Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Parts 722, 728, 775

Feed Grain, Upland Cotton, and Wheat Programs; Miscellaneous Deletions of Certain Regulations

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this document is to delete from the Code of Federal Regulations certain regulations concerning the feed grain, upland cotton, and wheat programs which are no longer required and were suspended for 1978 and later crop years by the provisions of 7 CFR Part 713. Any obligation or liability incurred, or any rights retained or accrued under these regulations are not affected by their deletion.

EFFECTIVE DATE: June 22, 1979.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447-7633.

SUPPLEMENTARY INFORMATION: In view of the fact that the purpose of this document is to delete from the Code of Federal Regulations certain regulations which are no longer applicable to the 1978 and subsequent crops of upland cotton, wheat and feed grains, it has been determined that it is impractical and contrary to the public interest to comply with the public rulemaking requirement of 5 USC 553 and Executive Order 12044.

Final Rule

Accordingly, the following regulations as provided for in 7 CFR are hereby deleted:

PART 722—COTTON

§§ 722.401 through 722.423 [Deleted]
§§ 722.463 through 722.468 [Deleted]
§ 722.563 [Deleted and Reserved]
§§ 722.801 through 722.819 [Deleted]

In Part 722—Cotton, Subpart—Base Acreage Allotments for 1974 and succeeding Crops of Upland Cotton (722.401 through 722.423); Subpart—1977 Crop of Upland Cotton, Base Acreage Allotments (722.463 through 722.468); and Subpart—Upland Cotton Program for 1974 and Succeeding Crops (722.801 through 722.819) are deleted. Section 722.563, County Reserves for the 1973 crop of extra long staple cotton is deleted and reserved.

PART 728—WHEAT

§§ 728.1 through 728.25, 728.301, and 728.302 [Deleted]

In Part 728—Wheat, Subpart—Regulations pertaining to Wheat Program for Crop Years 1975–1977 and 1978 Crop of Wheat, Acreage Allotments and Marketing Quotas (728.1 through 728.25, 728.301, and 728.302) are deleted.

PART 775—FEED GRAINS

§§ 775.1 through 775.25 [Deleted]

In Part 775—Feed Grains, Subpart—Regulations pertaining to Feed Grain Program for Crop Years 1975–1977 (775.1 through 775.25) are deleted.

Note.—This document has been determined not significant under the USDA criteria implementing Executive Order 12044.

(Sec. 103, 84 Stat. 1374, 7 U.S.C. 1444; sec. 107, 84 Stat. 1358, 87 Stat. 230, 87 Stat. 944, 7 U.S.C. 1441; sec. 107, 84 Stat. 1359, 87; 224, 87 Stat. 944, 7 U.S.C. 1445a; secs. 103, 344a, 375, 52 Stat. 38, 59 Stat. 1197, 7 U.S.C. 1301, 1350.)

Signed at Washington, D.C., on June 13, 1979.

Ray Fitzgerald,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-19243 Filed 6-21-79; 8:45 am]
BILLING CODE 3410-05-M

7 CFR Part 725

[Amdt. 12]

Flue-Cured Tobacco; 1978-79 Average Market Price and 1979-80 Penalty Rate

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule contains the average market price received by producers for the 1978–79 marketings and the penalty rate for excess tobacco for the 1979–80 marketing year. The penalty rate is 75 percent of the previous year market average, as required by Section 314 of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: June 22, 1979.

FOR FURTHER INFORMATION CONTACT: Raymond S. Fleming, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C 20013, (202) 447-7935.

SUPPLEMENTARY INFORMATION: Since the 1978–79 average market price producers received for flue-cured tobacco and the rate of penalty reflect mathematical computations rather than substantive changes, I have determined that compliance with the public rulemaking requirements of 5 U.S.C. 553 and the provisions of Executive Order 12044 is impracticable and contrary to the public interest. Therefore, this amendment shall become effective upon publication in the **Federal Register.**

Final Rule

Accordingly, 7 CFR Part 725 is amended by revising section 725.92(b) to read as follows:

§ 725.92 Rate of Penalty.

