

(i) Employees of St. Elizabeths Hospital who accept offers of employment with the District of Columbia government without a break in service, as provided in section 6 of Pub. L. 98-621 (98 Stat. 3379);

(ii) The Corrections Trustee and the Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee and employees of these Trustees who accept employment with the District of Columbia government within 3 days after separating from the Federal Government;

(iii) Effective October 1, 1997, judges and nonjudicial employees of the District of Columbia Courts, as provided by Pub. L. 105-33 (111 Stat. 251); and

(iv) Effective April 1, 1999, employees of the Public Defender Service of the District of Columbia, as provided by Pub. L. 105-274 (112 Stat. 2419).

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 723

### Commodity Credit Corporation

#### 7 CFR Part 1464

RIN 0560-AF 20

### 1998 Marketing Quotas and Price Support Levels for Fire-Cured (Type 21), Fire-Cured (Types 22-23), Maryland (Type 32), Dark Air-Cured (Types 35-36), Virginia Sun-Cured (Type 37), Cigar-Filler (Type 41), Cigar-Filler and Binder (Types 42-44 and 53-55), and Cigar Binder (Types 51-52) Tobaccos

**AGENCIES:** Farm Service Agency and Commodity Credit Corporation, USDA.

**ACTION:** Affirmation of determination and final rule.

**SUMMARY:** The purpose of this notice is to codify the national marketing quotas and price support levels for the 1998 crops for several kinds of tobacco announced by press release on February 27, 1998.

In accordance with the Agricultural Adjustment Act of 1938, as amended (the 1938 Act), the Secretary determined the 1998 marketing quotas to be as follows: fire-cured (type 21), 2.725 million pounds; fire-cured (types 22-23), 44.6 million pounds; Maryland (type 32), 5.45 million pounds; dark air-cured (types 35-36), 11.15 million pounds; Virginia sun-cured (type 37), 165,000 pounds; cigar-filler (type 41), 0.665 million pounds; cigar-filler and

binder (types 42-44 and 53-55), 6.63 million pounds; and cigar binder (types 51-52), 1.31 million pounds.

Quotas are necessary to adjust the production levels of certain tobaccos to more fully reflect supply and demand conditions, as provided by statute.

In accordance with the Agricultural Act of 1949 as amended (the 1949 Act), the Secretary determined the 1998 levels of price support to be as follows (in cents per pound): fire-cured (type 21), 153.6; fire-cured (types 22-23), 168.1; dark air-cured (types 35-36), 145.0; Virginia sun-cured (type 37), 136.0; and cigar-filler and binder (types 42-44 and 53-55), 121.2. Price support for Maryland (type 32), cigar-filler (type 41), and cigar binder (types 51-52) were not announced because producers of each of these kinds of tobacco had disapproved marketing quotas for many years and were not expected to approve quotas in separate referenda held on March 23-26, 1998. This notice also fixes a technical error in a section heading.

**EFFECTIVE DATE:** February 27, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Robert L. Tarczy, Tobacco and Peanuts Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250-0514, telephone 202-720-5346. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Tarczy.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This notice has been determined to be significant and was reviewed by OMB under Executive Order 12866.

#### Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are Commodity Loans and Purchases—10.051.

#### Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Farm Service Agency (FSA) nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of these determinations.

#### Paperwork Reduction Act

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

#### Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

#### Statutory Background

This final rule is issued pursuant to the provisions of the 1938 Act and the 1949 Act.

On February 27, 1998, the Secretary determined and announced the national marketing quotas and price support levels for the 1998 crops of fire-cured (type 21), fire-cured (types 22-23), dark air-cured (types 35-36), Virginia sun-cured (type 37), and cigar-filler and binder (types 42-44 and 53-55) tobaccos. In addition, the Secretary announced marketing quotas for Maryland (type 32), cigar-filler (type 41) and cigar-binder (types 51-52). A number of related determinations were made at the same time which this final rule affirms. On the same date, the Secretary also announced that referenda would be conducted by mail with respect to Maryland (type 32), Virginia sun-cured (type 37), cigar-filler (type 41), and cigar-binder (types 51-52) tobaccos.

