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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560-AG60

2002 Marketing Quota and Price Support for Flue-Cured Tobacco

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to codify determinations made by the Secretary of Agriculture (Secretary) for the 2002 crop of flue-cured tobacco. In accordance with the Agricultural Adjustment Act of 1938, as amended, (1938 Act), the Secretary determined the 2002 marketing quota for flue-cured tobacco to be 582.0 million pounds. In accordance with the Agricultural Act of 1949, as amended, (1949 Act), the Secretary determined the 2002 price support level to be 165.4 cents per pound. This rule will also codify the 2000 and 2001 marketing quotas and price support levels. The intended effect of this rule is to codify the announced quota levels as required.

EFFECTIVE DATE: December 15, 2001.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Tobacco and Peanuts Division, USDA, FSA, STOP 0514, 1400 Independence Avenue, SW., Washington, DC 20250-0514, telephone 202-720-5346. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Tarczy.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order

12866 and has been determined to be significant and was reviewed by OMB.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this final rule since neither the Commodity Credit Corporation (CCC) nor the Farm Service Agency (FSA) are required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

Federal Assistance Programs

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

Environmental Evaluation

An environmental evaluation found 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 unfunded mandates and, thus, is not subject to the provisions of title II of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

These amendments do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Rulemaking

This rule is issued pursuant to the 1938 Act and the 1949 Act. Section 1108(c) of Pub. L. 99-972 provides that the determinations made in this rule are not subject to the provisions for public participation in rulemaking in 5 U.S.C. 553 or in any directive of the Secretary. Further, this rule affirms existing decisions which were time-sensitive. Hence, a delay in the implementation of

the matters affirmed in this notice would have been impracticable, unnecessary, and counter to the public interest. Thus, the matters affirmed in this notice were made effective at the time that they were announced by press release.

On December 15, 2001, the Secretary announced the national marketing quota and the price support level for the 2002 crop of flue-cured tobacco. A number of related determinations were made at the same time, which this final rule affirms. In addition this rule affirms similar determinations made with respect to the 2000 and 2001 crops of flue-cured tobacco.

Marketing Quota

Section 317(a)(1)(B) of the 1938 Act provides, in part, that the national marketing quota for a marketing year for flue-cured tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of: (1) the amount of flue-cured tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on United States auction markets or from producers, (2) the average quantity exported annually from the U.S. during the 3 marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, that the Secretary, in the Secretary's discretion, determines necessary to adjust loan stocks to the reserve stock level.

The reserve stock level is defined in section 301(b)(14)(C) of the 1938 Act as the greater of 100 million pounds or 15 percent of the national marketing quota for flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 320A of the 1938 Act provides that all domestic manufacturers of cigarettes with more than 1 percent of U.S. cigarette production and sales shall submit to the Secretary a statement of purchase intentions for the 2002 crop of flue-cured tobacco by December 1, 2002. Five such manufacturers were required to submit such a statement for the 2002 crop and the total of their intended purchases for the 2002 crop is 310.0 million pounds. The 3-year average of exports is 249.9 million pounds.

The national marketing quota for the 2001 crop year was 548.9 million

pounds. In accordance with section 301(b)(14)(C) of the 1938 Act the reserve stock level is the greater of 15 percent of the previous year's quota (548.9 million pounds \times .15 = 82.3 million pounds) or 100.0 million pounds. Thus, the reserve stock level for use in determining the 2002 marketing quota for flue-cured tobacco is 100.0 million pounds.

Pre-1997 loan crops have been sold. Further, manufacturers agreed in December of 1998, 1999, and 2000 to purchase an additional 210.0 million pounds, thereby reducing loan inventory to 46.9 million pounds. In addition, the Agricultural Rural Development, Food and Drug Administration and Related Agencies Appropriations Act of 2001 (Public Law 106-387), as amended, allowed the forfeiture of 1999 loan inventories. Loans from the 2001 crop total 121 million pounds, making total loan stocks 77.9 million pounds. Accordingly, the adjustment to maintain loan stocks at the reserve supply level is an increase of 22.1 million pounds.

