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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[Docket No. TB-99-10]

RIN 0581-AB65

Tobacco Inspection; Subpart B—Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Agricultural Marketing Service (AMS) is amending the regulations governing permissive inspection of tobacco to provide for special tests and services requested by the industry. This regulatory change is based on a recommendation by the Burley Tobacco Advisory Committee to provide moisture testing for burley tobacco. The buying segment of the tobacco industry has requested that moisture testing be performed by AMS on all burley tobacco marketed during the 1999-2000 marketing season. These amendments will provide regulatory authority to conduct moisture testing and collect fees and charges for these services.

DATES: Effective December 3, 1999; comments received by January 31, 2000, will be considered prior to issuance of a final rule.

ADDRESSES: Send comments to John P. Duncan III, Deputy Administrator, Tobacco Programs, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456; or Fax: (202) 205-0235. Comments will be made available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 205-0567, Fax: (202) 205-0235.

SUPPLEMENTARY INFORMATION: This rule will amend the regulations governing the permissive inspection of tobacco pursuant to the provisions of the Tobacco Inspection Act (49 stat. 741, 7 U.S.C. 511 *et seq.*).

The Burley Tobacco Advisory Committee made a recommendation on June 10, 1999, that AMS conduct moisture testing on all burley tobacco offered for sale at designated auction markets. The recommendation was contingent on successful price negotiations between the buying segment and burley tobacco warehouse operators. The committee further recommended that tobacco marketed in an experimental unitized package be turned 90 degrees within the row as a condition of the testing process.

During the 1998-1999 marketing season, approximately 60 million pounds of burley tobacco was sold in the experimental unitized package and tested for moisture content by the warehouse operators. The unitized bale is a new experimental package consisting of an even number of traditional burley bales with one additional bale opened and evenly arranged on top which is securely bound with metal wires to form a rectangular cube.

Due to integrity issues between the buying and warehouse segments of the industry, it was recommended that a third party entity perform the moisture testing. After three months of discussions and negotiations by the buying segment and the Burley Auction Warehouse Association, representing 95 percent of burley tobacco warehouse operators, a commitment was obtained from the four major tobacco companies purchasing burley tobacco to reimburse AMS \$.0020 per pound for providing moisture testing services. These testing services would be conducted on all burley tobacco, including the traditional lot consisting of a maximum of eight bales and the experimental unitized package, offered for sale at designated markets.

Accordingly, this rule will provide regulatory authority to conduct special testing services for interested parties

and charge fees to recover the costs of providing the service as determined by the Deputy Administrator, Tobacco Programs.

This rule has been determined to be "non significant" for purposes of Executive order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12866, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt 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. All tobacco warehouses and producers fall within the confines of "small business" which are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000 and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. There are approximately 190 tobacco warehouses and approximately 30,000 producers and most warehouses and producers may be classified as small entities. The Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is hereby found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 1999-2000 burley marketing season is scheduled to begin in November 1999 and this action is needed as soon as possible so that equipment may be acquired and grading personnel may be trained in its use; and (2) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

Lists of Subjects in 7 CFR Part 29

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

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

PART 29—TOBACCO INSPECTION**Subpart B—Regulations**

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

Authority: 7 U.S.C. 511m and 511r.

2. Section 29.56 is amended by adding a sentence at the end of the section to read as follows:

§ 29.56 Permissive inspection.

* * * Special tests and services may be performed for interested persons to the extent that available facilities will permit, subject to the payment of fees as determined by the Deputy Administrator, Tobacco Programs.

3. In § 29.123, a new paragraph (e) is added to read as follows:

§ 29.123 Fee and charges.

* * * * *

(e) Fees for special tests and services will be determined by the Deputy Administrator, Tobacco Programs.

Dated: November 26, 1999.

Kathleen A. Merrigan,
Administrator, Agricultural Marketing Service.

[FR Doc. 99-31302 Filed 12-1-99; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Commodity Credit Corporation****7 CFR Part 1407**

RIN 0560-AF47

Debarment and Suspension

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule will revise CCC's regulations setting forth its policies with regard to the debarment and suspension of individuals or firms from participation in Federal procurement and nonprocurement activities. The U.S. Department of Agriculture (USDA) has published USDA-wide nonprocurement debarment and suspension regulations, and CCC will proceed under such regulations in nonprocurement debarment and

suspension actions. CCC will continue to proceed under this part in procurement debarment and suspension actions but will apply the provisions of the USDA procurement debarment and suspension regulations, with the exception of the specified debarring and suspending official, in such procurement actions.

EFFECTIVE DATE: January 3, 2000.

FOR FURTHER INFORMATION CONTACT:

Sharon Hadder, Contract Management Branch, Farm Service Agency, telephone 202-720-3816, fax (202) 690-1809, or e-mail to Sharon_Hadder@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12372

This activity is not subject to the provisions of 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).

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The final rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with its provisions or which otherwise impede their full implementation. The final rule does not have retroactive effect. The final rule does not require that administrative remedies be exhausted before suit may be filed.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act.

The Executive Vice President, CCC, has certified that this final rule will not have a significant economic impact on a substantial number of small entities. The principal regulatory change made by the final rule would be to provide that CCC will proceed under the USDA-wide regulations when taking action to debar or suspend participants or potential participants in CCC's nonprocurement activities. These USDA-wide regulations are similar to the government-wide common rule and would not impact on small businesses as a group, but only upon specific entities when necessary to protect the

interests of CCC. A copy of this final rule has been submitted to the General Counsel, Small Business Administration.

Paperwork Reduction Act

These regulations do not contain information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35.

Discussion of Proposed Rule

This final rule will revise existing CCC regulations to specify policies that CCC will follow in taking action to debar or suspend individuals or firms from participation in Federal procurement and nonprocurement activities. Currently the CCC debarment and suspension regulations at 7 CFR part 1407 provide that 48 CFR part 409, subpart 409.4 (§§ 409.403 *et seq.*) shall be applicable to all CCC debarment and suspension proceedings, except that the authority to debar and suspend shall be reserved to the Executive Vice President, CCC, or his designee. The regulations at 48 CFR part 409, subpart 409.4, are the procurement debarment and suspension regulations for USDA.

USDA has published USDA-wide nonprocurement debarment and suspension regulations at 7 CFR part 3017. Effective February 5, 1996, these regulations were amended to remove certain requirements that would have had a detrimental effect if they had been applied to certain CCC programs. Consequently, CCC is now proposing that, as a matter of policy, CCC will proceed under 7 CFR part 3017 when taking action to debar or suspend individuals or firms that are participants or potential participants in CCC's nonprocurement activities. CCC will continue to proceed under 7 CFR part 1407 when taking action to debar or suspend individuals or firms that are contractors with CCC or participants or potential participants in CCC's procurement activities. As a matter of policy, CCC will continue to apply the provisions of 48 CFR part 409, subpart 409.4, with the exception of the specified debarring and suspending official, in such procurement actions. This will foster uniformity and consistency with regard to USDA and CCC debarment and suspension procedures.

Under the current regulations at 7 CFR part 1407, the debarring and suspending official is the Executive Vice President, CCC, who is also the Administrator of the Farm Service Agency (FSA), or a designee. The Executive Vice President, CCC, or a designee, would continue to be the debarring and suspending official for