

force for at least 1 year after the date the agency issues specific reduction in force notices.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects Federal employees.

### List of Subjects in Part 351

Administrative practice and procedure, Government employees.

U.S. Office of Personnel Management.

**Janice R. Lachance,**

*Director.*

Accordingly, OPM proposes to amend part 351 of title 5, Code of Federal Regulations, as follows:

## PART 351—REDUCTION IN FORCE

1. The authority citation for part 351 continues to read as follows:

**Authority:** 5 U.S.C. 1302, 3502, 3503; sec. 351.801 also issued under E.O. 12828, 58 FR 2965.

2. Section 351.503 is revised to read as follows:

### § 351.503 Length of service.

(a) All civilian service as a Federal employee, as defined in 5 U.S.C. 2105(a), is creditable for purposes of this part. Civilian service performed in employment that does not meet the definition of *Federal employee* set forth in 5 U.S.C. 2105(a) is creditable for purposes of this part only if specifically authorized by statute as creditable for retention purposes.

(b)(1) As authorized by 5 U.S.C. 3502(a)(A), all active duty in a uniformed service, as defined in 5 U.S.C. 2101(3), is creditable for purposes of this part, except as provided in paragraphs (b)(2) and (b)(3) of this section.

(2) As authorized by 5 U.S.C. 3502(a)(B), a retired member of a uniformed service who is covered by § 351.501(d) is entitled to credit under this part only for:

(i) The length of time in active service in the Armed Forces during a war, or in a campaign or expedition for which a campaign or expedition badge has been authorized; or

(ii) The total length of time in active service in the Armed Forces if the employee is considered a preference eligible under 5 U.S.C. 2108 and 5 U.S.C. 3501(a), as implemented in § 351.501(d).

(3) An employee may not receive dual service credit for purposes of this part for service performed on active duty in

the Armed Forces that was performed during concurrent civilian employment as a Federal employee, as defined in 5 U.S.C. 2105(a).

(c)(1) The agency is responsible for establishing both the service computation date, and the adjusted service computation date, applicable to each employee competing for retention under this part. If applicable, the agency is also responsible for adjusting the service computation date and the adjusted service computation date to withhold retention service credit for noncreditable service.

(2) The service computation date includes all actual creditable service under paragraph (a) and paragraph (b) of this section.

(3) The adjusted service computation date includes all actual creditable service under paragraph (a) and paragraph (b) of this section, and additional retention service credit for performance authorized by § 351.504(d).

(d) The service computation date is computed on the following basis:

(1) The effective date of appointment as a Federal employee under 5 U.S.C. 2105(a) when the employee has no previous creditable service under paragraph (a) or (b) of this section; or if applicable,

(2) The date calculated by subtracting the employee's total previous creditable service under paragraph (a) or (b) of this section from the most recent effective date of appointment as a Federal employee under 5 U.S.C. 2105(a).

(e) The adjusted service computation date is calculated by subtracting from the date in paragraph (d)(1) or (d)(2) of this section the additional service credit for retention authorized by § 351.504(d).

3. § 351.505 is revised to read as follows:

### § 351.505 Records.

(a) The agency is responsible for maintaining correct personnel records that are used to determine the retention standing of its employees competing for retention under this part.

(b) The agency must allow its retention registers and related records to be inspected by:

(1) An employee of the agency who has received a specific reduction in force notice, and/or the employee's representative if the representative is acting on behalf of the individual employee; and

(2) An authorized representative of OPM.

(c) An employee who has received a specific notice of reduction in force under authority of subpart H of this part has the right to review any completed records used by the agency in a

reduction in force action that was taken, or will be taken, against the employee, including:

(1) The complete retention register with the released employee's name and other relevant retention information (including the names of all other employees listed on that register, their individual service computation dates calculated under § 351.503(d), and their adjusted service computation dates calculated under § 351.503(e)) so that the employee may consider how the agency constructed the competitive level, and how the agency determined the relative retention standing of the competing employees; and

(2) The complete retention registers for other positions that could affect the composition of the employee's competitive level, and/or the determination of the employee's assignment rights (e.g., registers to which the released employee may have potential assignment rights under § 351.701(b) and (c)).

(d) An employee who has not received a specific reduction in force notice has no right to review the agency's retention registers and related records.

(e) The agency is responsible for ensuring that each employee's access to retention records is consistent with both the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act (5 U.S.C. 552a).

(f) The agency must preserve all registers and records relating to a reduction in force for at least 1 year after the date it issues a specific reduction in force notice.

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## DEPARTMENT OF AGRICULTURE

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 810

#### United States Standards for Sorghum

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Grain Inspection, Packers and Stockyards Administration (GIPSA) is conducting a review of the United States Standards for Sorghum. GIPSA invites comments and suggested changes to these standards.

