (v) Oceania: Australia, and (vi) Africa: Ivory Coast, Morocco, Nigeria, South Africa. These six regions coincide with the six regions used by the USDA's Economic Research Service in its reporting of U.S. cotton textile imports.

*Step 2.* Calculate the U.S. cotton share of foreign mill use for each region by dividing total U.S. exports of raw cotton to each region by total mill consumption of raw cotton in that region. This would represent an approximation of the percentage of U.S. cotton contained in

all cotton products imported into the United States from that region. For the purpose of this calculation, U.S. cotton content contained in a region's cotton products is uniformly distributed across each product manufactured in that region.

Under the proposed rule, AMS examined the most current data available and determined that U.S. cotton's share of non-U.S. mill use for each region was as follows: North America, 100.0 percent; South America, 16.0 percent; Asia, 9.9 percent; Europe, 11.6 percent; Oceania, 0.0 percent; and Africa, 0.2 percent. These shares were obtained by dividing U.S. exports of raw cotton to each region by total cotton mill use in each region. The specific calculations are shown in Table 1.

TABLE 1.—TABULATION OF U.S. COTTON EXPORT SHARE OF FOREIGN MILL USE

| Region              | U.S. exports of raw cotton | Raw cotton mill use—million 480 lb. Bales— | U.S. cotton share of raw cotton mill use |
|---------------------|----------------------------|--------------------------------------------|------------------------------------------|
| North America ..... | 2.842                      | 2.767                                      | <sup>a</sup> 1.000                       |
| South America ..... | 0.833                      | 5.207                                      | 0.160                                    |
| Asia .....          | 6.481                      | 65.254                                     | 0.099                                    |
| Europe .....        | 1.757                      | 15.103                                     | 0.116                                    |
| Oceania .....       | 0.000                      | 0.125                                      | 0.000                                    |
| Africa .....        | 0.006                      | 2.876                                      | 0.002                                    |

<sup>a</sup> North America share capped at 1.000.

*Step 3.* Determine total imports of assessable cotton for each region by subtracting the total cotton content of U.S. exports of processed cotton products in raw cotton equivalents to each region from the total cotton content of U.S. imports of processed cotton products from that region in raw cotton equivalents. The net result (net imports) of processed cotton products provides an approximation of the amount of cotton coming into the United States from each region that is not being exempted or receiving a refund.

Under the proposed rule, AMS examined the most current data available and determined that processed cotton imports into the U.S. totaled 9,232 <sup>1</sup> million pounds (North America, 3,116 million pounds; South America, 242 million pounds, Asia, 4,770 million pounds, Europe, 684 million pounds, Oceania, 41 million pounds, and Africa, 378 million pounds. U.S. processed cotton exports for the same time period and regions totaled 2,317 <sup>1</sup> million

<sup>1</sup> Total does not equal sum of regions due to rounding.

pounds (North America, 2,151 million pounds; South America, 45 million pounds; Asia 64 million pounds; Europe 45 million pounds; Oceania 5 million pounds; and Africa, 7 million pounds). Subtracting U.S. exports from U.S. imports results in total net imports of 6,915 <sup>1</sup> million pounds (North America, 965 pounds; South America, 197 million pounds; Asia, 4,706 million pounds; Europe, 639 million pounds; Oceania, 36 million pounds; and Africa, 371 million pounds).

*Step 4.* Adjust the U.S. cotton content of imports for location by multiplying the U.S. cotton share of foreign mill use for each region by that region's share of total imports of assessable cotton and then totaling-up the result obtained across all the regions. The share of total imports of assessed cotton products is calculated by dividing the total assessed cotton contained in each regions' imports as discussed in Step 3 above by the sum of all regions' imports of assessed cotton.

*Step 5.* The percentage of U.S. cotton contained in assessable imports is then

used to calculate the assessable content of imported cotton products by multiplying the cotton content of each imported product by the percentage of U.S. cotton contained in total assessable imports and subtracting that amount from the cotton content of imported products (assessable cotton content = cotton content per HTS code – (cotton content per HTS code × proportion of U.S. cotton contained in U.S. imports) where the proportion of U.S. cotton contained in U.S. imports equals the percentage of U.S. cotton contained in assessable imports divided by 100).

