

before approving such retroactive substitution.

§ 630.1307 Medical certification.

(a) In addition to the employee's self-certification required under § 630.1306(b)(1), an agency may additionally require that the use of disabled veteran leave be supported by a signed written medical certification issued by a health care provider.

(b) When an agency requires a signed written medical certification by a health care provider, the agency may specify that the certification include—

(1) A statement by the health care provider that the medical treatment is for one or more service-connected disabilities of the employee that resulted in 30 percent or more disability rating;

(2) The date or dates of treatment or, if the treatment extends over several days, the beginning and ending dates of the treatment;

(3) If the leave was not requested in advance, a statement that the treatment required was of an urgent nature or there were other circumstances that made advanced scheduling not possible; and

(4) Any additional information that is essential to verify the employee's eligibility.

(c)(1) An employee must provide any required written medical certification no later than 15 calendar days after the date the agency requests such medical certification, except as otherwise allowed under paragraph (c)(2) of this section.

(2) If the agency determines it is not practicable under the particular circumstances for the employee to provide the requested medical certification within 15 calendar days after the date requested by the agency despite the employee's diligent, good faith efforts, the employee must provide the medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the agency requests such documentation.

(3) An employee who does not provide the required evidence or medical certification within the specified time period is not entitled to use disabled veteran leave, and the agency may, as appropriate and consistent with applicable laws and regulations—

- (i) Charge the employee as absent without leave (AWOL); or
- (ii) Allow the employee to request that the absence be charged to leave without pay, sick leave, annual leave, or other forms of paid time off.

§ 630.1308 Disabled veteran leave forfeiture, transfer, reinstatement.

(a) Disabled veteran leave not used during the 12-month eligibility period may not be carried over to subsequent years and must be forfeited.

(b) If a change in the employee's disability rating during the 12-month eligibility period causes the employee to no longer have a qualifying service-connected disability (as described in § 630.1304(d)), any unused disabled veteran leave to the employee's credit as of the effective date of the rating change must be forfeited.

(c) When an employee with a positive disabled veteran leave balance transfers between positions in different agencies, or transfers from the United States Postal Service or Postal Regulatory Commission to a position in another agency, during the 12-month eligibility period, the agency from which the employee transfers must certify the number of unused disabled veteran leave hours available for credit by the gaining agency. The losing agency must also certify the expiration date of the employee's 12-month eligibility period to the gaining agency. Any unused disabled veteran leave will be forfeited at the end of that eligibility period. For the purpose of this paragraph, the term "transfers" means movement from a position in one agency (or the United States Postal Service or Postal Regulatory Commission) to a position in another agency without a break in employment of 1 workday or more in circumstances where service in both positions qualifies as employment under this subpart.

(d)(1) An employee covered by this subpart, or an employee of the United States Postal Service or Postal Regulatory Commission, with a balance of unused disabled veteran leave who has a break in employment of at least 1 workday during the employee's 12-month eligibility period, and later recommences employment covered by 5 U.S.C. 6329 within that same eligibility period, is entitled to a recredit of the unused balance.

(2) When an employee has a break in employment as described in paragraph (d)(1) of this section, the losing agency must certify the number of unused disabled veteran leave hours available for recredit by the gaining agency. The losing agency must also certify the expiration date of the employee's 12-month eligibility period. Any unused disabled veteran leave must be forfeited at the end of that eligibility period.

(3) In the absence of the certification described in paragraph (d)(2) of this section, the recredit of disabled veteran leave may also be supported by written

documentation available to the employing agency in its official personnel records concerning the employee, the official records of the employee's former employing agency, copies of contemporaneous earnings and leave statement(s) provided by the employee, or copies of other contemporaneous written documentation acceptable to the agency.

(e) An employee may not receive a lump-sum payment for any unused disabled veteran leave under any circumstance.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[Doc. #AMS-CN-16-0012]

Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports (2016 Amendments)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the Cotton Board Rules and Regulations, decreasing the value assigned to imported cotton for the purposes of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. This amendment is required each year to ensure that assessments collected on imported cotton and the cotton content of imported products will be the same as those paid on domestically produced cotton.

