

Rules and Regulations

Federal Register

Vol. 62, No. 8

Monday, January 13, 1997

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN-96-008]

Cotton Research and Promotion Program: Determination of Sign-Up Eligibility, and Procedure for the Conduct of a Sign-Up Period for Determination of Whether To Conduct a Referendum Regarding the 1990 Amendments to the Cotton Research and Promotion Act

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes procedures for the conduct of a sign-up period during which eligible cotton producers and importers will be offered the opportunity to request a continuance referendum on the 1991 amendments to the Cotton Research and Promotion Order (Order). Producers will be provided the opportunity to sign up to request a referendum in person at the Farm Services Agency (FSA) office that serves the county where their farm is located. All known and eligible importers will be mailed information about the sign-up period, along with a written request form that those persons who favor the conduct of a continuance referendum may complete and return to USDA.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, Chief, Cotton Research and Promotion Staff, telephone number (202) 720-2259, facsimile (202) 690-1718.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

Executive Orders 12866 and 12988; the Regulatory Flexibility Act and the Paperwork Reduction Act

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 (OMB).

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

The 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 order, or any obligation imposed in connection with the order, is not in accordance with laws, and requesting a modification of the order or an exemption therefrom. Such persons are given the opportunity for a hearing after which the Secretary shall issue a ruling on the petition. The Act provides that the District Court of the United States in any district where the petitioner resides, or where the petitioner's principal place of business is located, has jurisdiction to review the Secretary's ruling, provided that the petitioner files a complaint for that purpose within 20 days from the date of the issuance of the Secretary's ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) has considered the economic effect 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 majority of producers and importers subject to the Order are small businesses under the criteria established by the Small Business Administration.

Only those eligible persons who are in favor of conducting a referendum will participate in the sign-up period. Of the 46,220 valid ballots received in the 1991 referendum, 27,879, or 60 percent, favored the amendments to the Order, and 18,341, or 40 percent, opposed the

amendments to the Order. This rule will provide to those persons who are against the continuance of the Order amendments an opportunity to request a continuance referendum.

The eligibility and participation requirements set forth in this rule are substantially the same as the rules that established the eligibility and participation requirements for the 1991 referendum.

These sign-up procedures will not impose a substantial burden or have a significant impact on persons subject to the Order, because participation is not mandatory, not all persons subject to the Order are expected to participate, and USDA will determine producer and importer eligibility.

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 7 CFR 1205 have been previously approved by OMB and were assigned OMB number 0581-0093, except Board member nominee information sheets are assigned OMB number 0505-001.

Background

Following the July 1991 referendum, AMS implemented amendments to the Order. These amendments provided for: (1) importer representation on the Cotton Board by an appropriate number of persons, to be determined by the Secretary, who import cotton or cotton products into the U.S., and whom the Secretary selects from nominations submitted by importer organizations certified by the Secretary; (2) assessments levied on imported cotton and cotton products at a rate determined in the same manner as for U.S. cotton; (3) increasing the amount the Secretary can be reimbursed for the conduct of a referendum from \$200,000 to \$300,000; (4) reimbursing government agencies that assist in administering the collection of assessments on imported cotton and cotton products; and (5) terminating the right of producers to demand a refund of assessments.

On October 8, 1996, in accordance with the Act, USDA issued a determination, (61 FR 52772) based on a review report of the Cotton Research and Promotion Program, not to conduct a referendum regarding the 1991 amendments to the Order. Because the review report noted that certain program participants were in favor of conducting

a referendum, USDA is providing an opportunity for all eligible persons to request the conduct of a continuance referendum on the 1991 amendments by making such a request during a sign-up period.

The sign-up period will be provided for all eligible producers and importers in accordance with section 8(c)2 of the Act. Cotton producers will be provided the opportunity to sign-up to request a continuance referendum in person at the FSA office that serves the county where their farm is located.

USDA will mail sign-up information, including a written request form, to all known, eligible, cotton importers. Importers who favor the conduct of a continuance referendum should return their signed request forms to USDA, FSA, DAPDFO, STOP 0539, Attention: William A. Brown, Box 2415, Room 3096-s, 1400 Independence Ave. S.W., Washington, D.C., 20250-0539.

Importers who do not receive a request form in the mail by February 1, 1997, and who meet the eligibility requirements to participate in the sign-up, may submit a written, signed, request for a continuance referendum. Such request must be accompanied by a copy of a U.S. Customs form 7501 showing payment of a cotton assessment for calendar year 1995. Requests and supporting documentation should be mailed to USDA, FSA, DAPDFO, STOP 0539, Attention: William A. Brown, Box 2415, Room 3096-s, 1400 Independence Ave. S.W., Washington, D.C., 20250-0539.