Using the above method and the most current data available to AMS, the proposed rule would lower the total amount of assessments paid by importers for imported textile products by approximately 22.2 percent from the total amount of assessments paid by importers using current procedures. Raw cotton import assessments would increase by 26.7 percent based on the established formula. Exemptions and

refunds would continue to be provided for importers wishing to document the U.S. cotton content of specific goods.

The \$1 per bale of cotton or per bale equivalent of cotton containing products, and the supplemental assessment would continue to be calculated the same way. The \$1 per bale of cotton or per bale equivalent of cotton containing products assessment is levied on the weight of cotton produced or imported at a rate of \$1 per bale of cotton which is equivalent to 500 pounds or \$1 per 226.8 kilograms of cotton.

The supplemental assessment is levied at a rate of five-tenths of one

percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. AMS assigns the calendar year weighted average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. The current value of imported cotton as published in the **Federal Register** (68 FR 27898) on May 22, 2003, for the purpose of calculating supplemental assessments on imported cotton is \$0.7716 per kilogram. This number was calculated using the annual weighted average price received by farmers for Upland cotton during the calendar year 2002 which was \$0.35 per pound and multiplying by the

conversion factor 2.2046. Using the Average Weighted Price Received by U.S. farmers for Upland cotton for the calendar year 2003, which is \$0.55 per pound, the new value of imported cotton is \$1.2125 per kilogram. The proposed value is \$.4409 per kilogram more than the previous value.

The U.S. cotton share of total net imported products is approximated at 0.222. This figure was obtained by multiplying U.S. cotton's share of each region's mill use by that region's share of assessable cotton imports. The U.S. content of assessable cotton imports for each supply region is shown in Table 2.

TABLE 2.—TABULATION OF U.S. COTTON SHARE OF TOTAL ASSESSABLE U.S. COTTON IMPORTS

| Region              | U.S. share of foreign mill use | Region share of assessable cotton imports | U.S. cotton share of assessable imports |
|---------------------|--------------------------------|-------------------------------------------|-----------------------------------------|
| North America ..... | 1.000                          | 0.140                                     | 0.140                                   |
| South America ..... | 0.160                          | 0.028                                     | 0.004                                   |
| Asia .....          | 0.099                          | 0.681                                     | 0.067                                   |
| Europe .....        | 0.116                          | 0.092                                     | 0.011                                   |
| Oceania .....       | 0.000                          | 0.005                                     | 0.000                                   |
| Africa .....        | 0.002                          | 0.054                                     | 0.000                                   |
| Total .....         | N.A.                           | 1.000                                     | 0.222                                   |

An example of the complete assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.

One kilogram equals 2.2046 pounds.

One pound equals 0.453597 kilograms.

#### 1. One Dollar per Bale Assessment Converted to Kilograms

A 500 pound bale equals 226.8 kg. ( $500 \times .453597$ ).

\$1 per bale assessment equals \$0.002000 per pound (1/500) or \$0.004409 per kg. ( $1/226.8$ ).

#### 2. Supplemental Assessment of <sup>5</sup>/<sub>10</sub> of One Percent of the Value of the Cotton Converted to Kilograms

The 2003 calendar year weighted average price received by producers for Upland cotton is \$0.55 per pound or \$1.2125 per kg. ( $0.55 \times 2.2046$ ).

Five tenths of one percent of the average price in kg. equals \$0.006063 per kg. ( $1.2125 \times .005$ ).

#### 3. Total Rate of Assessment

The total rate of assessment per kilogram of raw cotton is \$0.010472 per kg. (obtained by adding the \$1 per bale equivalent assessment of \$0.004409 per kg., and the supplemental assessment \$0.006063 per kg.), and making an adjustment of 0.222 for the U.S. cotton content of assessed imported textile

products. The proposed total rate of assessment for imported cotton would be \$0.008147 per kilogram. The current total rate of assessment on imported cotton is \$0.008267 per kilogram. The proposed rule would decrease the total rate of assessment on imported cotton products to \$0.008147 per kilogram, a decrease of \$0.00012 per kilogram from last year.

The figures shown in the right hand column of the Import Assessment Table 1205.510(b)(3) are a result of such a calculation, and have been revised accordingly. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

A sixty-day comment period is provided to comment on the changes to the Cotton Board Rules and Regulations proposed herein. This period is deemed appropriate because this proposal would adjust the assessments paid by importers on imported raw cotton and cotton products under the Cotton Research and Promotion Order, by increasing the assessment on raw cotton and reducing the total rate of assessment for imported cotton products. These proposed changes would ensure that the total assessment collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced

cotton, and that the U.S. cotton content of imported products is not subject to more than one assessment.

