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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560-AG96

Tobacco Payment Program

AGENCIES: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule implements the Tobacco Payment Program authorized by the Agricultural Assistance Act of 2003. Section 205 of that Act requires the Commodity Credit Corporation to provide assistance to producers of tobacco. This rule is intended to implement this legislative mandate. Other provisions of the Agricultural Assistance Act of 2003 will be implemented under separate rules.

EFFECTIVE DATE: April 16, 2003.

FOR FURTHER INFORMATION CONTACT: Misty Jones at (202) 720-0200, or via electronic mail at Misty_Jones@wdc.usda.gov.

SUPPLEMENTARY INFORMATION:

Notice and Comment

Section 217 of Title II of Division N of the Consolidated Appropriations Resolution, 2003, (Pub. L. 108-7) (Agricultural Assistance Act of 2003) requires that the regulations to implement this program be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553, the Statement of Policy of the Secretary of Agriculture relating to notices of proposed rulemaking and public participation in rulemaking (36 FR 13804, July 24, 1971). Thus, this rule is final as published.

Executive Order 12866

This final rule has been determined to be not significant under Executive Order

12866 and has not been reviewed by the Office of Management and Budget (OMB).

Federal Assistance Programs

This final rule applies to the following Federal assistance programs, as found in the Catalog of Federal Domestic Assistance: 10.073—Crop Disaster Program.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject of this rule.

Environmental Assessment

The environmental impacts of this proposed rule have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. To the extent these authorities may apply, CCC has concluded that this rule is categorically excluded from further environmental review as evidenced by the completion of an environmental evaluation. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Executive Order 12778

The final rule has been reviewed in accordance with Executive Order 12778. This final rule preempts State laws to the extent such laws are inconsistent with it. This rule is not retroactive. Before judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

Executive Order 12372

This program is not subject to 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).

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject of this rule. Further, this rule contains no unfunded mandates as defined in sections 202 and 205 of UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 217(c) of the Agricultural Assistance Act of 2003 ("2003 Act"), Pub. L. 108-7, requires CCC to use the authority in section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104-121 (SBREFA), to forgo the usual 60-day delay in the effective date of major rules required by SBREFA (5 U.S.C. 801(a)(3)(A)(ii)). This rule affects a number of agricultural producers who may have a strong urgent need of the payments to be provided under it. For these reasons and in accord with 5 U.S.C. 808(2), CCC has determined that delay is contrary to public interest and this rule is effective upon the date of filing for public inspection by the Office of the Federal Register.

Paperwork Reduction Act

Section 217(c) of the Agricultural Assistance Act of 2003 requires that these regulations be promulgated and the programs administered without regard to 44 U.S.C. 35, the Paperwork Reduction Act. This means that the information to be collected from the public to implement these programs and the burden, in time and money, that the collection of the information would have on the public do not have to be approved by the Office of Management and Budget or be subject to the 60-day public comment period required by 5 CFR 1320.8(d)(1).

Background

Section 205 of the Agricultural Assistance Act of 2003 directs the Secretary of Agriculture to use funds of the Commodity Credit Corporation (CCC) to provide assistance to persons associated with certain 2002-crop tobaccos. Tobaccos with an established 2002 acreage allotment or poundage quotas are eligible for payment. Eligible persons include owners of the land with an established 2002 acreage allotment or