

# Proposed Rules

Federal Register

Vol. 73, No. 231

Monday, December 1, 2008

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1205

[Doc. #AMS-CN-08-0063; CN-08-003]

#### **Cotton Research and Promotion Program: Designation of Cotton-Producing States; Hearing on Proposed Amendments to Cotton Research and Promotion Order**

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

**ACTION:** Notice of hearing on proposed rulemaking.

**SUMMARY:** Notice is hereby given of a public hearing to receive evidence on proposed amendments to the Cotton Research and Promotion Order (Order). The Agricultural Marketing Service (AMS) is proposing to amend the Order to implement section 14202 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-234), hereinafter referred to as the "2008 Farm Bill", that amended the Cotton Research and Promotion Act (7 U.S.C. 2101-2118), hereinafter referred to as the "Cotton Act." The 2008 Farm Bill designated the States of Kansas, Virginia, and Florida in the definition of "cotton-producing state" effective beginning with the 2008 crop of cotton. In addition, AMS proposes to make any such changes as may be necessary to the order to conform to any amendment that may result from the hearing.

**DATES:** The hearing date is Friday, December 5, 2008, beginning at 9 a.m. in Washington, DC.

**ADDRESSES:** The hearing will be held at the U.S. Department of Agriculture, Jamie L. Whitten Building, Room 107A, 1400 Independence Avenue, SW., Washington, DC 20250. For admittance to the Federal building where the hearing is held, all attendees will be required to show a valid government issued photo identification, such as a driver's license.

#### **FOR FURTHER INFORMATION CONTACT:**

Shethir M. Riva, Chief, Research and Promotion Staff, Cotton and Tobacco Programs, AMS, USDA, Stop 0224, 1400 Independence Ave., SW., Room 2639-S, Washington, DC 20250-0224, telephone (202) 720-6603, facsimile (202) 690-1718, or e-mail at [Shethir.Riva@usda.gov](mailto:Shethir.Riva@usda.gov).

**SUPPLEMENTARY INFORMATION:** The Cotton Research and Promotion Order [7 CFR part 1205] is authorized under the Cotton Research and Promotion Act [7 U.S.C. 2101-2118]. This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code, and therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601-612) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposals on small businesses.

These amendments have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposals.

The Cotton Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 12 of the Cotton Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Cotton Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

The Cotton Act authorizes and provides for the establishment of the Cotton Board (Board) and the Cotton Research and Promotion Program (Program). The Board is currently composed of 37 members and 37 alternate members (22 producer and 15 importer members and alternate members) and one consumer advisor. The Board is responsible for carrying out an effective and continuous program of research and promotion in order to strengthen the competitive position of Upland cotton by expanding domestic and foreign markets for cotton, improving fiber quality, and lowering the costs of production.

Section 14202 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-234) (2008 Farm Bill) amended the Cotton Act by adding the States of Kansas, Virginia, and Florida to the definition of "cotton-producing state" effective beginning with the 2008 crop of cotton. In accordance with this amendment, AMS is proposing to amend the Research and Promotion Order [7 CFR part 1205] to incorporate the States of Kansas, Virginia, and Florida into the definition of cotton-producing state as well as the definition of cotton-producing region.

Section 1205.314 currently defines Cotton-Producing State as, "Cotton-producing State means each of the following States and combination of States: Alabama-Florida; Arizona; Arkansas; California-Nevada; Georgia; Louisiana; Mississippi; Missouri-Illinois; New Mexico; North Carolina-Virginia; Oklahoma; South Carolina; Tennessee-Kentucky; Texas." Currently, Kansas is not included in this definition, Virginia is combined as a region with North Carolina, and Florida is combined as a region with Alabama. AMS is proposing to amend the definition so that Kansas is added and Florida and Virginia are separated from their current partner states as provided for in the 2008 Farm Bill.

In addition, the agency is also proposing to amend the definition of cotton-producing region in section 1205.319 to make it consistent with the change to the definition of cotton-producing State. "Cotton-producing region" is currently defined as "each of the following groups of cotton-producing States: (a) Southeast Region: Alabama-Florida, Georgia, North Carolina-Virginia, and South Carolina;

(b) Midsouth Region: Arkansas, Louisiana, Mississippi, Missouri-Illinois, and Tennessee-Kentucky; (c) Southwest Region: Oklahoma and Texas; (d) Western Region: Arizona, California-Nevada, and New Mexico.”