* * * * *

(b)(1) *Average market price.* The average market prices as determined by the Crop Reporting Board for the marketing years specified were:

Average Market Price

	Cents per pound
Marketing year:	
1972-73	85.3
1973-74	88.1
1974-75	105.0
1975-76	99.8

Average Market Price—Continued

	Cents per pound
1976-77	110.4
1977-78	117.8
1978-79	135.0

(2) *Rate of penalty per pound.* The penalty per pound for marketings of excess tobacco subject to marketing quotas during the marketing years specified shall be:

Rate of Penalty

	Cents per pound
Marketing year:	
1973-74	64
1974-75	66
1975-76	79
1976-77	75
1977-78	83
1978-79	88
1979-80	101

(Sec. 301, 313, 314, 316, 317, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended, 65-66, as amended, 72 Stat. 995; sec. 401, 63 Stat. 1505, as amended sec. 106, 122, 125, 70 Stat. 191, 195, 198, as amended, sec. 16(e) 76 Stat. 606 (7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1363, 1372-1375, 1377, 1378, 1421, 1813, 1824, 1836) (16 U.S.C. 590 p(e)))

Note.—This regulation has been determined not significant under USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C., on June 12, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilizaton and Conservation Service.

[FR Doc. 79-19115 Filed 6-21-79; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 760

[Amdt. 1]

Dairy Indemnity Payment Program (1977-1981)

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the Dairy Indemnity Payment Program Regulations to (1) simplify the procedure for calculating dairy indemnity payments; (2) clarify the requirements for determining whether an affected producer has other legal recourse; (3) cover cases of "double indemnity;" (4) clarify the requirements for submission of information to accompany a claim; and (5) notify dairy farmers and manufacturers of dairy products that funds for making indemnity payments for claims filed after the date of this amendment may not be available.

EFFECTIVE DATE: June 22, 1979.

FOR FURTHER INFORMATION CONTACT: Gerald Schiermeyer, Emergency and Indemnity Programs Division, ASCS, USDA, Room 4095, South Building, Washington, D.C. 20013, Telephone: (202) 447-4428.

SUPPLEMENTAL INFORMATION: The proposed rules for amending the Dairy Indemnity Payment Program Regulations were published in the Federal Register on March 30, 1979 (44 FR 18978) and interested persons were invited to submit comments on the proposal by May 29, 1979. No written comments were received. The proposed rules as published (with minor clerical changes) are being adopted in the final amendment.

Subsequent to the publication of the proposed rule, it became apparent that unless further appropriations are made for this program, sufficient funds may not be available to make indemnity payments to dairy farmers and manufacturers of dairy products. Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least 60 days public comment on proposed significant regulations except where the Agency determines that this is not possible or not in the best interests of producers.

Since the availability of funds is not a subject that lends itself to public comment, I have determined that compliance with the notice of proposed rulemaking and public procedure requirements of 5 U.S.C. 553 and the requirements of Executive Order 12044 is contrary to public interest. Accordingly, § 760.33, concerning the availability of funds, is added without compliance with such procedure and requirements.

Final Rule

Accordingly, 7 CFR Part 760, Subpart—Dairy Indemnity Payment Program is amended to read as follows:

1. Section 760.2 is amended by adding a new paragraph (u):

§ 760.2 Definitions.

* * * * *

(u) "Base period" means the calendar month or 4-week period immediately preceding removal of milk from the market.

2. Section 760.4 is amended by deleting paragraphs (b) and (c) and adding new paragraphs (b) and (c):

§ 760.4 Normal marketings of milk.

* * * * *

(b) Normal marketings for each pay period are based on the average daily production during the base period.

(c) Normal marketings determined in paragraph (b) of this section are adjusted for any change in the daily average number of cows milked during each pay period the milk is off the market compared with the average number of cows milked daily during the base period.

3. Section 760.6 is amended by deleting paragraphs (c), (d), and (j) and adding new paragraphs (c), (d), and (j).

§ 760.6 Information to be furnished.

The affected farmer shall furnish to the county committee complete and accurate information sufficient to enable the county committee or the Deputy Administrator to make the determinations required in this subpart. Such information shall include, but is not limited to:

* * * * *

(c) The quantity and butterfat test of whole milk produced and marketed during the base period. This information must be a certified statement from the affected farmer's milk handler or any other evidence the county committee accepts as an accurate record of milk production and butterfat tests during the base period.

