

Rules and Regulations

Federal Register

Vol. 67, No. 54

Wednesday, March 20, 2002

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560-AG61

Tobacco Loss Assistance Program 2001

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: This final rule implements agricultural market assistance provisions of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002, that relate to tobacco. This rule will mitigate the reduction in the tobacco quotas of the eligible producers.

DATES: Effective March 1, 2002.

FOR FURTHER INFORMATION CONTACT: Ann Wortham, Agricultural Program Specialist, Tobacco Branch, FSA, USDA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250-0540, Telephone: (202) 720-2715.

SUPPLEMENTARY INFORMATION:

Notice and Comment

Section 774 of Pub. L. 107-76 requires that the regulations necessary to implement Title VIII, Subtitle A of Pub. L. 107-76 be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. This rule relates to tobacco assistance and implements the provisions of Subtitle A.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been designated as "not significant."

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies is:

10.452—Disaster Reserve Assistance.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the United States Department of Agriculture (USDA) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

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 program is not subject to the provisions of Executive Order 12372, which require 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).

Unfunded Mandates

This rule contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local and tribal governments or the private sector. Therefore this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Paperwork Reduction Act

This rule does not impact the information collection requirements of 7 CFR 1464 approved by OMB and assigned OMB control numbers 0560-0047 and 0560-0076.

Discussion of Final Rule

This Final Rule will implement requirements of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act 2002 (Pub. L. 107-76), which relate to agricultural market assistance for agricultural producers. Section 774 of Pub. L. 107-76 authorizes the Secretary of Agriculture (the Secretary) to use funds of the

Commodity Credit Corporation (CCC) to make payments to eligible persons who own, control or grow tobacco on a farm for which a basic quota or allotment for eligible tobacco was established for the 2001 crop year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938. This eligibility is not affected by temporary transfers or undermarketed tobacco.

Outlays under the programs implemented by this rule will total approximately \$5 million. Most tobacco operations are small family-owned affairs and to the extent that the \$5 million payment to producers and quota-holders defrays tobacco production costs, the Tobacco Loss Assistance Program 2001 (TLAP01) will enhance their solvency. In the short-term, the cost to the government roughly equals the benefits paid to the producers. In the longer term, to the extent that these disaster payments protect producers from bankruptcy, the payments may stabilize the small farm economy and thereby help achieve the public policy objective of the tobacco program.

A March 1 effective date for this rule was chosen to provide flexibility in the event of a delay in publication of the rule.

List of Subjects in Part 1464

Tobacco Loans, Warehouse Losses, Reporting and record keeping requirements.

Accordingly, Title 7, Part 1464 is amended as follows:

PART 1464—TOBACCO

5. The authority citation for 7 CFR part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445-1 and 1445-2; 15 U.S.C. 714b, 714c.

6. Add subpart F to read as follows:

Subpart F—Tobacco Loss Assistance Program 2001

Sec.	
1464.500	[Reserved]
1464.501	Applicability and basic terms for payment.
1464.502	Administration.
1464.503	Definitions.
1464.504	Eligibility.
1464.505	Signup.
1464.506	[Reserved]
1464.507	Benefits.
1464.508	[Reserved]
1464.509	Offsets and assignments.

- 1464.510 Misrepresentation and scheme or device.
 1464.511 [Reserved]
 1464.512 Cumulative liability.
 1464.513 Estate, trusts, and minors.
 1464.514 Death, incompetence, or disappearance.
 1464.515 Appeals.

§ 1464.500 [Reserved]

§ 1464.501 Applicability and basic terms for payment.

(a) This subpart sets forth the terms and conditions of the Tobacco Loss Assistance Program 2001 (TLAP01), authorized by Pub. L. 107-76, which provides that funds of the Commodity Credit Corporation (CCC) be made available to certain persons whose farms had established marketing quotas or allotments for the 2001 crop year.

(b) Subject to the availability of funds, payments for this program shall be divided among eligible persons as follows: 33 $\frac{1}{3}$ percent of the payments will be made to quota owners; 33 $\frac{1}{3}$ percent of the payments will be made to controllers; and 33 $\frac{1}{3}$ percent of the payments will be made to growers.

§ 1464.502 Administration.

(a) This subpart shall be administered by CCC under the general supervision of the Executive Vice President, CCC (Administrator, FSA) and shall be carried out in the field by State and county FSA committees (State and county committees, respectively).

(b) State and county committees, and representatives and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations in this part.

(c) The State committee shall take any action required by these regulations that has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, an action taken by such county committee that is not in accordance with the regulations of this part.

(2) Require a county committee to withhold taking any action that is not in accordance with the regulations of this part.

(d) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or a designee or the Administrator, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator for Farm Programs, FSA, may authorize State and county committees to waive or

modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not affect adversely the operation of the program.

§ 1464.503 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the Tobacco Loss Assistance Program of this subpart. The terms defined in §§ 718.2 or 723.104 of this title shall also be applicable, except where those definitions conflict with the definitions set forth in this subpart. The following terms shall have the following meanings:

Deputy Administrator means the Deputy Administrator for Farm Programs, Farm Service Agency (FSA), or a designee.

Controller means, taking into account temporary transfers, that person or entity who, as determined by the Deputy Administrator, controls the land used to actually produce the eligible tobacco and shares in the risk of production.

Eligible person means with respect to payments under this part, a person who owns, controls, or grows tobacco on a farm for which a marketing quota or allotment was established under the Agricultural Adjustment Act of 1938 for the 2001 crop year.

