

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[Doc. No. AMS-CN-20-0006]

Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports (2020 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. In addition, AMS is updating the Harmonized Tariff Schedule (HTS) statistical reporting numbers that were amended since the last assessment adjustment in 2019.

DATES: This direct rule is effective December 4, 2020, without further action or notice, unless significant adverse comment is received by November 4, 2020. 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-20-0006, 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 authorized changes in the funding procedures for the Cotton Research and Promotion Program. These provisions provided 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,

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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 2019 in the **Federal Register** (84 FR 55019) for the purpose of calculating assessments on imported cotton is \$0.012222 per kilogram. Using the average weighted price received by U.S. farmers for Upland cotton for the calendar year 2019, this direct final rule would amend the new value of imported cotton to \$0.011562 per kilogram to reflect the price received by U.S. farmers for Upland cotton during 2019.

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 2019 calendar year weighted average price received by producers for Upland cotton is \$0.649 per pound or \$1.431 per kg. (0.649×2.2046).

Five tenths of one percent of the average price equals \$0.007153 per kg. (1.431×0.005).

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 \$0.007153 per kg., which equals \$0.011562 per kg.

The current assessment on imported cotton is \$0.012222 per kilogram of imported cotton. The revised assessment in this direct final rule is \$0.011562, a decrease of \$0.00066 per kilogram. This reflects the decrease in the average weighted price of Upland cotton received by U.S. farmers during the period January through December 2019.

The Import Assessment Table in section 1205.510(b)(3) of the Order 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.

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

above, 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 comments 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.

B. 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 falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ‘Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled ‘Reducing Regulation and Controlling Regulatory Costs’’ (February 2, 2017).

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 121.201, small agricultural producers as those having annual receipts of no more than \$1,000,000 and small “Other Farm Product Raw Material Merchant Wholesalers” (cotton merchants/importers) as having no more than 100 employees. The Cotton Board estimates 37,000 importers are subject to the rules and regulations issued pursuant to the Cotton Research and Promotion Order. According to the United States Census Bureau’s “2016 Survey of SUSB Annual Data Tables by Establishment Industry,” most importers are considered small entities as defined by the Small Business Administration (13 CFR 121.201). This rule would only affect importers of cotton and cotton-containing products and would decrease the assessments paid by the importers under the Cotton Research and Promotion Order. The current assessment on imported cotton is \$0.012222 per kilogram of imported cotton. The amended assessment would be \$0.011562, which was calculated based on the 12-month weighted

average of price received by U.S. cotton farmers. Section 1205.510 of the Order, “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 2018 (the last audited year), producer assessments totaled \$49.6 million and importer assessments totaled \$38.5 million. According to the Cotton Board, should the volume of cotton products imported into the U.S. remain at the same level in 2020, one could expect a decrease of assessments by approximately \$1,208,433.

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 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.

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:

- 1. The authority citation for part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118; 7 U.S.C. 7401.

- 2. In § 1205.510, revise paragraph (b)(2) and the table in paragraph (b)(3) 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 \$1.1562 cents per kilogram.

(3) * * *

IMPORT ASSESSMENT TABLE—Continued [Raw cotton fiber]

