

§ 400.303 Initial selection criteria.

(a) Nonstandard classification procedures in this subpart initially apply when all of the following insurance experience criteria (including any applicable adjustment in § 400.303(d)) for the crop have been met:

(1) Three (3) or more indemnified losses during the NCS base period;

(2) Cumulative indemnities in the NCS base period that exceed cumulative premiums during the same period by at least \$500;

(3) The result of dividing the number of indemnified losses during the NCS base period by the number of years premium is earned for that period equals .30 or greater; and

(4) Either of the following apply:

(i) The natural logarithm of the cumulative earned premium rate multiplied by the square root of the cumulative loss ratio equals 2.00 or greater; or

(ii) Five (5) or more indemnified losses have occurred during the NCS base period and the cumulative loss ratio equals or exceeds 1.50.

(b) The minimum standards provided in paragraphs (a) (2), (3), and (4) of this section may be increased in a specific county if that county's overall insurance experience for the crop is substantially different from the insurance experience for which the criteria was determined. The increased standard will apply until the conditions requiring the increase no longer apply. Any change in the standards will be contained in the Special Provisions for the crop.

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(d) Insurance experience for the crop will be adjusted, by county and crop year, to discount the effect of indemnities caused by widespread adverse growing conditions. Adjustments are determined as follows:

(1) Determine the average yield for the county using the annual county crop yields for the previous 20 crop years, unless such data is not available;

(2) Determine the normal variability in the average yield for the county, expressed as the standard deviation;

(3) Subtract the result of § 400.303(d)(2) from § 400.303(d)(1);

(4) Divide the annual crop yield for the county for each crop year in the NCS base period by the result of § 400.303(d)(3), the result of which may not exceed 1.0;

(5) Subtract the result of § 400.303(d)(4) for each crop year from 1.0;

(6) Multiply the result of § 400.303(d)(5) by the liability for the crop year; and

(7) Subtract the result of § 400.303(d)(6) from any indemnity for that crop year.

(e) FCIC may substitute the crop yields of a comparable crop in determining § 400.303(d) (1) and (2), or may adjust the average yield or the measurement of normal variability for the county crop, or any combination thereof, to account for trends or unusual variations in production of the county crop or if the availability of yield and loss data for the county crop is limited. Information about how these determinations are made is available by submitting a request to the FCIC Regional Service Office for the producer's area. Alternate methods of determining the effects of adverse growing conditions on insurance experience may be implemented by FCIC if allowed in the Special Provisions.

5. Section 400.305 is amended by revising paragraph (b) and the introductory text of paragraph (c) to read as follows:

§ 400.305 Assignment of Nonstandard Classification.

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(b) Nonstandard classification assignment will be made each year, for the year identified on the assignment forms, and are not subject to change under the provisions of this subpart by the Corporation for that year when included in the actuarial tables for the county, except as a result of a request for reconsideration as provided in section 400.309, or as the result of appeals under 7 CFR part 11.

(c) A nonstandard classification may be assigned to identified insurable acreage; a person; or to a combination of person and identified acreage for a crop or crop practice, type, variety, or crop option or amendment whereby:

* * * * *

6. Section 400.307 is revised to read as follows:

§ 400.307 Discontinuance of participation.

If the person has discontinued participation in the crop insurance program, the person will still be included on the NCS list in the county until the person has discontinued participation as a policyholder or a person with a substantial beneficial interest in a policyholder for at least 10 consecutive crop years. The most recent nonstandard classification assigned will be continued from year to year until participation has been renewed for at least one crop year and at least three years of insurance experience have occurred in the current base period. A nonstandard classification will no

longer be applicable to the person or the person on identified acreage if the Corporation determines the person is deceased.

7. Section 400.309 is amended by revising paragraph (a), removing paragraph (e), and redesignating paragraph (f) as (e) and revising newly redesignated paragraph (e) to read as follows:

§ 400.309 Requests for reconsideration.

(a) Any person to be assigned a nonstandard classification under this subpart will be notified of and allowed not less than 30 days from the date notice is received to request reconsideration before the nonstandard classification becomes effective. The request will be considered to have been made when received, in writing, by the Corporation.

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(e) Any person not satisfied by a determination of the Corporation upon reconsideration may further appeal under the provisions of 7 CFR part 11.

Signed in Washington, DC, on April 23, 1997.

Suzette M. Dittrich,

Deputy Manager, Federal Crop Insurance Corporation.

[FR Doc. 97-10890 Filed 4-25-97; 8:45 am]

BILLING CODE 3410-FA-P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 1205**

[CN-96-007]

Amendment to Cotton Board Rules and Regulations Regarding Import Assessment Exemptions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is amending the regulations regarding import assessment exemptions by adjusting the provisions for automatic assessment exemptions on certain imports of textile and apparel products. The purpose of this automatic exemption is to avoid multiple assessment of U.S. produced cotton that has been exported and then imported back into the U.S. in the form of textile and apparel products. Also, this final rule will lengthen the amount of time a person has to request an import reimbursement from 90 days from the date the assessment was paid to 180 days from the date the assessment was paid. This rule is consistent with the

business practices of importers and would make it easier for importers to comply with the regulations.