Accordingly, the change proposed in this rule, if adopted, should be implemented as soon as possible.

#### List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble 7 CFR part 1205 is proposed to be amended as follows:

#### PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for part 1205 continues to read as follows:

**Authority:** 7 U.S.C. 2101–2118.

2. In § 1205.510, paragraph (b)(2) and the table in paragraph (b)(3)(ii) are revised to read as follows:

#### § 1205.510 Levy of assessments.

\* \* \* \* \*

(b) \* \* \* (2) The 12-month average of monthly weighted average prices received by U.S. farmers will be calculated annually. Such weighted average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on

|                                                                                                                                                                                                |                                                                                                                                  |                                      |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying the supplemental assessment is \$1.2125 per kilogram. The total rate of assessment | for imported raw cotton is \$0.010472, and the total rate of assessment for imported cotton products is \$0.008147 per kilogram. | (ii) * * *<br>BILLING CODE 3410-02-P |
|                                                                                                                                                                                                | (3) * * *                                                                                                                        |                                      |

## IMPORT ASSESSMENT TABLE

(Raw Cotton Fiber)

| HTS No.    | Conv.<br>fact. | Cents/kg. |
|------------|----------------|-----------|
| 5201000500 | 0              | 1.0472    |
| 5201001200 | 0              | 1.0472    |
| 5201001400 | 0              | 1.0472    |
| 5201001800 | 0              | 1.0472    |
| 5201002200 | 0              | 1.0472    |
| 5201002400 | 0              | 1.0472    |
| 5201002800 | 0              | 1.0472    |
| 5201003400 | 0              | 1.0472    |
| 5201003800 | 0              | 1.0472    |
| 5204110000 | 1.1111         | 0.9052    |
| 5204200000 | 1.1111         | 0.9052    |
| 5205111000 | 1.1111         | 0.9052    |
| 5205112000 | 1.1111         | 0.9052    |
| 5205121000 | 1.1111         | 0.9052    |
| 5205122000 | 1.1111         | 0.9052    |
| 5205131000 | 1.1111         | 0.9052    |
| 5205132000 | 1.1111         | 0.9052    |
| 5205141000 | 1.1111         | 0.9052    |
| 5205210020 | 1.1111         | 0.9052    |
| 5205210090 | 1.1111         | 0.9052    |
| 5205220020 | 1.1111         | 0.9052    |
| 5205220090 | 1.1111         | 0.9052    |
| 5205230020 | 1.1111         | 0.9052    |
| 5205230090 | 1.1111         | 0.9052    |
| 5205240020 | 1.1111         | 0.9052    |
| 5205240090 | 1.1111         | 0.9052    |
| 5205310000 | 1.1111         | 0.9052    |
| 5205320000 | 1.1111         | 0.9052    |
| 5205330000 | 1.1111         | 0.9052    |
| 5205340000 | 1.1111         | 0.9052    |
| 5205410020 | 1.1111         | 0.9052    |
| 5205410090 | 1.1111         | 0.9052    |
| 5205420020 | 1.1111         | 0.9052    |
| 5205420090 | 1.1111         | 0.9052    |
| 5205440020 | 1.1111         | 0.9052    |
| 5205440090 | 1.1111         | 0.9052    |
| 5206120000 | 0.5556         | 0.4526    |
| 5206130000 | 0.5556         | 0.4526    |
| 5206140000 | 0.5556         | 0.4526    |
| 5206220000 | 0.5556         | 0.4526    |
| 5206230000 | 0.5556         | 0.4526    |
| 5206240000 | 0.5556         | 0.4526    |
| 5206310000 | 0.5556         | 0.4526    |
| 5207100000 | 1.1111         | 0.9052    |
| 5207900000 | 0.5556         | 0.4526    |
| 5208112020 | 1.1455         | 0.9332    |
| 5208112040 | 1.1455         | 0.9332    |
| 5208112090 | 1.1455         | 0.9332    |
| 5208114020 | 1.1455         | 0.9332    |
| 5208114060 | 1.1455         | 0.9332    |
| 5208114090 | 1.1455         | 0.9332    |
| 5208118090 | 1.1455         | 0.9332    |
| 5208124020 | 1.1455         | 0.9332    |
| 5208124040 | 1.1455         | 0.9332    |
| 5208124090 | 1.1455         | 0.9332    |
| 5208126020 | 1.1455         | 0.9332    |
| 5208126040 | 1.1455         | 0.9332    |
| 5208126060 | 1.1455         | 0.9332    |
| 5208126090 | 1.1455         | 0.9332    |
| 5208128020 | 1.1455         | 0.9332    |
| 5208128090 | 1.1455         | 0.9332    |
| 5208130000 | 1.1455         | 0.9332    |
| 5208192020 | 1.1455         | 0.9332    |