During March 23-26, 1998, eligible producers of Maryland (types 32), Virginia sun-cured (type 37), cigar-filler (type 41), and cigar binder (types 51-52) tobacco voted in separate referenda to determine whether such producers approved marketing quotas for the 1998, 1999, and 2000 marketing years (MY) for these tobaccos. Of the producers voting, 14.8 percent favored marketing quotas for Maryland (type 32) tobacco; 96.7 percent favored marketing quotas for Virginia sun-cured (type 37) tobacco; 9.1 percent favored marketing quotas for cigar-filler (type 41) tobacco; and 2.5 percent favored marketing quotas for cigar-filler (types 51-52) tobacco. Accordingly, among these tobaccos, quotas and price supports for only Virginia sun-cured (type 37) tobacco are in effect for the 1998 through 2000 MYs. For the other three kinds, neither marketing quotas nor price supports will be in effect for the next 3 MYs.

In accordance with section 312 of the 1938 Act, for tobaccos other than flue-

cured tobacco and burley tobacco, the Secretary of Agriculture is required to proclaim not later than March 1 of any MY a national marketing quota for those tobaccos for which either: (1) are tobaccos for which marketing quotas have been approved in the prior 3 years or (2) are tobaccos for which it has been 3 years since the last quota referendum. There is a vote on quotas for each kind in a 3-year cycle. With respect to Virginia sun-cured (type 37) tobacco, the 1997 MY was the last year of 3 consecutive years of quota. For Maryland (type 32), cigar-filler (type 41), and cigar binder (types 51–52) tobacco, all of which had been without quotas, 1998 represented the beginning of another 3 year cycle. Accordingly, marketing quotas for Maryland (type 32), Virginia sun-cured (type 37), cigar-filler (type 41) and cigar binder (types 51–52) tobaccos were proclaimed for each of the 3 MYs beginning October 1, 1998; October 1, 1999, and October 1, 2000, but subject to producer approval. As indicated, however, only Virginia sun-cured (type 37) producers approved quotas in the four referenda. Quotas for the other tobaccos covered by this notice were approved in referenda which were still effective.

Because of producer approval of quotas, sections 312 and 313 of the 1938 Act required that the Secretary also announce the reserve supply level and the total supply of fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar filler and binder (types 42–44 and 53–55) tobaccos for the MY beginning October 1, 1997. The Secretary also announced the amounts of the national marketing quotas, national acreage allotments, national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (1) new farms and (2) making corrections and adjusting inequities in old farm allotments.

Under the 1949 Act, price support is required to be made available for each crop of a kind of tobacco for which marketing quotas are in effect or for which marketing quotas have not been disapproved by producers. Since producers of Maryland (type 32), cigar filler (type 41), and cigar binder (types 51–52) tobacco disapproved quotas, price supports were not considered in this notice. With respect to the 1998 crops of the kinds of tobacco that are the subject of this notice which have approved national marketing quotas, the respective maximum levels of price support for these kinds of tobacco is determined in accordance with section

106 of the 1949 Act. Announcement of the price support levels for these five kinds of tobacco are normally made before the planting seasons. Under the provisions of Section 1108(c), of Pub. L. No. 99–272, the price support level announcements do not require prior rulemaking. For the 1998 crops, the price support announcements were made on February 27, 1998, at the same time the quota announcements were made. Quota and price support determinations for burley and flue-cured tobacco are made separately and are the subject of separate notices.

#### Statutory Provisions

Section 312(b) of the 1938 Act provides, in part, that the national marketing quota for a kind of tobacco is the total quantity of that kind of tobacco that may be marketed such that a supply of such tobacco equal to its reserve supply level is made available during the MY.

