

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 91 and 96

[Docket Number ST02-03]

RIN 0581-AC18

Removal of Cottonseed Chemist Licensing Program, Updating of Commodity Laboratory and Office Addresses, and Adoption of Information Symbols

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to remove the cottonseed chemist licensing program and the related official grading program. This proposed regulation would update various commodity testing laboratory addresses and would adopt two information symbols in the form of approved AMS shields to indicate that products have been tested by AMS.

DATES: Comments must be received on or before September 12, 2003.

ADDRESSES: Interested persons are invited to submit comments concerning this proposed rule. The Agency particularly invites ideas for adequate funding so that this 67-year-old USDA user fee program may become operational again if the cottonseed products industry shows renewed interest. Comments should be sent in triplicate to James V. Falk, Docket Manager, USDA, AMS, Science and Technology, 1400 Independence Avenue, SW., Room 3521 South Agriculture Building, Mail Stop 0272, Washington, DC 20250-0272; telephone (202) 690-4089; fax (202) 720-4631, or e-mail: James.falk@usda.gov and should refer to the docket title and number located in the heading of this document. Comments received will be available for public inspection in Room 3507, South Agriculture Building, 1400 Independence Avenue, SW., between

the hours of 10 a.m. and 4 p.m., Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

James V. Falk, Docket Manager, USDA, AMS, Science and Technology, 1400 Independence Avenue, SW., Room 3521 South Agriculture Building, Mail Stop 0272, Washington, DC 20250-0272; telephone (202) 690-4089; fax (202) 720-4631, or e-mail: James.falk@usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Executive Order 12988

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule does not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Even though an official cottonseed grading certificate has not been issued since June 3, 1999, there are some potential users available that may use the cottonseed chemist licensing program services. Such possible users of program services include 35 oil mills, 1,400 U.S. cottonseed gins, 11 private laboratories, and exporters. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601).

USDA licensed cottonseed chemist program service and official cottonseed grade determinations are provided to all businesses on a voluntary basis and user fees to administer the program are listed in 7 CFR part 96. Any decision to discontinue the use of the official cottonseed grading services (with a unit

certificate fee) at private laboratories and obtain new contracts with their customers based upon unofficial grade of seed (without a fee) would not hinder the cottonseed industry members from marketing their products. Monthly published Marketing News reports for cottonseed are based entirely on summary information of the quality and quantity factors and grades obtained from all official certificates issued by licensed chemists. There has been no official cottonseed grade certificate issued from a licensed chemist since June 3, 1999. All cottonseed business since that date has been based on an unofficial cottonseed grade. User fee costs to entities would be proportional to their use of program services, so that costs are shared equitably by all users.

The last fee increases for the USDA Cottonseed Chemist Licensing Program services became effective on May 4, 1998 (63 FR 16370-16375). Since June 1999, no revenue has been available to administer the program and there has been a yearly increase in cost of living for the Federal employee salaries and benefits that comprise 72 percent of total program expenses. No program revenue is generated because there has been a shift in usage patterns on the part of the cottonseed industry for testing and grading services by chemists. The industry is now relying entirely on an unofficial cottonseed grade certification for their purchase and trade decisions.

Other miscellaneous and unsubstantial changes which would be made by the proposed rule will not adversely affect users of the program services. The addition of two information symbols in the form of approved AMS shields and their inclusion in the regulations would not add further costs to users of the variety of AMS Science and Technology laboratory testing services.

Accordingly, the Administrator has determined that this rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule does not contain any new information collection or recordkeeping requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).