EFFECTIVE DATE: May 28, 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.

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 any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Cotton Research and Promotion Act, 7 U.S.C. §§ 2101-2118 (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 the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator, Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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 unduly or disproportionately burdened.

There are an estimated 16,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This rule will affect importers of cotton and cotton-containing products.

The majority of these importers are small businesses under the criteria established by the Small Business Administration (13 CFR 121.601).

This rule will neither raise nor lower assessments paid by importers subject to the Cotton Research and Promotion Order and therefore presents minimal economic impact. This action will improve the agency's ability to prevent double assessment of U.S. produced cotton reentering the U.S. in the form of textile and apparel products. In addition, this rule will lengthen the amount of time a person has to request an import reimbursement from 90 days from the date the assessment was paid to 180 days from the date the assessment was paid. This rule is consistent with the business practices of importers and would make it easier for importers to comply with the regulations.

Under these circumstances AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

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 Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program.

These provisions are: (1) the assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended the Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17-26, 1991. Proposed rules implementing the amended Order were published in the **Federal Register** on December 17, 1991, (56 FR 65450). The final implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

Section 1205.335 (c)(1) of the Cotton Research and Promotion Order provides for exemptions from assessments for certain imported goods when they contain U.S. produced cotton in order to

minimize the occurrence of double assessments on U.S. cotton. All U.S. produced cotton is assessed at the time it is first sold. A significant amount of U.S. produced cotton is converted into fabric in the U.S. and then exported. This U.S. cotton containing fabric often returns to the U.S. in the form of apparel products.

Section 1205.510 (b)(5) of the Cotton Board Rules and Regulations identifies the specific Harmonized Tariff Schedule (HTS) numbers that are exempted to avoid a second unnecessary assessment of this U.S. produced cotton. The numbers currently identified in this section have become out dated because of changes in the HTS. The revision of this section will update the exempted HTS numbers to 9802.00.8015, and 9802.00.9000 which are currently in the HTS.

This rule also lengthens the period of time a person has to request an import assessment reimbursement from 90 to 180 days from the date the assessment was paid. In the past the Cotton Board has received requests for reimbursements beyond the 90 day limit. In responding to these request, importers have informed the Cotton Board that the 90 day period is too restrictive. The Cotton Board has recognized that importer concern over the time period has merit. Therefore, the Cotton Board has requested that the Department extend the period to 180 days. The Cotton Board believes that this will be consistent with the business practices of importers, and make it easier for importers to comply with the regulations.

A proposed rule with a request for comments was published in the **Federal Register** (62 FR 4666) on January 31, 1997. No comments were received during the comment period (January 31, through March 3, 1997).

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 7 CFR part 1205 is 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)(5) is revised read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(5) Imported textile and apparel articles assembled of components formed from cotton produced in the United States and identified by HTS numbers 9802.00.8015 or 9802.00.9000 shall be exempt from assessments under this subpart.

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3. In § 1205.520, paragraph (b) introductory text is revised to read as follows:

§ 1205.520 Procedure for obtaining reimbursement.

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(b) *Submission of Reimbursement Application to Cotton Board.* Any importer requesting a reimbursement shall mail the application on the prescribed form to the Cotton Board. The application shall be postmarked within 180 days from the date the assessments were paid on the cotton by such importer. The reimbursement application shall show:

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Dated: April 22, 1997.

Lon Hatamiya,
Administrator.

[FR Doc. 97-10892 Filed 4-25-97; 8:45 am]

BILLING CODE 3410-02-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 20, 30, 40, 70, and 73

RIN 3150-AF71

NRC Region II Telephone Number and Address Change

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to change the address and telephone number of the NRC Region II office. These amendments are necessary to inform the public of these administrative changes to the NRC's regulations.

EFFECTIVE DATE: April 28, 1997.

FOR FURTHER INFORMATION CONTACT: Jeffrey Lankford, Nuclear Regulatory Commission, Region II, Atlanta, Georgia, (404) 331-4503.

SUPPLEMENTARY INFORMATION: On April 28, 1997, the NRC will move its Region II office from 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia 30323 to Atlanta Federal Center, 61 Forsyth Street, SW., Suite 23T85, Atlanta, Georgia 30303. The telephone number

will be changed from (404) 331-4503 to (404) 562-4400.

Because this amendment deals with agency procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with a change in address and telephone number.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150-0014, 3150-0017, 3150-0020, 3150-0009, 3150-0002.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this final rule because it is an administrative action that changes the address and telephone number of an NRC region.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because this rule does not involve any provisions that would impose a backfit as defined in § 50.109(a)(1). Therefore, a backfit analysis is not required for this rule.

List of Subjects

10 CFR Part 1

Organization and functions (Government Agencies).

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers,

Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Incorporation by reference, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 1, 20, 30, 40, 70, and 73.

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

Authority: Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85-256, 71 Stat. 579, Pub. L. 95-209, 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

2. In § 1.5, paragraph (b)(2) is revised to read as follows:

§ 1.5 Location of principal offices and Regional Offices.

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