Section 313(g) of the 1938 Act provides that the Secretary may convert the national marketing quota into a national acreage allotment for apportionment to individual farms. Since producers of these kinds of tobacco generally produce considerably less than their respective national acreage allotments allow, a larger quota is necessary to make available production equal to the reserve supply level. Further, under section 312(b) of the 1938 Act the amount of the national marketing quota may, not later than the following March 1, be increased by not more than 20 percent over the straight formula amount if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Section 301(b)(14)(B) of the 1938 Act defines “reserve supply level” as the normal supply, plus 5 percent thereof, to ensure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. “Normal supply” is defined in section 301(b)(10)(B) of the 1938 Act as a normal year’s domestic consumption and exports, plus 175 percent of a normal year’s domestic use and 65 percent of a normal year’s exports as an allowance for a normal year’s carryover.

Normal year’s domestic consumption is defined in section 301(b)(11)(B) of the 1938 Act as the average quantity produced and consumed in the United States during the 10 MYs immediately preceding the MY in which such consumption is determined, adjusted for

current trends in such consumption. Normal year’s exports is defined in section 301(b)(12) of the 1938 Act as the average quantity produced in and exported from the United States during the 10 MYs immediately preceding the MY in which such exports are determined, adjusted for current trends in such exports.

Also, under section 313(g) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 1 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that the national reserve, noted herein, for the 1998 crop of each of these kinds of tobacco is adequate for these purposes.

#### The Proposed Rule

On February 2, 1998, a proposed rule was published in the **Federal Register** (63 FR 5285) in which interested persons were requested to comment with respect to setting quotas for the tobacco kinds addressed in this notice.

#### Discussion of Comments

Seventeen written responses were received during the comment period which ended February 13, 1998. A summary of these comments by kind of tobacco follows:

(1) *Fire-cured (type 21) tobacco*. Three comments were received. All recommended a 15 percent increase in 1998 quotas.

(2) *Fire-cured (types 22–23) tobacco*. Five comments were received. All recommended no change in 1998 quotas.

(3) *Dark air-cured (types 35–36) tobacco*. Six comments were received. All recommended a 20 percent increase in the quota.

(4) *Virginia sun-cured (type 37) tobacco*. Three comments were received. They recommended a quota increase of 15 percent.

(5) *Cigar-filler and binder (types 42–44 and 53–55) tobacco*. No comments were received.

#### Quota and Related Determinations

The tobacco program is, through assessments, operated at no net cost to taxpayers other than the costs common to all price support operations. Accordingly producer comments are given considerable weight in this review. Based on a review of the comments received and the latest available statistics of the Federal Government, which appear to be the

most reliable data available, the following determinations were made for the five subject tobacco kinds:

*(1) Fire-Cured (Type 21) Tobacco*

The average annual quantity of fire-cured (type 21) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1997 MY was approximately 0.8 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1997 MY was 2.1 million pounds (farm sales weight basis). Both domestic use and exports have trended sharply downward. Because of these considerations, a normal year's domestic consumption has been determined to be 0.6 million pounds, and a normal year's exports have been determined to be 1.6 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 4.4 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 2.4 million pounds. The 1997 crop is estimated to be 2.0 million pounds. Therefore, total supply for the 1997 MY is 4.4 million pounds. During the 1997 MY, it is estimated that disappearance will total approximately 2.2 million pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 2.2 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 2.2 million pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. More than 95 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1998 national marketing quota of 2.271 million pounds is necessary to make available production of 2.2 million pounds. As permitted by section 312(b) of the 1938 Act, it was further determined that the 1998 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. This determination took into account the size of last year's quota, the comments, the long storage time for this tobacco and the possibility of changes in demand over expected demand. Thus, the national marketing quota for the 1998 crop is 2.725 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 2.725 million

pounds by the 1993-97, 5-year national average yield of 1,594 pounds per acre results in a 1998 national acreage allotment of 1,709.54 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.15 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 9.25 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

