

from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and law enforcement personnel; to ensure DHS' ability to obtain information from third parties and other sources; to protect the privacy of third parties; and to safeguard classified information. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions proposed here are standard law enforcement and national security exemptions exercised by a large number of federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records for DHS/FEMA-012 Suspicious Activity Reporting System of Records is also published in this issue of the **Federal Register**.

#### List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

For the reasons stated in the preamble, DHS proposes to amend Chapter I of Title 6, Code of Federal Regulations, as follows:

#### PART 5—DISCLOSURE OF RECORDS AND INFORMATION

1. The authority citation for Part 5 continues to read as follows:

**Authority:** Pub. L. 107-296, 116 Stat. 2135; 6 U.S.C. 101 *et seq.*; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

2. Add at the end of Appendix C to Part 5, the following new paragraph "60":

#### Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

\* \* \* \* \*

60. The DHS/FEMA-012 Suspicious Activity Reporting System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/FEMA-012 Suspicious Activity Reporting System of Records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The DHS/FEMA-012

Suspicious Activity Reporting System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, state, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to limitations set forth in 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) pursuant to 5 U.S.C. 552a (k)(2). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or

procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: September 9, 2011.

**Mary Ellen Callahan,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. 2011-24935 Filed 9-28-11; 8:45 am]

**BILLING CODE 9110-17-P**

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 27

[Doc. #AMS-CN-10-0073; CN-10-005]

RIN 0581-AD16

#### Revision of Cotton Futures Classification Procedures

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

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is proposing to update the procedures for cotton futures quality classification services by using Smith-Doxey classification data in the cotton futures classification process. In addition, references to a separate and optional review of cotton futures certification would be eliminated to reflect current industry practices. These proposed changes in procedures for cotton futures quality classification services, as well as proposed conforming changes, reflect advances in cotton fiber quality measurement and data processing made since the regulations were last updated in 1992.

**DATES:** Comments must be received on or before October 31, 2011.

**ADDRESSES:** Interested persons may comment on the proposed rule using the following procedures:

• **Internet:** <http://www.regulations.gov>.

• **Mail:** Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, STOP 0224, 1400 Independence Avenue, SW., Washington, DC 20250-0224. Comments should be submitted in triplicate. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

All comments will be available for public inspection at Cotton & Tobacco

Program, AMS, USDA, Room 2637-S, 1400 Independence Avenue, SW., Washington, DC 20250 during regular business. Comments, including the identity of the commenter can also be reviewed on: <http://www.regulations.gov>. A copy of this notice may be found at: <http://www.ams.usda.gov/cotton/rulemaking.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, STOP 0224, 1400 Independence Avenue, SW., Washington, DC 20250-0224. Telephone (202) 720-2145, facsimile (202) 690-1718, or e-mail [darryl.earnest@ams.usda.gov](mailto:darryl.earnest@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposed 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures which must 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 entities. Fees paid by users of the service are not changed by this action; implementation of the new procedures indicates the existing fees remain sufficient to fully reimburse AMS for provision of the services.

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 approximately sixty cotton merchant organizations of various sizes active in trading U.S. cotton. Cotton merchants voluntarily use the AMS cotton futures classification services annually under the Cotton Futures Act (Act) (7 U.S.C. 15b). Many of these cotton merchants are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201).

Revisions being proposed reflect the progress made in quality determination and data dissemination. The proposed process changes in the classification of

cotton futures will yield increases of efficiency to the benefit of the cotton marketing industry.

**Paperwork Reduction Act**

In compliance with Office of Management and Budget (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 regulation to be amended have been previously approved by OMB and were assigned control number 0581-0029.

**Background**

AMS Cotton and Tobacco Programs is proposing to revise procedures for providing services related to the classification of cotton futures as authorized by Act by using Smith-Doxey classification data in the cotton futures classification process. The Act requires USDA-certified quality measurements for each bale included in futures contracts for the purpose of verifying that each bale meets the minimum quality requirements for cotton futures trading.