DATES: This direct rule is effective October 4, 2016, without further action or notice, unless significant adverse comment is received by September 6, 2016. If significant adverse comment is received, AMS will publish a timely withdrawal of the amendment in the **Federal Register**.

ADDRESSES: Written comments may be submitted to the addresses specified below. All comments will be made available to the public. Please do not include personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. Comments may be submitted anonymously.

Comments, identified by AMS-CN-16-0012, may be submitted electronically through the *Federal eRulemaking Portal* at <http://www.regulations.gov>. Please follow the instructions for submitting comments. In addition, comments may be submitted by *mail or hand delivery to* Cotton Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406. Comments should be submitted in triplicate. All comments received will be made available for public inspection at Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406. A copy of this document may be found at: www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:
Shethir M. Riva, Director, Research and Promotion, Cotton and Tobacco Program, AMS, USDA, 100 Riverside Parkway, Suite 101, Fredericksburg, Virginia 22406, telephone (540) 361-2726, facsimile (540) 361-1199, or email at Shethir.Riva@ams.usda.gov.

SUPPLEMENTARY INFORMATION:

A. Background

Amendments to the Cotton Research and Promotion Act (7 U.S.C. 2101–2118) (Act) were enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101-624, 104 Stat. 3909, November 28, 1990). These amendments contained two provisions that authorize changes in the funding procedures for the Cotton Research and Promotion Program. These provisions provide for: (1) The assessment of imported cotton and cotton products; and (2) termination of refunds to cotton producers. (Prior to the 1990 amendments to the Act, producers could request assessment refunds.)

As amended, the Cotton Research and Promotion Order (7 CFR part 1205) (Order) was approved by producers and importers voting in a referendum held July 17–26, 1991, and 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.

This direct final rule would amend the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510(b)(2)) that is used to determine the Cotton Research and Promotion assessment on imported

cotton and cotton products. The total value of assessment levied on cotton imports is the sum of two parts. The first part of the assessment is based on the weight of cotton imported—levied at a rate of \$1 per bale of cotton, which is equivalent to 500 pounds, or \$1 per 226.8 kilograms of cotton. The second part of the import assessment (referred to as the supplemental assessment) is based on the value of imported cotton lint or the cotton contained in imported cotton products—levied at a rate of five-tenths of one percent of the value of domestically produced cotton.

Section 1205.510(b)(2) of the Cotton Research and Promotion Rules and Regulations provides for assigning the calendar year weighted average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. This is so that the assessment on domestically produced cotton and the assessment on imported cotton and the cotton content of imported products is the same. The source for the average price statistic is *Agricultural Prices*, a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the weighted average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products will yield an assessment that is the same as assessments paid on domestically produced cotton.

The current value of imported cotton as published in 2015 in the *Federal Register* (80 FR 53243) for the purpose of calculating assessments on imported cotton is \$0.012013 per kilogram. Using the Average Weighted Price received by U.S. farmers for Upland cotton for the calendar year 2015, this direct final rule would amend the new value of imported cotton to \$0.011012 per kilogram to reflect the price paid by U.S. farmers for Upland cotton during 2015.

An example of the complete assessment formula and how the 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.

One Dollar per Bale Assessment Converted to Kilograms

A 500-pound bale equals 226.8 kg. (500 × 0.453597).

\$1 per bale assessment equals \$0.002000 per pound or \$0.2000 cents per pound (1/500) or \$0.004409 per kg or \$0.4409 cents per kg. (1/226.8).

Supplemental Assessment of 5/10 of One Percent of the Value of the Cotton Converted to Kilograms

The 2015 calendar year weighted average price received by producers for Upland cotton is \$0.599 per pound or \$1.321 per kg. (0.599 × 2.2046).

Five tenths of one percent of the average price equals \$0.006603 per kg. (1.321 × 0.005).

Total Assessment

The total assessment per kilogram of raw cotton is obtained by adding the \$1 per bale equivalent assessment of \$0.004409 per kg. and the supplemental assessment \$0.006603 per kg., which equals \$0.011012 per kg.

The current assessment on imported cotton is \$0.012013 per kilogram of imported cotton. The revised assessment in this direct final rule is \$0.011012, a decrease of \$0.001001 per kilogram. This decrease reflects the decrease in the average weighted price of Upland cotton received by U.S. farmers during the period January through December 2015.

