

(f) Payments made to the following are not subject to payment limitations under this part:

- (1) Public schools for land a public school district owns; and
- (2) A State for land a State owns that is used to maintain a public school.
- (g) Unless otherwise noted, the following amounts are the payment limitations per person per applicable period for each payment or benefit:

Payment or benefit	Limitation per person, per crop, program year or fiscal year
1. Direct Payments for covered commodities .....	\$40,000
2. Direct Payment for peanuts .....	40,000
3. Counter-Cyclical Payments for covered commodities .....	65,000
4. Counter-Cyclical Payment for peanuts .....	65,000
5. Loan Deficiency Payments and Marketing Loan Gains for loan commodities .....	75,000
6. Total Loan Deficiency Payments and Marketing Loan Gains for peanuts, wool, mohair and honey .....	75,000
7. Conservation Reserve Program .....	50,000
8. Non-Insured Crop Disaster Assistance Program (NAP) payments .....	100,000
9. Environmental Quality Incentives Program (EQIP) payments .....	<sup>1</sup> 450,000
10. Agricultural Management Assistance Program .....	50,000
11. Conservation Security Program (CSP):	
Tier 1 .....	<sup>2</sup> 20,000
Tier 2 .....	<sup>2</sup> 35,000
Tier 3 .....	<sup>2</sup> 45,000

<sup>1</sup> This statutory limit is applied on a "direct attribution" method with respect to the individual or entity.

<sup>2</sup> This limitation is attributed to an individual or entity covered by a Conservation Security Program contract.

3. Section 1400.3(b) is amended to add a new definition for "Loan commodity" in alphabetical order, to revise the definition for "Payment", and to remove the definition for "Payment, loan or benefit", to read as follows:

#### **§ 1400.3 Definitions.**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

*Loan commodity* means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, dry peas, lentil, small chickpeas, wool, mohair, peanuts and honey.

\* \* \* \* \*

*Payment* means:

(1) Payments made in accordance with part 1412 of this chapter;

(2) Loan gains and loan deficiency payments made in accordance with parts 1421 and 1427 of this chapter;

(3) CRP annual rental payments made in accordance with part 1410 of this chapter;

(4) Non-Insured Crop Disaster Assistance Program (NAP) payments made in accordance with part 1437 of this chapter; and

(5) For other programs, any payments designated in individual program regulations or elsewhere in this part.

\* \* \* \* \*

#### **§ 1400.5 [Amended]**

4. Section 1400.5(b) is amended to revise "1985 Act" to read "Food Security Act of 1985, as amended (7 U.S.C. 1281 note)".

Signed in Washington, DC, on September 12, 2002.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

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**BILLING CODE 3410-05-P**

## **DEPARTMENT OF AGRICULTURE**

### **Commodity Credit Corporation**

#### **7 CFR Part 1412**

**RIN 0560-AG71**

#### **Peanut Quota Buyout Program**

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule provides regulations for a peanut quota buyout program as required by Title I of the Farm Security and Rural Investment Act of 2002 (the 2002 Act). Other provisions of the 2002 Act will be implemented under separate rules. This rule will provide eligible peanut quota holders compensation for the lost value of their quota.

**EFFECTIVE DATE:** September 27, 2002.

#### **FOR FURTHER INFORMATION CONTACT:**

Lynn Tjeerdsma, Production, Emergencies and Compliance Division, Farm Service Agency, United States Department of Agriculture (USDA), Stop 0517, 1400 Independence Ave, SW., Washington, DC 20250-0517. Phone: (202) 720-6602. E-mail: lynn\_tjeerdsma@wdc.usda.gov. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

## **SUPPLEMENTARY INFORMATION:**

### **Notice and Comment**

Section 1601(c) of the 2002 Act requires that the regulations to implement Title I of the 2002 Act are to be promulgated 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. These regulations are thus issued as final.

### **Executive Order 12866**

This final rule has been determined to be economically significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment was completed and is summarized after the background section explaining the 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 loan deficiency payments, 10.051.

### **Regulatory Flexibility Act**

The Regulatory Flexibility Act is not applicable to this rule because neither the Secretary of Agriculture nor CCC 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.

### **Environmental Review**

The environmental impacts of this rule have been considered under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and regulations of the Farm Service Agency (FSA) of the Department of Agriculture (USDA) for compliance with NEPA, 7 CFR part 799. An Environmental Evaluation was completed and it was determined that the proposed action does not have the potential to significantly impact the quality of the human environment and, therefore, the rule is categorically excluded from further review under NEPA. A copy of the environmental evaluation is available for inspection and review upon request.

