(D) The court finds that exceptional circumstances exist justifying waiver of the former spouse's consent.

(iv) *Approval of a waiver.* If OPM grants a waiver of the requirement of paragraph (a) of this section, OPM will notify both the individual and the employing office of its decision. OPM's notice to the employing office is deemed to complete the individual's election, which becomes effective with the first pay period after the employing office receives OPM's notice that the waiver is granted.

(2) *Extension of the time limit to obtain a former spouse's consent*—(i) *First request.* If an employee who is ineligible to elect FERS coverage solely because of a qualifying court order files, prior to January 1, 1999, a completed SF 3111, Request for Waiver, Extension or Search, requesting an extension of the time limit to seek an amendment of a qualifying court order, OPM is deemed to have approved the extension through June 30, 1999.

(ii) *Second request.* OPM will grant one extension of the time limit to seek an amendment of a qualifying court order to an individual who has been granted an extension under paragraph (b)(2)(i) of this section if the individual—

(A) Files an application for the extension (SF 3109) with the employing office before July 1, 1999;

(B) Has initiated legal proceedings to secure the modification of the qualifying court order on file at OPM to satisfy the former spouse consent requirement;

(C) Demonstrates to OPM's satisfaction that the individual has exercised due diligence in seeking to obtain the modification; and

(D) If seeking an extension beyond December 31, 1999, demonstrates to OPM's satisfaction that a longer extension is necessary.

(iii) *Expiration date of a second extension.* An approved extension under paragraph (b)(2)(ii) of this section expires on December 31, 1999, unless OPM's decision letter states a later expiration date.

(3) *Search for a qualifying court order.* (i) When an employing office notifies OPM that it has received an employee's request for a determination of whether OPM has a qualifying court order on file, OPM will determine whether it has such an order.

(ii) If OPM does not have a copy of a qualifying court order in its possession, OPM's notice to the employing office that it has no qualifying court order completes the employee's election of FERS coverage and the election becomes effective at the beginning of the first pay period after the employing office receives OPM's notification.

(iii) If OPM has a copy of a qualifying court order, OPM will notify both the individual and the employing office that it has a qualifying court order and that an extension until June 30, 1999, has been granted.

§ 846.723 Agency responsibilities.

(a) The employing office must determine whether the employee is eligible to elect FERS coverage.

(b)(1) As close as practicable to the beginning of the open enrollment period, the employing office must provide each employee eligible to elect FERS coverage with notice of that employee's right to make an election.

(2) The employing office must provide each employee eligible to elect FERS coverage with a copy of or ready access to the FERS Transfer Handbook.

(c) An election received by an employing office before July 1, 1998, is deemed to have been received by the employing office on July 1, 1998.

(d) An agency decision that an employee is not eligible to elect FERS coverage or refusing to accept a belated election under § 846.724 must be in writing, must fully set forth the findings and conclusions of the agency, and must notify the employee of the right to appeal the decision under this section to the Merit Systems Protection Board, including all information required under the Board's regulations. See 5 CFR 1201.21.

§ 846.724 Belated elections and correction of administrative errors.

(a) *Belated elections.* The employing office may accept a belated election of FERS coverage if it determines that—

(1) The employing office did not provide adequate notice to the employee in a timely manner;

(2) The agency did not provide access to the FERS Transfer Handbook to the employee in a timely manner; or

(3) The employee was unable, for cause beyond his or her control, to elect FERS coverage within the prescribed time limit.

(b) *Correction of administrative errors.* Failure to begin employee deductions and Government contributions on the effective date of coverage must be corrected in accordance with § 841.505 of this chapter.

§ 846.725 Appeal to the Merit Systems Protection Board.

(a) A person whose rights or interests under this part are affected by an agency decision that an employee is not eligible to elect FERS coverage or an agency refusal to accept a belated election under § 846.724, or an OPM decision denying an extension or waiver under § 846.722, may request the Merit Systems Protection Board (MSPB) to review such decision in accord with procedures prescribed by MSPB. MSPB regulations relating to appeals are contained in chapter II of this title.

(b) Paragraph (a) of this section is the exclusive remedy for review of agency decisions concerning eligibility to make an election under this subpart. An agency decision must not allow review under any employee grievance procedures, including those established by chapter 71 of title 5, United States Code, and 5 CFR part 771.

§ 846.726 Delegation of authority to act as OPM's agent for receipt of employee communications relating to elections.

The employing office is delegated authority to act as OPM's agent for the receipt of any documents that employees are required by this subpart to file with OPM. Such documents are deemed received by OPM on the date that the employing office receives them.

[FR Doc. 98–16264 Filed 6–17–98; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN–98–004]

Revision of User Fees for 1998 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is reducing user fees for cotton producers for 1998 crop cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 1997 user fee for this classification service was $1.40 per bale. This rule would reduce the fee for the 1998 crop to $1.30 per bale. The reduction in fees resulted from increased efficiency in classing operations. The fee is sufficient to recover the costs of providing classification services, including costs for administration, supervision, and development and maintenance of standards.

DATES: *Effective Date:* July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Lee Cliburn, 202–720–2145.

SUPPLEMENTARY INFORMATION: A proposed rule detailing the revisions was published in the **Federal Register** on March 27, 1998, (63 FR 14839). A 30 day comment period was provided for interested persons to respond to the proposed rule: No comments were received.

