

Moreover, in accordance with section 6(a)(3)(B) of E.O. 12866, the preamble to these revisions notes the legal basis and benefits of, as well as the need for, the regulatory action. There should be no appreciable increase in costs to OGE or the executive branch of the federal government in administering these regulatory amendments, since the provisions only clarify OGE's original intent regarding sole and exclusive agency authority under the executive branchwide government ethics regulations. Finally, this rulemaking is not economically significant under the Executive Order and will not interfere with State, local or tribal governments.

#### *Executive Order 12988*

As Director of the Office of Government Ethics, I have reviewed this final amendatory rulemaking in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

#### List of Subjects

##### *5 CFR Part 2634*

Certificates of divestiture, Conflict of interests, Government employees, Penalties, Reporting and recordkeeping requirements, Trusts and trustees.

##### *5 CFR Part 2638*

Conflict of interests, Government employees, Reporting and recordkeeping requirements.

Dated: September 21, 2007.

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

■ For the reasons set forth in the preamble, the Office of Government Ethics is amending parts 2634 and 2638 of subchapter B of chapter XVI of title 5 of the Code of Federal Regulations as follows:

#### Title 5—Administrative Personnel

#### CHAPTER XVI—OFFICE OF GOVERNMENT ETHICS

#### SUBCHAPTER B—GOVERNMENT ETHICS

#### PART 2634—EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

■ 1. The authority citation for part 2634 continues to read as follows:

**Authority:** 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104–134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p.

215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

#### Subpart I—Confidential Financial Disclosure Reports

■ 2. Section 2634.906 is amended by removing the note and revising the regulatory text of the section to read as follows:

##### **§ 2634.906 Review of confidential filer status.**

The head of each agency, or an officer designated by the head of the agency for that purpose, shall review any complaint by an individual that his position has been improperly determined by the agency to be one which requires the submission of a confidential financial disclosure report pursuant to this subpart. A decision by the agency head or designee regarding the complaint shall be final.

#### PART 2638—OFFICE OF GOVERNMENT ETHICS AND EXECUTIVE AGENCY ETHICS PROGRAM RESPONSIBILITIES

■ 3. The authority citation for part 2638 continues to read as follows:

**Authority:** 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

#### Subpart A—General Provisions

■ 4. Section 2638.101 is amended by adding a new paragraph (c) to read as follows:

##### **§ 2638.101 Authority and purpose.**

\* \* \* \* \*

(c) *Agency authority.* Subject only to the authority of the Office of Government Ethics as the supervising ethics office for the executive branch, all authority conferred on agencies in this subchapter B of chapter XVI of title 5 of the Code of Federal Regulations is sole and exclusive authority.

[FR Doc. E7–19470 Filed 10–2–07; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 28

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

RIN 0581–AC75

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

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

**ACTION:** Interim final rule.

**SUMMARY:** The Smith-Doxey Amendment of 1937 (7 U.S.C. 473a) to the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476) provided authority for the USDA to perform cotton classification and market news services to producers at no cost. Prior to that time, authorization for classing services was provided through the Cotton Standards Act of 1923 (7 U.S.C. 51–65) and for statistical purposes through the Cotton Statistics and Estimates Act of 1927. Costs for classing services under the Smith-Doxey Amendment were supplied through appropriated funds until 1981 at which time the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) authorized the USDA to begin collecting user fees for their services and the classing fee structure was implemented through the Smith-Doxey Amendment. The statutory authority for the delivery of classing services and collection of applicable fees under the Smith-Doxey Amendment will lapse on September 30, 2007. This rulemaking is necessary to re-establish the regulatory authority for the program's continued operation and incorporate the current fee structure for the 2007 crop year, which was published in the June 1, 2007, **Federal Register** (72 FR 30457), under the authority of the Cotton Standards Act of 1923.

**DATES:** *Effective Date:* October 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:

##### **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. 601–612) 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;

(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; and

(5) This rule does not change any of the provisions in the regulations which were in effect for this activity under the Cotton Statistics and Estimates Act of 1927 with the exception of the definition of “Act” as these regulations will now be authorized under a new authority.

### Paperwork Reduction Act

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520), 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.

**SUPPLEMENTARY INFORMATION:** The United States Cotton Standards Act of 1923 (7 U.S.C. 51–65) was enacted into law on March 4, 1923, to authorize the Secretary of Agriculture to establish and promote the use of the official cotton standards of the United States for the classification of cotton by which its quality or value may be judged or determined for commercial purposes; to prevent deception therein and provide for the proper application of such standards; to establish a classing service for the public on a fee basis; and to provide for the licensing of qualified classers to determine the quality of cotton according to the official standards. The Act called for the Secretary of Agriculture to cause to be collected such fees and charges for services and materials rendered to cover, as nearly as practicable, and after taking into consideration net proceeds from any sale of samples, the costs incident to providing services and standards under the sections of the Act including administrative and supervisory costs.

The Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476) was enacted into law March 3, 1927, and directed the Secretary of Agriculture to collect and publish annually statistics of estimates of the grades of the cotton carryover each year and to collect and publish at least three estimates each year of the grades of the current crop as ginned. Classing services were conducted under this Act to provide industry with these estimates of cotton quality. Due to the imminent need felt by the Secretary of Agriculture to provide as much information possible regarding the cotton quality and the commercial value at the time it was sold, an amendment to the Cotton Statistics and Estimates Act was passed by Congress on April 13, 1937, the Smith-Doxey Amendment (7 U.S.C. 473a). The Amendment authorized and directed the Secretary of Agriculture to provide free classing and market news services to members of organized cotton improvement groups. These free services were continued until 1981 when the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) was enacted on August 13, 1981,

which contained an amendment to the Cotton Statistics and Estimates Act known as the “Cotton Classification Act” (Pub. L. 97–35, Stat. 373–374) that directed the Secretary of Agriculture to provide cotton classification services to producers, and recover, as nearly as practicable, the costs of providing such services through imposition of user fees. The statutory authority found in the Cotton Statistics and Estimates Act of 1927, which has been used for cotton classification activities since 1981, will lapse on September 30, 2007. As a result of this, the cotton classification service will continue to operate under the authority of the United States Cotton Standards Act of 1923 with all previous provisions for program operations and fee rates to remain constant.

### Fees for Classification Under the Cotton Standards Act

This rulemaking incorporates the current fee structure for the 2007 crop year that was published in the **Federal Register** on June 1, 2007 (72 FR 30457). The fee rate of \$1.85 per bale charged to cotton producers for High Volume Instrument (HVI) classification services during the 2007 harvest season is deemed to, as nearly as practicable, cover salaries, costs of equipment and supplies, and other overhead costs, including costs for administration, and supervision.

This rule ensures that classing services remain uninterrupted and that the fee rate charged to producers for classification remains at \$1.85 per bale during the 2007 harvest season under the Cotton Standards Act of 1923.

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 (Pub. L. 102–237), 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 the current authority under which USDA performs cotton classification and charges user fees will lapse on September 30, 2007.

#### 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, subpart B, is revised to read as follows:

### PART 28—COTTON CLASSING, TESTING, AND STANDARDS

#### Subpart D—Cotton Classification and Market News Service for Producers

##### Definitions

Sec.  
28.901 Definitions.

Administration  
28.902 Director.

##### Classification and Market News Services

28.903 Classification of samples.  
28.904 Market news.

##### Sampling

28.906 Sampling arrangements.  
28.907 Responsibilities of licensed gins or warehouses.  
28.908 Samples.  
28.909 Costs.

##### Classification

28.910 Classification of samples and issuance of classification data.  
28.911 Review classification.

##### Limitation of Services

28.917 Limitation of services.

#### Subpart D—Cotton Classification and Market News Service for Producers

**Authority:** 7 U.S.C. 51–65; 7 U.S.C. 471–476.

##### Definitions

##### § 28.901 Definitions.

When used in the regulations in this subpart:

(a) *Act* means the United States Cotton Standards Act of 1923, as

amended (7 U.S.C. 51–65) and the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476), unless otherwise noted.

(b) *Service* means the Agricultural Marketing Service of the United States Department of Agriculture.

(c) *Administrator* means the Administrator of the Agricultural Marketing Service, or any officer or employee of the Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act for the Administrator.

(d) *Division* means the Cotton Division of the Agricultural Marketing Service.

(e) *Director* means the Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act for the Director.

(f) *Producer* means any individual, partnership, corporation, association, trust, estate, or other legal entity, a state or political subdivision thereof, or any agency of such state or political subdivision producing American Upland or American Pima cotton in the capacity of landowner, landlord, tenant, or sharecropper.

##### Administration

##### § 28.902 Director.

The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

##### Classification and Market News Services

##### § 28.903 Classification of samples.

The Director, or an authorized representative, upon the receipt of a producer's cotton sample which complies with the regulations in this subpart shall, as hereinafter provided, furnish to such producer or to an agent designated by the producer the classification in accordance with the official cotton standards of the United States.

##### § 28.904 Market news.

The Director shall cause to be distributed to producers of cotton and to others on request, timely information on prices for various qualities of cotton.

##### Sampling

##### § 28.906 Sampling arrangements.

(a) Cotton must be sampled by a gin or warehouse that holds a valid license to sample cotton issued pursuant to §§ 28.20 through 28.22.

(b) The Director, or an authorized representative may direct that sampling be performed by employees of the Department of Agriculture for the purpose of appraising the sampling procedures at cotton gins or warehouses, or for the purpose of providing service to producers in special cases where a licensed gin or warehouse is not available.

##### § 28.907 Responsibilities of licensed gins or warehouses.

Each licensee shall be primarily responsible for drawing, identifying, handling, and shipping samples of cotton in accordance with this subpart and with instructions furnished by the Director or an authorized representative from time to time.