HTS No.	Conv. factor	Cents/kg
5205240020	1.044	1.2070319
5205240090	1.044	1.2070319
5205260020	1.044	1.2070319
5205260090	1.044	1.2070319
5205270020	1.044	1.2070319
5205270090	1.044	1.2070319
5205280020	1.044	1.2070319
5205280090	1.044	1.2070319
5205310000	1	1.1561608
5205320000	1	1.1561608
5205330000	1	1.1561608
5205340000	1	1.1561608
5205350000	1	1.1561608
5205410020	1.044	1.2070319
5205410090	1.044	1.2070319
5205420021	1.044	1.2070319
5205420029	1.044	1.2070319
5205420090	1.044	1.2070319
5205430021	1.044	1.2070319
5205430029	1.044	1.2070319
5205430090	1.044	1.2070319
5205440021	1.044	1.2070319
5205440029	1.044	1.2070319
5205440090	1.044	1.2070319
5205460021	1.044	1.2070319
5205460029	1.044	1.2070319
5205460090	1.044	1.2070319
5205470021	1.044	1.2070319
5205470029	1.044	1.2070319
5205470090	1.044	1.2070319
5205480020	1.044	1.2070319
5205480090	1.044	1.2070319
5206110000	0.7368	0.8518593
5206120000	0.7368	0.8518593
5206130000	0.7368	0.8518593
5206140000	0.7368	0.8518593
5206150000	0.7368	0.8518593
5206210000	0.7692	0.8893189
5206220000	0.7692	0.8893189
5206230000	0.7692	0.8893189
5206240000	0.7692	0.8893189
5206250000	0.7692	0.8893189
5206310000	0.7368	0.8518593
5206320000	0.7368	0.8518593
5206340000	0.7368	0.8518593
5206350000	0.7368	0.8518593
5206410000	0.7692	0.8893189
5206420000	0.7692	0.8893189
5206430000	0.7692	0.8893189
5206440000	0.7692	0.8893189
5206450000	0.7692	0.8893189
5207010000	0.9474	1.0953468
5207090000	0.6316	0.7302312
5208112020	1.0852	1.2546657
5208112040	1.0852	1.2546657
5208112090	1.0852	1.2546657
5208114020	1.0852	1.2546657
5208114040	1.0852	1.2546657
5208114060	1.0852	1.2546657
5208114090	1.0852	1.2546657
5208116000	1.0852	1.2546657
5208118020	1.0852	1.2546657
5208118090	1.0852	1.2546657
5208124020	1.0852	1.2546657
5208124040	1.0852	1.2546657
5208124090	1.0852	1.2546657
5208126020	1.0852	1.2546657
5208126040	1.0852	1.2546657

**IMPORT ASSESSMENT TABLE—
Continued
[Raw cotton fiber]**

HTS No.	Conv. factor	Cents/kg
6302315040	0.7751	0.8961402
6302315050	0.7751	0.8961402
6302317010	1.1073	1.2802169
6302317020	1.1073	1.2802169
6302317030	1.1073	1.2802169
6302317040	1.1073	1.2802169
6302317050	1.1073	1.2802169
6302319010	0.7751	0.8961402
6302319020	0.7751	0.8961402
6302319030	0.7751	0.8961402
6302319040	0.7751	0.8961402
6302319050	0.7751	0.8961402
6302321010	0.5537	0.6401662
6302321020	0.3876	0.4481279
6302321030	0.5537	0.6401662
6302321040	0.3876	0.4481279
6302321050	0.3876	0.4481279
6302321060	0.3876	0.4481279
6302322010	0.5537	0.6401662
6302322020	0.3876	0.4481279
6302322030	0.5537	0.6401662
6302322040	0.3876	0.4481279
6302322050	0.3876	0.4481279
6302322060	0.3876	0.4481279
6302390030	0.2215	0.2560896
6302402010	0.9412	1.0881786
6302511000	0.5537	0.6401662
6302512000	0.8305	0.9601916
6302513000	0.5537	0.6401662
6302514000	0.7751	0.8961402
6302593020	0.5537	0.6401662
6302600010	1.1073	1.2802169
6302600020	0.9966	1.1522299
6302600030	0.9966	1.1522299
6302910005	0.9966	1.1522299
6302910015	1.1073	1.2802169
6302910025	0.9966	1.1522299
6302910035	0.9966	1.1522299
6302910045	0.9966	1.1522299
6302910050	0.9966	1.1522299
6302910060	0.9966	1.1522299
6302931000	0.4429	0.5120636
6302932000	0.4429	0.5120636
6302992000	0.2215	0.2560896
6303191100	0.8859	1.0242429
6303910010	0.609	0.7041019
6303910020	0.609	0.7041019
6303921000	0.2768	0.3200253
6303922010	0.2768	0.3200253
6303922030	0.2768	0.3200253
6303922050	0.2768	0.3200253
6303990010	0.2768	0.3200253
6304111000	0.9966	1.1522299
6304113000	0.1107	0.1279870
6304190500	0.9966	1.1522299
6304191000	1.1073	1.2802169
6304191500	0.3876	0.4481279
6304192000	0.3876	0.4481279
6304193060	0.2215	0.2560896
6304200020	0.8859	1.0242429
6304200070	0.2215	0.2560896
6304910120	0.8859	1.0242429
6304910170	0.2215	0.2560896
6304920000	0.8859	1.0242429
6304996040	0.2215	0.2560896
6505001515	1.1189	1.2936283
6505001525	0.5594	0.6467564
6505001540	1.1189	1.2936283
6505002030	0.9412	1.0881786