### **Executive Order 12778**

The final rule has been reviewed in accordance with Executive Order 12778. This final rule preempts State laws that

are inconsistent with its provisions, but the rule is not retroactive. Before any judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

#### **Executive Order 12372**

This program is not subject to 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).

#### **Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because neither the Secretary of Agriculture nor CCC 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. Also, the rule imposes no mandates as defined in UMRA.

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

Section 1601(c) of the 2002 Act requires that the regulations necessary to implement Title I of the 2002 Act must be issued within 90 days of enactment and that such regulations shall be issued without regard to the notice and comment provisions of 5 U.S.C. 553. Section 1601(c) also requires that the Secretary use the authority in section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121 (SBREFA), which allows an agency to forgo SBREFA's usual 60-day Congressional Review delay of the effective date of a major regulation if the agency finds that there is a good cause to do so. Accordingly, this rule is effective upon the date of filing for public inspection by the Office of the Federal Register.

#### **Paperwork Reduction Act**

Section 1601(c) of the 2002 Act requires that these regulations be promulgated and the programs administered without regard to the Paperwork Reduction Act. This means that the information to be collected from the public to implement these programs and the burden, in time and money, the collection of the information would have on the public does not have to be approved by the Office of Management and Budget or be subject to the normal requirement for a 60-day public comment period.

#### **Government Paperwork Elimination Act**

CCC is committed to compliance with the Government Paperwork Elimination

Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general, and the FSA in particular, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. Because of the date that the regulations for this program are required to be published, the forms and other information collection activities required by participation in the Peanut Quota Buyout Program (QBOP) are not yet fully implemented in a way that would allow the public to conduct business with FSA electronically. Accordingly, applications for this program may be submitted at the FSA county offices by mail or FAX.

#### **Background**

Section 1309 of the 2002 Act repeals the marketing quota program for peanuts authorized by title III of the Agricultural Adjustment Act of 1938 (the 1938 Act). The regulations used to administer that program for the 1996 through 2002 crop years were codified at 7 CFR part 729. Other provisions of the 2002 Act set forth payment and marketing assistance loan programs for the 2002 through 2007 crops of peanuts that are similar to other major CCC commodity programs. Section 1309 also provides for CCC to pay eligible peanut quota holders as part of the transition from the repealed marketing quota program to the new programs.

Generally, this rule provides for payments to be made to each eligible peanut quota holder based on the amount of the peanut quota that was available to such holder for the 2001 crop year as provided by 7 CFR part 729 as it was codified on January 1, 2002. An eligible peanut quota holder is, generally, a person who, as of May 13, 2002, owned a farm that was otherwise eligible for a permanent peanut quota under section 358-1(b) of the 1938 Act. Temporary quota leases, transfers of peanut quotas for seed, and peanut quotas established for experimental purposes are not eligible peanut quotas for the buyout program established by this rule.

Eligible quota holders may elect to receive payment under this program in five equal installments in each of the 2002 through 2006 fiscal years, or as a single lump sum payment in any of these years. To the extent practical, CCC intends to make the 2003 through 2006 fiscal year payments between January 2 and January 31 of the applicable year. For those who choose the five-payment option, each QBOP payment will be determined by multiplying the \$0.11 per pound rate provided in the law times

the pounds of peanut quota for which such holder has been determined eligible for a payment. Persons who opt for the single lump payment will have their payment calculated in the same manner, except the payment rate will be \$0.55 per pound.

FSA has highly accurate records of peanut quota holders and the amount of peanut quota assigned to each quota holder's farm because of the extensive record keeping and reporting requirements of 7 CFR part 729 used to monitor production of peanuts and related information necessary to establish each year's peanut quota. Additionally, in July of 2002, FSA sent each quota holder of record for the 2001 peanut crop the pounds of peanut quota assigned to each tract of land on every farm (as constituted for FSA purposes) in every county, and the total peanut quota assigned to that quota holder. This letter also notified the peanut quota holders that enrollment for this program would begin September 3, 2002, and end November 22, 2002. This notification was completed prior to the enrollment period for this program to ensure that each eligible peanut quota holder had sufficient time to validate the accuracy of the FSA records to be used to calculate the QBOP payment.