**DATES:** To be assured of consideration, written comments must be filed before October 13, 1998.

**ADDRESSES:** Written comments must be sent to Sharon Vassiliades, GIPSA, USDA, STOP 3649, 1400 Independence Avenue, SW, Washington, DC 20250-3649; FAX to (202) 720-4628; or e-mail svassili@fgisdc.usda.gov.

All comments received will be made available for public inspection in Room 0623, USDA South Building, 1400 Independence Avenue, SW, Washington, DC, during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** John Giler, telephone (202) 720-0252.

**SUPPLEMENTARY INFORMATION:** GIPSA is conducting a review of the United States Standards for Sorghum in Subpart I of 7 CFR part 810 at sections 810.1401-810.1405.

During this review, GIPSA will assess the need for revisions on the various sections of the United States Standards for Sorghum, the potential for improvements, and language clarity.

GIPSA invites any comments and/or suggestions concerning these standards, including those addressing sorghum classification and/or definition of sorghum, definition of broken kernels and foreign material, and the definition for damaged kernels.

**Authority:** Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71, *et seq.*)

Dated: August 7, 1998.

**James R. Baker,**

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

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## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

#### 12 CFR Part 502

[No. 98-74]

RIN 1550-AB20

#### Assessments and Fees

**AGENCY:** Office of Thrift Supervision, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of Thrift Supervision (OTS) is proposing to amend its regulations to more equitably impose assessments on savings associations. OTS's experience has shown that the current assessment structure may cause some savings associations to pay assessments over or under OTS's costs of supervising those savings associations. The proposal seeks to minimize these disparities. In particular, the proposal would increase assessments on most institutions with

significant off-balance sheet activities. In the aggregate, the proposed changes should initially result in decreased assessments with respect to healthy institutions without significant off-balance sheet activities. The proposal would also clarify certain other matters involving assessments and other fees and would revise the entire assessment and fee regulation using a plain language format.

**DATES:** Comments must be received on or before October 13, 1998.

**ADDRESSES:** Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 98-74. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906-7755; or by e-mail: public.info@ots.treas.gov. Comments will be available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days.

**FOR FURTHER INFORMATION CONTACT:** Christine Harrington, Counsel (Banking and Finance), (202) 906-7957, or Karen Osterloh, Assistant Chief Counsel, (202) 906-6639, Regulations and Legislation Division, Chief Counsel's Office; or Eric Hirschhorn, Principal Financial Economist, (202) 906-7350, Research & Analysis; William Brady, Acting Director, Planning & Budget, (202) 906-7408, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

OTS is charged with the mission of examining, regulating, and providing for the safe and sound operation of savings associations.<sup>1</sup> Under 12 U.S.C. 1467, OTS funds these operations through assessments on savings associations and through other fees, as necessary and appropriate.

In the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Congress amended OTS's statutory assessment authority by removing a provision requiring OTS to assess the costs of examining savings associations and their affiliates in proportion to their assets or resources. Instead, Congress authorized the Director of OTS to assess examination costs against savings associations and their affiliates, and to recover the agency's direct and indirect expenses, as the Director deems necessary or appropriate. OTS's experience has

shown that the current assessment structure can be improved to more equitably correlate assessments with OTS's costs. OTS proposes to exercise FDICIA's added flexibility to better apportion the costs of OTS regulation among savings associations. The agency has two primary goals: (1) establishing an assessment structure that keeps the assessment rates as low as possible while providing the agency the resources essential to effective supervision of a changing industry, and (2) more closely tailoring rates to the agency's increased costs in supervising certain types of institutions. In the aggregate, the proposed changes should initially result in decreased assessments for healthy institutions without significant off-balance sheet activities, that is, for traditional thrift institutions. In the future, OTS's revenue would increase or decrease as the size, activities, and condition of institutions it regulates, change.

##### II. Description of Proposal

Under the proposed rule, OTS will determine a savings association's assessment by adding together three components that reflect the size of the institution, its condition, and the complexity of its operations. As discussed more fully below, in the agency's experience, each of these factors substantially affects OTS's costs of supervising savings associations.

##### A. Asset Size

Under the current OTS regulation, assessments are based on the savings association's total assets, as reported in the consolidated Thrift Financial Report. OTS's current regulation uses decreasing marginal assessment rates for increasingly larger institutions. This method was intended to reflect economies of scale realized in supervising and regulating larger institutions. However, OTS's experience has shown that the current regulation uses marginal assessment rates that are no longer consistent with OTS's economies of scale. Further, it omits certain fixed costs that are the same or nearly the same for institutions of all sizes, such as costs of drafting regulations and policies, and basic costs of conducting examinations.

OTS derived information on the magnitude of economies of scale in thrift supervision and the relationship between other thrift institution attributes and supervisory expenses from a statistical analysis of the variation in total examiner hours among thrifts. Examiner hours are the main component of supervisory expenses that vary with the size, condition, or other

<sup>1</sup> 12 U.S.C. 1463(a).