

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 28

[Docket Number: AMS–CN–07–0060; CN–07–003]

RIN 0581–AC68

#### User Fees for 2007 Crop Cotton Classification Services to Growers

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) will maintain user fees for cotton producers for 2007 crop cotton classification services under the Cotton Statistics and Estimates Act at the same level as in 2006. The fee is calculated in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 2006 user fee for this classification service was \$1.85 per bale. This rule would maintain the fee for the 2007 crop at \$1.85 per bale. The fee and the existing reserve are sufficient to cover the costs of providing classification services, including costs for administration and supervision.

**DATES:** *Effective Date:* July 1, 2007.

**FOR FURTHER INFORMATION CONTACT:** Darryl Earnest, Deputy Administrator, Cotton Program, AMS, USDA, Room 2639–S, STOP 0224, 1400 Independence Avenue, SW., Washington, DC 20250–0224. Telephone (202) 720–2145, facsimile (202) 690–1718, or e-mail [darryl.earnest@usda.gov](mailto:darryl.earnest@usda.gov).

**SUPPLEMENTARY INFORMATION:** A proposed rule detailing the revisions was published in the **Federal Register** on April 19, 2007 (72 FR 19674). A 15-day comment period was provided for interested persons to respond to the proposed rule. During the 15-day

comment period, one comment was received. A comment was received from a producers association in support of the proposed rule, the continued use of the legislative formula for establishing the cotton user fees, and the cotton classing services provided.

#### Executive Order 12866

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

#### Executive Order 12988

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

#### 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.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 30,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201). Continuing the user fee at the 2006 crop level as stated will not significantly affect small businesses as defined in the RFA because:

(1) The fee represents a very small portion of the cost-per-unit currently borne by those entities utilizing the services. (The 2006 user fee for classification services was \$1.85 per bale; the fee for the 2007 crop would be maintained at \$1.85 per bale; the 2007 crop is estimated at 19,900,000 bales).

(2) The fee for services will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 2006 crop, 21,729,000 bales were produced; and, almost all of these bales were voluntarily submitted by growers for the classification service.

(4) Based on the average price paid to growers for cotton from the 2005 crop of 46.9 cents per pound, 500 pound bales of cotton are worth an average of \$234.50 each. The proposed user fee for classification services, \$1.85 per bale, is less than one percent of the value of an average bale of cotton.

#### Paperwork Reduction Act

In compliance with 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 provisions to be amended by this rule have been previously approved by OMB and were assigned OMB control number 0581–AC58.

#### *Fees for Classification Under the Cotton Statistics and Estimates Act of 1927*

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was \$1.85 per bale during the 2006 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The fees cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, and supervision.

This rule establishes the user fee charged to producers for HVI classification at \$1.85 per bale during the 2007 harvest season.

Public Law 102–237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 2006. Therefore, the 2007 producer's user fee for classification service is based on the 2006 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The 2006 base fee for HVI classification exclusive of adjustments, as provided by

the Act, was \$2.45 per bale. An increase of 2.82 percent, or 7 cents per bale, due to the implicit price deflator of the gross domestic product added to the \$2.45 would result in a 2007 base fee of \$2.52 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, gross *national* product has been replaced by gross *domestic* product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 2007 crop is estimated at 19,900,000 bales. The 2007 base fee was decreased 15 percent based on the estimated number of bales to be classed (1 percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum decreased adjustment of 15 percent). This percentage factor amounts to a 38 cents per bale reduction and was subtracted from the 2007 base fee of \$2.52 per bale, resulting in a fee of \$2.14 per bale.

However, with a fee of \$2.14 per bale, the projected operating reserve would be 37.2 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of \$2.14 must be reduced by 29 cents per bale, to \$1.85 per bale, to provide an ending accumulated operating reserve for the fiscal year of not more than 25 percent of the projected cost of operating the program. This would establish the 2007 season fee at \$1.85 per bale.

Accordingly, § 28.909, paragraph (b) would reflect the continuation of the HVI classification fee at \$1.85 per bale.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a 5 cent per bale discount would continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909(c).

Growers or their designated agents receiving classification data would continue to incur no additional fees if classification data is requested only once. The fee for each additional retrieval of classification data in § 28.910 would remain at 5 cents per bale. The fee in § 28.910(b) for an owner receiving classification data from the National database would remain at 5 cents per bale, and the minimum charge of \$5.00 for services provided per monthly billing period would remain

the same. The provisions of § 28.910(c) concerning the fee for new classification memoranda issued from the National database for the business convenience of an owner without reclassification of the cotton will remain the same at 15 cents per bale or a minimum of \$5.00 per sheet.

The fee for review classification in § 28.911 would be maintained at \$1.85 per bale. The fee for returning samples after classification in § 28.911 would remain at 40 cents per sample.

Pursuant to 5 U.S.C. 553, good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because this rule maintains user fees for 2007 crop cotton classification services under the Cotton Statistics and Estimates Act at the same level as in 2006 and a 15-day comment period was provided for public comment and one favorable comment was received.

#### List of Subjects in 7 CFR Part 28

Administrative practice and procedure, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

■ For the reasons set forth in the preamble, 7 CFR part 28 is amended as follows:

#### PART 28—[AMENDED]

■ 1. The authority citation for 7 CFR part 28, subpart D, continues to read as follows:

**Authority:** 7 U.S.C. 471–476.

■ 2. In § 28.909, paragraph (b) is revised to read as follows:

#### § 28.909 Costs.

\* \* \* \* \*

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is \$1.85 per bale.

\* \* \* \* \*

■ 3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

#### § 28.911 Review classification.

(a) \* \* \* The fee for review classification is \$1.85 per bale.

\* \* \* \* \*

Dated: May 30, 2007.

**Kenneth C. Clayton,**  
*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. E7–10675 Filed 5–31–07; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS–2007–0028]

#### **Emerald Ash Borer; Quarantined Areas; Maryland**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the emerald ash borer regulations by adding Prince George's County, MD, to the list of areas quarantined because of emerald ash borer. As a result of this action, the interstate movement of regulated articles from that county is restricted. This action is necessary to prevent the artificial spread of the emerald ash borer from Prince George's County, MD, into noninfested areas of the United States.

**DATES:** This interim rule is effective June 1, 2007. We will consider all comments that we receive on or before July 31, 2007.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click "Submit." In the Docket ID column, select APHIS–2007–0028 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to APHIS–2007–0028, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to APHIS–2007–0028.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you,