

DEPARTMENT OF AGRICULTURE**Agricultural Research Service****7 CFR Part 505****National Agricultural Library Fees for Loans and Copying**

AGENCY: Agricultural Research Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture (USDA) seeks comments on a proposed rule establishing a fee schedule for loans of materials, and establishing a fee schedule for copying of materials in the collections of the National Agricultural Library. Establishing a flat fee allows the customer to estimate their costs more effectively and allows the library to eliminate the cost of multiple steps currently necessary in determining prorated fees.

DATES: Comments must be submitted on or before September 15, 1999.

ADDRESSES: Address all comments to Eileen McVey, Access Services Librarian, Document Delivery Services Branch, National Agricultural Library, Agricultural Research Service, Room 300, 10301 Baltimore Ave., Beltsville MD 20705-2351. Telephone: 301-504-6503. Email: userfees@nal.usda.gov

FOR FURTHER INFORMATION CONTACT: Carol Ditzler, Head Document Delivery Services Branch, National Agricultural Library, Agricultural Research Service, Room 300, 10301 Baltimore Ave., Beltsville MD 20705-2351.

SUPPLEMENTARY INFORMATION:**Classification**

This proposed rule has been reviewed under Executive Order 12866, and it has been determined that it is not a "significant regulatory action" rule because it will not have an annual effect on the economy of \$100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. This proposed rule will not create any serious inconsistencies or otherwise interfere with actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlement, grants or user fees, or loan programs, or the rights and obligations of recipients thereof, and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Department of Agriculture certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-534, as amended (5 U.S.C. 601, et seq.).

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and record keeping requirements that will be imposed in implementation of this proposed rule have been submitted to OMB for approval. Those requirements would not become effective prior to OMB approval.

Title: Collection of information regarding requests for loans or copies of materials in the collections of the NAL.

Summary: The purpose of this collection of information is to collect, either orally or by use of a form, contact information from persons who request loans, or copies, of materials in the collections of the NAL for which a fee will be charged. Information to be collected will include the name, address, telephone number, and signature of the representative of the party requesting the loan and/or copies of NAL material.

Need for the Information: The information is needed for NAL to deliver loans and/or copies from NAL collection materials and to keep records of parties to whom fees are chargeable and who are accountable for the custody of loaned NAL property.

Respondents: Respondents to the collection of information will be those libraries or other institutions or organizations that request interlibrary loans or copies of material in the NAL collections. Each respondent will have to furnish the information for each loan or copying request. The NAL expects to receive approximately 6,000 domestic and Canadian non-USDA requests for loans and approximately 22,000 domestic and Canadian non-USDA requests for copies of NAL materials per year.

Estimate of burden: The estimated burden on respondents for each loan or copying request is >.08 hours. The total annual reporting and record keeping burden on respondents will be de minimis.

Comments: Comments on this proposed collection of information may be submitted to Eileen McVey at the address listed above within 60 days

after date of publication or to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Office for USDA. Reference should be made to the volume, page, and date of this **Federal Register** publication.

Background

Section 1410A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125a), as added by section 1606(a) of Pub. L. 101-624, expanded existing statutory authorities for the NAL. In particular, section 1410A(e) authorized the NAL Director to make copies of NAL bibliographies, to make microforms and other reproductions of books and other library materials in USDA, to provide any other library and information products and services, and to sell those products and services at such price (not less than the total costs of disseminating the products and services) as the Secretary of Agriculture deems appropriate. Receipts from such sales must be deposited to the credit of appropriations available to the NAL and remain available until expended.

Currently, USDA regulations (7 CFR part 1, Appendix A) supply a fee schedule for copying of NAL materials requested under the Freedom of Information Act (FOIA), 5 U.S.C. 552. NAL proposes in this regulation to adopt a fee schedule for copying of NAL materials pursuant to interlibrary loan or other research requests, and to cover the costs of interlibrary loans of materials from NAL collections.

Fee Schedule for Loans of Materials From the NAL Collection

The NAL proposes to charge fees for interlibrary loans of original materials from the NAL collection to other non-Federal and non-USDA libraries and institutions in the United States and Canada. By original materials, it is meant that NAL will provide loans of original works, and not copies, except in rare instances where works are too fragile or valuable for shipment. Libraries are encouraged to obtain materials locally and to view the NAL as a library of last resort. Loans directly to individuals are not permitted.

A flat fee of \$15.00 per loaned item will be charged. Fees generated will be used to recover actual processing costs and to offset general wear and tear on the collection when items are loaned. The \$15.00 amount is based on a study of current library costs and market comparisons. There will be no charge for renewals.

Costs for replacement of lost or damaged materials will be the actual cost to purchase a replacement or a flat

fee if the exact cost cannot be determined. A processing cost will be added to all lost or damaged materials.

Fee Schedule for Paper Copying, Duplication, and Reproduction Services From the NAL Collection

The NAL proposes to adopt a fee schedule, separate from the fee schedule applicable to FOIA requests under 7 CFR part 1, Appendix A, for paper copying, duplication, and reproduction services provided to non-USDA and non-federal libraries and institutions in the United States. These services will be provided only in response to an interlibrary loan request from a library. Use of the interlibrary loan system ensures that NAL receives the request in an appropriate form and format for response. In some exceptions, services will be provided for requests from individuals who have not been able to obtain materials through their local resources or who have made special arrangements with the Special Collections section using their forms.

Copying of articles is subject to a maximum limitation of 50 pages per article for purposes of copyright compliance. This limitation is based on the CONTU Guidelines (National Commission on New Technological Uses of Copyright Works) and the Agency's interpretation of the applicable provisions of 17 U.S.C. chapter 1.