Eligible tobacco means each of the following kinds of tobacco: fire-cured tobacco, comprising types 22 and 23; dark air-cured tobacco, comprising types 35 and 36; and Virginia sun-cured tobacco, comprising type 37.

Grower means person(s) or entities who provide labor to produce tobacco and share in the risk of production during the relevant period taking into account temporary transfers.

Payment pounds means the pounds of tobacco for which a person is eligible to be paid under this subpart.

Quota owner means the person or entity who, for the relevant period, owns the land for which a quota is established under the Agricultural Adjustment Act of 1938, as amended, irrespective of temporary transfers or undermarketings.

Share in the risk of production means having a direct financial stake in the success of the crop through a direct share in the actual proceeds from the actual marketing of the crop, which share is conditional upon the success of that marketing. Farm owners who lease their farm land to a tobacco grower for the right to grow tobacco on that land and receive a cash payment for such right, regardless of whether or not a tobacco crop is marketed, are not

considered to share in the risk of production. Farm laborers who provide service in exchange for a wage and whose payment is not subject to the marketing of the tobacco crop are not considered to be sharing in the risk of production.

TLAP01 means the Tobacco Loss Assistance Program, for the 2001 crop, which is provided for in this subpart.

§ 1464.504 Eligibility

For a person to be considered an "eligible person" under this subpart, such person must own, control, or grow eligible tobacco on a farm with an established "eligible tobacco" marketing quota or allotment for the 2001 crop year.

§ 1464.505 Sign up.

(a) Eligible persons who wish to apply for TLAP01 funds, must file an application with the county FSA office by the date established by CCC. However, an application filed late because of hardship may be accepted. Acceptance of such applications must be approved by the Deputy Administrator, subject to the availability of funds.

(b) Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, without it program benefits will not be provided.

§ 1464.506 [Reserved]

§ 1464.507 Benefits.

(a) TLAP01 payments shall be made to eligible persons not later than March 31, 2002 as follows:

(1) All fire-cured, dark air-cured and Virginia sun-cured tobacco funds will be distributed one-third to quota owners; one-third to the controller; and one-third to growers.

(2) The allocated funds will be disbursed to quota owners based on the 2001 crop year basic acreage allotment multiplied by National Agricultural Statistics Service (NASS) yield, and to controllers and growers based on the 2001 crop effective allotment multiplied by the yields as specified in the authorizing legislation.

(b) The payment amount for each kind of eligible tobacco shall be equal to 10 cents per eligible payment pound distributed $\frac{1}{3}$ to the eligible owner, $\frac{1}{3}$ to the eligible controller (if any), and $\frac{1}{3}$ to the eligible grower (if any). Persons who fit more than one category can accumulate shares.

(c) In the case where a payment to a farm is disputed CCC may require that all interested parties agree to the resolution of the dispute before any payment is made and may delay

payments to that farm until any such disputes are resolved. Also, so that payments may be made expeditiously in a manner that is administratively efficient, CCC may in its sole discretion exclude payments to a person who does not file a timely claim.

§ 1464.508 [Reserved]

§ 1464.509 Offsets and assignments.

(a) Any payment or portion thereof made to any person under this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the related crop, or proceeds thereof. The regulations governing offsets and withholdings found at part 1403 of this chapter shall be applicable to payments made under this part.

(b) Eligible persons may assign TLAP01 payments as provided in part 1404 of this chapter.

§ 1464.510 Misrepresentation and scheme or device.

(a) A producer who erroneously represents any fact affecting a program determination made in accordance with this part shall not be entitled to payments and must refund all payments, plus interest determined in accordance with part 1403 of this chapter.

(b) A producer who is determined to have knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of the program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination, shall refund to CCC all payments received under this subpart, plus interest determined in accordance with part 1403 of this chapter. The subject producer's interest in all applications shall be terminated.

§ 1464.511 [Reserved]

§ 1464.512 Cumulative liability.

The liability of any person for any penalty under this part or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

§ 1464.513 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is a producer shall be eligible for assistance under this subpart only if such person meets one of the following requirements:

(1) The right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1464.514 Death, incompetence, or disappearance.

In the case of death, incompetence, or disappearance, of any person who is eligible to receive assistance in accordance with this part, such person or persons specified in part 707 of this title may receive such assistance.

§ 1464.515 Appeals.

The appeal, reconsideration, or review of determinations made under this part must be in accordance with parts 11 and 780 of this title. The eligibility provisions for kinds of tobacco under this subpart are not subject to appeal rights.

Signed at Washington, DC, on March 8, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02-6711 Filed 3-18-02; 9:46 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01-131-1]

Change in Disease Status of Finland Because of BSE

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by adding Finland to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in a native-born animal in that country. Finland has been listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States. Therefore, the effect of this action is a continued restriction

on the importation of ruminants that have been in Finland and meat, meat products, and certain other products of ruminants that have been in Finland. This action is necessary in order to update the disease status of Finland regarding bovine spongiform encephalopathy.

DATES: This interim rule was effective December 7, 2001. We will consider all comments we receive that are postmarked, delivered, or e-mailed by May 20, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01-131-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 01-131-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01-131-1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, Sanitary Issues Management Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-4356.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 93, 94, 95, and 96 (referred to below as the regulations) govern the importation of certain animals, birds, poultry, meat, other animal products and byproducts, hay, and straw into the United States in order to prevent the introduction of various animal diseases, including