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

This final 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 which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Administrator, Agricultural Marketing Service (AMS), has considered the economic impact of this rule on small entities pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). It has been determined that the implementation of this rule would 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 in order that small businesses will not be disproportionately burdened. There are an estimated 40,000 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 § 121.601). The Administrator of AMS has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the RFA because:

(1) The fee reduction reflects a decrease in the cost-per-unit currently borne by those entities utilizing the services (the 1997 user fee for classification services was $1.40 per bale; the fee for the 1998 crop would be reduced to $1.30 per bale; the 1998 crop is estimated at 15,684,900 bales);

(2) The cost reduction will not affect competition in the marketplace; and

(3) The use of classification services is voluntary. For the 1997 crop, 17,949,575 bales were classed out of 18,346,450 bales produced.

(4) Based on the average price paid to growers for cotton from the 1996 crop of 69.3 cents per pound, 500 pound bales of cotton are worth an average of $346.50 each. The proposed user fee for classification services, $1.30 per bale, is less than one percent of the value of an average bale of cotton.

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 0581–0009 under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

The changes will be made effective July 1, 1998, as provided by the Cotton Statistics and Estimates Act.

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 $1.40 per bale during the 1997 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, supervision, and development and maintenance of cotton standards.

This final rule establishes the user fee charged to producers for HVI classification at $1.30 per bale during the 1998 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 1997. Therefore, the 1998 producer's user fee for classification service is based on the 1997 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 1997 base fee for HVI classification exclusive of adjustments, as provided by the Act, was $2.08 per bale. A two percent, or four cents per bale increase due to the implicit price deflator of the gross domestic product added to the $2.08 would result in a 1998 base fee of $2.12 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, this has been replaced by the 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 1998 crop is estimated at 15,684,900 bales. The 1998 base fee was decreased 15 percent based on the estimated number of bales to be classed (one percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 32 cents per bale reduction and was subtracted from the 1998 base fee of $2.12 per bale, resulting in a fee of $1.80 per bale.

With a fee of $1.80 per bale, the projected operating reserve would be 46.806 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 $1.80 must be reduced by 50 cents per bale, to $1.30 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This would establish the 1998 season fee at $1.30 per bale.

Accordingly, § 28.909, paragraph (b) will be revised to reflect the reduction in the HVI classification fees.

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

Growers or their designated agents requesting classification data provided on computer punched cards will be charged a fee of 10 cents per card to reflect the costs of providing this service. Requests for punch card classification data represent only 2.6 percent of the total bales classed. This change will be reflected in § 28.910 (a). Growers or their designated agents receiving classification data by methods other than computer punched cards will continue to incur no additional fees if only one method of receiving classification data was requested. The fee for each additional method of receiving classification data in § 28.910 will remain at five cents per bale, and it will be applicable even if the same method was requested. However, if computer punched cards were requested, a fee of ten cents per card would be charged. The fee in § 28.910 (b) for an owner receiving classification data from the central database will

remain at five cents per bale, and the minimum charge of $5.00 for services provided per monthly billing period will remain the same. The provisions of § 28.910 (c) concerning the fee for new classification memoranda issued from the central database for the business convenience of an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 will be reduced from $1.40 per bale to $1.30 per bale.

The fee for returning samples after classification in § 28.911 will remain at 40 cents per sample.

Finally, the authority citation for Subpart D of Part 28 was revised at 61 FR 19512. This action would correct that revision by specifying Subpart D rather than a reference to Part 28 in its entirety.

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 part 28, subpart D, is revised 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 $1.30 per bale.

* * * * *

3. In § 28.910, paragraph (a) is revised to read as follows:

§ 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.

(3) Upon request, computer punch cards may be issued. The fee for this service shall be 10 cents per card.

* * * * *

4. 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 $1.30 per bale.

* * * * *

Dated: June 16, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–16376 Filed 6–17–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 997 and 998

[Docket Nos. FV97–997–1 FIR and FV97–998–1 FIR]

Peanuts Marketed in the United States; Relaxation of Handling Regulations

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, with modifications, the provisions of an interim final rule (IFR) that relaxed for 1997 and subsequent crop peanuts, several provisions regulating the handling of domestically produced peanuts marketed in the United States. This finalization continues the IFR's improved efficiency and reduced program costs resulting in a similar reduction in assessments charged Agreement signer and non-signer handlers.

EFFECTIVE DATE: June 19, 1998.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart or Jim Wendland, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C. 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C., 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 146 (Agreement)(7 CFR part 998) and the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Agreement and the regulations issued thereunder and the non-signatory peanut handler regulations (7 CFR part 997) regulate the quality of domestically produced peanuts.

The Department is issuing this final rule in conformance with Executive Order 12866.

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

Following explanation of each change to the Agreement's regulation, the corresponding change to the non-signatory handlers' regulation is discussed.

Incoming Regulations

Farmers Stock Storage and Handling Facilities

The Peanut Administrative Committee (Committee) recommended amending § 998.100 Incoming quality regulation for 1996 and subsequent crop peanuts by removing paragraph (g) *Farmers Stock Storage and Handling Facilities* which previously regulated the condition of such facilities and authorized Committee inspection. The Committee recommended the change to save approximately $450,000, by eliminating the positions of the seven fieldmen whose specified duties through the 1996 crop year included spending an estimated 60–65 percent of their time inspecting and approving such facilities. The vote was 17 ''For'' and 1 ''Against'', with the dissenting voter contending that the fieldmen were providing valuable services, their positions should not be eliminated, and that inspection and approval of such facilities by the Committee staff were important. Handlers contended they were already paying their own employees to do facilities inspections and the cost of such duplication of effort needed to be eliminated and the Department issued the change. Also, this cost-cutting has not adversely