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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AG51

Tobacco Marketing Quotas, Acreage Allotments and Production Adjustment

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Direct final rule.

SUMMARY: This rule will amend the Commodity Credit Corporation's tobacco marketing quota regulations at 7 CFR part 1464 to require burley tobacco producers to designate where they will sell their tobacco in order to qualify for price support and marketing cards. Currently only flue-cured tobacco producers, as a condition of price-support, must designate where they will market their tobacco. This ''Grower Designation Program'' is necessary because an increasing percentage of the burley tobacco being grown in the United States is being marketed directly to manufacturers or outside of traditional auction warehouses monitored by the Agency. These amendments will provide warehouse operators, the USDA, Agriculture Marketing Service (AMS) and others more complete and accurate information when planning for a tobacco auction marketing year.

DATES: This rule is effective February 4, 2002 without further action, unless adverse comment is received by January 22, 2002. If adverse comment is received, FSA will publish a timely withdrawal of the rule in the **Federal Register**. Comments concerning the information collection must be submitted by March 5, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to Director, Tobacco and Peanuts Division, FSA, USDA, 1400 Independence Avenue, SW, room 5750–S, STOP 0514, Washington, DC 20250–0514; Fax: (202) 690–2298. All comments will be made available for public inspection in the Office of the Director during regular business hours.

FOR FURTHER INFORMATION CONTACT: Misty Jones, Agricultural Program Specialist, Tobacco and Peanuts Division, United States Department of Agriculture (USDA), 1400 Independence Avenue, SW, STOP 0514, Washington, DC 20250–0514, telephone (202) 720–0200.

SUPPLEMENTARY INFORMATION:

Basis for Direct Final Rule

The burley tobacco market location intention information is necessary to promote, foster, and maintain an orderly marketing of burley tobacco in a swiftly changing market environment. Historically, 99 percent of all burley tobacco has been marketed at auction warehouses where the tobacco has been graded by AMS personnel where price-support has been offered.

However, between the 2000 marketing season and the current, 2001 marketing season, FSA predicts that as much as 80 percent of the 2001 crop of burley tobacco will not be sold at auction warehouses, based on the amount of flue-cured tobacco (the second major cigarette-producing tobacco) that was sold in this manner in 2001.

In the 2000 marketing year, only one major buying company offered direct contracts through a pilot program to burley tobacco producers. In late spring of 2001, it became known that all the major buying companies were intending to offer direct contracts to burley tobacco producers for the 2001 marketing year. In May 2001, FSA received designation numbers for flue-cured tobacco, which has had a designation program in place since 1974, that showed 79 percent of the crop would be sold through non-auction contracts and bypass the traditional auction market system; therefore, we believe a comparable percentage of burley tobacco will be sold non-auction.

Without the collection of designation information for burley tobacco, FSA will not know where the tobacco will be sold or how many pounds will be sold outside the traditional auction market system. Warehouse operators who, in the past, have handled almost all of any year's crop, will not have the information needed to keep their businesses open, and AMS will not know how to schedule the grading of burley tobacco. Farmers who wish to remain with the auction system will need to know which warehouses will still be open for auction marketing of their tobacco.

Currently, AMS policy bases sales time for burley warehouses on the previous 3 years volume of sales at individual warehouses. Due to the increase in direct contracting for 2001, AMS needs to know how this will change the volume of tobacco that will be available at the various warehouses.

Because of the recent high volume of direct contract purchases, the current manner of determining sales time no longer appears to be feasible. Thus, it is necessary to collect marketing intention information on burley tobacco farms. This is not a major departure from past policy since marketing-intention information has been collected on flue-cured tobacco farms for over twenty years. USDA is concerned that large quantities of ''direct sales'' could be disruptive to the orderly process of marketing burley tobacco. The ''Grower Designation Program'' will sustain orderly marketing of the 2001 burley tobacco crop. The Grower Designation Program'' will track market volumes and thereby enable AMS to adjust its workforce and provide information to warehouse operators, receiving station officials and dealers for the 2001 marketing season.

This rule contains no controversial provisions and based on discussions with tobacco producers and industry representatives FSA anticipates no adverse comments. Accordingly, this rule will be effective as a final rule 30 days after filing for public inspection with the Office of the Federal Register unless there are adverse comments. If adverse comments are received, this rule will be withdrawn and will not become effective. In that case, this program will be implemented with a proposed and final rule. To expedite rulemaking in case this direct final rule is withdrawn, a separate proposed rule is being published in this issue of the **Federal Register** and will become the operative document for a regular final rule. Adverse comments received for this direct final rule will be considered

with the comments received in response to the proposed rule.

Executive Order 12866

This rule is issued in conformance with Executive Order 12866, has been determined to be significant, and was reviewed by OMB.

Regulatory Flexibility Act

FSA certifies that this rule will not have a significant economic impact on a substantial number of small entities. The basis for this is that, through its extensive contacts with burley tobacco growers and warehouses, FSA found no significant objections to this action.

Federal Assistance Programs

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—10.0514.

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

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) established requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments or the private sector. This rule contains no Federal mandates, as defined in Title II of the 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 UMRA.

Paperwork Reduction Act

FSA has received emergency approval of the information collections associated with this rule. It has been assigned OMB Control Number 0560–0217. The Agency intends to publish a notice requesting comments on these collections and will submit a regular request for approval to OMB.

Background

Currently, AMS, working with local trade boards or with tobacco warehouse associations, schedules the days on which auction sales are to take place at designated auction markets, equitably distributing sales opportunity among the warehouses based on floor space, performance, or both.

Because of the recent high volume of direct contract purchases, the current manner of determining sales time no longer appears to be feasible. It is necessary to collect marketing-intention information on burley tobacco in the same manner that marketing-intention information has been collected on flue-cured tobacco since 1974. Therefore, in order to implement a successful burley tobacco designation program, producers were allowed to designate pounds to specific warehouses beginning June 1, 2001, as recommended by the Burley Tobacco Advisory Committee (Committee).

The 39-member Committee was established by the Secretary in 1990 to provide information essential to the orderly marketing of burley tobacco. At a meeting in June 2000, the Committee passed a motion that would affect the method of determining the number of days on which auction sales would be allowed to take place at each tobacco auction warehouse. The Committee's motion, to establish a Grower Designation Program for burley tobacco similar to the long standing Flue-cured Tobacco Warehouse Designation Program followed an announcement in early 2000 by a major cigarette manufacturer that it would contract with burley tobacco growers to buy tobacco directly from them at central buying points known as receiving stations, essentially acting as a dealer and bypassing the traditional auction market system.

The Flue-cured Tobacco Warehouse Designation Program requires that each flue-cured farm operator designate the warehouse(s) to which that farm's tobacco will be presented for sale and the number of pounds of tobacco that will be marketed at each designated location. Such designations provide information vital to the equitable scheduling among warehouses of the day(s) on which each location can hold an auction sale and the number of pounds that can be sold on each of those scheduled days. This information also allows AMS to schedule personnel to grade such tobacco when it is presented for sale. Designation is a condition of price support eligibility for flue-cured tobacco growers.

For the 2000 marketing year FSA had no advance information regarding the volume of burley tobacco that individual burley growers had placed under private contract with the buying company because such information was contained in individual and private contracts between grower and company. Thus, FSA did not know how much tobacco would bypass the traditional auction warehouse market system.

The buying company announced early in 2001 that it would dramatically expand its direct purchase program. It would contract to purchase both burley and flue-cured tobacco rather than just burley; and it would purchase these kinds of tobacco from receiving stations in Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee and Virginia rather than just Kentucky and Tennessee.

Seven other leaf-buying companies followed this announcement with announcements of their own. They, too, would contract with individual burley and flue-cured tobacco growers to buy their crops direct. Currently, there are eight companies with stated intentions of buying both burley and flue-cured tobacco at 72 established receiving stations in seven states.

On May 7, 2001, following the close of the flue-cured initial designation period, FSA received a report that predicted a need for a major information collection effort regarding burley tobacco: seventy-nine percent of the 2001 flue-cured tobacco available for sale has been designated to receiving stations.

FSA judges that a comparable percentage of burley will be sold during 2001 at receiving stations. However, with no designation program in place there is no way to collect the information that is vital to the industry, to the warehouses where burley tobacco has historically been marketed, and to USDA. In particular, AMS will be immediately adversely impacted by the lack of such data. From the historic 1 percent of sales that occurred outside the auction market system, much of the 2001 burley tobacco crop is likely to be sold in this manner. This is a sudden change in only one market season. FSA discerned the breadth of this change after the designation figures were collected from 2001 crop flue-cured growers and determined that this rule was immediately necessary for burley.

All eligible burley tobacco growers may avail themselves of the auction market system. However, only the growers/sellers and buyers involved in non-auction sale and purchase transactions know the amount of tobacco that will be involved in these

private transactions. Without a burley designation program in place neither the buying companies, AMS, nor the warehouses will have any information concerning how much tobacco will be available for sale by auction because they will not have information about what tobacco won't be available for sale by auction.

USDA is concerned with the effects that large quantities of direct sales could have on the orderly process of marketing burley tobacco. The burley tobacco Grower Designation Program will track market volumes and thereby enable AMS to target its workforce.

FSA began collecting data through burley designations from growers voluntarily on June 1, 2001 in order to have data for planning the warehouse system needs prior to September 1, 2001. Although burley farmers may wait until the effective date of this rule to submit their information, they are encouraged to report now to facilitate the marketing of their crops. They may make changes during scheduled redesignation periods.

List of Subjects in 7 CFR Part 1464

Imports, Tobacco.

Accordingly, 7 CFR part 1464 is amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1; 1445–2; 15 U.S.C. 714b, 714c; Pub. L. 106–78, Pub. L. 106–113, Stat. 1135 and Pub. L. 106–224.

2. Revise § 1464.2 (b)(2) introductory text, (b)(2)(ii), (b)(2)(iii), (b)(2)(iv), (b)(2)(v) and (b)(2)(vii) to read as follows:

§ 1464.2 Availability of price support.

* * * * *

(b) * * *

(2) *Special requirements for flue-cured and burley tobacco.* Price support will be available only on flue-cured and burley tobacco that has been designated for sale at specific warehouses by the producer under the following conditions:

* * * * *

(ii) *Producer designation of warehouses.* Producers will be required, as a condition of price support, to designate the warehouses at which they will market their tobacco.

(A) For flue-cured tobacco such designations may be at any warehouse or warehouses in any market within a radius of 100 miles from the county seat of the county in which the farm is located, or if such farm is physically within two counties, then from the county seat of the county in which the county FSA office administering that farm is located. To the extent there are less than eight markets within such radius, any warehouse or warehouses in any of the eight markets nearest to the county seat may be designated. A producer may obtain price support only in a warehouse which the producer has designated, and at each such warehouse only with respect to the quantity of tobacco designated for sale at such warehouse.

(B) For burley tobacco such designations may be at any warehouse or warehouses in any burley market.

(iii) *When producer designations shall be made.* Producers must designate the warehouse(s) at which they will market their tobacco during a period that shall be announced beforehand by the local county FSA office. Unless extended by the Deputy Administrator, the period for making designations shall be before May 31 each year for flue-cured tobacco and August 31 each year for burley tobacco. Producers who lease quota or whose farm is reconstituted (the combining or dividing of a farm due to a change in operation) after such period may designate the warehouse(s) at which their tobacco will be marketed according to procedures to be established by the Deputy Administrator, Farm Programs, FSA. Producers who have designated warehouses that cease to operate or cease to have tobacco inspection or price support available may change their designations at any time after such occurrences. Producers who have designated warehouses whose inspection services have been temporarily suspended for any reason for the equivalent of at least one sales day may change their designation at any time after such occurrences. Redesignation (changes in warehouse(s) designated or in pounds designated to a warehouse) or designations for farms that have not previously designated tobacco may be made by producers during the five business days ending on the first Friday of each month during the flue-cured or burley, as applicable, tobacco marketing season. Such redesignation or initial designation shall be made on any one day of each redesignation period. Such redesignation or initial designation shall be effective on the second Monday following the Friday on which the redesignation period ends.

(iv) *Form and content of designations.* For flue-cured tobacco a designation shall be made for each warehouse at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse or warehouses designated by the producer and the pounds of flue-cured tobacco the producer desires to sell at such warehouse as well as any other information required to be stated on such form. For burley tobacco a designation shall be made for each warehouse, receiving station or dealer at which a producer desires to market tobacco by executing a form provided by the county FSA office. The producer will be required to indicate on such form the name of the warehouse(s), receiving station(s) or dealer(s) designated by the producer and the pounds of burley tobacco the producer desires to sell at such warehouse, receiving station or dealer as well as any other information required to be stated on such form.

(v) *Entering designation information.* For flue-cured tobacco, the warehouse code number of the warehouse the producer has designated will be indicated on the farm marketing card. For burley tobacco, the warehouse, receiving station, or dealer code number of the warehouse, receiving station or dealer the producer has designated will be indicated on the farm marketing card. If an effective date is determined in accordance with paragraph (b)(2)(iii) of this section, such effective date will be shown on the farm marketing card. For flue-cured tobacco, if the producer has not designated a warehouse, a warehouse code will not be shown on the marketing card. Changes in designation by the producer shall be accomplished by the producer returning the marketing card to the county FSA office and requesting the transfer of any unmarketed pounds of flue-cured or burley tobacco shown on any marketing card to another eligible warehouse, receiving station or dealer, if applicable.

* * * * *

(vii) *Availability of designation information.* Each county FSA office shall send designations received to the Flue-Cured Tobacco Cooperative Stabilization Corporation, Raleigh, North Carolina for flue-cured tobacco, Burley Tobacco Growers Cooperative Association, Lexington, Kentucky and Burley Stabilization Corporation, Knoxville, Tennessee for burley tobacco, following each designation period and each period for changing designations. That association(s) shall inform the Flue-Cured Tobacco Advisory Committee or the Burley Tobacco Advisory Committee, as applicable, of the pounds designated to each

warehouse and the pounds of any undesignated or non-auction tobacco that, for the purpose of recommending opening dates and selling schedules in accordance with part 29 of this title, is available for apportioning for sale at each warehouse. That association also shall furnish each warehouse the name and address of the producers who designated the warehouse, the pounds each designated and the pounds that represent 103 percent of the marketing quota of each such producer. The Director, Tobacco and Peanuts Division, shall furnish each receiving station the name and address of the producers who designated the receiving station, the pounds each designated and the pounds that represent 103 percent of the marketing quota of each such producer.

* * * * *

3. Revise § 1464.7(d) to read as follows:

§ 1464.7 Eligible producer.

* * * * *

(d) In addition to meeting all other requirements that apply elsewhere, including (but not limited to) the warehouse designation provisions of § 1464.2, must not be ineligible, in accordance with part 1400 of this title, to receive price support payments, loans and benefits.

* * * * *

4. Revise § 1464.10(i)(1)(i), (i)(2) and (i)(3)(i) to read as follows:

§ 1464.10 No-net-cost tobacco fund or account.

* * * * *

(i) * * *

(1) * * *

(i) From any dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

(2) A dealer, receiving station official or warehouse operator may deduct the amount of any producer contribution or assessment from the price paid to the producer for such tobacco.

(3) * * *

(i) From the dealer, receiving station official or warehouse operator who acquired the tobacco involved from the producer; or

* * * * *

Signed at Washington, DC, on December 21, 2001.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–185 Filed 1–3–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1721

RIN 0572–AB60

Extensions of Payments of Principal and Interest

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is adding procedures and conditions under which Borrowers may request extensions of the payment of principal and interest. These procedures and conditions are stated in RUS Bulletin 20–5:320–2, Extensions of Payments of Principal and Interest, dated May 10, 1972, and RUS Bulletin 20–23, Section 12 Extensions for Energy Resources Conservation Loans, dated December 8, 1980; however, these procedures and conditions were not codified in the Code of Federal Regulations. This regulation will set forth procedures and conditions under which Borrowers may request extensions of principal and interest. RUS will rescind upon the effective date of this regulation RUS Bulletin 20–5:320–2, and RUS Bulletin 20–23.

DATES: This rule will become effective on February 4, 2002.

FOR FURTHER INFORMATION CONTACT: Gail P. Salgado, Management Analyst, U.S. Department of Agriculture, Rural Utilities Service, Electric Program, Room 4023 South Building, Stop 1560, 1400 Independence Avenue, SW., Washington, DC 20250–1560. Telephone: 202–205–3660.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, (1) all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)) administrative appeals procedures, if any are required, must be exhausted prior to initiating an action against the Department or its agencies.

Regulatory Flexibility Act Certification

The Administrator of RUS 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.*). The RUS electric program provides loans and loan guarantees to Borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS Borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0572–0123.

Unfunded Mandates

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

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance programs under number 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372,