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DEPARTMENT OF AGRICULTURE

Consolidated Farm Service Agency

7 CFR Part 723

RIN 0560-AE27

Tobacco Marketing Quotas, Acreage Allotments, and Production Adjustment

AGENCY: Consolidated Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: Section 1106 of the Omnibus Budget Reconciliation Act of 1993 (1993 Act) amended the Agricultural Adjustment Act of 1938 (1938 Act) to add section 320C which sets out, for tobacco, certain "domestic marketing assessment" (DMA) provisions that generally required a "domestic manufacturer of cigarettes" (as defined in the 1938 Act) to pay certain assessments and to make certain additional tobacco purchases if, for any calendar year beginning with the 1994 calendar year, domestic tobacco constituted less than 75 percent of the total tobacco used by the manufacturer to produce cigarettes in the United States. Implementing rules were published in the Federal Register on January 11, 1994, and June 1, 1994. This rule provides, as specified in Section 422 of the Uruguay Round Agreements Act (URAA), that the DMA is limited to the 1994 calendar year as a result of the Tariff Rate Quota (TRQ) proclaimed by the President on September 12, 1995, in accordance with Article 28 of the General Agreement on Tariffs and Trade (GATT).

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT: Joe Lewis, Jr., Consolidated Farm Service Agency (CFSA), United States Department of Agriculture, PO Box 2415, Washington, DC 20013-2415, telephone (202) 720-0795.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CFSA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule are not retroactive, except to the extent indicated below, and preempt State laws to the extent that such laws are inconsistent with the provisions of this final rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 723, the administrative appeal provisions must be exhausted.

Paperwork Reduction Act

This final rule does not contain new or revised information collection requirements that require approval by OMB under the Paperwork Reduction

Act (44 U.S.C. 3507 *et seq.*) The current information collection requirements were approved by OMB and assigned control number 0560-0058.

Background and Discussion

Provisions of the 1993 Act imposed certain assessments and other obligations on certain manufacturers of cigarettes in the event that, beginning with calendar year 1994, the tobacco used by the manufacturer over the course of a calendar year for cigarettes produced in the United States was not at least 75 percent domestic tobacco. Because of a GATT dispute concerning tobacco, there have been ongoing negotiations under GATT Article 28 toward establishing a tobacco TRQ. The URAA was enacted on December 8, 1994, and section 422 of the URAA provides that the DMA provisions of the 1993 Act will be limited to the 1994 calendar year in the event that a TRQ is proclaimed by the President in connection with the Article 28 tobacco negotiations. The President issued such a proclamation on September 12, 1995 (60 FR 47663). Accordingly, this final rule provides that the DMA requirements of 7 CFR part 723 are limited to the 1994 calendar year because the President has taken the action which triggers the limitation. Since this final rule implements a mandatory provision of law, it has been determined that it is in the public interest that the modification of 7 CFR part 723 be issued as a final rule without prior public comment.

List of Subjects in 7 CFR Part 723

Acreage allotments, Assessments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 723 is amended as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311-1314, 1314-1, 1314b, 1314b-1, 1314b-2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372-75, 1377-1379, 1421, 1445-1 and 1445-2.

2. Part 723 is amended by adding a new § 723.509 to subpart E to read as follows:

§ 723.509 Limitation of subpart to 1994 production.

Notwithstanding any other provision of this subpart, the requirements and provisions of this subpart shall not apply to cigarettes produced after December 31, 1994.

Signed at Washington, DC, on November 21, 1995.

Bruce R. Weber,

Administrator, Consolidated Farm Service Agency.

[FR Doc. 95-29171 Filed 11-28-95; 8:45 am]

BILLING CODE 3410-05-P

Grain Inspection, Packers and Stockyards Administration**7 CFR Part 810**

RIN 0580-AA14

United States Standards for Corn

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Corn to: report test weight (TW) to the nearest tenth of a pound; eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight; and offer stress crack testing as official criteria.

The objective of these revisions is to ensure that the corn standards are serving their intended purpose to facilitate the marketing of corn.

EFFECTIVE DATE: September 1, 1996.

Availability: Stress crack testing will be available January 1, 1996.

FOR FURTHER INFORMATION CONTACT:

George Wollam, USDA, GIPSA, room 0623, South Building, P.O. Box 96454, Washington, D.C. 20090-6454; telephone (202) 720-0292; FAX (202) 720-4628.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. The United States Grain Standards Act (Act) provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning

the inspection, weighing, or description of grain under the Act. Otherwise, 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.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. Further, the regulations are applied equally to all entities.

Background

During October 1993, the Federal Grain Inspection Service (FGIS), which is now part of GIPSA, prepared a discussion paper concerning the U.S. Standards for Corn. This paper addressed a number of issues relating to the corn standards and served as a starting point for discussions with producers, trade associations, processors, handlers, and merchandisers to better understand their views on changes needed to improve existing standards. It was distributed throughout the grain industry. FGIS received positive response from the grain industry.

On February 22, 1995, GIPSA proposed in the Federal Register (60 FR 9790) to revise the United States Standards for corn to: (1) report TW to the nearest tenth of a pound; (2) eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight; and (3) offer stress crack testing as official criteria. Furthermore, GIPSA sought comments not only on the proposal to offer stress crack testing as official criteria, but also on the reporting method.

GIPSA officials discussed the proposed revisions to the corn standards at the Grain Quality Workshops and presented the stress crack testing proposal at the Grain Quality Conference organized by the University of Illinois.

Comment Review

During the 60-day comment period, GIPSA received fifteen comments: four from grain handlers, three from corn

producers, three from corn processors, two from official inspection agencies, two from foreign buyers, and one from academia.

On the basis of these comments received during the comment period and other available information, GIPSA has decided to enact the changes as proposed.

TW Per Bushel

TW per bushel is the weight per Winchester bushel (2,150.42 cubic inches) as determined using an approved device according to procedures prescribed in FGIS instructions. TW for corn is determined before the removal of broken corn and foreign material and certificated in whole and half pounds with a fraction of a half pound disregarded. Upon request, TW for corn is reported to the nearest tenth of a pound in addition to the official certification method.

Reporting TW in corn to the nearest tenth of a pound will bring TW reporting requirements in line with the reporting requirements for other factors such as damaged kernels total and broken corn and foreign material. Another consideration is that nearly all TW results are currently rounded down. For example, under the current reporting method, a scale reading 53.99 pounds per bushel is certified as 53.5 pounds per bushel, which meets the TW grade limit for U.S. No. 3 corn. If the results, however, were rounded to the nearest tenth of a pound, the resultant 54.0 pounds per bushel would meet the grade limit for U.S. No. 2 corn. Usually, the current practice of rounding down causes TW to be underrepresented throughout the marketing channel. Furthermore, the rounding of TW results to the nearest tenth of a pound will not significantly affect the assigned grade since, in most cases, the rounded result will fall within the grade requirement.

Nine commentors supported the proposed change stating that reporting TW to the nearest tenth of a pound is in the best interest of corn producers, will have a positive impact on net farm income, and rounding down in half pound increments has been particularly unfair and sent a negative signal to producers.

Two commentors opposed this change stating that the current rounding method is working satisfactorily; GIPSA has not confirmed that it will have a net beneficial impact on the market or that the current reporting method inhibits the efficient transmission of information on quality; and they are concerned about the reproducibility of results at the tenth of a pound level.