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This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—COMMODITY STANDARDS AND STANDARD CONTAINER REGULATIONS

PART 29—TOBACCO INSPECTION

Allocation of Tobacco Inspection Service and Eligibility for Price Support

On April 10, 1974, a notice of rule-making was published in the FEDERAL REGISTER (39 FR 13008) containing proposals by the Department to amend its regulations relating to tobacco inspection and price support services with regard to flue-cured tobacco by amending Subpart A—Tobacco Loan Program (7 CFR Part 1464) to require the producer to designate the warehouse in which he desires to market his tobacco and comply with other specified conditions before such tobacco will be eligible for price support, by adding a new Subpart G—Policy Statement and Regulations Governing Availability of Tobacco Inspection and Price Support Services to Flue-cured Tobacco on Designated Markets (7 CFR Part 29) and by amending Part 725 (7 CFR Part 725) to conform those regulations to the amendments in Parts 29 and 1464. The aforesaid policy statement and regulations are statements of agency policy and rules and regulations issued pursuant to the authority of the Tobacco Inspection Act (49 Stat. 731, 7 CFR 511 et seq.); the Commodity Credit Corporation Charter Act (62 Stat. 1070, as amended (15 U.S.C. 714 et seq.)); the Agricultural Act of 1949, as amended (63 Stat. 1051 (7 U.S.C. 1421 et seq.)); and the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended (7 U.S.C. 1301, 1314, 1371, 1375)).

Interested persons were afforded opportunity to file written data, views and arguments on the proposals and a substantial number were received. After consideration of all relevant material, including the proposals set forth in the aforesaid notice, the data, views, and arguments filed thereon, and other available information, it is concluded that such amendments to the tobacco inspection and price support regulations should be made effective with the modifications set forth below.

Statement of consideration. Under the amended regulations, price support will be provided at each warehouse only to the producers whose farms are within limited distances from the warehouse, and only the producers who had

previously designated the warehouses for the marketing of all or specific quantities of their tobacco. Tobacco inspection will be provided throughout the marketing season by apportioning the available inspectors to each marketing area on the basis of the estimated quantity of tobacco ready for marketing in each market area. Such assignment of inspectors will be made by the Secretary of Agriculture after considering the recommendations of a Flue-Cured Tobacco Advisory Committee appointed by the Secretary pursuant to the Federal Advisory Committee Act. In the past, a producer could obtain price support at any warehouse, and the Secretary, in cooperating with the industry, assigned inspectors to all warehouses largely on the basis of schedules recommended by an industry marketing committee and representatives of the various markets.

The facilities available for processing flue-cured tobacco limit the quantity of tobacco which may be marketed, without creating market gluts, to about 85 million pounds per week. This is substantially less than the quantities which are actually ready for marketing and which producers are anxious to market during most weeks of the marketing season. It is also substantially less than the weekly quantities which (i) could be purchased by the sets of buyers which are available to serve all warehouses, or (ii) could be inspected by the number of inspectors which the Secretary has available. In efforts to maintain orderly marketing in this situation, industry committees have for several years, established opening dates for the markets in the various belts, and limitations of the weekly purchases by each set of buyers so that total weekly marketings would not exceed the capacity of the available processing facilities. While the inspection of tobacco by the Secretary, largely in accordance with such opening date and selling schedules, has effectively controlled the quantity of weekly marketings, it has failed to equalize the opportunity of producers in all areas in marketing their tobacco and obtaining price support. With the markets opening first in the most southern areas (where tobacco matures earliest) and moving northward only as the marketing in each area is largely completed, producers in the more northern areas have not had local markets available when their tobacco was ready for market to the same extent as producers in the more southern areas. This has resulted in millions of pounds of tobacco being transported from the northern areas to the more southern markets by producers seeking to market

as early as possible. In many instances, the tobacco transported to southern areas for marketing must be re-transported northward for processing. The movement of tobacco outside its production area for marketing also creates considerable disorder in the overall market situation. It displaces the sales opportunity of the producers in the vicinity of the markets to which it is transported, and delays the reassignment of the inspectors from the southern areas to the more northern areas. In the overall, these conditions have resulted in increasing the costs of marketing tobacco and in the inequity to producers as to their marketing opportunities.