|            |        |        |
|------------|--------|--------|
| 5208192090 | 1.1455 | 0.9332 |
| 5208194020 | 1.1455 | 0.9332 |
| 5208194090 | 1.1455 | 0.9332 |
| 5208196020 | 1.1455 | 0.9332 |
| 5208196090 | 1.1455 | 0.9332 |
| 5208224040 | 1.1455 | 0.9332 |
| 5208224090 | 1.1455 | 0.9332 |
| 5208226020 | 1.1455 | 0.9332 |
| 5208226060 | 1.1455 | 0.9332 |
| 5208228020 | 1.1455 | 0.9332 |
| 5208230000 | 1.1455 | 0.9332 |
| 5208292020 | 1.1455 | 0.9332 |
| 5208292090 | 1.1455 | 0.9332 |
| 5208294090 | 1.1455 | 0.9332 |
| 5208296090 | 1.1455 | 0.9332 |
| 5208298020 | 1.1455 | 0.9332 |
| 5208312000 | 1.1455 | 0.9332 |
| 5208321000 | 1.1455 | 0.9332 |
| 5208323020 | 1.1455 | 0.9332 |
| 5208323040 | 1.1455 | 0.9332 |
| 5208323090 | 1.1455 | 0.9332 |
| 5208324020 | 1.1455 | 0.9332 |
| 5208324040 | 1.1455 | 0.9332 |
| 5208325020 | 1.1455 | 0.9332 |
| 5208330000 | 1.1455 | 0.9332 |
| 5208392020 | 1.1455 | 0.9332 |
| 5208392090 | 1.1455 | 0.9332 |
| 5208394090 | 1.1455 | 0.9332 |
| 5208396090 | 1.1455 | 0.9332 |
| 5208398020 | 1.1455 | 0.9332 |
| 5208412000 | 1.1455 | 0.9332 |
| 5208416000 | 1.1455 | 0.9332 |
| 5208418000 | 1.1455 | 0.9332 |
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| 5702991090 | 1.1111 | 0.9052 |
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| 6006440085 | 0.1157 | 0.0943 |
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| 6102200020 | 1.0094 | 0.8224 |
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| 6104632006 | 0.3774 | 0.3075 |
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| 6107110020 | 1.1322 | 0.9224 |
| 6107120010 | 0.5032 | 0.4100 |
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| 6108320025 | 0.2489 | 0.2028 |
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| 6110202010 | 1.1837 | 0.9644 |
| 6110202015 | 1.1837 | 0.9644 |
| 6110202020 | 1.1837 | 0.9644 |

