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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 28

[Docket No. CN-99-003]

RIN 0581-AB57

#### Revision of User Fees for 2000 Crop Cotton Classification Services to Growers

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

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) will maintain user fees for cotton producers for 2000 crop cotton classification services under the Cotton Statistics and Estimates Act at the same level as in 1999. This is in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 1999 user fee for this classification service was \$1.35 per bale. This final rule would maintain the fee for the 2000 crop at \$1.35 per bale. The fee and the existing reserve are sufficient to cover the costs of providing classification services, including costs for administration and supervision.

**EFFECTIVE DATE:** July 1, 2000.

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

**SUPPLEMENTARY INFORMATION:** A proposed rule detailing the revisions was published in the **Federal Register** on March 8, 2000 (65 FR 12140). A 30-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.

This final 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 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 which 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 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 121.201). Continuing the user fee at the 1999 crop level will not significantly affect small businesses as defined under 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 1999 user fee for classification services was \$1.35 per bale; the fee for the 2000 crop will be maintained at \$1.35 per bale; the 2000 crop is estimated at 17,945,000 bales);

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

(3) The use of classification services is voluntary. For the 1999 crop, 16,409,650 bales were produced, and virtually all of them were submitted by growers for the classification service.

(4) Based on the average price paid to growers for cotton from the 1998 crop of 65.3 cents per pound, 500 pound bales of cotton are worth an average of \$326.50 each. The user fee for classification services, \$1.35 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 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.*).

The changes will be made effective July 1, 2000, 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 \$1.35 per bale during the 1999 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.

This final rule establishes the user fee charged to producers for HVI classification at \$1.35 per bale during the 2000 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 1999. Therefore, the 2000 producer's user fee for classification service is based on the 1999 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 1999 base fee for HVI classification exclusive of adjustments, as provided by the Act, was \$2.14 per bale. An increase of one and thirty-nine hundredths percent, or three cents per bale increase due to the implicit price deflator of the gross domestic product added to the \$2.14, would result in a 2000 base fee of \$2.17 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 2000 crop is estimated at 17,945,000 bales. The 2000 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 33 cents per bale reduction and was subtracted from the 2000 base fee of \$2.17 per bale, resulting in a fee of \$1.84 per bale.

With a fee of \$1.84 per bale, the projected operating reserve would be 49.77 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 \$1.84 must be reduced by 49 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 will establish the 2000 season fee at \$1.35 per bale.

Accordingly, § 28.909, paragraph (b) will reflect the continuation of the HVI classification fee at \$1.35 per bale.

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 less than 1.0 percent of the total bales classed from the 1999 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 will be maintained at \$1.35 per bale.

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

Pursuant to 5 U.S.C. 553, it is determined 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 cotton crop year begins July 1, 2000, (2) a uniform fee for the entire crop is mandated by the Cotton Statistics and Estimates Act, and (3) a 30 day comment period was provided for in the proposed rule and no comments were received.

#### 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 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.

\* \* \* \* \*

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.

\* \* \* \* \*

Dated: May 31, 2000.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 00–14114 Filed 6–1–00; 4:36 pm]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1160

[DA–00–07]

#### Fluid Milk Promotion Order; Amendments to the Order

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

**ACTION:** Final rule.

**SUMMARY:** This document amends the Fluid Milk Promotion Order to allow a fluid milk processor to be represented by up to 3 members on the 20-member Board and allow a Board member whose fluid milk processor company affiliation has changed to serve for a period of up to 6 months or until a successor is appointed, whichever is sooner. The amendments, requested by the National Fluid Milk Processor Promotion Board (Board), which administers the Order, are necessary to ensure Board continuity and full representation and should allow the Board to operate in an efficient and effective manner.

**EFFECTIVE DATE:** June 7, 2000.

#### FOR FURTHER INFORMATION CONTACT:

David R. Jamison, Chief, USDA/AMS/Dairy Programs, Promotion and Research Branch, 1400 Independence Avenue, SW, Stop 0233, Room 2958 South Building, Washington, DC 20250–0233, (202) 720–6909, David.Jamison2@usda.gov.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Small businesses in the fluid milk processing industry have been defined by the Small Business Administration as those processors employing not more than 500 employees. For purposes of determining a processor's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees. There are approximately 275 fluid milk processors subject to the provisions of the Fluid Milk Promotion Order. Most of these processors are considered small entities.