Interested persons were invited to submit views and recommendations by April 25, 1974. Many responses were received. Some recommended that the proposal be adopted without change. Some objected to the proposal on the basis that it restricted the warehouses which producers could use, that it would prolong the time required to market the tobacco, and, that it would be disruptive to normal marketing processes. None of the reasons for opposition, however, were persuasive in showing that the proposal would not be in the best interest of the producers collectively, in that producers would have more equitable access to their local markets, there would be more orderly marketing and the time required to market the entire crop would likely be shortened. In several instances the features objected to by some respondents were the basis of others favoring the proposal.

Many of the responses recommended modifications to the proposal. The greatest number related to the distance limitation on the warehouses which could be designated. Some recommended no limitation, others recommended that the distance be increased to 100 miles, 110 miles and to 120 miles or more. However, it also appeared that many respondents were measuring the distance to the market from the farm rather than from the county seat. Upon considering these suggestions it is concluded that the proposed 80 miles may be unduly restrictive but that more than 100 miles would not be compatible with the objective of affording producers equitable access to their local markets. Accordingly, 100 miles is substituted for the 80 miles set forth in the proposal. Some recommended that changes in designation be allowed more frequently than set forth in the proposal. Some recommended that such changes be allowed at any time. If changes were allowed frequently or at any time the purpose of the designations would be defeated as the designations

would not provide an adequate basis for determining the quantity of tobacco that would be sold at each warehouse and the inspection service and sales opportunity needed at each warehouse. However, after considerations of the recommendations, the proposed provisions are modified to provide that in addition to the periods set forth in the proposal for producers to change designations, changes may be made at any time with respect to tobacco designated for sale at warehouses which have ceased to operate or to have tobacco inspection or price support available.

There were objections to the provisions in the proposal that price support would not be available to tobacco sold at a warehouse which had sold in excess of the quantity allowed and had failed to reduce the quantity sold the following sales day so as to be in compliance with the opening date and selling schedule for the warehouse. It was argued that such would penalize producers rather than the warehouse for warehouse actions. This provision is modified to provide that if a warehouse sells in excess of the quantity allowed by the opening date and selling schedule and does not deduct such excess from the quantity allowed on either of the following two sales days, neither tobacco inspection nor price support will be allowed on the next succeeding day. Since compliance with the selling schedule by warehouses is essential in achieving the orderly and equitable marketing of the tobacco, this change in the sanction should provide incentive to warehouses toward such compliance.

It was recommended that the proposal be modified to specifically provide that, for the purpose of developing opening dates and selling schedules, any undesignated tobacco in any county be apportioned to the warehouses which were designated for the sale of tobacco produced in the county in the same proportion as the tobacco designated to such warehouses. This recommendation is adopted. Objection was also made that the May 31 date for the producer to designate his tobacco each year did not provide the warehouses sufficient time to prepare for the marketing season. Because of the lateness of the effective date of this regulation, a date earlier than May 31 could not be adopted for the 1974 crop. However, if 1974 crop experience shows that an earlier date would be more desirable, the program will be amended to adopt an earlier date for future years.

In the notice of proposed rulemaking, it was proposed that certain conforming amendments be made to Part 725 (7 CFR Part 725) of the regulations. However, a further review indicates that such proposed amendments to Part 725 are unnecessary and, therefore, they are not adopted.

It is hereby found and determined that thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) Producers, warehousemen and buyers are familiar with the amend-

ments since notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning the amendments involved; (b) farmers, warehousemen and buyers are now making plans for the marketing of the 1974 flue-cured tobacco crop which is expected to begin before mid-July; and (c) it is necessary to provide as much time as possible prior to the start of marketing to allow producers to make their warehouse designations and for the other segments of the industry to make whatever preparations are necessary for the marketing of tobacco under the producer designation system.

Therefore, good cause exists for making the amendments to the regulations herein effective May 20, 1974.

