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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Cotton Standards; Deletion of Geographical Limitations on Standards Storage and Miscellaneous Amendments

AGENCY: Agricultural Marketing Service, U.S.D.A.

ACTION: Final rule.

SUMMARY: In compliance with the requirements for the periodic review of existing regulations, the Agricultural Marketing Service (AMS) has reviewed and is effecting changes to regulations under the United States Cotton Standards Act, 7 CFR Part 28, Subpart C, along with the changes thus necessitated in Subpart A. The Cotton Classing, Testing, and Standards regulations are revised by removing the requirement that sets of cotton standards be stored "in the District of Columbia." This action permits the Department to realize a cost savings through relocation of the storage space to Memphis, Tennessee.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Harvin R. Smith, Chief, Standards and Testing Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202/447-2167).

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation as established by the Order.

William T. Manley, Deputy Administrator, Marketing Program Operations, has determined that this action would not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601) because this final rule primarily changes the storage location of the standards only for cost savings purposes and will not affect the performance of inspection service.

The original physical standards representing the various grades of American Upland cotton and Pima cotton are presently kept in a vault at the Department of Agriculture, Washington, D.C. The regulations (7 CFR Part 28) specify that these physical forms will be kept in "the District of Columbia."

It has been determined that a savings could be realized by storing the original physical standards in either an enclosure built in the present warehouse space of the Cotton Division of AMS in Memphis, Tennessee or in a federally licensed and properly bonded warehouse in that city. The primary considerations for selecting a storage facility would be the maintenance of proper control and security over the standards, and maintenance of a properly controlled atmospheric environment to minimize the changes in color which occur in all cottons over time.

The AMS Cotton Division estimates that secure space in Memphis with a controlled environment would have an initial cost of $10,000 to $12,000 with an annual operating and maintenance expense of $1,200. The present cost of standards storage in Washington, D.C. is $8,300 per year, with an increase expected soon. Furthermore, the refrigeration unit needs to be replaced at a cost of $20,000. These figures clearly show that relocating the standards to Memphis would save several thousands of dollars per year.

In order to provide the Department the flexibility to take advantage of this potential savings, the geographical limitations presently in the regulations are being deleted. The changes are in conformance with the provisions and objectives of the U.S. Cotton Standards Act.

The review of the Regulations included (1) a determination of continued need for the standards, (2) a review of changes in marketing and other factors affecting the standards, and (3) a review of changes in technological and economic conditions in the area affected by the standards. The objective of the review was to assure that the standards continue to serve the needs of the market to the greatest possible extent. Also considered was that: (1) the Omnibus Budget Reconciliation Act of 1981 (P. L. 97-35) specifies that the "Secretary shall take such action as may be necessary to insure that the universal cotton standards system . . . [be] preserved . . . ," (2) the standards are essential to the process of classing cotton, and (3) the standards are recognized and used worldwide.

The physical standards are regularly reviewed by the Cotton Division for (1) relevance to the needs of the cotton industry and (2) representativeness of the U.S. cotton crop. Modifications are proposed, as considered appropriate, both by the Cotton Division and representatives of the U.S. cotton industry. Representatives from the signatory associations to the Universal Cotton Standards Agreement meet every three years to review the physical standards, to approve the "key" sets, and to discuss any suggested modifications to the standards.

Options Analysis. The only option would be to keep the geographical limitations, thus foregoing the possibility of realizing a savings. This option has been rejected in favor of deleting the provision that the original physical standards must be stored in the District of Columbia. Other options considered would not maintain required security and control.

This action also amends section 28.107 by deleting the reference to wax seals. While the cotton standards are to be sealed, methods other than wax seals can be used. Therefore, this change is being made to provide flexibility.

Proposed rulemaking was published on pages 4477-4478 of the **Federal Register** of February 1, 1983, and invited comments for 60 days ending April 4, 1983. No comments were received. Therefore, this final rule does not differ from the proposed rule.

List of Subjects in 7 CFR Part 28

Cotton, grades, samples, standards.

Accordingly, 7 CFR Part 28 is amended as follows:

PART 28—COTTON CLASSING, TESTING AND STANDARDS

1. The authority citation for Part 28, Subparts A and C reads as follows:

Subpart A:

Authority: Sec. 10, 42 Stat. 1519; 7 U.S.C. 61, unless otherwise noted.

Subpart C:

Official Cotton Linters Standards of the United States for Grade

Authority: Secs. 28.201 to 28.208 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

Official Cotton Standards of the United States for the Grade of American Upland Cotton

Authority: Secs. 28.402 to 28.481 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, 7 U.S.C. 56.