USDA was first directed to provide cotton classification services to producers of cotton under the Smith-Doxey Act of April 13, 1937 (Pub. L. 75-28). Therefore, the original classification of a cotton bale's sample and quality data which results from this classification is commonly referred to as the Smith-Doxey classification or Smith-Doxey data. While cotton classification is not mandatory, practically every cotton bale grown in the United States today is classed by USDA under the authority of the Cotton Statistics and Estimates Act (7 U.S.C. 471-476) and the U.S. Cotton Standards Act (7 U.S.C. 51-65) and under regulations found in 7 CFR part 28—Cotton Classing, Testing, and Standards. The U.S. cotton industry uses Smith-Doxey classification data to assign quality-adjusted market values to U.S. cotton and market U.S. cotton both domestically and internationally. Although the Smith-Doxey classification and the futures classification are independent measures of cotton quality that serve different purposes, the Smith-Doxey data is used by the cotton merchant community to indicate which bales may be tenderable against a cotton futures contract.

USDA's cotton classification capabilities have dramatically improved as a result of the extensive technological progress, increasing data accuracy and operational efficiency. In addition to the increased accuracy and reliability of Smith-Doxey data, improvements in data management and the desire to

increase operational efficiencies have prompted the Cotton and Tobacco Programs to propose the use of Smith-Doxey classification data in the cotton futures classification process.

Currently, the futures classification process is a two-step process that occurs after the Smith-Doxey classification in which an initial futures classification is immediately verified by a review—commonly referred to as a final futures classification. When verified by a futures classification, Smith-Doxey classification data will serve as the initial futures classification with the verifying futures classification serving as the final futures classification, reducing the number of futures classifications required in many instances. Verification of Smith-Doxey classing data is necessary because certain quality characteristics—especially color—are known to change over time and when cotton is subjected to certain environmental conditions.

In cases where the comparison of Smith-Doxey data and futures classification data fail to pass pre-established tolerances, the first futures classification becomes the initial futures classification and a second futures classification (final futures classification) will be required. The use of Smith-Doxey classification data will significantly reduce the need for yet another cotton futures classification. The proposed changes would improve operational efficiency while potentially improving the integrity and accuracy of classification data provided to the cotton industry.

For the reasons set forth above, this proposal would amend 7 CFR part 27—Cotton Classification Under Cotton Futures Legislation, which establishes the procedures for determining cotton classification for cotton submitted for futures certification. Specific changes required to implement the proposed futures classification procedure include the elimination of outdated procedures in sections 27.61-27.67, 27.69 and 27.72 used to guide optional reviews of futures classifications and the elimination of references to fees charged for “initial classification and certification”, “review classification and certification” and “combination services” in section 27.80. Conforming changes would also remove references to eliminated sections 27.9, 27.14, 27.21., 27.36 and 27.47 and apply current organizational terminology in paragraph (h) of section 27.2 and section 27.39.

As stated above, the cotton futures classification includes a process by which an initial futures classification is followed up by a futures final

classification. While not mandatory, this two-stage process has been deemed appropriate by the industry. Therefore, sections 27.61–27.67, 27.69 and 27.72, which address optional reviews of futures classifications, are irrelevant. Furthermore, reference to “initial classification and certification” fees in paragraph (a) of section 27.80 are removed to avoid confusion with Smith-Doxey classifications and to reflect that initial classification fees are already specified in paragraph (b) of 7 CFR 28.909. Likewise, reference to “review classification and certification” fees in paragraph (b) of section 27.80 are removed since fees for review classifications are already specified in 7 CFR 28.911.

The term “combination services” in paragraph (d) of section 27.80 reflects the current practice of performing an “initial” futures classification and an immediate “review” futures classification. Since Smith-Doxey classification data will serve as the initial futures classification when verified by a “review” futures classification, these services will be simply defined as “futures classification services.”

#### List of Subjects in 7 CFR Part 27

Commodity futures, Cotton.