Accordingly, Parts 29 and 1464 of this title are amended as follows:

The regulations governing tobacco inspection are amended by adding a new Subpart G as follows:

Subpart G—Policy Statement and Regulations Governing Availability of Tobacco Inspection and Price Support Services to Flue-Cured Tobacco on Designated Markets

- | | |
|---------|---|
| Sec. | |
| 29.9401 | Definitions. |
| 29.9402 | Policy statement. |
| 29.9403 | Flue-Cured Tobacco Advisory Committee. |
| 29.9404 | Marketing area opening dates and marketing schedules. |
| 29.9405 | Issuance of marketing area opening date and selling schedules by the Secretary. |
| 29.9406 | Failure to comply with opening date and selling schedule by warehouses. |

AUTHORITY: Tobacco Inspection Act, 49 Stat. 731 (7 U.S.C. 511 et seq.); Commodity Credit Corporation Charter Act, 62 Stat. 1070, as amended (15 U.S.C. 714 et seq.).

Subpart G—Policy Statement and Regulations Governing Availability of Tobacco Inspection and Price Support Services to Flue-Cured Tobacco on Designated Markets

§ 29.9401 Definitions.

As used in this Subpart, the following terms shall have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(b) "Marketing area" means a geographical area within the flue-cured tobacco production area specified by the Secretary each year on the basis of his determination that significant quantities of tobacco produced in such area are ready for marketing.

§ 29.9402 Policy statement.

The sets of inspectors available to serve the flue-cured marketing areas are currently adequate to provide inspection service as rapidly as tobacco can be purchased, handled and processed by the currently existing facilities of the buyers, and the lack of inspection personnel is

not a limiting factor to accelerated marketings or the extension of price support to producers. The sets of buyers assigned to the flue-cured markets by the buying industry are adequate to purchase tobacco as rapidly as it can be handled and processed by the buyers' facilities. However, the tobacco ready for marketing during most weeks of the marketing season substantially exceeds the quantities which can be purchased, handled and processed by the currently existing facilities of the buyers. Moreover, the total number of flue-cured markets are substantially greater than the number of sets of buyers assigned by the buying companies or the number of sets of available inspectors. In this situation, about 6 months is required to market a year's crop of flue-cured tobacco and all warehouses cannot be served at the same time by the available sets of inspectors and the sets of buyers assigned by the buying companies. As additional sets of inspectors would not relieve the situation, inspection service will be provided by assigning the available inspectors to the various marketing areas and to warehouses within the marketing areas in a manner determined by the Secretary to provide the best and most equitable service to all growers.

§ 29.9403 Flue-Cured Tobacco Advisory Committee.

To assist the Secretary in making the apportionment and assignment of inspectors, a Flue-Cured Tobacco Advisory Committee, appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. Appendix I), shall advise and recommend to the Secretary marketing area opening dates and selling schedules for the flue-cured tobacco to be sold in each marketing area and in each warehouse within the marketing area.¹

§ 29.9404 Marketing area opening dates and marketing schedules.

(a) The Flue-Cured Tobacco Advisory Committee shall recommend to the Secretary marketing areas in the flue-cured tobacco production area, marketing area opening dates and selling schedules for each marketing area and for the individual warehouses in each marketing area which specify the length of time inspectors will be available to inspect tobacco and/or the quantity of tobacco to be marketed in each area and through each warehouse within such marketing area. In developing such opening date and selling schedules, the committee shall take into account the following:

(1) When a sufficient volume of tobacco produced within a specific area of the flue-cured tobacco production area will be ready for marketing;

(2) The volume of tobacco ready for marketing which the producers have designated under § 1464.2(e) of this title to be sold at specific warehouses and

¹ It is contemplated that for the 1974 marketing year, the current Industry-Wide Flue-Cured Marketing Committee will be appointed as the Flue-Cured Tobacco Advisory Committee.

also the volume of tobacco ready for market which has not been so designated by the producers: for the purpose of developing opening date and selling schedules, the committee shall consider any undesignated tobacco in any county as being distributed to the warehouses which were designated for the sale of tobacco produced in the county in the same proportion as the tobacco designated at such warehouses.