Official Cotton Standards of the United States for the Grade of American Pima Cotton

Authority: Secs. 28.501 to 28.510 issued under sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

2. Paragraph (a) of § 28.107 is revised to read as follows:

§ 28.107 Original cotton standards and reserve sets.

(a) The containers of the original Universal Standards and other official cotton standards of the United States currently adopted, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishment, and shall be wrapped and sealed. After being so marked, wrapped and sealed, they shall be held in secure storage in the custody of the U.S. Department of Agriculture. The Director may authorize the temporary removal of such containers from storage and the transporting of the containers to other locations for purposes of Universal Cotton Standards Conferences and other purposes as deemed necessary by the Director. Such containers shall remain in the control and custody of the Director until the original standards contained therein are superseded by new or revised standards.

* * * * *

3. Section 28.107(b) is amended by removing the sentence "The Division shall store the set designated as the Second Reserve Set in the vault of the Division in Washington, D.C., in the control and custody of the Director," and replacing it with "The Division shall keep the set designated as the Second Reserve Set in secure storage."

4. Section 28.107(c) is amended by removing the sentence "The Director shall arrange for removal of the Second Reserve Set from its storage place in Washington, D.C., and the transport of such set to the site of the conference," and replacing it with "The Director shall arrange for removal of the Second Reserve Set from its storage place and for the transport of such set to the site of the conference."

§ 28.402, 28.403, 28.405, 28.407, 28.409, 28.411, 28.413, 28.431, 28.432, 28.433, 28.434, 28.442, 28.443, 28.444, 28.501, 28.502, 28.503, 28.504, 28.505, 28,506, 28.507, 28.508, 28.509. [Amended]

5. In all of the sections above the words " * * * in the District of Columbia * * *" are removed with no other changes.

Dated: April 14, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-10535 Filed 4-19-83; 8:45 am]

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7 CFR Part 53

Increase in Fees for Federal Livestock Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is adopting without change as a final rule, the interim final rule published in the December 7, 1982, **Federal Register** (47 FR 54925), in which § 53.18 of the regulations was revised to increase fees for services so as to reflect increased program costs.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Ray, Chief, Livestock and Grain Market News Branch; Livestock, Meat, Grain, and Seed Division; Agricultural Marketing Service; U.S. Department of Agriculture; Room 2623, South Agriculture Building; Washington, D.C. 20250 (Telephone: 202-447-6231).

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed under Executive Order 12291 and USDA Secretary's Memorandum 1512-1 implementing Executive Order 12291, and it has been determined that this is not a major rule. Although this rule will directly affect users of Federal livestock grading and certification services, it will not result in an annual effect on the economy of $100 million or more. There will be no major increase in production costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Additionally, this rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

This regulation has been reviewed for cost effectiveness under USDA Secretary's Memorandum 1512-1 implementing Executive Order 12291. It increases fees to cover escalating costs of providing Federal livestock grading and certification services. Federal law requires that users pay for these services. It is anticipated that these increases will not have a significant economic effect on producers, meatpackers, and other members of the livestock industry. An alternative to increasing fees would be to significantly reduce the amount of supervision and training of livestock grading and certification personnel. This could result in nonuniform application of U.S. grade standards and specifications causing economic inequities among segments of the livestock industry. The uniform and accurate application of grade standards and specifications nationwide is essential to maintaining the effectiveness and integrity of grading and certification services.

Regulatory Flexibility Act

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), because the fees merely reflect a minimal increase in the cost-per-unit graded and/or certified currently borne by those entities utilizing the services. Additionally, the increased fees will not affect normal competition in the marketplace.

Comments

On December 7, 1982, the Agricultural Marketing Service published in the **Federal Register** (47 FR 54925) an interim final rule increasing the fees for Federal livestock grading and certification services, effective December 13, 1982. Comments on this amendment were requested by January 6, 1983. No comments were received.

The Agricultural Marketing Act of 1946, as amended, provides for the collection of fees approximately equal to the cost of providing livestock grading and certification services. The fees for these services are determined by the grader's salary and fringe benefits, cost of supervision, travel, training, and other overhead and administrative costs. Since the last fee increase on November 29, 1981, program costs have continued to rise. Federal employees have received pay increases in conformity with the Federal Pay Comparability Act of 1970. In addition, the grade level or pay scale of graders currently performing service has shifted to a higher level due to longevity and progressive promotion to the journeyman market reporter level. Similarly, there have been significant increases in other costs such as supervisory travel, rent, and other associated overhead and administrative costs. In addition, annual delivery units have diminished, and at the same time, minimum staffing requirements have increased costs per unit.

