

interim final rule would not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and would not alter the market share of competitive positions of small entities relative to the large entities and would in no way affect normal competition in the marketplace. This rule merely removes section of the regulations that specify composition of the FCTAC.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary and customary to the public interest to give preliminary notice prior to putting this rule in effect, and that good cause exists for not postponing the effective date of this rule until 60 days after publication in the **Federal Register** so that USDA can utilize the advice of a committee which reflects the current makeup of the tobacco industry during the current marketing season. This interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to the finalization of this rule.

List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping procedures, Tobacco.

For the reasons set forth in the preamble, the regulations at 7 CFR part 29 are amended as follows:

PART 29—TOBACCO INSPECTION

Subpart G—Policy Statement and Regulations Governing Availability of Tobacco Inspection and Price Support Services to Flue-Cured Tobacco on Designated Markets

1. The authority citation for part 29, subpart G continues to read as follows:

Authority: Tobacco Inspection Act, 49 Stat. 731 (7 U.S.C. *et seq.*); Commodity Credit Corporation Charter Act, 62 Stat. 1070, as amended (15 U.S.C. 714 *et seq.*); sec. 213, Pub. L. 98–180, 97 Stat. 1149 (7 U.S.C. 1421; 49 Stat. 731 (7 U.S.C. 511 *et seq.*), unless otherwise noted.

§ 29.9403 [Amended]

2. In § 29.9403, paragraphs (b), (c), (d), (e) and paragraph designation “(a)” are removed.

Dated: September 25, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–24905 Filed 9–30–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1400

RIN 0560–AG77

Payment Limits

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule implements provisions of the Farm Security and Rural Investment Act of 2002 regarding per person payment limitations on certain programs. This rule will limit the amount of payments that may be received by one person for direct and counter-cyclical payments, marketing loan and loan deficiency payments, and conservation and environmental programs.

EFFECTIVE DATE: September 27, 2002.

FOR FURTHER INFORMATION CONTACT: Dan McGlynn, Production, Emergencies and Compliance Division, United States Department of Agriculture (USDA), Stop 0517, 1400 Independence Ave. SW., Washington, DC 20250–0517. Telephone: (202) 720–3463. Electronic mail: Dan_McGlynn@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 Farm Security and Rural Investment Act of 2002 (the 2002 Act) requires that the regulations needed to implement Title I of the 2002 Act, including those involved here, 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 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

This rule has a potential impact on all programs listed in the Catalog of Federal

Domestic Assistance in the Agency Program Index under the Department of Agriculture, Farm Service Agency and Natural Resources Conservation Service. Other assistance programs are also impacted.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not 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 Assessment

The environmental impacts of this final 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. It has been concluded that the rule will have no significant impacts upon the human environment as documented by an environmental evaluation. A copy of the environmental evaluation is available for inspection and review upon request. Therefore, the agency has determined that this rule is a categorical exclusion and no further environmental review is required.

Executive Order 12778

The final rule has been reviewed under Executive Order 12778. This rule preempts State laws that are inconsistent with it, however, this rule is not retroactive. Before judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

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) does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking about this rule. Also, this rule contains no mandates as defined in sections 202 and 205 of 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 should 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. These regulations affect the planting and marketing decisions of a large number of agricultural producers. 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 provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be done without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities need to administer the program authorized by these regulations are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Background

The 2002 Act authorized new programs and benefits, including direct payments and counter-cyclical payments. In section 1603 of that Act, by amendment to Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), Congress limited the amount of such payments that could be received by one person. The per person payment limits are for direct payments, counter-cyclical payments, marketing loan gains, and loan deficiency payments of \$40,000, \$65,000, and \$75,000 respectively for the "covered commodities" of corn, grain sorghum, barley, oats, wheat, soybeans, minor oilseeds, cotton and rice. Separate limits for comparable peanut payments are set; however, the \$75,000 limits for marketing loan gain and loan deficiency payments includes payments for wool, mohair and honey.