(d) The average number of cows milked during the base period and during each pay period in the application.

* * * * *

(j) Such other information as the county committee may request to enable the county committee or the Deputy Administrator to make the determinations required in this subpart.

4. Section 760.9 is amended to read as follows:

§ 760.9 Other legal recourse.

(a) No indemnity payment shall be made for contaminated milk resulting from residues of chemicals or toxic substances if, within 30 days after receiving a completed application, the Deputy Administrator determines that other legal recourse is available to the farmer. An application shall not be deemed complete unless it contains all information necessary to make a determination as to whether other legal recourse is available to the farmer. However, notwithstanding such a determination, the Deputy Administrator may reopen the case at a later date and make a new determination on the merits of the case as may be just and equitable.

(b) In the event that a farmer receives an indemnity payment under this subpart, and such farmer is later compensated for the same loss by the person (or the representative or successor in interest of such person) responsible for such loss, the indemnity payment shall be refunded by the farmer to the Department of Agriculture: Provided, that the amount of such refund shall not exceed the amount of other compensation received by the farmer.

5. A new § 760.33 effective for fiscal 1979 and subsequent years is added to read as follows:

§ 760.33 Availability of funds.

Payment of indemnity claims filed after June 22, 1979, will be contingent upon availability of funds to the Department to pay such claims.

(Sec. 1, 2, 3, Pub. L. 90–484, Stat. 750, as amended; sec. 204, Pub. L. 91–524, 84 Stat. 1361; sec. 5, Pub. L. 93–86, 87 Stat. 223; sec. 205, Pub. L. 95–113, 91 Stat. 920 (7 U.S.C. 450 j, k, l).)

Note.—This regulation has been determined to be not significant under the USDA criteria implementing Executive Order 12044. An approved impact analysis on the program regulations is available from the Emergency and Indemnity Programs Division, Room 4095, South Building, ASCS, USDA, Washington, D.C. 20013.

Signed at Washington, D.C. on June 12, 1979.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-19110 Filed 6-21-79; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 204]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period June 24–30, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 24, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under 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. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on June 19, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good.

It is further found that its is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.504 Lemon Regulation 204.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period June 24, 1979, through June 30, 1979, is established at 330,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: June 20, 1979.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-19728 Filed 6-21-79; 11:05 am]

BILLING CODE 3401-02-M

7 CFR Part 991

Handling of Hops of Domestic Production; Amendment of Administrative Rules and Regulations

Correction

In FR Doc. 79-17329 appearing at page 32194 in the issue for Tuesday, June 5, 1979, make the following corrections:

(1) On page 32195, in the first column, in § 991.138(d)(2), in the 5th line, substitute the word "application" for the word "applicant".

(2) On page 32195, in the middle column, in § 991.138(e), in the 4th line from the top of the page, insert the word "allotment" after the word "additional".

BILLING CODE 1505-01-M

Commodity Credit Corporation

[Amdt. 5]

7 CFR Part 1435

Relocating 1978 Crop Loan Sugar; Transportation Reimbursement

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the terms and conditions under which the Commodity Credit Corporation (CCC) will reimburse processors for the transportation cost incurred in relocating 1978 crop loan sugar to alternate storage sites when the present storage space is needed for new crop sugar. CCC will pay transportation costs only with respect to that quantity which the processor intends to forfeit to CCC upon maturity of the loan.

Considerable quantities of 1978 crop sugar under CCC loan were stored in warehouses situated to receive sugar as it is processed. This space is needed for the storage of 1979 crop sugar. Since loans will not mature until after the beginning of the 1979 crop harvest, CCC's obligation to move forfeited sugar will not occur in time for the space involved to be made available for the new crop.

This action will enhance the ability of processors to free storage space needed for the 1979 crop by CCC paying, in advance of loan maturity, substantial part of the cost of relocating 1978 crop loan sugar. Since processors will only be reimbursed for the transportation cost incurred in relocating sugar intended for forfeiture at loan maturity, CCC will not incur additional expenses to those which would normally be incurred upon maturity of the price support loans. This