For the reasons set forth in the preamble it is proposed that 7 CFR part 27 be amended as follows:

#### PART 27—[AMENDED]

1. The authority citation for 7 CFR part 27 continues to read as follows:

**Authority:** 7 U.S.C. 15b, 7 U.S.C. 4736, 7 U.S.C. 1622(g).

2. In § 27.2, paragraph (h) is revised to read as follows:

#### § 27.2 Terms defined.

\* \* \* \* \*

(h) *Cotton Quality Assurance Division.* The Cotton Quality Assurance Division at Memphis, Tennessee, shall provide supervision of futures cotton classification.

\* \* \* \* \*

3. Section 27.9 is revised to read as follows:

#### § 27.9 Classing Offices; Cotton Quality Assurance Division.

Classing Offices shall be maintained at points designated for the purpose by the Administrator. The Cotton Quality Assurance Division shall provide supervision of futures cotton classification and perform other duties as assigned by the Deputy Administrator.

4. Section 27.14 is revised to read as follows:

#### § 27.14 Filing of classification requests.

Requests for futures classification shall be filed with the Cotton Quality Assurance Division within 10 days after sampling and before classification of the samples.

#### § 27.21 [Removed and Reserved]

5. Section 27.21 is removed and reserved.

6. Section 27.36 is revised to read as follows:

#### § 27.36 Classification determinations based on official standards.

All cotton shall be classified on the basis of the official cotton standards of the United States in effect at the time of such classification.

7. Section 27.39 is revised to read as follows:

#### § 27.39 Issuance of classification records.

Except as otherwise provided in this section, as soon as practicable after the classification of cotton has been completed by the Cotton and Tobacco Programs, the Cotton Quality Assurance Division shall issue an electronic cotton classification record showing the results of such classification. Each electronic record shall bear the date of its issuance. The electronic record shall show the identification of the cotton according to the information in the possession of the Cotton and Tobacco Programs, the classification of the cotton and such other facts as the Deputy Administrator may require.

8. Section 27.47 is revised to read as follows:

#### § 27.47 Tender or delivery of cotton; conditions.

Subject to the provisions of §§ 27.52 through 27.55, no cotton shall be tendered or delivered on a basis grade contract unless on or prior to the date fixed for delivery under such contract, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a valid outstanding cotton classification record complying with the regulations in this subpart, showing such cotton to be tenderable on a basis grade contract.

#### § 27.61 [Removed and Reserved]

9. The undesignated center heading preceding § 27.61 is removed and § 27.61 is removed and reserved.—27.67, 27.69 and 27.72 are removed and reserved.

#### §§ 27.62–27.67 [Removed and Reserved]

10. Sections 27.62 through 27.67 are removed and reserved.

#### § 27.69 [Removed and Reserved]

11. Section 27.69 is removed and reserved.

#### § 27.72 [Removed and Reserved]

12. Section 27.72 is removed and reserved.

13. Section 27.80 is revised to read as follows:

#### § 27.80 Fees; review classification, futures classification and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is tenderable or not, the person requesting the services shall pay fees as follows:

- (a) [Reserved]
- (b) [Reserved]
- (c) [Reserved]
- (d) Futures classification—\$3.50 per bale.

Dated: September 23, 2011.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2011–25078 Filed 9–28–11; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 305 and 319

[Docket No. APHIS–2009–0100]

RIN 0579–AD35

#### Irradiation Treatment; Location of Facilities in the Southern United States

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

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the phytosanitary treatment regulations to provide generic criteria for new irradiation treatment facilities in the Southern States of the United States. This action would allow irradiation facilities to be located anywhere in these States, subject to approval, rather than only in the currently approved locations. We are also proposing to allow for the irradiation treatment of certain imported fruit from India and Thailand upon arrival in the United States. This action would facilitate the importation of fruit requiring irradiation treatment while continuing to provide protection against the introduction of pests of concern into the United States. **DATES:** We will consider all comments that we receive on or before November 28, 2011.

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