*(2) Fire-Cured (Types 22-23) Tobacco*

The average annual quantity of fire-cured (types 22-23) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 years preceding the 1997 MY was approximately 19.1 million pounds. The average annual quantity produced in the United States and exported during the 10 MYs preceding the 1997 MY was 15.8 million pounds (farm sales weight basis). Domestic use has trended upward while exports have varied. Because of these considerations, a normal year's domestic consumption has been determined to be 30.0 million pounds, and a normal year's exports have been determined to be 18.4 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 118.5 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 83.3 million pounds. The 1997 crop is estimated to be 40.0 million pounds. Therefore, total supply for the 1997 MY is 123.3 million pounds. During the 1997 MY, it is estimated that disappearance will total approximately 40.0 million pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 83.3 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 35.2 million pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. About 95 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1998 national marketing quota of 37.2 million pounds is necessary to make available production of 35.2 million pounds.

Utilizing section 312(b) of the 1938 Act, it was further determined for the

same reason as with fire-cured (type 21) tobacco, that the 1998 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. Thus, the national marketing quota for the 1998 crop is 44.6 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 44.6 million pounds by the 1993-97, 5-year average yield of 2,652 pounds per acre results in a 1998 national acreage allotment of 16,817.50 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 58.00 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

*(3) Dark Air-Cured (Types 35-36) Tobacco*

The average annual quantity of dark air-cured (types 35-36) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1997 MY was approximately 9.5 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1997 MY was 1.5 million pounds (farm sales weight basis). Domestic use has been erratic while exports have trended downward. Because of these considerations, a normal year's domestic consumption has been determined to be 9.9 million pounds, and a normal year's exports have been determined to be 1.4 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 31.0 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 23.8 million pounds. The 1997 crop is estimated to be 8.7 million pounds. Therefore, total supply for the 1997 MY is 32.5 million pounds. During the 1997 MY, it is estimated that disappearance will total approximately 10.0 million pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 22.5 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 8.5

million pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. About 90 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a national marketing quota of 9.29 million pounds is necessary to make available production of 8.5 million pounds. In accordance with section 312(b) of the 1938 Act, it has been further determined that the 1998 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. This determination took into account the same factors as with fire-cured (type 21) tobacco and industry preferences. This results in a national marketing quota for the 1998 MY of 11.15 million pounds. Otherwise, the quota would be well below the level for the 1997 crop.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 11.15 million pounds by the 1993-97, 5-year average yield of 2,284 pounds per acre results in a 1998 national acreage allotment of 4,881.79 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.20 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 34.70 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

#### *(4) Virginia Sun-Cured (Type 37) Tobacco.*

The average annual quantity of Virginia sun-cured (type 37) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1997 MY was approximately 90,000 pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1997 MY was approximately 90,000 pounds (farm sales weight basis). Both domestic use and exports have shown a sharp downward trend. Because of these considerations, a normal year's domestic consumption has been determined to be 30,000 pounds, and a normal year's exports have been determined to be 20,000 pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act

results in a reserve supply level of 121,000 pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 20,000 pounds. The 1997 crop is estimated to be 100,000 pounds. Therefore, total supply for the 1997 MY is 120,000 pounds. During the 1997 MY, it is estimated that disappearance will total approximately 120,000 pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 0 pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1997, is 121,000 pounds. This represents the quantity that may be marketed that will make available during the 1997 MY a supply equal to the reserve supply level. Less than three-quarters of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1998 national marketing quota of 163,000 pounds is necessary to make available production of 121,000 pounds. Thus, the national marketing quota for the 1998 crop is 163,000 pounds which is greater than the preceding quota by about 15 percent and should not unduly restrict marketings.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 163,000 pounds by the 1993-97, 5-year average yield of 1,376 pounds per acre results in a 1998 national acreage allotment of 118.46 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.15 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 0.57 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