The sign-up period is from January 15, 1997, through April 14, 1997. The October 8, 1996, Federal Register notice (61 FR 52772) stated that the sign-up period would be from November 25, 1996, through February 22, 1997. USDA has changed the sign-up to January 15, 1997, through April 14, 1997, to allow USDA to better prepare for the sign-up period.

Section 8(c)2 of the Act requires that if the Secretary determines, based on the results of the sign-up, that at least 10 percent (4,622) or more of the number of cotton producers and importers that voted in the 1991 referendum request a continuance referendum on the 1991 amendments, such a referendum will be held within 12 months after the end of the sign-up period. In counting such requests, however, not more than 20 percent may be from producers from any one state or from importers of cotton.

For example, when counting the requests, AMS Cotton Division will determine the total number of valid requests from all cotton-producing states and from importers. No more than

20 percent of the total requests will be counted from any one state or from importers toward reaching the 10 percent or 4,622 total signatures required to call for a referendum.

If the Secretary determines that fewer than 10 percent of the number of producers and importers who voted in the most recent referendum do not favor a continuance referendum, no referendum will be held.

A proposed rule with a request for comments was published in the Federal Register (61 FR 64640) on December 6, 1996. One response, on behalf of an organization that represents importers, was received by USDA.

The respondent favored the proposed procedures for the conduct of the sign-up period, specifically the proposal to mail to all eligible importers of cotton products necessary information and a form by which they may indicate their interest in a referendum.

This rule adds a new subpart to establish procedures for use during the sign-up period, and these procedures will be in effect only for the duration of the sign-up period. Accordingly, this rule is adopted without change.

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, Title 7, chapter XI of the Code of Federal Regulations is amended to read as follows:

1. In Part 1205, a new subpart is added to read as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

Subpart—Procedures for Conduct of Sign-up Period

Definitions

Sec.

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1205.11	Administrator.
1205.12	Cotton.
1205.13	Upland cotton.
1205.14	Department.
1205.15	Farm Service Agency.
1205.16	Order.
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1205.19	Importer.
1205.20	Representative period.
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Procedures.

1205.24	General.
1205.25	Supervision of sign-up period.
1205.26	Eligibility.
1205.27	Participation in the sign-up period.

1205.28	Counting.
1205.29	Reporting results.
1205.30	Instructions and forms.

Authority: 7 U.S.C. 2101-2118.

Definitions

§ 1205.10 Act.

The term Act means the Cotton Research and Promotion Act, as amended [7 U.S.C 2101-2118; Public Law 89-502, 80 Stat 279, as amended].

§ 1205.11 Administrator.

The term *Administrator* means the Administrator of the Agricultural Marketing Service, or any officer or employee of USDA to whom authority has been delegated to act in the Administrator's stead.

§ 1205.12 Cotton.

The term *cotton* means all Upland cotton harvested in the United States and all imports of Upland cotton, including the Upland cotton content of products derived thereof. The term *cotton* does not include imported cotton for which the assessment is less than the *de minimis* assessment established by regulations.

§ 1205.13 Upland cotton.

The term *Upland cotton* means all cultivated varieties of the species *Gossypium hirsutum* L.

§ 1205.14 Department.

The term *Department* means the U.S. Department of Agriculture.

§ 1205.15 Farm Service Agency.

The term *Farm Service Agency*—formerly Agricultural Stabilization and Conservation Service (ASCS)—also referred to as “FSA,” means the Farm Service Agency of the Department.

§ 1205.16 Order.

The term *Order* means the Cotton Research and Promotion Order.

§ 1205.17 Person.

The term *person* means any individual 18 years of age or older, or any partnership, corporation, association, or any other entity.

§ 1205.18 Producer.

The term *producer* means any person who shares in a cotton crop, or in the proceeds thereof, as an owner of the farm, cash tenant, landlord of a share tenant, share tenant, or sharecropper.

§ 1205.19 Importer.

The term *importer* means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States, and the term import means any such entry.

§ 1205.20 Representative period.

The term *representative period* means the 1995 calendar year.

§ 1205.21 Secretary.

The term *Secretary* means the Secretary of Agriculture of the United States, or any other officer or employee of the Department to whom authority has been delegated to act in the Secretary's stead.

§ 1205.22 State.

The term *State* means each of the 50 states.

§ 1205.23 United States.

The term *United States* means the 50 states of the United States of America.

Procedures**§ 1205.24 General.**

A sign-up period will be conducted to determine whether eligible producers and importers favor the conduct of a referendum on the continuance of the 1991 amendments to the Order.

(a) If the Secretary determines, based on the results of the sign-up period, that at least 10 percent (4,622) or more of the number of cotton producers and importers who voted in the 1991 referendum request the conduct of a continuance referendum on the 1991 Order amendments, a referendum will be held within 12 months after the end of the sign-up period. Not more than 20 percent of the total requests counted toward the 10 percent figure may be from producers from any one state or from importers of cotton.