The 2002 Act provides that the date of enactment of that act is to be used to determine who is an eligible peanut quota holder, or who owned a farm that was eligible for a peanut quota under section 358-1(b) of the 1938 Act. The 2002 Act provisions also address the situation where peanut quota transfers were initiated prior to May 13, 2002, but not completed as of that date. For example, if there was a written contract for the purchase of all of a portion a farm that was eligible to have a peanut quota assigned to it in existence as of May 13, 2002, and the parties to the contract cannot agree on the manner in which such quota would be assigned to the different portions of the farm, payments are to be made in a fair and equitable manner taking into account any incomplete permanent transfer of such quota. Accordingly, CCC has determined that, in the case of the incomplete transfer of an entire farm, the eligible peanut quota holder will be considered the person contractually bound to purchase the entire farm. Where there was a partial sale of the farm not yet completed by such date, CCC will, if the parties cannot agree on the division of the peanut quota, assign the disputed quota taking into account the ratio of cropland on the unsold portion of the farm to the cropland on the portion of the farm subject to the purchase contract. Similarly, the 2002

Act provides that where there was in existence on May 13, 2002, an agreement for the permanent transfer of the peanut quota, but the transfer was not completed by that date, the holder will be the owner of the farm to which the peanut quota was to be transferred.

Consistent with the 2002 Act, if a written agreement was in effect before May 13, 2002, for the purchase of all or portion of a farm and the parties had a written agreement specifying the distribution of the peanut quota, the buyout payment will be disbursed as specified in the agreement, so long as the resulting distribution is consistent with the 2002 Act. Also, if a farm is determined eligible for a permanent peanut quota on or before May 13, 2002, and the farm is sold in whole or in part after May 13, 2002, the peanut quota attributed to the owner of the farm as of such date cannot be transferred for purposes of determining a quota buyout payment. In addition, consistent with the manner in which CCC administers other commodity programs, a person who holds a life estate interest in a farm with a peanut quota will be considered the owner in determining who is an eligible peanut quota holder. A person with a remainder interest in such farm will not be considered to be an owner for such purposes.

The 2002 Act also provides that, notwithstanding any other provision of that Act, a person can be determined to be the eligible peanut quota holder if it is determined that such action is necessary for the fair and equitable administration of the program.

The 2002 Act provides that once a person's eligibility for the QBOP has been determined, such status is maintained whether or not there is a transfer of ownership of the farm. Accordingly, once it is determined that a person is eligible and CCC has executed a buyout contract with such person, the person may sell all or a portion of their farm and still receive the payment. CCC will not execute a quota buyout contract with a person who was the buyer of the farm in a transaction that took place after May 13, 2002. If such a person believes that the private sales transaction did not take into account these statutory and regulatory provisions, a private resolution of such a dispute must be undertaken by the parties to the contract; neither FSA nor CCC will participate in the resolution of such matter.

CCC has attempted to provide actual notice to all persons who are eligible to participate in this program, based upon the information required by FSA from peanut quota holders in the past. Still,

there may have been transfers of farms that were not reported to FSA or incomplete transfers of peanut quotas and farms as of May 13, 2002. It is not possible for CCC to independently verify all of the many transactions that may have occurred with respect to farms and peanut quotas since the transfer of peanut quotas in 2001 until May 13, 2002. Accordingly, in order to ensure that only persons who meet the requirements of the 2002 Act receive a QBOP payment and to reduce debt collection efforts with respect to persons who improperly represented their eligibility status to CCC, CCC will require program participants to make certain representations regarding whether the peanut quota or their farm had been transferred to another person. Also, this rule provides that a claim of: (1) Ownership in a farm or peanut quota; or (2) transfer of a farm or peanut quota that should have been reported to FSA under 7 CFR part 729, but was not, may be disregarded in administration of QBOP in order to complete the transition as quickly as possible from the marketing quota program to the new programs.