#### *(5) Cigar-Filler and Binder (Types 42-44 and 53-55) Tobacco*

The average annual quantity of cigar-filler and binder (types 42-44 and 53-55) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1997 MY was approximately 12.1 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1997 MY was less than 100,000 pounds (farm sales weight). Domestic use has trended downward and exports are very small. Thus, a

normal year's domestic consumption has been determined to be 7.2 million pounds, and a normal year's exports has been determined to be zero pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 20.8 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1997, of 17.8 million pounds. The 1997 crop is estimated to be 5.5 million pounds. Therefore, total supply for the 1997 MY is 23.3 million pounds. During the 1997 MY, it is estimated that disappearance will total about 8.0 million pounds. Deducting this disappearance from total supply results in a 1998 MY beginning stock estimate of 15.3 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 5.5 million pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. Slightly more than 80 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1998 national marketing quota of 6.63 million pounds is necessary to make available production of 5.5 million pounds. This results in a 1998 national marketing quota of 6.63 million pounds. This determination reflects that there are short reserve supplies and takes into account possible changes in expected demand and the fact that even with this adjustment the 1998 quota will be less than the 1997 crop quota.

In accordance with section 313(g) of the 1938 Act, dividing the 1998 national marketing quota of 6.63 million pounds by the 1993-97, 5-year average yield of 1,921 pounds per acre results in a 1998 national acreage allotment of 3,451.33 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national factor of 0.8 is determined by dividing the national acreage allotment for the 1998 MY, less a national reserve of 15.80 acres, by the total of the 1998 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

#### *(6) Referendum Results for Virginia Sun-Cured (type 37), Maryland (type 32), Cigar Filler (type 41), and Cigar Binder (types 51-52) Tobaccos*

Because of the results of producer referenda, marketing quotas shall be in effect for the 1998 MY for Virginia sun-

cured (type 37). However, they will not be in effect for Maryland (type 32), cigar filler (type 41), nor cigar binder (types 51–52) tobacco. In referenda held March

23–26, 1998, 96.7 percent of Virginia sun-cured producers voted in favor of quotas. However, only 14.8 percent of Maryland (type 32), 9.1 percent of cigar

filler (type 41), and 2.5 percent of cigar binder (types 51–52) producers voted for quotas.

#### REFERENDA DATA

Kind of tobacco	Total votes	Yes votes	No votes	% yes votes
Virginia sun-cured (type 37) .....	60	58	2	96.7
Maryland (type 32) .....	698	103	595	14.8
Cigar-filler (type 41) .....	230	21	209	9.1
Cigar-binder (types 51–52) .....	120	3	117	2.5

#### Price Support

##### Statutory Provisions

Section 106(f)(6)(A) of the 1949 Act provides that the level of support for the 1998 crop of a kind of tobacco (other than flue-cured and burley) shall be the level in cents per pound at which the 1997 crop of such kind of tobacco was supported, plus or minus, as appropriate, the amount by which (i) the basic support level for the 1998 crop, as it would otherwise be determined under section 106(b) of the 1949 Act, is greater or less than (ii) the support level for the 1997 crop, as it would otherwise be determined under section 106(b). To the extent that the price support level would be increased as a result of that comparison, section 106(f) provides that the increase may be modified using the provisions of 106(d). Under 106(d), the Secretary may reduce the level of support for grades the Secretary determines will likely be in excess supply so long as the weighted level of support for all grades maintains at least 65 percent of the increase in the price

support (from the previous year). The Secretary must consult with the appropriate tobacco associations and take into consideration the supply, and anticipated demand for the tobacco, including the effect of the action on other kinds of quota tobacco. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary is required to consider the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco.

Section 106(b) of the 1949 Act provides that the “basic support level” for any year is determined by multiplying the support level for the 1959 crop of such kind of tobacco by the ratio of the average of the index of prices paid by farmers, including wage rates, interest and taxes (referred to as the “parity index”) for the 3 previous

calendar years to the average index of such prices paid by farmers, including wage rates, interest and taxes for the 1959 calendar year.