In view of the situations described above, the base hourly rate for livestock grading and certification services performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays, was increased from $23.20 to $29.40 per hour. For work performed on Saturday or Sunday and before 6 a.m. or after 6 p.m., Monday through Friday, except legal holidays, the hourly rate was increased from $28.20 to $32.80 per hour. For all work performed on legal holidays, the hourly rate was increased from $46.40 to $58.80 per hour.

It has been found over the course of time that the minimum charge of one-half hour is not sufficient to recover minimum operating costs, including services not directly related to the actual delivery procedure. Further, the cost projections for the hourly fee are based on a minimum 1-hour charge to effectively recover operating costs of the program. The minimum hourly fee has a minor impact on the value of a par delivery unit. The cost of grading and certification represent less than 0.2 percent of the value of a delivery unit.

Accordingly, under the authority contained in sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), § 53.18 of the regulations published on December 7, 1982, as an interim final rule at 47 FR 54925 is adopted without change as a final rule, effective May 20, 1983.

List of Subjects in 7 CFR Part 53

Cattle, Hogs, Livestock, Sheep.

(Aug. 14, 1946, Ch. 966, Title II, Secs. 203 and 205, 60 Stat. 1087, 1090; 7 U.S.C. 1622, 1624 as amended)

Done at Washington, D.C., April 14, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-10536 Filed 4-19-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 83-301]

Cut Flowers

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document, with certain changes, affirms an interim rule which amended the cut flowers regulations to require certain cut flowers found upon inspection at the port of entry to be infested with agromyzids (insects of the family Agromyzidae) to be fumigated with methyl bromide. The provisions of the rule are necessary to clarify the regulations concerning these matters and to prevent the movement of injurious agromyzids into the United States.

EFFECTIVE DATE: April 20, 1983.

FOR FURTHER INFORMATION CONTACT: Frank Cooper, Staff Officer, Regulatory Services Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 637, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8248.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on August 30, 1982 (47 FR 38101-38103), the Department established an interim rule which amended the cut flowers regulations (7 CFR 319.74 through 319.74-7).

The interim rule provided that cut flowers imported from any country or locality and found upon inspection at the port of entry to be infested with agromyzids (insects of the family Agromyzidae) shall be fumigated at the time of importation with methyl bromide until specified conditions, except that such fumigation shall not be required for cut flowers imported from Canada or Mexico because of the finding of agromyzids and shall not be required for cut flowers of *Chrysanthemum* spp. imported from Colombia because of the finding of agromyzids of the species *Liriomyza trifolii* (Burgess) (referred to below as *L. trifolii*). These provisions were in effect prior to the amendments, except for the provisions concerning cut flowers of *Chrysanthemum* spp. from Colombia found to be infested with agromyzids. Previously, such cut flowers of *Chrysanthemum* spp. from Colombia were not required to be fumigated at the time of importation even though found to be infested with agromyzids. Under the amended regulations such infested cut flowers must be treated unless the agromyzids are determined to be *L. trifolii*. Agromyzids are leaf-eating insects which burrow tunnels within the leaves. Left unchecked, they will cause significant damage to the agricultural product.

Based on the reasons set forth in this document and in the document of August 30, 1982, the provisions of the interim rule are affirmed with certain changes explained below.

The document of August 30, 1982, invited interested persons to submit written comments concerning the amendments on or before October 29, 1982. Four comments were received. The comments were received from representatives of a nurserymen's association, a rose growers' association, an association of producers of cut flowers, and a general farm organization. The representative of the nurseymen's association endorsed the interim rule as published. The other three commenters stated objections to the interim rule.

The representative of the association of producers of cut flowers stated that there is no basis for the amendment. It was asserted that *Liriomyza huidobrensis* (referred to below as *L. huidobrensis*) is not "new to, or not theretofore known to be widely prevalent or distributed within and throughout the United States." As stated in the interim rule, it was determined that *L. huidobrensis* is not widespread within the United States, and could cause a substantial reduction in the marketability of cut flowers and other agricultural products grown in the United States. Within the United States *L. huidobrensis* is found to occur only in certain areas in the West. It appears that it could spread into many other vegetable and flower growing areas in other portions of the United States. Accordingly, it is not "known to be widely prevalent or distributed within and throughout the United States." Further, if *L. huidobrensis* were to spread to uninfested areas where vegetables and flowers are grown, it could cause significant damage.

It was also asserted that the rule should be changed to provide that cut flowers of *Chrysanthemum* spp. from Colombia found to contain agromyzids at the time of importation should be