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| 6110202035 | 1.1837 | 0.9644 |
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| 6110202045 | 1.1574 | 0.9429 |
| 6110202065 | 1.1574 | 0.9429 |
| 6110202075 | 1.1574 | 0.9429 |
| 6110909022 | 0.263  | 0.2143 |
| 6110909024 | 0.263  | 0.2143 |
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| 6111206030 | 1.0064 | 0.8199 |
| 6111206040 | 1.0064 | 0.8199 |
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| 6115198010 | 1.0417 | 0.8487 |
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| 6201121000 | 0.948  | 0.7723 |
| 6201122010 | 0.8953 | 0.7294 |
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| 6201134030 | 0.2633 | 0.2145 |
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| 6202121000 | 0.9372 | 0.7635 |
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| 6202122025 | 1.3017 | 1.0605 |
| 6202122050 | 0.8461 | 0.6893 |
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| 6202134005 | 0.2664 | 0.2170 |
| 6202134020 | 0.333  | 0.2713 |
| 6202921000 | 1.0413 | 0.8483 |
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| 6202931000 | 0.3124 | 0.2545 |
| 6202935011 | 0.2603 | 0.2121 |
| 6202935021 | 0.2603 | 0.2121 |
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| 6203422090 | 0.9961 | 0.8115 |
| 6203424005 | 1.2451 | 1.0144 |
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| 6203424050 | 0.9238 | 0.7526 |
| 6203424055 | 0.9238 | 0.7526 |
| 6203424060 | 0.9238 | 0.7526 |
| 6203431500 | 0.1245 | 0.1014 |
| 6203434010 | 0.1232 | 0.1004 |
| 6203434020 | 0.1232 | 0.1004 |
| 6203434030 | 0.1232 | 0.1004 |
| 6203434040 | 0.1232 | 0.1004 |
| 6203498045 | 0.249  | 0.2029 |
| 6204132010 | 0.1302 | 0.1061 |
| 6204192000 | 0.1302 | 0.1061 |
| 6204198090 | 0.2603 | 0.2121 |
| 6204221000 | 1.3017 | 1.0605 |
| 6204223030 | 1.0413 | 0.8483 |
| 6204223040 | 1.0413 | 0.8483 |
| 6204223050 | 1.0413 | 0.8483 |
| 6204223060 | 1.0413 | 0.8483 |
| 6204223065 | 1.0413 | 0.8483 |
| 6204292040 | 0.3254 | 0.2651 |
| 6204322010 | 1.2366 | 1.0075 |
| 6204322030 | 1.0413 | 0.8483 |
| 6204322040 | 1.0413 | 0.8483 |
| 6204423010 | 1.2728 | 1.0370 |
| 6204423030 | 0.9546 | 0.7777 |
| 6204423040 | 0.9546 | 0.7777 |
| 6204423050 | 0.9546 | 0.7777 |
| 6204423060 | 0.9546 | 0.7777 |
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| 6204522030 | 1.2654 | 1.0309 |
| 6204522040 | 1.2654 | 1.0309 |
| 6204522070 | 1.0656 | 0.8681 |
| 6204522080 | 1.0656 | 0.8681 |
| 6204533010 | 0.2664 | 0.2170 |
| 6204594060 | 0.2664 | 0.2170 |
| 6204622010 | 0.9961 | 0.8115 |
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| 6204622050 | 0.9961 | 0.8115 |



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| 6204624005 | 1.2451 | 1.0144 |
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| 6204624020 | 0.9961 | 0.8115 |
| 6204624025 | 1.2451 | 1.0144 |
| 6204624030 | 1.2451 | 1.0144 |
| 6204624035 | 1.2451 | 1.0144 |
| 6204624040 | 1.2451 | 1.0144 |
| 6204624045 | 0.9961 | 0.8115 |
| 6204624050 | 0.9961 | 0.8115 |
| 6204624055 | 0.9854 | 0.8028 |
| 6204624060 | 0.9854 | 0.8028 |
| 6204624065 | 0.9854 | 0.8028 |
| 6204633510 | 0.2546 | 0.2074 |
| 6204633530 | 0.2546 | 0.2074 |
| 6204633532 | 0.2437 | 0.1985 |
| 6204633540 | 0.2437 | 0.1985 |
| 6204692510 | 0.249  | 0.2029 |
| 6204692540 | 0.2437 | 0.1985 |
| 6204699044 | 0.249  | 0.2029 |
| 6204699046 | 0.249  | 0.2029 |
| 6204699050 | 0.249  | 0.2029 |
| 6205202015 | 0.9961 | 0.8115 |
| 6205202020 | 0.9961 | 0.8115 |
| 6205202025 | 0.9961 | 0.8115 |
| 6205202030 | 0.9961 | 0.8115 |
| 6205202035 | 1.1206 | 0.9130 |
| 6205202046 | 0.9961 | 0.8115 |
| 6205202050 | 0.9961 | 0.8115 |
| 6205202060 | 0.9961 | 0.8115 |
| 6205202065 | 0.9961 | 0.8115 |
| 6205202070 | 0.9961 | 0.8115 |
| 6205202075 | 0.9961 | 0.8115 |
| 6205302010 | 0.3113 | 0.2536 |
| 6205302030 | 0.3113 | 0.2536 |
| 6205302040 | 0.3113 | 0.2536 |
| 6205302050 | 0.3113 | 0.2536 |
| 6205302070 | 0.3113 | 0.2536 |
| 6205302080 | 0.3113 | 0.2536 |
| 6206100040 | 0.1245 | 0.1014 |
| 6206303010 | 0.9961 | 0.8115 |
| 6206303020 | 0.9961 | 0.8115 |
| 6206303030 | 0.9961 | 0.8115 |
| 6206303040 | 0.9961 | 0.8115 |
| 6206303050 | 0.9961 | 0.8115 |
| 6206303060 | 0.9961 | 0.8115 |
| 6206403010 | 0.3113 | 0.2536 |
| 6206403030 | 0.3113 | 0.2536 |