In addition, section 106(f)(6)(B) of the 1949 Act provides that to the extent requested by the board of directors of an association, through which price support is made available to producers (producer association), the Secretary may reduce the support level determined under section 106(f)(6)(A) of the 1949 Act for the respective kind of tobacco to more accurately reflect the market value and improve the marketability of such tobacco. Accordingly, the price support level for a kind of tobacco set forth in this rule could be reduced if such a request is made.

##### Price Support Determinations

The following levels of price support for the 1997 crops of various kinds of tobacco, which were determined in accordance with section 106(f)(6)(A) of the 1949 Act, are as follows:

Kind and type	Support level (cents per pound)
Fire-cured (type 21) .....	149.8
Fire-cured (types 22–23) .....	162.3
Dark air-cured (types 35–36) .....	139.8
Virginia sun-cured (type 37) .....	132.6
Cigar-filler and binder (types 42–44 and 53–55) .....	116.9

For the 1998 crop year:

(1) Average parity indexes for calendar year periods 1994–1996 and 1995–1997 are as follows:

Year	Index	Year	Index
1994 .....	1,398	1995 .....	1,437
1995 .....	1,437	1996 .....	1,504
1996 .....	1,504	1997 .....	1,527
Average .....	1,446	Average .....	1,489

(2) Average parity index, calendar year 1959 = 298.

(3) 1997 ratio of 1,446 to 298 = 4.85; 1998 ratio of 1,488 to 298 = 5.00.

(4) Ratios times 1959 support levels and 1998 increase in basic support levels are as follows:

Kind and type	1959 sup- port level	Basic support level <sup>1</sup>		Increase from 1996 to 1997	
	(¢/lb.)	1997 (¢/lb.)	1998 (¢/lb.)	100% (¢/lb.)	65% (¢/lb.)
Fire-cured (type 21) .....	38.8	188.2	194.0	5.8	3.8
Fire-cured (types 22–23) .....	38.8	188.2	194.0	5.8	3.8
Dark air-cured (types 35–36) .....	34.5	167.3	172.5	5.2	3.4
Virginia sun-cured (type 37) .....	34.5	167.3	172.5	5.2	3.4
Cigar-filler and binder (types 42–44, 54–55) .....	28.6	138.7	143.0	4.3	2.8

<sup>1</sup> 1997 ratio is 4.85, 1998 ratio is 5.00.

The loan associations for Virginia fire-cured (type 21) and Virginia sun-cured (type 37) tobacco have accepted lower price support levels so their tobacco may remain competitive in world markets. Therefore, for fire-cured (type 21) tobacco and Virginia sun-cured (type 37) tobacco, the 1998-crop support levels were set so as to only add, over 1997-crop levels, 65 percent of the difference between the 1998 crop "basic support level" and the 1997-crop "basic support level." For the other tobaccos covered in this notice there was no such recommendation and the support levels were set accordingly. Accordingly, the price support levels for fire-cured (types 22–23), dark air-cured (types 35–36) and cigar filler and binder (types 42–44; 53–55) tobaccos were set to use the MY 1997 level of support increased by 100 percent of the difference between the MY 1998 "basic support level" and the MY 1997 "basic support level." Chewing tobacco, smoking tobacco, and snuff manufacturing formulas limit the substitutability of one of these kinds of tobacco for another. Cigarettes, the principal outlet for flue-cured and burley tobaccos, do not require any of these five kinds of tobacco in their blends.

