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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB-97-01]

Tobacco Inspection; Grower's Referendum Results

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to the referendum on the merger of Tabor City and Whiteville, North Carolina, to become the consolidated market of Tabor City-Whiteville. A mail referendum was conducted during the period of March 24-28, 1997, among tobacco growers who sold tobacco on these markets in 1996 to determine producer approval/disapproval of the designation of these markets as one consolidated market. Therefore, for the 1997 and succeeding flue-cured marketing seasons, the Tabor City and Whiteville, North Carolina, tobacco markets shall be designated as and called Tabor City-Whiteville. The regulations are amended to reflect this new designated market.

EFFECTIVE DATE: June 5, 1997.

FOR FURTHER INFORMATION CONTACT: William O. Coats, Deputy Director, Tobacco Division, Agricultural Marketing Service, United States

Department of Agriculture, P.O. Box 96456, Washington, D.C. 20090-6456; telephone number (202) 205-0508.

SUPPLEMENTARY INFORMATION: A notice was published in the March 13, 1997, issue of the **Federal Register** (62 FR 11773) announcing that a referendum would be conducted among active flue-cured producers who sold tobacco on either Tabor City or Whiteville during the 1996 season to ascertain if such producers favored the consolidation.

The notice of referendum announced the determination by the Secretary that the consolidated market of Tabor City and Whiteville, North Carolina, would be designated as a flue-cured tobacco auction market and receive mandatory Federal grading of tobacco sold at auction for the 1997 and succeeding seasons, subject to the results of the referendum. The determination was based on the evidence and arguments presented at a public hearing held in Tabor City, North Carolina, on November 6, 1996, pursuant to applicable provisions of the regulations issued under the Tobacco Inspection Act, as amended. The referendum was held in accordance with the provisions of the Tobacco Inspection Act, as amended (7 U.S.C. 511d) and the regulations set forth in 7 CFR 29.74.

Ballots for the March 24-28 referendum were mailed to 211 producers. Approval required votes in favor of the proposal by two-thirds of the eligible voters who cast valid ballots. The Department received a total of 197 responses: 160 eligible producers voted in favor of the consolidation; 22 eligible producers voted against the consolidation; and 15 ballots were determined to be invalid.

The Department of Agriculture is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. The

final rule will not exempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. Most tobacco producers and many tobacco warehouses are small businesses as defined in the Regulatory Flexibility Act. This action will not substantially affect the normal movement of the commodity in the marketplace. It has been determined that this action will not have a significant impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 29

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

For the reasons set forth in the preamble, 7 CFR Part 29 is amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for 7 CFR Part 29, Subpart D, continues to read as follows:

Authority: Sec. 5, 49 Stat. 732, as amended, by Sec. 157(a)(1), 95 Stat. 374 (7 U.S.C. 511d).

Subpart D—Orders of Designation of Tobacco Markets

2. In § 29.8001, the table is amended by adding a new entry (ooo) to read as follows:

§ 29.8001 [Amended]

* * * * *

DESIGNATED TOBACCO MARKETS

Territory	Types of tobacco	Auction markets	Order of designation	Citation
*	*	*	*	*
(ooo) North Carolina	Flue-Cured	Tabor City-Whiteville	June 5, 1997	(insert FR citation).

Dated: April 30, 1997.

Lon Hatamiya,
Administrator.

[FR Doc. 97-11744 Filed 5-5-97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1493 and 1494

Revised Definition of U.S. Agricultural Commodity for Commercial Export Programs

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) is amending its commercial export program regulations to change the definition of the term "U.S. agricultural commodity." These changes are to conform the applicable regulations with a provision of the Federal Agriculture Improvement and Reform Act of 1996. This final rule is applicable to the Export Enhancement Program (EEP), the Dairy Export Incentive Program (DEIP), CCC's Export Credit Guarantee Program (GSM-102), CCC's Intermediate Export Credit Guarantee Program (GSM-103), and the Supplier Credit Guarantee Program (SCGP). The revised definition contains two subparagraphs. The first subparagraph is similar to the current definition of U.S. agricultural commodity. The second subparagraph applies only to a product of an agricultural commodity that the Secretary designates as a high value product. Under the applicable statute and the revised definition, if this designation is made, to qualify as a U.S. agricultural commodity 90 percent or more of the agricultural components of the product (by weight, excluding packaging and water) must be entirely produced in the United States.

EFFECTIVE DATE: June 5, 1997.

FOR FURTHER INFORMATION CONTACT: L.T. McElvain, Director, CCC Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1035, Washington D.C., 20250-1035; Fax (202) 720-2949; Telephone (202) 720-6211. The U.S. Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age disability, political beliefs and marital or familial status. Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact the

USDA Office of Communications at (202) 720-5881 (voice) or (202) 720-7808 (TDD).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. It has been determined to be neither significant nor economically significant for the purposes of E.O. 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Executive Order 12372

These programs are not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Environmental Evaluation

The Foreign Agricultural Service (FAS) is excluded from the requirements of preparing procedures to implement the National Environmental Policy Act and is categorically excluded from the preparation of an Environmental Assessment or Environmental Impact Statement unless the Administrator of FAS determines that an action may have a significant environmental effect 7 CFR 1b.4(b)(7). The Administrator has made no such determination with respect to this action.

Paperwork Reduction Act

The amendments to 7 CFR parts 1493 and 1494 set forth in this final rule do not contain information collections that require clearance by the OMB under the provisions of 44 U.S.C. 35.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. The final rule would not 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. The rule would not have retroactive effect.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest.

Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome, and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations.

Background

The Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104-127) ("1996 Act") became effective on April 4, 1996. Section 243 (c) of the 1996 Act amended the definition of "United States agricultural commodity" set forth in section 102(7) of the Agricultural Trade Act of 1978. The new definition of a United States agricultural commodity reads as follows: "(A) an agricultural commodity or product entirely produced in the United States; or (B) a product of an agricultural commodity—(i) 90 percent, or more of the agricultural components of which by weight, excluding packaging and added water, is entirely produced in the United States; and (ii) that the Secretary determines to be a high value agricultural product."

This amendment did not affect that part of the definition specifically concerning fish. As before, for purposes of Section 102(7), fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

The revised definition is applicable to the Export Enhancement Program (EEP), 7 CFR part 1494, subpart B; the Dairy Export Incentive Program (DEIP), 7 CFR part 1494, subpart D; CCC's Export Credit Guarantee Program (GSM-102), 7 CFR part 1493, subpart B; CCC's Intermediate Export Credit Guarantee Program (GSM-103), 7 CFR part 1493, subpart B; and the Supplier Credit Guarantee Program (SCGP), 7 CFR part 1493, subpart D. Pursuant to 7 CFR part 1494, subpart D, the operational regulations of the EEP found at 7 CFR 1493, subpart B, also apply to the DEIP. Therefore, the changes made by this final rule are applicable to the DEIP via a change to the EEP regulations.

This final rule amends each of the above regulations to include the revised statutory definition of a United States agricultural commodity and to make conforming changes to the applicable certifications made by exporters. Such certifications are made by exporters at