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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB-97-16]

Tobacco Inspection; Growers' 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 Clarksville and Chase City, Virginia, to become the consolidated market of Clarksville-Chase City. A mail referendum was conducted during the period of April 27-May 1, 1998, among tobacco growers who sold tobacco on these markets in 1997 to determine producer approval/disapproval of the designation of these markets as one consolidated market. Therefore, for the 1998 and succeeding flue-cured marketing seasons, the Clarksville and Chase City, Virginia, tobacco markets shall be designated as and called Clarksville-Chase City. The regulations are amended to reflect this new designated market.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: William O. Coats, Associate Deputy Administrator, Tobacco Programs, 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 April 20, 1998, issue of the **Federal Register** (63 FR, 19415) announcing that a referendum would be conducted among active flue-cured producers who sold tobacco on either Clarksville or Chase City during the 1997 season to ascertain if such producers favored the consolidation.

The notice of referendum announced the determination by the Secretary that the consolidated market of Clarksville and Chase City, would be designated as a flue-cured tobacco auction market and receive mandatory Federal grading of tobacco sold at auction for the 1998 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, Clarksville, Virginia, on November 7, 1997, 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 April 27-May 1, 1998, referendum were mailed to 511 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 131 responses: 100 eligible producers voted in favor of the consolidation; 9 eligible producers voted against the consolidation; and 22 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 (ppp) to read as follows:

§ 29.8001 Designation of tobacco markets.

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DESIGNATED TOBACCO MARKETS

Territory	Types of tobacco	Auction markets	Order of destination	Citation
*	*	*	*	*
(ppp)Virginia	Flue-Cured	Clarksville-Chase City	July 1, 1998.	(Insert Federal Register citation.)

Dated: May 26, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98-14423 Filed 5-29-98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580-AA54

General Regulations and Standards for Certain Agricultural Commodities

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is amending the regulations under the Agricultural Marketing Act (Act) of 1946 to allow GIPSA and State cooperators to use contractors to perform specified inspection services. GIPSA has determined that private firms, institutions, and individuals, working under contract with GIPSA field offices and State cooperators, may be able to perform some inspection services, at certain locations, more effectively or at less cost than if those services were performed by Department or State employees. Consequently, GIPSA is amending the regulations to allow GIPSA and State cooperators to contract for service work and to license individual contractors and those employed by contractors.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA, GIPSA, Room 0623-S, Stop 3649, Washington, D.C. 20250-3649; FAX (202) 720-4628; or E-mail gwollam@fgisdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be nonsignificant for the purpose of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This final rule is not intended to have retroactive effect. There are no

administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule or application of its provisions.

Effects on Small Entities

GIPSA has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). GIPSA believes that allowing contracts with private firms, institutions, individuals, and others for inspection work will foster more cost-effective operations. Many users of the inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act. For example, the primary user of pulse inspection services is the U.S. Government. It is estimated that between 80 and 90 percent of all inspections are performed (directly or indirectly) at the request of either the USDA's Farm Service Agency or Foreign Agricultural Service, or the U.S. Agency for International Development. The action will allow GIPSA and the 13 State cooperators to use contractors to perform specified inspection services. Currently, contract samplers are used by both GIPSA and State cooperators which has resulted in reduced operating expenses and, in many cases, quicker services to applicants for services. It is expected that this action would result in similar benefits.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements in Part 868 have been approved previously by OMB and assigned OMB No. 0580-0013.

Background

GIPSA is committed to carrying out its statutory and regulatory mandates in a cost-effective manner that best serves the public interest. Concurrently, GIPSA is constantly seeking ways to reduce the cost of providing official services, without reducing the quality of that service. One measure that has proven effective is the use of contract samplers at outlying service points or during periods of peak demand. By judiciously using contract samplers, GIPSA field offices and State cooperators have been able to reduce their operating expenses and, in many cases, provide quicker service to their applicants for services. GIPSA believes that contract inspections may be equally beneficial in certain situations; e.g., providing quality

inspections on an intermittent basis at geographically isolated service points.

On January 15, 1998, GIPSA published in the **Federal Register** (63 FR 2353) a proposal to amend the regulations under the Act of 1946 to allow GIPSA and State cooperators to use contractors to perform specified inspection services. The Act of 1946 provides authority to the Secretary of Agriculture to enter into contracts and agreements with States and agencies of States, private firms, institutions, and individuals for the purpose of performing specified inspection services. According to Section 868.1(b)(23) of the regulations, such services may include "applying such tests and making examinations of a commodity and records by official personnel as may be necessary to determine the kind, class, grade, other quality designation, the quantity, or condition of commodity; performing condition of container, carrier stowage examination; and any other services as related to commodities, as necessary; and issuing an inspection certificate." However, Section 868.80(a)(1) of the regulations states that only persons employed by a cooperator may be licensed to inspect commodities or to perform related services. Consequently, GIPSA proposed to amend the regulations to provide for GIPSA and State cooperators to contract for quality (grading) inspection services and to license individual contractors and those employed by a contractor.

Comment Review

During the 60-day comment period, GIPSA received eight comments: One from a Midwest bean export company; one from a national association that represents grain, feed, and processing companies; one from a regional grain exchange; one from an animal welfare organization; and four from privately-owned official inspection and weighing agencies. Seven of the commenters supported the proposed action, as written. One commenter noted several concerns, but did not object to the proposed action.

Several of the commenters indicated that private firms, institutions, and individuals, working under contract with GIPSA field offices and State cooperators, would improve the timeliness of service. One commenter stated that allowing GIPSA to use contractors "would eliminate time consumed by mailing samples to the field offices, which should result in quicker turnaround and be more cost-effective." Another indicated that this action "would greatly simplify and speed up the process of exporting."