Accordingly, the following price support determinations were announced on February 27, 1998, for the 1998 crops of the tobaccos which are the subject of this notice:

Kind and type	Support level (cents per pound)
Fire-cured (type 21) .....	153.6
Fire-cured (types 22–23) .....	168.1
Dark air-cured (types 35–36) .....	145.0
Virginia sun-cured (type 37) .....	136.0
Cigar-filler and binder (types 42–44 and 53–55) .....	121.2

## Other Determinations

This rule also amends the heading in 7 CFR 1464.15 because of a technical error. Further, as to that determination and the others addressed in this notice which are driven by statutory deadlines and affect the marketing of current crops, it was determined that to the extent restrictions might otherwise apply, a delay in the effectiveness of the rule for additional notice and procedure would be contrary to the public interest, impracticable, and unnecessary. This conclusion is the same as to prior crop years and for all purposes including for purposes of the Small Business Regulatory Enforcement Act (Pub. L. 104–121). With respect to the quota and price support determinations, this conclusion as to further procedure is based on the statutory deadlines and other timing factors involved. For the other change, the conclusion is based on the technical nature of the change.

## List of Subjects

### 7 CFR Part 723

Acres allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

### 7 CFR Part 1464

Price support, Programs, Tobacco.

Accordingly, 7 CFR parts 723 and 1464 are amended to read as follows:

## PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

**Authority:** 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1377–1379, 1421, 1445–1, and 1445–2.

2. Section 723.113 is amended by adding paragraph (f) to read as follows:

**§ 723.113 Fire-cured (type 21) tobacco.**  
\* \* \* \* \*

(f) The 1998-crop national marketing quota is 2.725 million pounds.

3. Section 723.114 is amended by adding paragraph (f) to read as follows:

**§ 723.114 Fire-cured (types 22–23) tobacco.**  
\* \* \* \* \*

(f) The 1998-crop national marketing quota is 44.6 million pounds.

4. Section 723.115 is amended by adding paragraph (f) to read as follows:

**§ 723.115 Dark air-cured (types 35–36) tobacco.**  
\* \* \* \* \*

(f) The 1998-crop national marketing quota is 11.15 million pounds.

5. Section 723.116 is amended by adding paragraph (f) to read as follows:

**§ 723.116 Sun-cured (type 37) tobacco.**  
\* \* \* \* \*

(f) The 1998-crop national marketing quota is 163,000 pounds.

6. Section 723.117 is amended by adding paragraph (f) to read as follows:

**§ 723.117 Cigar-filler and binder (types 42–44 and 53–55) tobacco.**  
\* \* \* \* \*

(f) The 1998-crop national marketing quota is 6.63 million pounds.

## PART 1464—TOBACCO

7. The authority citation for 7 CFR part 1464 continues to read as follows:

**Authority:** 7 U.S.C. 1421, 1423, 1441, 1445, and 1445–1; 15 U.S.C. 714b and 714c.

8. Section 1464.13 is amended by adding paragraph (f) to read as follows:

**§ 1464.13 Fire-cured (type 21) tobacco.**  
\* \* \* \* \*

(f) The 1998-crop national price support level is 153.6 cents per pound.

9. Section 1464.14 is amended by adding paragraph (f) to read as follows:

**§ 1464.14 Fire-cured (types 22–23) tobacco.**

\* \* \* \* \*

(f) The 1998-crop national price support level is 168.1 cents per pound.

10. Section 1464.15 is amended by changing in the heading “types 22–23” to “types 35–36” and by adding paragraph (f) to read, in the amended section, as follows:

**§ 1464.15 Dark air-cured (types 35–36) tobacco.**

\* \* \* \* \*

(f) The 1998-crop national price support level is 145.0 cents per pound.

11. Section 1464.16 is amended by adding paragraph (f) to read as follows:

**§ 1464.16 Virginia sun-cured (type 37) tobacco.**

\* \* \* \* \*

(f) The 1998-crop national price support level is 136.0 cents per pound.

12. Section 1464.17 is amended by adding paragraph (f) to read as follows:

**§ 1464.17 Cigar-filler and binder (types 42–44 and 53–55) tobacco.**

\* \* \* \* \*

(f) The 1998-crop national price support level is 121.2 cents per pound.

Signed at Washington, DC, on March 24, 1999.

**Keith Kelly,**

*Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 99–7799 Filed 3–30–99; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. 98–060–2]

#### Brucellosis; Procedures for Retaining Class Free State Status

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the brucellosis regulations to allow a State to retain its Class Free status following the detection of an affected herd if the State meets certain conditions. These conditions, which include quarantining, testing, and depopulating the affected herd and conducting an investigation to ensure that brucellosis has not spread from the affected herd, will allow a

State to avoid losing its Class Free status due to an isolated case of infection being detected in the State. We believe that providing this option to States will encourage the prompt resolution of isolated cases of brucellosis and thus ensure the continued progress of State and Federal efforts toward the eradication of brucellosis in domestic cattle and bison herds. Without this change in the regulations, a State could lose its Class Free status following the detection of a single affected herd and will not have as great an incentive to take swift and decisive action to determine the source of the infection, eliminate the affected herd, and ensure that the disease had not spread to other herds in the State.

**EFFECTIVE DATE:** April 30, 1999.

**FOR FURTHER INFORMATION CONTACT:** Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–7708.

#### SUPPLEMENTARY INFORMATION:

##### Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*. In its principal animal hosts, brucellosis is characterized by abortion and impaired fertility.

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States (areas) according to the rate of *Brucella abortus* infection present and the general effectiveness of the brucellosis control and eradication program conducted in the State or area. The classifications are Class Free, Class A, Class B, and Class C; States or areas that do not meet the minimum standards for Class C may be placed under Federal quarantine. At this point in the cooperative State/Federal brucellosis eradication program, all States have achieved either Class Free or Class A status.

To maintain Class Free status, the regulations require, among other things, that a State must have a herd infection rate of 0.0 percent or 0 herds per 1,000. A State's herd infection rate is based on the number of herds found to have brucellosis reactors within the State during any 12 consecutive months due to field strain *Brucella abortus*. The required 0.0 percent herd infection rate means that a Class Free State would no longer qualify for Class Free status if a single brucellosis-affected herd was detected in the State. A downgrade in status from Class Free to Class A results

in increased costs for States and their livestock owners, with most of those added costs arising from the increased testing requirements that accompany Class A status.

On September 17, 1998, we published in the **Federal Register** (63 FR 49670–49673, Docket No. 98–060–1) a proposed rule to amend the brucellosis regulations to allow a State to retain its Class Free status following the detection of a single affected herd if the State met certain conditions. As described in the proposed rule, those conditions, which include quarantining, testing, and depopulating the affected herd and conducting an investigation to ensure that brucellosis has not spread from the affected herd, would allow a State to avoid losing its Class Free status due to an isolated case of infection being detected in the State.

We solicited comments concerning our proposal for 60 days ending on November 2, 1998. We received five comments by that date. They were from a State office of Federal land policy, a State game and fish agency, a State livestock board, a veterinary medical association, and a national milk producers association. All five commenters supported the proposed rule, although three of them asked for clarification of the following points:

**Applicability.** Two commenters asked that we clearly state that the provisions of the proposed rule would apply only to domestic livestock and not to wildlife.

The commenters' understanding of the applicability of these provisions is correct. The conditions that would have to be met for a State to retain its Class Free status—i.e., quarantining, testing, and depopulating the affected herd and investigating all adjacent, source, and contact herds to ensure the disease has not spread from the affected herd—simply could not be practically applied to wildlife. The provisions of this rule are applicable only to situations where a herd of domestic livestock in a Class Free State is found to be affected.

**Start of the 60-day period.** Because a State would be given 60 days following the identification of an infected animal to complete the requirements for retaining Class Free status, one commenter asked that we clearly define the phrase “identification of the infected animal.” This commenter pointed out that in some cases, a reactor classification test occurs in which organisms cannot be cultured to differentiate whether Strain 19 or field strain *Brucella abortus* is involved, and those cases must be resolved by an epidemiological investigation. The commenter suggested that the 60-day