

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN-99-001]

RIN 0581-AB57

Revision of User Fees for 1999 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to raise user fees for cotton producers for 1999 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 1998 user fee for this classification service was \$1.30 per bale. This proposal would raise the fee for the 1999 crop to \$1.35 per bale. The proposed increase in fees resulted from the significant drop in cotton production for the 1998 crop. The proposed fee and the existing reserve are sufficient to cover the costs of providing classification services, including costs for administration, supervision, and development and maintenance of standards.

DATES: Comments must be received by May 3, 1999.

ADDRESSES: Comments and inquiries should be addressed to, Cotton Programs, AMS, USDA, Room 2641-S, P.O. Box 96456, Washington, DC 20090-6456. Comments will be available for public inspection during regular business hours at the above office in Rm. 2641-South Building, 14th & Independence Avenue, SW., Washington, DC.

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

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of

Executive Order 12866, and it has not been reviewed by the Office of Management and Budget (OMB).

This proposed 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 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 proposal on small entities pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). It has been determined that the implementation of this proposed rule would 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 in order 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 § 121.601). 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 increase reflects a very small increase in the cost-per-unit currently borne by those entities utilizing the services (the 1998 user fee for classification services was \$1.30 per bale; the fee for the 1999 crop would be increased to \$1.35 per bale; the 1999 crop is estimated at 16,810,410 bales);

(2) The cost reduction will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 1998 crop, 13,467,012 bales were classed out of 13,790,000 bales produced.

(4) Based on the average price paid to growers for cotton from the 1997 crop of 65.2 cents per pound, 500 pound bales of cotton are worth an average of \$326.00 each. The proposed user fee for classification services, \$1.35 per bale, is

less than one percent of the value of an average bale of cotton.

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 proposed 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.*).

It is anticipated that the proposed changes, if adopted, would be made effective July 1, 1999, 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 \$1.30 per bale during the 1998 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Pub. L. 102-237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, supervision, and development and maintenance of cotton standards.

This proposed rule establishes the user fee charged to producers for HVI classification at \$1.35 per bale during the 1999 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 1998. Therefore, the 1999 producer's user fee for classification service is based on the 1998 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 1998 base fee for HVI classification exclusive of adjustments, as provided by the Act, was \$2.12 per bale. A one percent, or two cents per bale increase due to the implicit price deflator of the gross domestic product added to the \$2.12 would result in a 1999 base fee of \$2.14

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 1999 crop is estimated at 16,810,410 bales. The 1999 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 32 cents per bale reduction and was subtracted from the 1999 base fee of \$2.14 per bale, resulting in a fee of \$1.82 per bale.

With a fee of \$1.82 per bale, the projected operating reserve would be 46.66 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 \$1.82 must be reduced by 47 cents per bale, to \$1.35 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 would establish the 1999 season fee at \$1.35 per bale.

Accordingly, § 28.909, paragraph (b) would be revised to reflect the increase in the HVI classification fees.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a five 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 requesting classification data provided on computer punched cards will continue to be charged the fee of 10 cents per card in § 28.910(a) to reflect the costs of providing this service. Requests for punch card classification data represented only 0.7 percent of the total bales classed from the 1998 crop, down from 2.6 percent in 1997. Growers or their designated agents receiving classification data by methods other than computer punched cards 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 five cents per bale, and it would be applicable even if the same

method was requested. However, if computer punched cards were requested, a fee of ten cents per card would be charged. The fee in § 28.910(b) for an owner receiving classification data from the central database would remain at five 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 \$1.30 per bale to \$1.35 per bale.

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

A thirty-day comment period is provided for public comments. This period is appropriate because it is anticipated that the proposed changes, if adopted, would be made effective July 1, 1999, as provided by the Cotton Statistics and Estimates Act.

List of Subjects in 7 CFR Part 28

Administrative practice and procedure, 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 proposed to be 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 \$1.35 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 \$1.35 per bale.

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Dated: March 30, 1999.

Enrique E. Figueroa,
Administrator, Agricultural Marketing Service.

[FR Doc. 99–8160 Filed 4–1–99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 201

RIN 0580–AA64

Regulations Issued Under the Packers and Stockyards Act

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed Rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is proposing to amend existing scales and weighing regulations under the Packers and Stockyards (P&S) Act to include requirements regarding the weighing of feed whenever the weight of feed is a factor in determining payment or settlement to a livestock grower or poultry grower when livestock or poultry is produced under a livestock or poultry growing arrangement. The current regulations do not contain any requirements regarding the weighing of feed although, in some circumstances, feed weight affects payment or settlement to livestock growers and poultry growers. The proposed amendment to the current regulations will provide livestock growers and poultry growers with a measure of assurance that feed is accurately weighed or reasonably determined and feed weight is properly documented whenever feed weight affects payment or settlement to livestock growers or poultry growers.

DATES: Comments must be received on or before June 1, 1999.

ADDRESSES: Comments may be mailed to the U.S. Department of Agriculture, Deputy Administrator, Grain Inspection, Packers and Stockyards Administration, Packers and Stockyards Programs, Stop 3641, 1400 Independence Avenue, SW, Washington, DC 20250–3641; Fax: 202–205–3941; E-mail:

PSP.GIPSA@usda.gov. Comments received may be inspected during normal business hours in the Office of the Deputy Administrator, Packers and Stockyards Programs.

FOR FURTHER INFORMATION CONTACT: Michael Caughlin, Director, Office of Policy/Litigation Support, (202) 720–6951.

SUPPLEMENTARY INFORMATION: GIPSA is proposing to amend existing scales and weighing regulations under the P&S Act to include requirements regarding the weighing of feed when the weight of feed is a factor in determining payment or settlement to livestock growers and