**IMPORT ASSESSMENT TABLE—
Continued
[Raw cotton fiber]**

HTS No.	Conv. factor	Cents/kg
6505002060	0.9412	1.0881786
6505002545	0.5537	0.6401662
6507000000	0.3986	0.4608457
9404901000	0.2104	0.2432562
9404908020	0.9966	1.1522299
9404908040	0.9966	1.1522299
9404908505	0.6644	0.7681532
9404908536	0.0997	0.1152692
9404909505	0.6644	0.7681532
9404909570	0.2658	0.3073075
9619002100	0.8681	1.0036632
9619002500	0.1085	0.1254434
9619003100	0.9535	1.1023993
9619003300	1.1545	1.3347877
9619004100	0.2384	0.2756287
9619004300	0.2384	0.2756287
9619006100	0.8528	0.9859739
9619006400	0.2437	0.2817564
9619006800	0.3655	0.4225768
9619007100	1.1099	1.2832229
9619007400	0.2466	0.2851093
9619007800	0.2466	0.2851093
9619007900	0.2466	0.2851093

* * * * *

Bruce Summers,
Administrator, Agricultural Marketing Service.

[FR Doc. 2020-19373 Filed 10-2-20; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 56, 145, 146, and 147

[Docket No. APHIS-2018-0062]

RIN 0579-AE49

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the National Poultry Improvement Plan (NPIP). These amendments establish a U.S. Newcastle Disease Clean program within the NPIP, create an NPIP subpart specific to game birds, revise testing requirements, and clarify existing provisions of the regulations. We are also amending the regulations concerning the payment of indemnity and compensation for low pathogenic avian influenza to reflect current policy and operational practices, and allowing NPIP voting delegates to represent

multiple States during the Biennial Conferences. These changes were voted on and approved by the voting delegates at the NPIP's 2018 National Plan Conference.

DATES: Effective November 4, 2020.

FOR FURTHER INFORMATION CONTACT: Dr. Elena Behnke, DVM, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094–5104; (770) 922–3496.

SUPPLEMENTARY INFORMATION:

Background

The National Poultry Improvement Plan (NPIP, also referred to below as “the Plan”) is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control poultry diseases. Participation in all Plan programs is voluntary, but breeding flocks, hatcheries, and dealers must first qualify as “U.S. Pullorum-Typhoid Clean” as a condition for participating in the other Plan programs. The Plan identifies States, independent flocks, hatcheries, dealers, and slaughter plants that meet certain disease control standards specified in the Plan’s various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 56, 145, 146, and 147 (referred to below as the regulations) contain the provisions of the Plan. The Animal and Plant Health Inspection Service (APHIS) amends these provisions from time to time to incorporate new scientific information and technologies within the Plan, and to ensure the plan reflects changes to the poultry industry itself.

On December 5, 2019, we published in the **Federal Register** (84 FR 66631–66647, Docket No. APHIS-2018-0062) a proposal¹ to amend the regulations by updating and clarifying several provisions, including those concerning NPIP participation, voting requirements, testing procedures, and standards.

We solicited comments concerning our proposal for 60 days, ending February 3, 2020. We received 12 comments by that date. The comments were from private citizens, a State department of agriculture, and a representative for the egg farmer industry.

¹ To view the proposed rule, supporting documents, and the comments we received, go to <http://www.regulations.gov/#docketDetail;D=APHIS-2018-0062>.