(b) If the Secretary determines that fewer than 10 percent (4,622) of the number of producers and importers who voted in the 1991 referendum do not favor a continuance referendum, no referendum will be held.

§ 1205.25 Supervision of sign-up period.

The Administrator shall be responsible for conducting the sign-up period in accordance with this subpart.

§ 1205.26 Eligibility.

Only persons who meet the eligibility requirements in this subpart may participate in the sign-up period. No person is entitled to sign up more than once.

(a) Except as set forth in paragraphs (b) and (c) of this section, the following persons are eligible to request the conduct of a continuance referendum:

(1) any person who was engaged in the production of Upland cotton during calendar year 1995; and

(2) any person who was an importer of Upland cotton and imported Upland cotton in excess of the *de minimis*

assessment value of \$2.00 per line item entry during calendar year 1995.

(b) A general partnership is not eligible to request a continuance referendum, however, the individual partners of an eligible general partnership are each entitled to submit a request.

(c) Where a group of individuals is engaged in the production of Upland cotton under the same lease or cropping agreement, only the individual or individuals who signed or entered into the lease or cropping agreement are eligible to participate in the sign-up period. Individuals who are engaged in the production of Upland cotton as joint tenants, tenants in common, or owners of community property, are each entitled to submit a request if they share in the proceeds of the required crop as owners, cash tenants, share tenants, sharecroppers or landlords of a fixed rent, standing rent or share tenant.

(d) An officer or authorized representative of a qualified corporation or association may submit a request on behalf of that corporation or association.

(e) A guardian, administrator, executor, or trustee of any qualified estate or trust may submit a request on behalf of that estate or trust.

(f) An individual may not submit a request on behalf of another individual.

§ 1205.27 Participation in the sign-up period.

The sign-up period will be from January 15, 1997, through April 14, 1997. Those persons who favor the conduct of a continuance referendum and who wish to request that USDA conduct such a referendum may do so by submitting such request in accordance with this section. All requests must be received by the appropriate USDA office by April 14, 1997.

(a) Before the sign-up period begins, FSA shall establish a list of known, eligible, Upland cotton producers at each county office serving counties where cotton is produced, and shall also establish a list of known, eligible Upland cotton importers.

(b) Before the start of the sign-up period, USDA shall mail a request form to each known, eligible, cotton importer. Importers who wish to request a referendum and who do not receive a request form in the mail by February 1, 1997, may participate in the sign-up period by submitting a signed, written, request for a continuance referendum, along with a copy of a U.S. Customs form 7501 showing payment of a cotton assessment for calendar year 1995. Importers must submit their requests and supporting documents to USDA,

FSA, DAPDFO, STOP 0539, Attention: William A. Brown, P.O. Box 2415, Room 3096-s, 1400 Independence Ave. S.W., Washington, D.C., 20250-0539. All requests and supporting documents must be received by the appropriate FSA office by April 14, 1997.

(c) Producers must request a continuance referendum by signing up in person at the county FSA office that serves the county where the producer's farm is located. A producer who wishes to request a referendum and whose name does not appear on the cotton producer list at the appropriate county FSA office may participate in the sign-up period by submitting a signed, written, request for a continuance referendum, along with a copy of a sales receipt for cotton produced during 1995. All requests and supporting documentation must be received by the appropriate FSA office by April 14, 1997.

§ 1205.28 Counting.

County FSA offices and FSA, Deputy Administrator for Program Delivery and Field Operations (DAPDFO), shall begin counting requests no later than April 15, 1997. FSA shall determine the number of eligible persons who favor the conduct of a continuance referendum.

§ 1205.29 Reporting results.

(a) Each county FSA office shall prepare and transmit to the state FSA office, by April 23, 1997, a written report of the number of eligible producers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(b) DAPDFO shall prepare, by April 23, 1997, a written report of the number of eligible importers who requested the conduct of a referendum, and the number of ineligible persons who made requests.

(c) Each state FSA office shall, by April 30, 1997, forward all county reports, and DAPDFO shall, by April 30, 1997, forward its report of importer requests, to the Director, Cotton Division, AMS, STOP 0224, 1400 Independence Avenue, SW, Washington, D.C., 20250-0224.

(d) The Chief of the Research and Promotion Staff, Cotton Division, shall prepare a report of the requests received, including the number of eligible persons who requested the conduct of a referendum, and the number of ineligible persons who made requests, to the Director of the Cotton Division, and shall maintain one copy of the report where it will be available for public inspection for a period of 5 years following the end of the sign-up period.

