

## Agricultural Marketing Service, USDA

## § 1205.517

a collecting handler report and remittance to the Cotton Board by the 10th day of the month following the month in which cotton was handled. The no cotton purchased report shall be signed and dated by the handler of the handler's agent.

(3) *Remittances.* The collecting handler shall remit all assessments to the Cotton Board with the report required in paragraph (a)(2) of this section. All remittances sent to the Cotton Board by collecting handlers shall be made by check, draft, or money order payable to the order of the "Cotton Board". All remittances shall be received subject to collection and payment at par.

(4) *Interest and late payment charges.* (i) There shall be an interest charge, at rates prescribed by the Cotton Board with the approval of the Secretary, on any handler who is sent a second certified mail notice of past-due assessments from the Cotton Board in any one marketing year (August 1–July 31).

(ii) In addition to the interest charge specified in paragraph (a)(4)(i) of this section, there shall be a late payment charge on any handler whose remittance is not received by the Cotton Board within 10 days after the close of the reporting period in which interest charges were first accrued. The late payment charge shall be 5 percent of the unpaid balance before interest charges have accrued.

(iii) The interest and late payment charges on the unremitted assessments for a particular reporting period will be applied from the first working day on or following the 20th day of the month in which the assessments were due.

(b) *Importer reports and remittance.* The United States Customs Service will transmit reports and assessments collected on imported cotton to the Agricultural Marketing Service according to the agreement between the Customs Service and the Agricultural Marketing Service. Upon the request of the Cotton Board, an importer shall file with the Board a report, for a period of time specified in the request, that includes the following information:

- (1) The importer's name and address;
- (2) The quantity of cotton and cotton products imported;

(3) The amount of the assessment paid on imported cotton and cotton products;

(4) The amount of imported cotton and cotton products on which the assessment was not paid to the Customs Service.

[57 FR 29190, July 1, 1992]

### § 1205.517 Failure to report and remit.

(a) Any collecting handler who fails to submit reports and remittances according to reporting periods and time schedules required in §1205.516 shall be subject to appropriate action by the Cotton Board which may include one or more of the following actions:

(1) Audits of the collecting handler's books and records to determine the amount owed the Cotton Board;

(2) Requirement that an escrow account for the deposit of assessments collected be established. Frequency and schedule of deposits and withdrawals from the escrow account shall be determined by the Cotton Board with the Approval of the Secretary;

(3) Referral to the Secretary for appropriate enforcement action;

(4) Publication of a collecting handler's name in accordance with the following provisions:

(i) The name of any collecting handler will be subject to publication if the collecting handler:

(A) is sent two certified mail notices of past due assessments and/or collecting handler reports from the Cotton Board in any one marketing year (August 1–July 31), or

(B) is required by the Cotton Board to establish an escrow account for depositing assessments, in accordance with paragraph (a)(2) of this section, and does not comply with the deposit procedures established by the Cotton Board with approval of the Secretary.

(ii) The name of any collecting handler who is subject to publication will be published by the Cotton Board with the approval of the Secretary in a monthly listing during the primary cotton marketing season (September through March) and a bi-monthly listing during the remainder of the year. The published listing will be distributed by the Cotton Board.

(iii) The Cotton Board, with approval of the Secretary, may notify individual

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producers that the assessments collected by such producer's collecting handler, whose name is subject to publication in accordance with the provisions of paragraph (a)(4)(i) of this section, have not been remitted to the Cotton Board as required.

(b) Any importer who fails to submit reports to the Cotton Board pursuant to request made according to §1205.516 or assessments to the Customs Service, shall be subject to one or more of the following actions:

(1) Audits of the importer's books and records to determine the amount owed the Cotton Board.

(2) A deduction for the amount of any unpaid assessment by the Customs Service from the importers surety bond.

(3) Referral to the Secretary for appropriate enforcement action.

[57 FR 29191, July 1, 1992]

**§ 1205.518 Receipts for payment of assessments.**

Each collecting handler who is required by §1205.512 and §1205.513 to give the producer a receipt showing payment of cotton research and promotion assessments shall provide the producer with an invoice or settlement sheet for the cotton. Such document shall serve as a receipt shall contain the following information:

(a) Name and address of collecting handler.

(b) Gin code number of gin at which cotton was ginned.

(c) Name and address of producer who paid assessment.

(d) Number of bales on which assessment was paid.

(e) Gross price per pound received by the producer.

(f) Total assessments paid by the producer.

(g) Date on which assessment was paid by producer.

(Approved by the Office of Management and Budget under control number 0581-0115)

[42 FR 35974, July 13, 1977, as amended at 49 FR 8420, Mar. 7, 1984. Redesignated and amended at 51 FR 6099, Feb. 20, 1986. Further redesignated at 57 FR 29190, July 1, 1992]

**§ 1205.519 Organic exemption.**

(a) A producer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan; produces only products that are eligible to be labeled as 100 percent organic under the NOP, except as provided for in paragraph (h) of this section; and is not a split operation shall be exempt from the payment of assessments.

(b) To apply for an exemption under this section, an eligible cotton producer shall submit a request for exemption to the Board—on a form provided by the Board—at any time initially and annually thereafter on or before the beginning of the crop year as long as the producer continues to be eligible for the exemption.

(c) The request shall include the following: The producer's name and address, a copy of the organic farm or organic handling operation certificate provided by a USDA-accredited certifying agent as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502), a signed certification that the applicant meets all of the requirements specified in paragraph (a) of this section for an assessment exemption, and such other information as may be required by the Board and with the approval of the Secretary.

(d) If the producer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the producer. For exemption requests received on or before August 15, 2005, the Board will have 60 days to approve the exemption request; after August 15, 2005, the Board will have 30 days to approve the exemption request. If the application is disapproved, the Board will notify the applicant of the reason(s) for disapproval within the same timeframe.

(e) The producer shall provide a copy of the Certificate of Exemption to each handler to whom the producer sells cotton. The handler shall maintain records showing the exempt producer's name and address and the exemption number assigned by the Board.

(f) An importer who imports only products that are eligible to be labeled as 100 percent organic under the NOP (7