Similarly, in contemplation that there will be disputes concerning who is the owner of a farm or peanut quota for purposes of determining the QBOP payment, this rule provides that if: (1) A payment is made to a peanut quota holder, as identified on FSA records, for a farm; and (2) a person who is not the peanut quota holder, as identified on FSA records, for a farm submits a quota buyout contract or other written claim to CCC more than 10 days after the date of publication of this rule, no further payments will be made with respect to such farm until CCC has determined the eligibility status of each claimant and any other person who may be eligible to receive the payment and the occurrence of the earlier of: (1) Repayment of the payment initially made to the peanut quota holder identified on FSA records; or (2) an administrative claim has been established for repayment of such payment under CCC's debt collection regulations at 7 CFR part 1403. If a contract or other written claim is provided to CCC within 10 days of the date of this rule by two or more persons for the same peanut quota used to calculate a buyout payment, no payment will be issued until CCC determines the eligibility status of each claimant. This procedure will allow payments to be made by CCC prior to the end of the program's enrollment period on November 22, 2002, while helping to ensure that erroneous payments are not made by CCC.

In summary, this rule contains two important time periods: (1) The program enrollment period of September 3, 2002 through November 22, 2002; and (2) the 10-day period beginning on October 1, 2002, and ending on October 11, 2002, which is the time in which persons not identified in FSA records as a peanut quota holder on a specific farm may submit a written claim to fully protect their interests under the QBOP.

#### Cost/Benefit Assessment

Eligible peanut quota holders will receive about \$1.3 billion in compensation for the lost value of their quota. Payments shall be issued under the contracts during fiscal years 2002 through 2006. In selection of the two options to receive payments, five equal installments, or the entire payment as a lump sum, eligible quota holders are expected to elect to receive about 90 percent of the payments, or \$ 1.17 billion, in the first payment.

#### List of Subjects in 7 CFR Part 1412

Feed grains, Marketing quotas, Peanuts, Price support programs, Oilseeds, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 1412 is amended as set forth below.

1. Revise the heading of part 1412 to read as set forth above.

2. The authority citation for part 1412 is revised to read as follows:

**Authority:** 7 U.S.C. 7201 *et seq.*, 7959; 15 U.S.C. 714b, 714c.

#### PART 1412—PEANUT QUOTA BUYOUT PROGRAM AND PRODUCTION FLEXIBILITY CONTRACT PROGRAM

3. In part 1412, redesignate subparts A through E as subparts B through F, respectively, and add a new subpart A to read as follows:

##### Subpart A—Peanut Quota Buyout Program

- Sec.
- 1412.1 Applicability.
  - 1412.2 Administration.
  - 1412.3 Definitions.
  - 1412.4 Appeals.
  - 1412.5 Enrollment; special filing and payment provisions for persons who are not the peanut quota holder of record.
  - 1412.6 Eligible peanut quota holder.
  - 1412.7 Contract provisions.
  - 1412.8 Contract liability.
  - 1412.9 Misrepresentation and scheme or device.
  - 1412.10 Offsets and assignments.
  - 1412.11 Other regulations.

## Subpart A—Peanut Quota Buyout Program

### § 1412.1 Applicability.

The regulations in this subpart govern the Peanut Quota Buyout Program of the Commodity Credit Corporation (CCC). Generally, CCC will enter into contracts with eligible peanut quota holders that provide for payments to such holders based upon the amount of the 2001 crop peanut quota assigned to farms owned by such holders as of May 13, 2002.

### § 1412.2 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, CCC, and shall be carried out by the Farm Service Agency (FSA) State and county committees (State and county committees).

(b) State and county committees, their representatives and employees, have no authority to modify or waive provisions of this subpart, except as provided in paragraph (e) of this section.

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

(1) Correct, or require a county committee to correct any action taken by such county committee that is not in accordance with this part; or

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

(d) No provision or delegation to a State or county committee shall preclude the Executive Vice President, CCC, 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 may authorize State and county committees to waive or modify deadlines, except statutory deadlines, and other non-statutory requirements in cases where lateness or failure to meet such other requirements does not adversely affect operation of the program.

(f) A representative of CCC may execute a contract for a quota buyout only under the terms and conditions of this part, and as determined and announced by the Executive Vice President, CCC. Any contract that is not executed in accordance with such terms and conditions, including any purported execution prior to the date authorized by the Executive Vice President, CCC, is null and void and shall not be considered to be a contract between CCC and any person executing the contract.

### § 1412.3 Definitions.

The definitions in this section shall apply for all purposes of administering the Peanut Quota Buyout. The terms defined in part 718 of this title and part 1400 of this chapter shall also be applicable, except where those definitions conflict with the following definitions in this section:

*Contract* means a Peanut Quota Buyout Program Contract, and its Appendix for the Peanut Quota Buyout Program to be executed on a form and in a manner as prescribed by CCC.