Import Assessment Table in section 1205.510(b)(3) indicates the total assessment rate (\$ per kilogram) due for each Harmonized Tariff Schedule (HTS) number that is subject to assessment. This table must be revised each year to reflect changes in supplemental assessment rates and any changes to the HTS numbers. In this direct final rule, AMS is amending the Import Assessment Table.

AMS believes that these amendments are necessary to ensure that assessments collected on imported cotton and the cotton content of imported products are the same as those paid on domestically produced cotton. Accordingly, changes reflected in this rule should be adopted and implemented as soon as possible since it is required by regulation.

B. Good Cause Finding That Proposed Rulemaking Is Unnecessary

Rulemaking under section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) ordinarily involves publication of a notice of proposed rulemaking in the *Federal Register* and the public is given an opportunity to comment on the proposed rule; however, an agency may issue a rule without prior notice and comment procedures if it determines for good cause that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest for such rule, and incorporates a statement of the finding with the underlying reasons in the final rule issued.

As described in this **Federal Register** document, the amendment to the value used to determine the Cotton Research and Promotion Program importer assessment will be updated to reflect the assessment already paid by U.S. farmers. For the reasons mentioned in section A of this preamble, AMS finds that publishing a proposed rule and seeking public comment is unnecessary because the change is required annually by regulation in 7 CFR 1205.510.

Also, this direct-final rulemaking furthers the objectives of Executive Order 13563, which requires that the regulatory process “promote predictability and reduce uncertainty” and “identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends.”

AMS has used the direct rulemaking process since 2013 and has not received any adverse comments; however, if AMS does receive significant adverse comment during the comment period, it will publish, in a timely manner, a document in the **Federal Register** withdrawing this direct final rule. AMS will then address public comments in a subsequent proposed rule and final rule based on the proposed rule.

C. Regulatory Impact Analysis

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a “non-significant regulatory action” under § 3(f) of Executive Order 12866, and therefore, review has been waived, and this action has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect.

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 of Agriculture (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 Secretary's ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has examined the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be unduly or disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (importers) as having receipts of no more than \$7,500,000. In 2015, an estimated 20,000 importers are subject to the rules and regulations issued pursuant to the Cotton Research and Promotion Order. Most are considered small entities as defined by the Small Business Administration.

This rule would only affect importers of cotton and cotton-containing products and would lower the assessments paid by the importers under the Cotton Research and Promotion Order. The current assessment on imported cotton is \$0.012013 per kilogram of imported cotton. The amended assessment would be \$0.011012, which was calculated based on the 12-month weighted average of price received by U.S. cotton farmers. Section 1205.510, “Levy of assessments”, provides “The rate of the supplemental assessment on imported cotton will be the same as that levied on

cotton produced within the United States.” In addition, section 1205.510 provides that the 12-month weighted average of prices received by U.S. farmers will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton.

Under the Cotton Research and Promotion Program, assessments are used by the Cotton Board to finance research and promotion programs designed to increase consumer demand for Upland cotton in the United States and international markets. In 2014 (the last audited year), producer assessments totaled \$37.8 million and importer assessments totaled \$38.3 million. According to the Cotton Board, should the volume of cotton products imported into the U.S. remain at the same level in 2016, one could expect a decrease of assessments by approximately \$3,845,000.

Imported organic cotton and products may be exempt from assessment if eligible under section 1205.519 of the Order.

There are no Federal rules that duplicate, overlap, or conflict with this rule.

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. Chapter 35) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093, National Research, Promotion, and Consumer Information Programs. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

A 30-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 rule would decrease the assessments paid by importers under the Cotton Research and Promotion Order. An amendment is required to adjust the assessments collected on imported cotton and the cotton content of imported products to be the same as those paid on domestically produced cotton. Accordingly, the change 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, AMS amends 7 CFR part 1205 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 Import Assessment table in paragraph (b)(3) 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 this supplemental assessment is \$1.1012 cents per kilogram.