The amendments proposed herein would allow the States of Kansas, Virginia, and Florida to have at least one member and an additional member for each 1 million bales or major fraction (more than half) thereof of cotton produced in the state and marketed above one million bales during the period specified in the regulations for determining Board membership.

Finally, AMS proposes to make any such changes as may be necessary to the Order to conform to any amendment that may result from the hearing.

The hearing is called pursuant to the provisions of the Cotton Act and the applicable rules of practice and procedure governing proceedings under research, promotion, and information programs (7 CFR part 1200). The public hearing is held for the purpose of determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act, as amended by the 2008 Farm Bill.

Evidence also will be taken to determine whether emergency conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 1200.13(d)) with respect to any proposed amendments.

Testimony is invited at the hearing on the proposals contained in this notice. All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing and should have prepared testimony available for presentation at the hearing.

From the time the notice of hearing is issued and until the issuance of a final decision in this proceeding, USDA employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel; and the Cotton and Tobacco Programs, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

#### List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements,

Reporting and recordkeeping requirements.

#### PART 1205—COTTON RESEARCH AND PROMOTION

For the reasons set forth in the preamble, 7 CFR part 1205 is proposed to be amended as follows:

1. The authority citation for 7 CFR part 1205 continues to read as follows:

**Authority:** 7 U.S.C. 2101–2118 and 7 U.S.C. 7401.

2. Testimony is invited on the following proposals or appropriate alternatives or modifications to the proposal.

Proposals submitted by USDA:

##### Proposal Number 1

3. Revise § 1205.314 to read as follows:

##### § 1205.314 Cotton-producing State.

“Cotton-producing State” means each of the following States and combination of States: Alabama; Arizona; Arkansas; California-Nevada; Florida; Georgia; Kansas; Louisiana; Mississippi; Missouri-Illinois; New Mexico; North Carolina; Oklahoma; South Carolina; Tennessee-Kentucky; Texas; and Virginia.

##### Proposal Number 2

4. Revise § 1205.319, to read as follows:

##### § 1205.319 Cotton-producing region.

“Cotton-producing region” means each of the following groups of cotton producing States:

(a) Southeast Region: Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia;

(b) Midsouth Region: Arkansas, Louisiana, Mississippi, Missouri-Illinois, and Tennessee-Kentucky;

(c) Southwest Region: Kansas, Oklahoma and Texas;

(d) Western Region: Arizona, California-Nevada, and New Mexico.

##### Proposal Number 3

Make other such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

Dated: November 24, 2008.

**David R. Shipman,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. E8–28569 Filed 11–28–08; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF ENERGY

#### 10 CFR Part 1010

RIN 1990–AA31

#### Conduct of Employees and Former Employees; Exemption From Post-Employment Restrictions for Communications; Furnishing Scientific or Technological Information

**AGENCY:** Office of the General Counsel, U.S. Department of Energy.

**ACTION:** Notice of proposed rulemaking and opportunity for comment.

**SUMMARY:** The Department of Energy (DOE) today issues a proposed rule to establish procedures under which a former employee of the executive branch may obtain approval from DOE to make communications to DOE solely for the purpose of furnishing scientific or technological information during the period the former employee is subject to post-employment restrictions set forth in 18 U.S.C. 207(a), (c), and (d). The proposed rule also would further define the term “scientific or technological information,” for which an exemption is provided by 18 U.S.C. 207(j)(5).

**DATES:** Public comment on this proposed rule will be accepted until December 31, 2008.

**ADDRESSES:** You may submit comments, identified by RIN 1990–AA31, by any of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

2. E-mail to [standardsofconduct@hq.doe.gov](mailto:standardsofconduct@hq.doe.gov). Include RIN 1990–AA31 in the subject line of the e-mail. Please include the full body of your comments in the text of the message or as an attachment.

3. *Mail:* Address written comments to Sue E. Wadel, Deputy Assistant General Counsel for General Law, U.S. Department of Energy, Office of the General Counsel, Mailstop GC–77, Room 6A–211, 1000 Independence Avenue, SW., Washington, DC 20585.

Due to potential delays in DOE’s receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. You may obtain copies of comments submitted in response to this notice of proposed rulemaking from the contact person.

If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure