

Proposed Rules

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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

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560-AH13

Tobacco Loan Program—Removal of Requirement That Producers of Burley and Flue Cured Tobacco Designate Sales Locations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) proposes to rescind the price support eligibility provision that requires flue-cured tobacco farmers to designate the auction warehouse(s) where they will sell their tobacco and burley tobacco farmers to designate all locations where they will sell their tobacco, both auction warehouse(s) and the central buying points, known as receiving stations, for non-auction sales. Currently price support loans for producers of those kinds of tobacco are available for eligible tobacco only at designated auction warehouses.

DATES: Submit comments about this proposed rule on or before July 22, 2004, to be assured consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Interested persons are invited to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

- E-mail: Send comments to tob_comments@wdc.usda.gov.
- Fax: Submit comments by facsimile transmission to (202) 720-9832.
- Mail: Send comments to Director, Tobacco Division (TD), Farm Service Agency, United States Department of Agriculture (USDA), STOP 0514, Room 5750-S, 1400 Independence Avenue, SW., Washington, DC 20250-0514.
- Hand Delivery or Courier: Deliver comments to the above address.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the

online instructions for submitting comments.

Comments may be inspected in the Office of the Director, TD, FSA, USDA, Room 5750-S, 1400 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Visitors are encouraged to call ahead at (202) 720-7413 to facilitate entry into the building. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., eastern standard time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ann Wortham, (202) 720-2715 or ann_wortham@wdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The tobacco quota and price support program is operated under provisions of the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended. Every three years, producers of burley and flue-cured tobacco vote in a referendum to determine whether or not an annual national marketing quota will be established for their kind of tobacco. An annual price support level is established for each kind of tobacco for which an annual marketing quota is established. Price support is available only on tobacco for which a national quota has been established. Current tobacco program regulations require that in order to receive a price support at an auction warehouse, producers who sell burley or flue-cured tobacco must specify ahead of time—designate—the warehouse(s) where they will sell their crop and how much they will sell at each location. AMS uses the designation records to help schedule personnel they need to conduct their tobacco-related activities at warehouses. The Farm Service Agency (FSA) processes producer designation requests and then provides the producer one or more marketing cards, each of which carries the code number of the warehouse(s) they have selected. Producers must present a properly coded marketing card when delivering their tobacco. Although most producers will sell their entire tobacco crop (or surrender it for a price support loan in the event there is not an adequate bid for the tobacco) at the auction warehouse that was their first

choice, many decide later to sell some of their tobacco elsewhere. Current regulations outline the schedule by which such changes—re-designations—may be made.

Since 1998 individual farm quotas have been reduced 47% for burley and 58% for flue-cured. Until 3 years ago most of the burley and flue-cured tobacco produced in the U.S. was sold in auction warehouses. Now, 80 percent of the tobacco is sold at non-auction locations. The reduction in quotas and the corresponding decrease in warehouse sales have shortened the sale season for those warehouses that have managed to remain open. Keeping record of the movement of millions of pounds of tobacco as it is designated from one sale location to another is done on paper, by hand.

Auction locations provide daily sales information collected on paper and mailed to the FSA, where the data is manually keyed into a database. Some auction warehouses have not made the technological improvements that will electronically transmit daily sales data. Non-auction tobacco sales information, however, is transmitted electronically each sale day. This electronically transmitted sales data tells FSA within 24 hours not only how much of a farmer's tobacco was sold but where. Also, in the past AMS has used Agency designation information, and has worked with local trade boards and tobacco warehouse associations for scheduling tobacco activities in which they are involved.

A designation is not effective for at least two weeks. A farmer can request a redesignation only during one week each month and then must wait an additional two weeks before the change is effective. Producers who need to redesignate may end up waiting as much as 6 weeks before they can sell their tobacco. During this time marketing options and choices may be curtailed. Designation information is no longer generally necessary for the Agency for purposes of recording where tobacco moves in the marketplace. And the benefits of such designations in any event have not proven to be as significant as anticipated. Also, changed marketing circumstances no longer appear to justify designations for flue-cured tobacco, which preceded those for burley when there was a concern about undermarketings to local warehouses.

Many of those warehouses no longer exist and may have been replaced by other marketing opportunities. Further, as in the past, it is expected that sufficient information will be available to allow the proper assignment of inspectors or that appropriate changes can be made to address that problem without the formal designation system of the current provisions of 7 CFR part 723, which, moreover, apply only to burley and flue-cured tobacco. We thus propose to rescind the requirement that calls for burley and flue-cured tobacco farmers to designate where they will sell their tobacco.

Executive Order 12372

This proposed rule is not subject to the provisions of Executive Order 12372, which require 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 12866

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

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this proposed rule because 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.

Unfunded Mandates

This rule contains no Federal mandates under 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 sections 202 and 205 of the UMRA.

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: 10.051—Commodity Loans and Loan Deficiency Payments.

Environmental Evaluation

FSA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, consistent with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), neither an Environmental Impact Statement nor an environmental assessment is required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 5501 *et seq.*), the information collection or recordkeeping requirements covered in this proposed rule approved by the Office of Management and Budget (OMB) under OMB control numbers 0560-0058 and 0560-0217. Because this action will reduce the information collected, a reduction in the approved burden estimate will be made.

Accordingly, the Commodity Credit Corporation proposes to amend 7 CFR part 1464 as follows:

PART 1464—TOBACCO

1. 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.

§ 1464.2 [Amended]

2. Amend § 1464.2 by removing paragraph (b)(2) and redesignating paragraphs (b)(3), (b)(4) and (b)(5) as (b)(2), (b)(3) and (b)(4), respectively.

Signed in Washington, DC on June 10, 2004.

James R. Little,

Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 04-14063 Filed 6-21-04; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1486

RIN 0551-AA62

Emerging Markets Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to establish regulations applicable to the Emerging Markets Program (EMP). The regulations would provide details concerning program administration, including participant eligibility, application requirements, review and allocation process, reimbursement rules and procedures, financial reporting and project evaluation requirements, appeal procedures, and program controls.

DATES: Written comments must be received by July 22, 2004 to be assured of consideration.

ADDRESSES: Comments should be submitted to: Denise Huttenlocker, Director, Marketing Operations Staff, Foreign Agricultural Service, United

States Department of Agriculture, 1400 Independence Avenue SW., Ag Box 1042, Room 4932-S, Washington, DC 20250-1042. Fax: (202) 720-9361; e-mail: mosadmin@fas.usda.gov.

FOR FURTHER INFORMATION CONTACT:

Douglas Freeman by phone at (202) 720-4327, by fax at (202) 720-9361, or by e-mail at emo@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866. It has been determined significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The rule would have preemptive effect with respect to any State or local laws, regulations or policies which conflict with such provisions or which otherwise impede their full implementation; would not have retroactive effect; and would require administrative proceedings before suit may be filed.

Executive Order 12372

This program 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).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule because the Commodity Credit Corporation (CCC) is not required by any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this proposed rule.

The Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 204 of the UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), CCC requests approval of a new