(3) * * *

IMPORT ASSESSMENT TABLE [Raw cotton fiber]

HTS No.	CONV. factor	Cents/kg.	IMPORT ASSESSMENT TABLE— Continued [Raw cotton fiber]			IMPORT ASSESSMENT TABLE— Continued [Raw cotton fiber]		
			HTS No.	CONV. factor	Cents/kg.	HTS No.	CONV. factor	Cents/kg.
5007106010	0.2713	0.29875556	5206110000	0.7368	0.81136416	5208292020	1.0852	1.19502224
5007106020	0.2713	0.29875556	5206120000	0.7368	0.81136416	5208292090	1.0852	1.19502224
5007906010	0.2713	0.29875556	5206130000	0.7368	0.81136416	5208294020	1.0852	1.19502224
5007906020	0.2713	0.29875556	5206140000	0.7368	0.81136416	5208294090	1.0852	1.19502224
5112904000	0.1085	0.1194802	5206150000	0.7368	0.81136416	5208296020	1.0852	1.19502224
5112905000	0.1085	0.1194802	5206210000	0.7692	0.84704304	5208296090	1.0852	1.19502224
5112909010	0.1085	0.1194802	5206220000	0.7692	0.84704304	5208298020	1.0852	1.19502224
5112909090	0.1085	0.1194802	5206230000	0.7692	0.84704304	5208298090	1.0852	1.19502224
5201000500	1	1.1012	5206240000	0.7692	0.84704304	5208312000	1.0852	1.19502224
5201001200	1	1.1012	5206250000	0.7692	0.84704304	5208314020	1.0852	1.19502224
5201001400	1	1.1012	5206310000	0.7368	0.81136416	5208314040	1.0852	1.19502224
5201001800	1	1.1012	5206320000	0.7368	0.81136416	5208314090	1.0852	1.19502224
5201002200	1	1.1012	5206330000	0.7368	0.81136416	5208316020	1.0852	1.19502224
5201002400	1	1.1012	5206340000	0.7368	0.81136416	5208316040	1.0852	1.19502224
5201002800	1	1.1012	5206350000	0.7368	0.81136416	5208316060	1.0852	1.19502224
5201003400	1	1.1012	5206410000	0.7692	0.84704304	5208316090	1.0852	1.19502224
5201003800	1	1.1012	5206420000	0.7692	0.84704304	5208318020	1.0852	1.19502224
520100410000	1.0526	1.15912312	5206430000	0.7692	0.84704304	5208318090	1.0852	1.19502224
5204190000	0.6316	0.69551792	5206440000	0.7692	0.84704304	5208321000	1.0852	1.19502224
5204200000	1.0526	1.15912312	5206450000	0.9474	1.04327688	5208323020	1.0852	1.19502224
5205111000	1	1.1012	5207000000	0.6316	0.69551792	5208323090	1.0852	1.19502224
5205112000	1	1.1012	5208112020	1.0852	1.19502224	5208324020	1.0852	1.19502224
5205121000	1	1.1012	5208112040	1.0852	1.19502224	5208324040	1.0852	1.19502224
5205122000	1	1.1012	5208112090	1.0852	1.19502224	5208324060	1.0852	1.19502224
5205131000	1	1.1012	5208114020	1.0852	1.19502224	5208324090	1.0852	1.19502224
5205132000	1	1.1012	5208114040	1.0852	1.19502224	5208325020	1.0852	1.19502224
5205141000	1	1.1012	5208114060	1.0852	1.19502224	5208325090	1.0852	1.19502224
5205142000	1	1.1012	5208114090	1.0852	1.19502224	5208330000	1.0852	1.19502224
5205151000	1	1.1012	5208116000	1.0852	1.19502224	5208392020	1.0852	1.19502224
5205152000	1	1.1012	5208118020	1.0852	1.19502224	5208392090	1.0852	1.19502224
5205210020	1.044	1.1496528	5208118090	1.0852	1.19502224	5208394020	1.0852	1.19502224
5205210090	1.044	1.1496528	5208124020	1.0852	1.19502224	5208394090	1.0852	1.19502224
5205220020	1.044	1.1496528	5208124040	1.0852	1.19502224	5208396020	1.0852	1.19502224
5205220090	1.044	1.1496528	5208124090	1.0852	1.19502224	5208396090	1.0852	1.19502224
5205230020	1.044	1.1496528	5208126020	1.0852	1.19502224	5208398020	1.0852	1.19502224