(3) The processing or redrying capacity of the industry and the number of inspectors available to provide inspection service during the specific period involved;

(4) Such other factors or information as may be necessary to develop an effective and equitable opening date and selling schedule.

(b) The Flue-Cured Tobacco Advisory Committee shall thereupon submit its recommended opening date and selling schedule and the geographic areas to be included in specific marketing areas to the Secretary together with a basis supporting its recommendations.

§ 29.9405 Issuance of marketing area opening date and selling schedules by the Secretary.

(a) The Secretary shall review the recommendations of the Flue-Cured Tobacco Advisory Committee and based upon such recommendations and the basis therefor and such other information as may be available to him, shall specify the geographic areas to be encompassed by specific marketing areas, set the opening dates for sale within the marketing areas and issue the selling schedules. The inspection of flue-cured tobacco shall be in accordance with such schedules.

(b) The Flue-Cured Tobacco Advisory Committee shall recommend modifications in the opening date and marketing schedule during the flue-cured tobacco marketing season as may be warranted by changes in marketing conditions and the Secretary shall act thereon in the same manner as approving the initial opening date and marketing schedules.

§ 29.9406 Failure to comply with opening date and selling schedule by warehouses.

Each warehouse shall comply with the opening date and selling schedule issued by the Secretary. If on any sales day a warehouse sells tobacco in excess of that allowed by such schedule, such excess amount shall be deducted from the quantity of tobacco authorized to be sold at that warehouse on either of the following two sales days. If such reduction in the quantity of tobacco sold is not made by the warehouse within such two days, no tobacco inspection or price support services shall be made available at such warehouse on the next succeeding sales day.

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

[Amdt. 5]

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

(1) In § 1464.2, paragraphs (e) (2) and (3) are redesignated paragraphs (e) (3) and (4) respectively and a new paragraph (e) (2) is added as follows:

§ 1464.2 Availability of price support.

(e) * * *

(2) For flue-cured tobacco offered for sale at auction warehouses, price support will be available only on tobacco which has been designated for sale at specified warehouses by the producer under the following conditions:

(i) *Definition.* "Producer" as used in this subparagraph means the person who was issued the tobacco marketing card pursuant to Part 725 of this title.

(ii) *Producer designation of warehouses.* Producers will be required, as a condition of price support, to designate the warehouses at which they will market their tobacco. Such designations may be at any warehouse or warehouses in any market within a radius of 100 miles from the county seat of the county in which the farm is located, or if such farm is physically within two counties, then from the county seat of the county in which the county ASCS office administering that farm is located. To the extent that there are less than eight markets within such radius, any warehouse or warehouses in any of the eight markets nearest to the county seat may be designated. A producer may obtain price support only in a warehouse he has designated, and at each such warehouse only with respect to the quantity of tobacco he designated for sale at such warehouse.

(iii) *When producer designations shall be made.* Producer designations of the warehouse or warehouses at which they will market their tobacco shall be made each year during a period which shall be announced by the county ASCS office in their county prior to the start of the period. Such period shall be prior to May 31 each year, except for the 1974 crop, such period shall be prior to June 15. Producers who lease quota after such period may designate the warehouse or warehouses at which the leased pounds will be marketed at the time the lease is filed at the county ASCS office. During the five workdays ending on the first Friday of each calendar month after any flue-cured marketing area has opened for inspection and sale of tobacco, producers in any part of the flue-cured production area may change their designations with

respect to that portion of their tobacco then remaining to be marketed. Producers who have designated warehouses which cease to operate or cease to have tobacco inspection or price support available may change their designations of such warehouses at any time subsequent to such occurrences.

(iv) *Form and content of designations.* A designation shall be made by each producer for each warehouse at which he desires to market his tobacco by executing a form provided by the county ASCS office. The producer will be required to indicate on such form the name of the warehouse or warehouses designated by him and the pounds of flue-cured tobacco he desires to sell at each such warehouse as well as any other information requested on such form.