##### § 28.908 Samples.

(a) *Only one sample to be submitted.* Only one sample from each bale of eligible cotton shall be submitted for classification under this subpart. This does not prohibit the submission of an additional sample from a bale for review classification if the producer so desires.

(b) *Drawing of samples manual.* (1) Each cut sample shall be drawn from the bale after it is tied out following the ginning process, and shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale: *Provided,* That each sample from a bale of American Pima cotton shall be approximately 10 ounces in weight, not less than 5 ounces of which are to be drawn from each side of the bale.

(2) Where it is necessary to draw two sets of samples, a single cut should be made in each side of the bale, and the portion of cotton removed from each cut should be broken in half across the layers to provide two complete samples. In those cases where this method would result in samples of insufficient length, it will be acceptable to split the sample lengthwise along the layers, provided the outside portion from each side is submitted for the official classification.

(c) *Mechanical sampling.* Samples may be drawn in gins equipped with mechanical samplers approved by the Division and operated according to sampling instructions furnished by the Director or an authorized representative. Such samples shall not be less than 6 ounces in weight.

(d) *Samples must be representative.* Each sample must be representative of the bale from which drawn.

(e) *Handling samples.* Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their

representative character. Samples shall be handled only by employees of the licensee prior to shipment or delivery to the cotton classing office of the Division.

(f) *Identifying and shipping samples.* Each sample shall be identified with a tag, supplied or approved by the Division, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the licensed gin or warehouse. The packages shall be shipped or delivered direct to the cotton classing office serving the territory in which the cotton is ginned. Samples that where drawn by a mechanical sampler at the gin may be transported with the bales to the warehouse and then shipped or delivered direct to the classing office by the warehouse.

(g) *Request for classification.* Samples received from a licensed gin or warehouse with the identification tag required in § 28.908(f) shall constitute a request for classification service by the producer.

#### § 28.909 Costs.

(a) Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be assumed by the producer, but tags and containers for the shipment of samples and shipping charges via U.S. Postal Service or duly authorized common carrier will be furnished by the service. After classification the samples shall become the property of the Government. The proceeds of the sale of cotton samples shall be used to defray the costs of providing the services under this subpart.

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

(c) The Division will periodically bill producers or the voluntary agents designated by producers for the cost of classification. A discount of 5 cents per sample will be granted for services provided under this section when billing is made to voluntary agents.

#### Classification

##### § 28.910 Classification of samples and issuance of classification data.

(a)(1) The samples submitted as provided in the subpart shall be classified by employees of the Division and classification memoranda showing the official quality determination of

each sample according to the official cotton standards of the United States shall be issued by any one of the following methods at no additional charge:

- (i) Computer diskettes,
- (ii) Computer tapes, or
- (iii) Telecommunications, with all long distance telephone line charges paid by the receiver of data.

(2) When an additional copy of the classification memorandum is issued by any method listed in paragraph (a)(1), there will be a charge of five cents per bale. If provided as an additional method of data transfer, the minimum fee for each tape or diskette issued shall be \$10.00.

(b) Owners of cotton, other than producers, may receive classification data showing the official quality determination of each sample by means of telecommunications from a central database to be maintained by the Division. The fee for this service shall be five cents per bale, with all long distance telephone line charges paid by the receiver of data. The minimum charge assessed for services obtained from the central database shall be \$5.00 per monthly billing period.

(c) Upon request of an owner of cotton for which classification memoranda have been issued under the subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be 15 cents per bale or a minimum of \$5.00 per sheet.

##### § 28.911 Review classification.

(a) A producer may request one review classification for each bale of eligible cotton. The fee for review classification is \$1.85 per bale.

(b) Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20 through 28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification, the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government

property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 40 cents per sample in addition to the fee established above in this section.

#### Limitations of Services

##### § 28.917 Limitations of services.

The Director, or an authorized representative, may suspend, terminate, or withhold cotton classing and market news services to any producer upon any failure of the producer to comply with the act or these regulations. Failure to remit fees for classification services shall result in loss of service.

Dated: September 28, 2007.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

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## FEDERAL ELECTION COMMISSION

### 11 CFR Part 113

[Notice 2007-18]

#### Use of Campaign Funds for Donations to Non-Federal Candidates and Any Other Lawful Purpose Other Than Personal Use

**AGENCY:** Federal Election Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Election Commission is revising its rules regarding the use of campaign funds by candidates and other individuals. The revision adds to the current list of permissible uses of campaign funds in Commission regulations: donations to non-Federal candidates; and any other lawful purpose other than personal use. This change conforms the provision with those in the Federal Election Campaign Act, as amended (“the Act”). Further information is provided in the supplementary information that follows.

**EFFECTIVE DATE:** November 2, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy L. Rothstein, Assistant General Counsel, or Ms. Stacey J. Shin, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** Section 313 of the Federal Election Campaign Act of 1971, as amended (“the Act”), sets forth permissible uses of