|            |        |        |
|------------|--------|--------|
| 6206900040 | 0.249  | 0.2029 |
| 6207110000 | 1.0852 | 0.8841 |
| 6207199010 | 0.3617 | 0.2947 |
| 6207210030 | 1.1085 | 0.9031 |
| 6207220000 | 0.3695 | 0.3010 |
| 6207911000 | 1.1455 | 0.9332 |
| 6207913010 | 1.1455 | 0.9332 |
| 6207913020 | 1.1455 | 0.9332 |
| 6208210010 | 1.0583 | 0.8622 |
| 6208210020 | 1.0583 | 0.8622 |
| 6208220000 | 0.1245 | 0.1014 |
| 6208911010 | 1.1455 | 0.9332 |
| 6208911020 | 1.1455 | 0.9332 |
| 6208913010 | 1.1455 | 0.9332 |
| 6209201000 | 1.1577 | 0.9432 |
| 6209203000 | 0.9749 | 0.7943 |
| 6209205030 | 0.9749 | 0.7943 |
| 6209205035 | 0.9749 | 0.7943 |
| 6209205040 | 1.2186 | 0.9928 |
| 6209205045 | 0.9749 | 0.7943 |
| 6209205050 | 0.9749 | 0.7943 |
| 6209303020 | 0.2463 | 0.2007 |
| 6209303040 | 0.2463 | 0.2007 |
| 6210109010 | 0.2291 | 0.1866 |
| 6210403000 | 0.0391 | 0.0319 |
| 6210405020 | 0.4556 | 0.3712 |
| 6211111010 | 0.1273 | 0.1037 |
| 6211111020 | 0.1273 | 0.1037 |
| 6211118010 | 1.1455 | 0.9332 |
| 6211118020 | 1.1455 | 0.9332 |
| 6211320007 | 0.8461 | 0.6893 |
| 6211320010 | 1.0413 | 0.8483 |
| 6211320015 | 1.0413 | 0.8483 |
| 6211320030 | 0.9763 | 0.7954 |
| 6211320060 | 0.9763 | 0.7954 |
| 6211320070 | 0.9763 | 0.7954 |
| 6211330010 | 0.3254 | 0.2651 |
| 6211330030 | 0.3905 | 0.3181 |
| 6211330035 | 0.3905 | 0.3181 |
| 6211330040 | 0.3905 | 0.3181 |
| 6211420010 | 1.0413 | 0.8483 |
| 6211420020 | 1.0413 | 0.8483 |
| 6211420025 | 1.1715 | 0.9544 |
| 6211420060 | 1.0413 | 0.8483 |
| 6211420070 | 1.1715 | 0.9544 |
| 6211430010 | 0.2603 | 0.2121 |
| 6211430030 | 0.2603 | 0.2121 |