The total of the three marketing quota components for the 2001-2002 Marketing Year (MY) is 582 million pounds. Accordingly, the national marketing quota for the MY beginning July 1, 2002, for flue-cured tobacco is 582 million pounds.

Section 317(a)(2) of the 1938 Act provides that the national average yield goal be set at a level that the Secretary determines will improve or ensure the usability of the tobacco and increase the net return per pound to the producers. Since average yields have not changed significantly in recent years, the national average yield goal for the 2002 MY will be 2,088 pounds per acre, the same as last year's level.

In accordance with section 317(a)(3) of the 1938 Act, the national acreage allotment for the 2002 crop of flue-cured tobacco is determined to be 278,735.63 acres, derived from dividing the national marketing quota by the national average yield goal.

In accordance with section 317(e) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 3 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that a national reserve for the 2002 crop of flue-cured tobacco of 733 acres is adequate for these purposes.

In accordance with section 317(a)(4) of the 1938 Act, the national acreage

factor for the 2002 crop of flue-cured tobacco for uniformly adjusting the acreage allotment of each farm is determined to be 1.06, which is the result of dividing the 2002 national allotment (278,735.63 acres) minus the national reserve (733 acres) by the total of allotments established for flue-cured tobacco farms in 2001 (262,265.98 acres).

In accordance with section 317(a)(7) of the 1938 Act, the national yield factor for the 2002 crop of flue-cured tobacco is determined to be 0.9251, which is the result of dividing the national average yield goal (2,088 pounds) by a weighted national average yield (2,257 pounds).

Price Support

Price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect, or for which marketing quotas have not been disapproved by producers, at a level determined in accordance with a formula prescribed in section 106 of the 1949 Act.

With respect to the 2002 crop of flue-cured tobacco, the level of support is determined in accordance with sections 106(d) and (f) of the 1949 Act. Section 106(f)(7)(A) of the 1949 Act provides that the level of support for the 2002 crop of flue-cured tobacco shall be:

(1) The level, in cents per pound, at which the 2001 crop of flue-cured tobacco was supported, plus or minus, respectively,

(2) An adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of:

(A) 66.7 percent of the amount by which:

(I) The average price received by producers for flue-cured tobacco on the U.S. auction markets, as determined by the Secretary, during the 5 MY's immediately preceding the MY for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than:

(II) The average price received by producers for flue-cured tobacco on the U.S. auction markets, as determined by the Secretary, during the 5 MY's immediately preceding the MY prior to the MY for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(B) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by

the tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year for which the determination is made.

The difference between the two 5-year averages (*i.e.*, the difference between (A)(I) and (A)(II)) is 0.10 cent per pound. The difference in the cost index from January 1, 2001, to December 31, 2001, is -1.7 cents per pound. Applying these components to the price support formula (0.0 cent per pound, two-thirds weight; -1.7 cents per pound, one-third weight) results in a weighted total of -0.6 cent per pound. As indicated, section 106 of the 1949 Act provides that the Secretary may, on the basis of supply and demand conditions, limit the change in the price support level to no less than 65 percent of that amount. As there was no justifiable basis found for limiting the decrease (which reflected a change in production costs), and in order to aid in the marketing of the crop, that discretion was not utilized. Accordingly, the 2002 crop of flue-cured tobacco will be supported at 165.4 cents per pound, 0.6 cent lower than the 2001 crop.

The 2000 and 2001 quotas and price support were determined using the same methodology as described for the 2002 quota and price support. With respect to the marketing quota determinations, for the 2000 crop the purchase intentions, exports (three year average), reserve stock average, and final quota (103% of the total) were 286.0, 334.1, (-92.9), and 543.0 and for 2001 were 297.0, 297.7, (-61.8), and 548.9. The adjustment up to 103% was made, as allowed by statute, to lessen the impact on producers of the declining quotas. Following the time of the determinations for the 2002 crops, the Congress, in Pub. L. 107-71, adjusted the reserve stock level for flue-cured tobacco, doing so in section 1610 of that Act. That change will impact future crops. With respect to price support the price indices used in the price support level determination, the changes (in cents) in prices received and in prices paid per pound were for the 2000 crop determination, 0.4 and 1.5 and for the 2001-crop calculation (-0.2) and 6.5. In order to aid the marketing of the 2000 and 2001 crops, the Secretary used the discretion allowed by the authorizing statute to limit the price support increase to 65% of the increase that would have otherwise been produced by the formula. Copies and other supporting documents are available from Mr. Robert L. Tarczy, USDA, Farm Service Agency, Stop 0514, 1400 Independence Avenue, SW., Washington, DC 20250-0514, telephone 202-720-5346.