(e) The Director of the Cotton Division shall prepare and submit to the Secretary a report of the results of the sign-up period. The Secretary will conduct a referendum if requested by 10 percent or more of the number of cotton producers and importers voting in the most recent (July 1991) referendum, but not more than 20 percent of the total requests counted toward the 10 percent figure may be from producers in any one state or from importers of cotton. The Secretary shall announce the results of the sign-up period in a separate notice in the Federal Register.

§ 1205.30 Instructions and forms.

The Administrator is hereby authorized to prescribe additional instructions and forms consistent with the provisions of this subpart to govern conduct of the sign-up period.

Dated: January 7, 1997.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 97-766 Filed 1-10-97; 8:45 am]

BILLING CODE 3410-02-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 150 and 170

RIN 3150-AF49

Recognition of Agreement State Licenses in Areas Under Exclusive Federal Jurisdiction Within an Agreement State

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to clarify that Agreement State licensees can seek reciprocal recognition of their license from the NRC when they are working within areas of exclusive Federal jurisdiction in Agreement States. The amendment also clarifies NRC regulatory requirements for reciprocity and the appropriate fees and filing procedures applicable to Agreement State licensees operating under reciprocity.

EFFECTIVE DATE: February 27, 1997.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1623, e-mail HHN@nrc.gov or Mark Haisfield, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-

0001, telephone (301) 415-6196, e-mail MFH@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 1996 (61 FR 30839), the NRC published a proposed rule in the Federal Register that would clarify that Agreement State licensees could seek reciprocal recognition of their license from the NRC when they are working within areas of exclusive Federal jurisdiction in Agreement States. Current regulations, subject to certain restrictions, allow any person who holds a specific license from an Agreement State to conduct activities permitted by that license in non-Agreement States and offshore waters using an NRC general license. The general license is granted under the authority contained in 10 CFR 150.20, "Recognition of Agreement State Licenses." To meet the requirements of §150.20, a licensee must submit an NRC Form 241 at least 3 days before engaging in the activities (subject to some exceptions as noted in §150.20). If an Agreement State licensee does not qualify for a general license under §150.20, the licensee must apply for and obtain a specific license to work in areas of NRC jurisdiction.

Need for Regulatory Action

The NRC believes that there are several problems with the current regulations in §150.20 that necessitated this rulemaking action. First, the current regulation does not include provisions to allow Agreement State licensees to qualify for an NRC general license when operating in areas of exclusive Federal jurisdiction within Agreement States. Second, there has been some confusion regarding the NRC regulations applicable to Agreement State licensees operating in areas of NRC jurisdiction pursuant to §150.20. Third, §150.20 does not reference the appropriate fee requirements applicable to Agreement State licensees who file an NRC Form 241, "Report of Proposed Activities in Non-Agreement States." Finally, there has been some confusion regarding the filing procedures for this form.

Comments on the Proposed Rule

The Commission received one letter commenting on the proposed rule. A copy of the letter is available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW (Lower Level), Washington, DC.

Comment. The commenter indicated that NRC's overall system of reciprocity is flawed because state regulatory agencies do not have meaningful

investigatory or enforcement powers to regulate licensees operating under reciprocity. In addition, the commenter believes that the current reciprocity system reduces the participation of citizens in the regulatory process because the regulatory agency in this commenter's state does not, in the commenter's view, exert adequate regulatory authority over licensees operating under reciprocity.

The commenter also had several specific objections to the proposed rule. The commenter indicated that this rulemaking will reduce recordkeeping requirements because of certain language changes proposed regarding recordkeeping at the licensee's Agreement State office. In addition, the commenter believes that the rule will remove a variety of requirements including existing fee requirements, the existing 3-day advance deadline for filing with the Commission, and existing reporting and compliance requirements applicable to radiographers. Finally, the commenter believes that the rulemaking inappropriately broadens the authority of NRC Regional Administrators to grant, by telephone, a waiver of the 3-day filing requirement before starting work under the general license.

Response. The NRC has full enforcement and inspection authority to regulate the activities of Agreement State licensees operating under reciprocity in areas of NRC jurisdiction. Agreement State licensees operating under reciprocity must comply with all of NRC's regulatory requirements. As such, the Commission believes that an appropriate avenue for citizen access in addressing issues of reciprocity is the NRC itself. If an individual has safety concerns about the conduct of a licensee operating under reciprocity, that individual should contact NRC and their concerns will be addressed through NRC's allegation review process.

Contrary to the commenter's claims that this rulemaking involves more than a clarification, it is noted that the proposed rule either codifies current NRC regulatory practice (with respect to reciprocity in areas of exclusive Federal jurisdiction) or clarifies existing requirements applicable to licensees operating under reciprocity in areas of NRC jurisdiction. While this rulemaking may facilitate increased use of this general license provision, the Commission does not view this as a concern given the full regulatory power that NRC has over these licensees with respect to activities conducted under reciprocity.