Summary of Cost Benefit Analysis

The 2002 Act carries over from previous legislation an "actively

engaged in farming requirement" and "person" rules for a producer to be eligible to receive program benefits. The definition of "person" includes individuals and also encompasses certain partnerships, corporations and other types of organizations. The 2002 Act establishes per "person" payment limitations for direct payments, counter-cyclical payments, marketing loan gains, and loan deficiency payments for the covered commodities. There are also per "person" payment limitations for the various conservation and environmental programs. Some diversified producers may be able to pool several payment limits from the same program, such as peanuts, which have a limit of \$75,000, and corn and soybeans, which have separate payment limits, to earn an additional \$75,000 in loan deficiency payments. Plus, this producer could receive \$40,000 and \$65,000 in direct and counter-cyclical payments from the corn, soybeans and peanuts.

Payment limits are further relaxed by the availability of commodity certificates for marketing assistance repayment. Commodity certificates are available to producers with outstanding recourse marketing assistance loans and may be used by producers or their agents to acquire commodities pledged as collateral for those loans. The producer may purchase a commodity certificate, exchange the certificate for the loan collateral, the loan is considered liquidated, and the producer has no more obligation for that portion of the collateral. Moreover, the payment limit does not apply to any indirect benefit the producer may realize from such a transaction because there is no marketing gain. An eligible producer, however, must have an outstanding commodity loan that has not matured.

In May 2002, the Congressional Budget Office (CBO) estimated that the 2002 Act would change expenditures compared to the previous legislation. They compared two sets of policies using the same commodity prices and macroeconomic variables. CBO found that in fiscal year 2002 through 2006 the new set of payment limits would save \$92 million more than the payment limits for programs in previous legislation. This amount does not establish that limits in the 2002 Act are more effective since the available programs have changed. Part of the available savings may be credited to the effects of the limits on the counter-cyclical payments which did not exist under the previous legislation. Contact the information contact list in the address section of this rule for additional questions on the expected impacts.

List of Subjects in 7 CFR Part 1400

Agriculture, Grant programs—agriculture, Loan programs—agriculture, Price support programs, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, 7 CFR part 1400 is amended as follows:

PART 1400—PAYMENT LIMITATION AND PAYMENT ELIGIBILITY

1. The authority citation for part 1400 is revised to read as follows:

Authority: 7 U.S.C. 1308 *et seq.*

2. Section 1400.1 is revised to read as follows:

§ 1400.1 Applicability.

(a) Together with any additional coverage as may apply with respect to Subpart G of this part or other subpart of this part as provided in such subpart, this part is applicable to the following programs (together with any other programs which adopt this part by reference):

(1) The program governed by part 1413 of this chapter;

(2) All programs governed by parts 1421 and 1427 of this chapter under which a producer realizes a gain from repaying a marketing assistance loan at a lower rate than the commodity's original loan rate, and any program that authorizes a loan deficiency payment for a commodity;

(3) The Conservation Reserve Program (CRP) as governed by part 1410 of this chapter.

(b) This part does not apply to:

(1) CRP rental payments if they are made to a State, including a political subdivision or agency thereof, under a special conservation reserve enhancement program the Secretary approves.

(2) CRP rental payments made to an individual heir who succeeded to a contract on inherited land, if the land was subject to the CRP contract at the time it was inherited.

(c) This part applies to the programs specified in paragraph (a)(1) and (2) of this section on a crop year basis, and those in paragraph (a)(3) of this section based on each fiscal year.

(d) This part is used to determine whether individuals and entities are to be treated as one person or as separate persons regarding the application of statutory provisions that limit the amount of payments a specific person may receive.

(e) Where more than one provision of this part may apply, the provision most restrictive on the program participant shall apply.

(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	¹ 450,000
10. Agricultural Management Assistance Program	50,000
11. Conservation Security Program (CSP):	
Tier 1	² 20,000
Tier 2	² 35,000
Tier 3	² 45,000

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

² 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.

[FR Doc. 02-24817 Filed 9-27-02; 11:20 am]

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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