*Deputy Administrator* means the Deputy Administrator for Farm Programs, FSA, or a designee.

*Eligible Quota* means the amount of peanut quota owned by an eligible peanut quota holder as of May 13, 2002, based on the 2001 quota for the purposes of determining Peanut Quota Buyout Program payments. Eligible quota does not include peanut quota established for seed or experimental purposes and quotas subject to a temporary lease or transfer.

### § 1412.4 Appeals.

A person may obtain reconsideration and review of any adverse determination made under this part in accordance with the appeal regulations found at parts 11 and 780 of this title.

### § 1412.5 Enrollment; special filing and payment provisions for persons who are not the peanut quota holder of record.

(a) Enrollment for the Peanut Quota Buyout Program begins September 3, 2002, and ends November 22, 2002. Application for payment must be made by signing the contract. Payments will be made by CCC to eligible peanut quota holders as soon as practicable beginning October 11, 2002.

(b)(1) If contracts or other written claims are provided to CCC by October 11, 2002, by two or more persons with respect to the same peanut quota used to calculate a Peanut Quota Buyout Program payment, CCC will not issue such payment until CCC has determined the eligibility status of each claimant.

(2) If CCC has made a payment to a peanut quota holder, as identified on FSA records, for a farm and after October 11, 2002, a person who is not a peanut quota holder, as identified on FSA records, for such farm submits a contract or other written claim with CCC for the same quota used to issue the initial payment, CCC will issue no further payments for such farm until CCC has determined the eligibility status of each person who has filed a contract or other written claim for such farm and the occurrence of the earlier of:

(i) Repayment of the initial payment made by CCC; or

(ii) The establishment, in accordance with part 1403 of this chapter, by CCC of a claim for repayment of the initial payment.

(c) Payments to a person who CCC has determined to be an eligible peanut quota holder with respect to a farm but who, as of September 3, 2002, were not the peanut quota holder, as identified on FSA records as of May 13, 2002, for such farm will be made by CCC after November 22, 2002, unless prior to November 22, 2002, CCC has received an acknowledgment from the peanut quota holders, as identified on FSA records as of May 13, 2002, that they:

(1) Will not file a contract for such peanut quota; and

(2) Transferred the peanut quota to such other party prior to May 13, 2002.

### § 1412.6 Eligible peanut quota holder.

(a) A person shall be eligible for a payment under this part only if CCC has determined the person to be an "eligible peanut quota holder" for purposes of this part. To be an eligible peanut quota holder, a person must, as of May 13, 2002:

(1) Have owned a farm, or had a life estate interest in a farm, to which paragraphs (a)(2) and (b) of this section do not apply, that was eligible for a permanent peanut quota under part 729 of this title, as in effect on January 1, 2002, without regard to quotas established for seed or experimental purposes or quotas subject to temporary leases or temporary transfers;

(2) Be a party to a written contract for the purchase of all or a portion of the farm identified in paragraph (a)(1) of this section that was in effect on or before May 13, 2002. If the parties to the contract are unable to agree to the division of the applicable peanut quota on the land subject to the written contract, the Deputy Administrator, taking into account any incomplete or permanent transfer of the peanut quota that has otherwise been agreed to, shall provide for the equitable division of the payments made under this part by determining the eligible peanut quota holders and allocating the disputed amount of the peanut quota to such holders. This allocation will take into account the ratio of cropland on the unsold portion of the farm and the cropland on the portion of the farm subject to the purchase contract;

(3) Be a party to a written contract that was in effect on or before May 13, 2002, for the permanent transfer of a peanut quota to such party's farm but was not completed by that date. In such a case, the eligible peanut quota holder

is the owner of the farm, as of May 13, 2002, to which the peanut quota was to be transferred; or

(4) Have owned a farm with a peanut quota which is protected under a Conservation Reserve Program contract in accordance with part 1410 of this chapter;

(b) Notwithstanding any provision of paragraph (a) of this section, CCC may determine that a person is an eligible peanut quota holder with respect to an amount of peanut quota for the purposes of this section, to the exclusion of all other persons in order to provide for the fair and equitable administration of this part so long as the total amount of eligible quota pounds for all program participants does not exceed the quantity of peanut quota that was available to all quota holders in the 2001 crop year.

(c) Sales and transfers of farms and peanut quotas may be disregarded by CCC when:

(1) Such sales and transfers were required to be reported to FSA under part 729 of this title; or

(2) It is otherwise determined by CCC that it would be unfair and inequitable in the overall administration of the program to make or modify an eligibility determination based on claims of transfers or sales that preceded January 1, 2002.