(v) *Issuing warehouse designation card.* The county ASCS office shall execute and furnish the producer a warehouse designation card for each warehouse which the producer designates. Changes in designation by the producer shall be accomplished by the producer returning his warehouse designation card to the county ASCS office and requesting the transfer of any unmarketed pounds of flue-cured tobacco shown on any warehouse designation card to a warehouse designation card for another eligible warehouse or warehouses.

(vi) *Use of warehouse designation cards by warehouses.* (a) The warehouse shall enter on the warehouse designation card the date of sale and the pounds of that producer's tobacco sold as well as any other information requested from the warehouse on such card;

(b) A separate sale bill marked "no price support" shall be prepared for that quantity of tobacco weighed in that is in excess of the pounds designated as shown on the warehouse designation card;

(c) The warehouse shall mark "no price support" on the sale bill for any tobacco for which the producer failed to present the warehouse a warehouse designation card.

(vii) *Availability of designation information.* Each county ASCS office shall send all designations received to the Flue-Cured Tobacco Cooperative Stabilization Corporation, Raleigh, North Carolina, following each designation period and each period for changing designations. That corporation shall inform the Flue-Cured Tobacco Advisory Committee of the pounds designated to each warehouse and the pounds of any undesignated tobacco which, for the purpose of recommending opening dates and selling schedules in accordance with Part 29 of this title, is available for apportioning for sale at each warehouse. That corporation also shall furnish each warehouse the name and address of the producers who designated the warehouse, the

pounds each designated and the pounds which represent 110 percent of the marketing quota of each such producer.

(viii) *Failure to comply with opening date and selling schedule by warehouses.* If on any sales day a warehouse sells tobacco in excess of that allowed by the opening date and selling schedule issued in accordance with Part 29 of this title, such excess amount shall be deducted from the quantity of tobacco authorized to be sold at that warehouse on either of the following two sales days. If such reduction in quantity of tobacco sold is not made by the warehouse within such two days, no tobacco inspection or price support shall be made available at such warehouse on the next succeeding sales day.

(2) In § 1464.8 paragraphs (e), (f), (g), (h) and (i) are redesignated as paragraphs (f), (g), (i) and (j) respectively and a new paragraph (e) is added as follows:

§ 1464.8 Eligible tobacco.

(e) If flue-cured tobacco which was delivered to the association through an auction warehouse is a quantity which, when added to previous marketings of that producer at that warehouse, does not exceed the quantity designated by the producer for marketing at that warehouse.

Effective date. The foregoing amendments and revisions shall become effective May 20, 1974.

Done at Washington, D.C., this 15th day of May 1974.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.74-11520 Filed 5-17-74; 8:45 am]

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

Fees and Charges for Certain Federal Inspection Services

In FR Doc. 11092 appearing at page 17217 in the issue for Tuesday, May 14, 1974, the following correction should be made. In § 68.42a under the entry for "Appeal inspection:" the second indented line should read as follows:

"(b) Basis new sample ----- (2)".

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 639]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be

shipped to fresh market during the weekly regulation period May 19-25, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.939 Lemon Regulation 639.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues to improve. Average f.o.b. price was \$6.02 per carton the week ended May 11, 1974, compared to \$5.87 per carton the previous week. Track and rolling supplies at 155 cars were up 15 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter

set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at the meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 14, 1974.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 19, 1974, through May 25, 1974, is hereby fixed at 275,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: May 15, 1974.

CHARLES R. BRADER,
Deputy Director, Fruit and
Vegetable Division, Agricultural
Marketing Service.

[FR Doc.74-11551 Filed 5-16-74; 11:44 am]

[Peach Regulation 4]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Regulation by Grades and Sizes

This regulation requires that all California peaches, entering interstate commerce, grade at least U.S. No. 1. It also establishes minimum sizes for certain specified varieties and a minimum size for all other varieties. This action is necessary to assure that the peaches shipped will be of suitable quality and size in the interest of consumers and producers. The regulation is the same as that which regulates intrastate shipments of California peaches.

Findings. (1) Pursuant to the amended marketing agreement, and Order No. 917 (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Peach Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available in-