

quota, as well as growers, and in some cases, controllers of farms with quotas or allotments. This rule promulgates regulations governing payment eligibility in accord with the legislation.

As provided for by statute and set out by rule, each eligible kind of tobacco will have its own fund. For each kind, the fund amount will be based on multiplying the national quota or allotment (converted by a formula to pounds) by 5.55 cents per pound. For flue-cured tobacco (types 11–14) and for cigar filler tobacco (types 42–44 and 54–55), the fund will be divided into two parts, one for eligible owners and the other for eligible growers. The other eligible tobaccos “pot” will be divided into three equal parts, one for eligible owners, the other for eligible controllers and the remaining part for growers. The other eligible tobaccos are burley tobacco (type 31), fire-cured tobacco (types 21–23), dark air-cured tobacco (types 35–36), and Virginia sun-cured tobacco (type 37). Eligible persons will share in the sub-accounts based on basic or effective quota or allotment amounts as specified in the rule (irrespective of the actual production amounts that may or may not have occurred on a particular farm so long as the participants meet other program rules for payment).

Similar programs have been provided for in the past in part 1400. As with those programs, eligibility determinations will be made as of July 1 of the calendar year that corresponds with the crop year covered (2002 in this case). It is understood that, to the extent practicable, Congress has intended that this program be run in the same manner as its predecessors in part 1400. There is nothing in the history of this statute to indicate a view to the contrary, as would be expected were significant changes intended. This rule has been drafted accordingly. The statute specifies which tobaccos are eligible for payment and the factors for converting allotments to pounds. The statute sets a payment date of June 1, 2003. Payments will be made in advance of that date, if possible.

Cost/Benefit Assessment

Payments to eligible persons in 2003 are estimated to total \$55 million dollars.

List of Subjects in 7 CFR Part 1464

Agricultural commodities, Acreage allotments, Marketing quotas, Tobacco.

■ For the reasons set out in the preamble, 7 CFR part 1464 is amended as set forth below.

PART 1464—TOBACCO

■ 1. The authority citation for 7 CFR part 1464 is revised to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1, 1445–2; 15 U.S.C. 714b, 714c; Pub. L. 106–78, 113 Stat. 1135; Pub. L. 106–113, 113 Stat. 1501; Pub. L. 108–7, 117 Stat. 11.

■ 2. Add subpart G to read as follows:

Subpart G—Tobacco Payment Program

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- 1464.601 Applicability and basic terms for payments.
- 1464.602 Administration.
- 1464.603 Eligibility.
- 1464.604 Definitions.
- 1464.605 Sign up.
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- 1464.607 Payment benefits.
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Subpart G—Tobacco Payment Program

§ 1464.601 Applicability and basic terms for payments.

This subpart sets forth the terms and conditions of the Tobacco Payment Program (TOPP). Under this program CCC will make direct payments on a farm relating to basic tobacco quotas or allotments established for the 2002 crop year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 *et seq.*) for eligible tobaccos. Payments are subject to the availability of funds and payment formulas set out in this part.

§ 1464.602 Administration.

This subpart shall be administered by the Executive Vice President, CCC or his designee, under the general supervision of the Farm Service Agency (FSA), Deputy Administrator for Farm Programs (Deputy Administrator). The program shall be carried out in the field by State and county FSA committees and FSA employees in accordance with this subpart.

§ 1464.603 Eligibility.

For a person to be considered an eligible person for purposes of this part, such person must own or control (in some cases only) a farm for which on the status date a basic 2002 crop quota or allotment for eligible tobacco was established under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 *et seq.*). Also, growers of that tobacco are eligible for payments to the extent provided for in this part.

§ 1464.604 Definitions.

The definitions set forth in this section shall apply to the administration of TOPP under this subpart. The definitions in §§ 718.2 and 723.104 of this title also apply to TOPP. The definitions in this section apply rather than the definitions in §§ 718.2 and 723.104 of this title to the extent that the definitions in those sections differ. The following terms shall have the following meanings:

Controller means that person or entity who, as determined by the Deputy Administrator, controls the land used to produce eligible tobacco and share in the risk of production.

Eligible person means an owner, or (as applicable) controller of a farm for which a basic quota or allotment was established for the 2002 crop year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 to the extent otherwise provided in these rules. Growers of that tobacco, as specified in this part, can also be eligible for payment. For this TOPP, an eligible person's status, as owner or controller or grower, will be determined as of July 1, 2002.

Eligible tobacco means each of the following kinds of tobacco: Flue-cured tobacco (types 11, 12, 13 and 14), burley tobacco (type 31), Virginia sun-cured tobacco (type 37), fire-cured tobacco (types 21–23), dark air-cured tobacco (types 35–36), and cigar filler/binder tobacco (types 42 through 44, 54 and 55).

Grower means for flue-cured tobacco and cigar binder tobacco, a “producer,” as defined below, for all other eligible tobaccos, as “grower/tenant,” as defined below.

Grower/tenant means a person or entity who provides labor to produce tobacco and share in the risk of production.

Owner means with respect to a quota or allotment farm the person or entity who owns the land for which the tobacco quota or allotment was established for the 2002 crop as of the operative status date of July 1, 2002 provided for in this part.

Payment pounds means the pounds of tobacco for which a person is eligible to be paid under this subpart.

Producer means a person or entity actively engaged in planting, growing, harvesting, and/or marketing of tobacco, or who shares in the risk of producing the crop.

Share in the risk of production means having a direct financial stake in the success of the crop through a direct share in the actual proceeds from the actual marketing of the crop which share is conditional upon the success of