|            |        |        |
|------------|--------|--------|
| 6211430040 | 0.2603 | 0.2121 |
| 6211430050 | 0.2603 | 0.2121 |
| 6211430060 | 0.2603 | 0.2121 |
| 6211430066 | 0.2603 | 0.2121 |
| 6212105020 | 0.2412 | 0.1965 |
| 6212109010 | 0.9646 | 0.7859 |
| 6212109020 | 0.2412 | 0.1965 |
| 6212200020 | 0.3014 | 0.2456 |
| 6212900030 | 0.1929 | 0.1572 |
| 6213201000 | 1.1809 | 0.9621 |
| 6213202000 | 1.0628 | 0.8659 |
| 6213901000 | 0.4724 | 0.3849 |
| 6214900010 | 0.9043 | 0.7367 |
| 6216000800 | 0.2351 | 0.1915 |
| 6216001720 | 0.6752 | 0.5501 |
| 6216003800 | 1.2058 | 0.9824 |
| 6216004100 | 1.2058 | 0.9824 |
| 6217109510 | 1.0182 | 0.8295 |
| 6217109530 | 0.2546 | 0.2074 |
| 6301300010 | 0.8766 | 0.7142 |
| 6301300020 | 0.8766 | 0.7142 |
| 6302100005 | 1.1689 | 0.9523 |
| 6302100008 | 1.1689 | 0.9523 |
| 6302100015 | 1.1689 | 0.9523 |
| 6302215010 | 0.8182 | 0.6666 |
| 6302215020 | 0.8182 | 0.6666 |
| 6302217010 | 1.1689 | 0.9523 |
| 6302217020 | 1.1689 | 0.9523 |
| 6302217050 | 1.1689 | 0.9523 |
| 6302219010 | 0.8182 | 0.6666 |
| 6302219020 | 0.8182 | 0.6666 |
| 6302219050 | 0.8182 | 0.6666 |
| 6302222010 | 0.4091 | 0.3333 |
| 6302222020 | 0.4091 | 0.3333 |
| 6302313010 | 0.8182 | 0.6666 |
| 6302313050 | 1.1689 | 0.9523 |
| 6302315050 | 0.8182 | 0.6666 |
| 6302317010 | 1.1689 | 0.9523 |
| 6302317020 | 1.1689 | 0.9523 |
| 6302317040 | 1.1689 | 0.9523 |
| 6302317050 | 1.1689 | 0.9523 |
| 6302319010 | 0.8182 | 0.6666 |
| 6302319040 | 0.8182 | 0.6666 |
| 6302319050 | 0.8182 | 0.6666 |
| 6302322020 | 0.4091 | 0.3333 |
| 6302322040 | 0.4091 | 0.3333 |
| 6302402010 | 0.9935 | 0.8094 |

|            |        |        |
|------------|--------|--------|
| 6302511000 | 0.5844 | 0.4761 |
| 6302512000 | 0.8766 | 0.7142 |
| 6302513000 | 0.5844 | 0.4761 |
| 6302514000 | 0.8182 | 0.6666 |
| 6302600010 | 1.1689 | 0.9523 |
| 6302600020 | 1.052  | 0.8571 |
| 6302600030 | 1.052  | 0.8571 |
| 6302910005 | 1.052  | 0.8571 |
| 6302910015 | 1.1689 | 0.9523 |
| 6302910025 | 1.052  | 0.8571 |
| 6302910035 | 1.052  | 0.8571 |
| 6302910045 | 1.052  | 0.8571 |
| 6302910050 | 1.052  | 0.8571 |
| 6302910060 | 1.052  | 0.8571 |
| 6303110000 | 0.9448 | 0.7697 |
| 6303910010 | 0.6429 | 0.5238 |
| 6303910020 | 0.6429 | 0.5238 |
| 6304111000 | 1.0629 | 0.8659 |
| 6304190500 | 1.052  | 0.8571 |
| 6304191000 | 1.1689 | 0.9523 |
| 6304191500 | 0.4091 | 0.3333 |
| 6304192000 | 0.4091 | 0.3333 |
| 6304910020 | 0.9351 | 0.7618 |
| 6304920000 | 0.9351 | 0.7618 |
| 6505901540 | 0.181  | 0.1475 |
| 6505902060 | 0.9935 | 0.8094 |
| 6505902545 | 0.5844 | 0.4761 |

\* \* \* \* \*

Dated: January 5, 2005.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05-475 Filed 1-11-05; 8:45 am]

**BILLING CODE 3410-02-C**

## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 40**

**[Docket No. PRM-40-28]**

#### **Donald A. Barbour, Philotechnics; Denial of Petition for Rulemaking**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM-40-28) submitted by Mr. Donald A. Barbour, Philotechnics. The petitioner requested

that the NRC amend its regulations governing the domestic licensing of source material to provide clarity regarding the effective control of depleted uranium aircraft counterweights held under the exemption in 10 CFR 40.13(c)(5). The petitioner believes that this amendment should address a number of issues concerning the exemption, storage, and disposal of these devices.

**ADDRESSES:** Copies of the petition for rulemaking, the public comments received, and NRC's letter to the petitioner may be examined at the NRC Public Document Room, Public File Area Room O1F21, 11555 Rockville Pike, Rockville, MD. These documents also may be viewed and downloaded electronically via the rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher; (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov).

The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public

documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Gary C. Comfort, Jr., Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-8106, e-mail [gcc1@nrc.gov](mailto:gcc1@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **The Petition**

On January 21, 2000 (65 FR 3394), the NRC published a notice of receipt of a petition for rulemaking filed by Donald A. Barbour, Philotechnics. The petitioner requested that the NRC amend its regulations to provide additional rules for the effective control of depleted uranium aircraft