#### **§ 1412.7 Contract provisions.**

(a)(1) CCC will, on a per-farm basis, offer to enter into a contract with each eligible peanut quota holder on such farm under which CCC will provide a payment in five equal installments in each of the 2002 through 2006 fiscal years or in one lump sum payment in any such fiscal year as selected by such holder.

(2) Eligible peanut quota holders who elect to receive five equal installments payments will receive the fiscal year 2002 payment no later than December 31, 2002 and, as determined by CCC, between January 2 and January 31 in each of the years 2003 through 2006.

(3) Eligible peanut quota holders who elect to receive one lump sum payment may specify the fiscal year in which they wish to receive a payment. CCC will determine the day in such fiscal year that the payment will be made by CCC.

(b) The amount of each payment made under paragraph (a)(2) of this section shall be the product determined by multiplying:

(1) \$0.11 per pound; times

(2) The amount of eligible quota pounds of the eligible peanut quota holder.

(c) The amount of each payment made under paragraph (a)(3) of this section shall be the product determined by multiplying the product determined under paragraph (b) of this section times five.

(d) After a payment option has been selected under paragraph (a) of this section and a payment has been made by CCC, no change in the payment option will be allowed except as authorized by the Executive Vice President, CCC.

#### **§ 1412.8 Contract liability.**

All signatories to a contract are jointly and severally liable for contract violations and resulting repayments and liquidated damages.

#### **§ 1421.9 Misrepresentation and scheme or device.**

A person who is determined to have:

(a) Erroneously represented any fact affecting a program determination made in accordance with this subpart;

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

(c) Made any fraudulent representation affecting a program determination made in accordance with this subpart, must refund all payments received on all contracts entered into under this subpart, plus interest as determined in accordance with part 1403 of this chapter, and pay to CCC liquidated damages as specified in the contract.

#### **§ 1412.10 Offsets and assignments.**

(a) Except as provided in paragraph (b) of this section, 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 peanut quota or the farm for which a peanut quota had been established under part 729 of this title by any creditor or any other person.

(b) Any person eligible to receive a payment made under this subpart may assign the payment in accordance with part 1404 of this chapter.

#### **§ 1412.11 Other regulations.**

(a) The provisions of part 12 of this title, the controlled substance provisions of part 718 of this title, and the payment limitation provisions of part 1400 of this chapter shall not be applicable to payments made under this subpart.

(b) The provisions of part 707 of this title relating to the making of payments in the event of the death of a program participant and in the event of other

special circumstances shall apply to payments made under this subpart.

Signed in Washington, DC, on September 25, 2002.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 02-24816 Filed 9-27-02; 11:20 am]

**BILLING CODE 3410-05-P**

## **DEPARTMENT OF JUSTICE**

### **Immigration and Naturalization Service**

#### **8 CFR Parts 103 and 214**

[INS No. 1946-98; AG Order No. 2617-2002]

**RIN 1115-AF29**

#### **Delegating the Secretary of Labor the Authority To Adjudicate Certain Temporary Agricultural Worker (H-2A) Petitions**

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Withdrawal of final rule.

**SUMMARY:** On July 13, 2000, the Immigration and Naturalization Service (Service) published a final rule in the **Federal Register**, delegating the adjudication of certain petitions for agricultural workers (H-2A) to the United States Department of Labor (DOL). Subsequently, the effective date for that final rule was delayed until October 1, 2002. On November 8 and 16, 2001, the DOL held public briefings concerning the delegations. Based on the public response at these briefings the DOL has determined that the delegation of authority for adjudicating H-2A petitions would not benefit the public as initially contemplated. In consideration of DOL's actions and subsequent events, the delegation of authority does not appear to be appropriate at this time. Accordingly the Attorney General is withdrawing the July 13, 2000, final rule delegating authority to the DOL.

**DATES:** The final rule amending 8 CFR parts 103 and 214 published in the **Federal Register** at 65 FR 43528 (July 13, 2000) and deferred at 65 FR 67616 (November 13, 2000) and 66 FR 49514 (September 28, 2001) is withdrawn as of October 1, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mari F. Johnson, Adjudications Officer, Business and Trade Services Branch, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 353-8177.

**SUPPLEMENTARY INFORMATION:**