List of Subjects*7 CFR Part 723*

Acres allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 1464

Loan programs-agriculture, Price support programs, Tobacco, Reporting and recordkeeping requirements, Warehouses.

■ Accordingly, 7 CFR parts 723 and 1464 are 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., 1301–1314, 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. Section 723.111 is amended by adding paragraphs (h) through (j) to read as follows:

§ 723.111 Flue-cured (types 11–14) tobacco.

* * * * *

(h) The 2000 crop national marketing quota is 543.0 million pounds.

(i) The 2001 crop national marketing quota is 548.9 million pounds.

(j) The 2002 crop national marketing quota is 582.0 millions pounds.

PART 1464—TOBACCO

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

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

■ 4. Section 1464.12 is amended by adding paragraphs (h) though (j) to read as follows:

§ 1464.12 Flue-cured (types 11–14) tobacco.

* * * * *

(h) The 2000 crop national price support level is 164.0 cents per pound.

(i) The 2001 crop national price support level is 166.0 cents per pound.

(j) The 2002 crop national price support level is 165.4 cents per pound.

Signed in Washington, DC, on June 3, 2003.

James R. Little,

*Administrator, Farm Service Agency,
Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 03–14624 Filed 6–10–03; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service****9 CFR Part 82**

[Docket No. 02–117–8]

Exotic Newcastle Disease; Removal of Areas from Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the exotic Newcastle disease regulations by removing Dona Ana, Luna, and Otero Counties, NM, Hudspeth County, TX, and portions of El Paso County, TX, from the list of quarantined areas. This action removes restrictions on the movement of birds, poultry, and certain other articles from those areas.

DATES: This interim rule was effective June 5, 2003. We will consider all comments that we receive on or before August 11, 2003.

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. 02–117–8, 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. 02–117–8. 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. 02–117–8” 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. Aida Boghossian, Senior Staff

Veterinarian, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231; (301) 734–8073.

SUPPLEMENTARY INFORMATION:**Background**

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The regulations in “Subpart A—Exotic Newcastle Disease (END)” (9 CFR 82.1 through 82.16, referred to below as the regulations) were established to prevent the spread of END in the United States in the event of an outbreak. In § 82.3, paragraph (a) provides that any area where birds or poultry infected with END are located will be designated as a quarantined area, and that a quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END. Portions of Arizona, California, Nevada, New Mexico, and Texas are designated as quarantined areas in § 82.3(c) of the regulations. As a result, the interstate movement from the quarantined areas of birds, poultry, products, and materials that could spread END is prohibited or restricted. Further, because the Secretary has declared an extraordinary emergency because of END in those States, the regulations in § 82.16 provide that the intrastate movement from those quarantined areas of birds, poultry, products, and materials that could spread END is prohibited or restricted.

In this interim rule, we are reducing the size of the quarantined area in Texas and eliminating the quarantined area in New Mexico based on the results of extensive surveillance and investigations conducted in those States. These activities are described below.

On April 9, 2003, END was confirmed in backyard poultry on a premises in the town of Socorro, El Paso County, TX. Therefore, in an interim rule effective April 10, 2003, and published in the **Federal Register** on April 16, 2003 (68 FR 18531–18532, Docket No. 02–117–5), we amended § 82.3(c) by quarantining El Paso and Hudspeth Counties, TX, and Dona Ana, Luna, and Otero Counties, NM. As provided for by the regulations in § 82.3(a), this quarantined area