The NAL proposes to charge in its schedule of fees for photocopying of paper materials and paper copying of microfiche or microfilm. NAL is switching from a per page-based charge to a per item flat fee because, historically, the average request is between 10 and 20 pages. Establishing a flat fee allows the customer to estimate their costs more effectively and allows the library to eliminate the cost of multiple steps currently necessary in determining pro-rated fees. Fees established are based on actual costs (staffing, contract costs, supplies, copier maintenance, normal wear and tear on the collection, delivery costs, etc.) as well as based on a review of comparable fees across the nation charged by other research and academic libraries. All fees will apply to non-USDA and non-federal library requests that meet standard interlibrary loan format requirements and apply to copying of materials from the NAL collections only.

NAL also proposes a flat rate for the costs of duplication of NAL owned microfiche and microfilm. Photographic services from NAL Special Collections will be charged at cost for reproduction

of the photo product, plus a flat rate for preparation costs.

Payment Submission Requirements

The National Technical Information Service (NTIS) within the United States Department of Commerce provides a number of services to Federal Agencies, one of which is billing and collection services. NAL currently uses and proposes to use NTIS as the preferred method for invoicing and payment of fees under this fee schedule. Use of NTIS by NAL is preferred because it is the only agency providing this service to Federal offices. NAL encourages institutional users to establish deposit accounts with NTIS. Payment for services will be made by check, money order or credit card in U.S. funds directly to the NTIS upon receipt of invoice from NTIS.

Subject to service charges for the actual costs of performing the invoicing service, funds received by NTIS will be returned to NAL to the credit of the appropriation account charged with the costs of providing the loan or copying service.

List of Subjects in 7 CFR Part 505

Agriculture, Agricultural research, Libraries, Research, User fees.

For the reasons set out in the preamble, chapter V of Title 7 of the Code of Federal Regulations is amended as set forth below:

Part 505 is added to read as follows:

PART 505—NATIONAL AGRICULTURAL LIBRARY FEES FOR LOANS AND COPYING

Sec.

505.1 Scope and purpose.

505.2 Fees for loans of materials in library collections.

505.3 Fees for copying, duplicating, and reproduction of materials in library collections.

505.4 [Reserved].

505.5 [Reserved].

505.6 [Payment of fees].

Authority: 5 U.S.C. 301; 7 U.S.C. 3125a.

§ 505.1 Scope and purpose.

These regulations establish fees for loans, paper copying, duplication, or reproduction of materials in the collections of the National Agricultural Library (NAL) within the United States Department of Agriculture (USDA).

§ 505.2 Fees for loans of materials in library collections.

(a) NAL will make loans of original materials from its collections, and charge fees for such loans, to other non-Federal and non-USDA libraries and institutions in the United States and

Canada only. Loans will not be made directly to individuals.

(b) Loans will be made at a flat fee of \$15.00 per loaned item.

(c) Cost for replacement of lost or damaged items will be the actual cost to purchase a replacement plus a \$50.00 processing fee; or if the cost cannot be determined, a flat rate of \$75.00 for monographs or \$150.00 for audiovisuals per item, plus a \$50.00 processing fee.

(d) All services in this section will incur a billing surcharge per invoice generated in addition to the above fees which may change as vendor's charges change. This fee, currently \$10.00, is billed as a direct cost recovery based on charges to the library by the billing vendor. Interlibrary loan requests submitted by participants in the ILL Fee Management (IFM) program under the Online Computer Library Center, Inc. (OCLC) will not incur the billing surcharge as their activities will not generate an invoice.

§ 505.3 Fees for paper copying, duplicating, and reproduction of materials in library collections.

(a) Photocopy reproduction of paper copy will be set as a flat fee of \$13.00 for domestic requests and \$16.00 for international requests for each document requested with a maximum of 50 pages per article for copyright compliance. Materials delivered to international addresses via the Internet will be charged at the domestic rate. Photocopy reproduction of paper copy that requires special handling due to size or condition will incur special handling fees to recover costs at \$20.00 per half hour or fraction thereof.

(b) Paper copies of microfilm or microfiche will be produced at a flat fee of \$13.00 for requests delivered domestically and \$16.00 for requests requiring delivery to an international address. This charge is for each document requested with a maximum of 50 pages per article for copyright compliance.

(c) Duplication of NAL owned microfiche will be charged a flat fee of \$13.00 per each 5 microfiche duplicated or fraction thereof. Duplication of NAL owned microfilm will be charged a flat fee of \$20.00 for each reel produced.

(d) Photographic services from NAL Special Collections will be charged at cost for reproduction of the photo product (slides, transparencies, etc.) plus a preparation fee of \$25.00 per half hour or fraction thereof.

(e) All services in this section will incur a billing surcharge, currently \$10.00, per invoice generated in addition to the above fees. This fee is a direct cost recovery based on charges to

the library by the billing vendor and is subject to change. Interlibrary loan requests submitted by participants in the IFM program on OCLC will not incur the billing surcharge as their activities will not generate an invoice.

§ 505.4–505.5 Reserved.

§ 505.6 Payment of fees.

Charges which include billing and handling are invoiced quarterly by the

National Technical Information Service (NTIS) of the United States Department of Commerce. The NAL encourages users to establish deposit accounts with NTIS. Payment for services will be made by check, money order or credit card in U.S. funds directly to the NTIS upon receipt of invoice from NTIS. Subject to a reduction for the actual costs of performing the invoicing service by NTIS, all funds received will be

returned to NAL for credit to the appropriations account charged with the cost of processing the loan or copying request.

Done at Washington, DC, this 10th day of August, 1999.

Dr. Edward B. Knipling,

Associate Administrator, Agricultural Research Service.

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BILLING CODE 3410–03–P