

Executive Order 12372

The provisions of this rule are not subject to Executive Order 12372, which required 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 and FSA are not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for this rule. Further, this rule imposes no mandates, as defined in sections 202 and 205 of UMRA, on State, local or tribal governments, or the private sector.

Paperwork Reduction Act

Sections 1601(c) and 2702(b) of the 2002 Act provide that the promulgation of regulations and the administration of Title I and II of the 2002 Act shall be done without regard to chapter 35 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed 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

This rule amends CCC and FSA regulations that govern how marketing quotas, allotments, and base acres are maintained, monitored, divided, and reallocated. These regulations determine an agricultural producer's ability to market certain crops and their eligibility to receive marketing loans, support prices, and other CCC and FSA program benefits.

The 2002 Act authorizes the establishment of base acres on a farm and the issuance of direct payments and counter-cyclical payments for covered commodities and peanuts. Requirements are provided that must be met as a condition of receipt of these payments. Among other changes, the 2002 Act also terminates marketing quota programs for peanuts.

Sections 1105(c) and 1305(c) of the 2002 Act require producers on a farm to submit annual acreage reports with respect to all cropland on the farm as a condition of the receipt of any direct payments, counter-cyclical payments, marketing assistance loans and loan deficiency payments. In the recent past, the reporting of only certain planted acres by a farmer has been required for some FSA and CCC programs. In

addition, sections 1105(a)(2) and 1305(a)(2) authorize the Secretary to issue such rules as the Secretary considers necessary to ensure producer compliance with the following requirements: subtitles B and C of title XII the Food Security Act of 1985; planting flexibility requirements of sections 1106 and 1306; the requirement to use farmland in a quantity equal to the attributable base acres for the farm for an agricultural or conserving use; the requirement to control noxious weeds and maintain the land using sound agricultural practices, if the agricultural or conserving use involves the non-cultivation of any base acres.

Under section 1101 of the 2002 Act, owners of a farm will be provided a one-time opportunity to elect the method by which base acres are to be calculated. This election applies to the farm, as it is constituted for CCC program purposes. Many FSA farms are comprised of land with divided ownership held by multiple owners. All owners of a farm must agree to the method by which base acres on the farm are calculated. Therefore, what constitutes a distinct farm operation for these purposes (the constitution of a "farm") is vital to the ability of CCC to implement the 2002 Act.

The regulations at 7 CFR part 718 are being amended in their entirety to make the changes required by the 2002 Act, and to incorporate the use of Geographic Information Systems. The changes made in this rule are expected to improve overall program administration, provide requirements and procedures for program participants, and allow for increased program support from new technologies.

The amendments to part 718 do not impact farm program participation or payment levels. Also, there are no expected impacts on acres planted, prices, or program payments. Therefore, net farm income and consumer costs will be unchanged and Federal outlays will remain within parameters established in the 2002 Act.

Additions to the regulations have also been made to cover ownership questions where current public records may be inadequate or where there is some other dispute about ownership. The rule will allow certifications to be used and allow claims to be barred where there is such a certification and there has been a failure of other claimants to act promptly or where the current public records are inadequate to readily resolve ownership issues. Not allowing such certifications would make it difficult for a number of small farms to receive prompt payments due to changes in ownership over the years

which may not be reflected in the current public records and which may not be easily be corrected. While the rule could result in a bar to some claims that might otherwise be established, the rule in effect imposes a burden on all owners to ensure that their interests in the property are made known to FSA so that programs can be run in a timely manner and without excessive research and effort with the many farms that have to be serviced.

In addition, the rule provides for the Bureau of Indian Affairs of the Department of Interior to make certain decisions on behalf of farms entrusted to them or under their management. This follows current practice. The rule also provides that in the event of the need to collect a refund or claim in connection with these BIA-related farms, the sum, among other remedies, may be collected by an offset against the particular beneficiaries or by an offset against the farm itself. This collection provision reflects that the FSA may not, on many occasions, know who the beneficiaries of such farms are and that such adjustment as may be needed among individual interested parties can best be made by the BIA. This rule also makes a corrections to the hard white wheat regulations of 7 CFR Part 1413 published on February 3, 2003, 68 FR 5205. Specifically the applicability section of that rule is changed in this rule in keeping with the intent of that rulemaking so as not to limit 1413 to only "winter" varieties of hard white wheat. Further, a numbering correction is made to another section. These changes are exempt from comment for the same reasons as exempted the original rules from comment and because they are corrective in nature.

List of Subjects**7 CFR Part 718**

Acreage allotments, Agricultural commodities, Marketing quotas.

7 CFR Part 723

Acreage allotments, Agricultural commodities, Marketing quotas, Price support programs, Tobacco.

7 CFR Part 1412

Agriculture, Feed Grains, Grains, Oilseeds, Price support programs.

7 CFR Part 1413

Agricultural commodities, Feed grains, Grains.

■ Accordingly, 7 CFR parts 718, 723, 1412 and 1413 are amended as set forth below.