

concerning this proposed rule to Whitney Rick, Chief, Research and Promotion Staff, Cotton Program, Agricultural Marketing Service, USDA, STOP 0224, Washington, DC 20250-0224. Comments should be submitted in triplicate. Comments may also be submitted electronically to:

[cottoncomments@usda.gov](mailto:cottoncomments@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at Cotton Program, AMS, USDA, Room 2641-S, 1400 Independence Ave., SW., Washington, DC 20250 during regular business hours. A copy of this notice may be found at: [www.ams.usda.gov/cotton/rulemaking.htm](http://www.ams.usda.gov/cotton/rulemaking.htm).

**FOR FURTHER INFORMATION CONTACT:**

Whitney Rick, Chief, Research and Promotion Staff, Cotton Program, AMS, USDA, STOP 0224, 1400 Independence Ave., SW., Washington, DC 20250-0224, telephone (202) 720-2259, facsimile (202) 690-1718, or e-mail at [whitney.rick@usda.gov](mailto:whitney.rick@usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

**Executive Order 12988**

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

**Regulatory Flexibility Act**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact 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.

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This proposed rule would 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. This proposed rule would lower the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be lowered, the decrease is small and will not significantly affect small businesses. The current assessment on imported cotton is \$0.00862 per kilogram of imported cotton. The proposed assessment is \$0.008267, a decrease of \$0.000353 or a 4.1 percent decrease. From January through December 2002 approximately \$24 million was collected. Should the volume of cotton products imported into the U.S. remain at the same level in 2003, one could expect the decreased assessment to generate approximately \$23 million or a 4.1 percent decrease from 2002.

**Paperwork Reduction**

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 Cotton Research and Promotion 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 proposed rule would decrease the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510(b)(2)). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of \$1 per bale of cotton which is equivalent to 500 pounds or \$1 per 226.8 kilograms of cotton.

Supplemental assessments are levied at a rate of five-tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency has adopted the practice of assigning the calendar year weighted average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. This is done so that the assessment on domestically produced cotton and the assessment on imported cotton and the cotton content of imported products remain similar. 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 yields an assessment that approximates assessments paid on domestically produced cotton in the prior calendar year.

The current value of imported cotton as published in the **Federal Register** (67 FR 36793) on May 28, 2002, for the purpose of calculating supplemental assessments on imported cotton is \$.8422 per kilogram. This number was calculated using the annual weighted average price received by farmers for Upland cotton during the calendar year 2001 which was \$0.382 per pound and multiplying by the conversion factor 2.2046. Using the Average Weighted Price received by U.S. farmers for Upland cotton for the calendar year 2002, which is \$0.35 per pound, the new value of imported cotton is \$0.7716 per kilogram. The proposed value is