

6304 for 4 years would be given 8 years to use accumulated annual leave.

Base closings and realignments do not meet the definition of "extended exigencies of the public business." Under 5 CFR 630.308, an extended exigency must be an exigency of such significance as to threaten the national security, safety, or welfare; last more than 3 calendar years; affect a segment of an agency or an occupational class; and preclude subsequent use of both restored and accrued annual leave within the period specified in 5 CFR 630.306.

OPM regulations calculate the time limit for using restored annual leave based on the amount of leave restored rather than the time served at a closing or realigning DOD installation. We believe this provides a more equitable approach, since employees who serve the same amount of time at a closing installation may leave that installation with vastly different amounts of annual leave restored in their accounts due to different leave accrual rates. Linking the time limit for using restored leave solely to the amount of time served at a closing or realigning base would disadvantage employees who are in the 8-hour leave accrual category, as compared to employees in the 4-hour leave accrual category. Therefore, OPM has not revised the rule in this regard.

The individual suggested that, as an alternative to establishing new time limits for the use of restored annual leave, the losing installation by the restored excess annual leave from the employee at the time of transfer. Under 5 U.S.C. 5551, lump-sum payments for accumulated and accrued annual leave are authorized only upon separation from the Federal Government or transfer to another leave system to which annual leave accrued under chapter 63 of title 5, United States Code, cannot be transferred. There is no provision in law or regulation for lump-sum payments for accumulated and accrued annual leave upon transfer between positions that are covered under chapter 63 of title 5, United States Code.

The labor organization recommended that an employee who becomes subject to another closure or realignment during the time period in which he or she must use restored annual leave should be considered as continuing under the exigency of the public business. OPM believes this situation is already addressed in the interim rule. Under 5 CFR 630.306(c), "time limits for using restored annual leave shall not apply for the entire period under which an employee is subject to 5 U.S.C. 6304(d)(3)." When an employee with an active restored leave account becomes

subject to another closure or realignment, the time limit for using the restored leave account will be canceled for the entire period during which an employee is subject to 5 U.S.C. 6304(d)(3). After the employee's coverage under 5 U.S.C. 6304(d)(3) ends, a new time limit will be established for all restored annual leave available to the employee under 5 U.S.C. 6304(d). The new time limit for using restored annual leave will begin on the date the employee is no longer subject to 5 U.S.C. 6304(d)(3). Therefore, OPM believes no change is necessary in the regulations.

When an employee moves during the leave year to an agency or DOD base not undergoing closure or realignment, OPM's interim regulations state that the employee must show that a "reasonable attempt" was made to schedule leave, in order to have any excess annual leave for the leave year considered for restoration. The labor organization believes its recommended alternative of shielding excess annual leave under the extended exigency language in 5 CFR 630.308 alleviates any capricious or arbitrary determination by an agency head as to whether the employee made a reasonable attempt to schedule excess annual leave.

Accrued annual leave is not subject to forfeiture until the end of the leave year. Under 5 U.S.C. 6304(d), excess annual leave cannot be considered for restoration until after the end of the leave year in which it is forfeited. Although an employee may have been exempt from the advance scheduling requirement for that portion of the year during which he or she was employed at a DOD closing or realigning installation, this does not *guarantee* that the employee's excess annual leave will be restored, since there may have been sufficient time to schedule and use his or her annual leave after leaving the DOD installation and before the end of the leave year. Under 5 CFR 630.308(b), the head of the agency may exempt employees from the advance scheduling requirement if the employee can show that he or she was covered by 5 U.S.C. 6304(d)(3) during the leave year and that he or she was unable to comply with the scheduling requirement because of circumstances beyond his or her control.

OPM believes no changes are necessary in the interim regulations. Therefore, OPM is adopting as final the interim rule to provide employees with additional time in which to use restored annual leave that was forfeited as a result of employment at a DOD installation undergoing closure or realignment.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 630

Government employees.
Office of Personnel Management.
James B. King,
Director.

Accordingly, under the authority of 5 U.S.C. 6304(d)(2), the interim rule amending subpart C of 5 CFR part 630, published at 59 FR 62971 on December 7, 1994, is adopted as a final rule without change.

[FR Doc. 95-11179 Filed 5-5-95; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Consolidated Farm Service Agency

Commodity Credit Corporation

7 CFR Parts 704 and 1410

RIN 0560-AD95

1986-1990 Conservation Reserve Program; 1991-1995 Conservation Reserve Program

AGENCY: Consolidated Farm Service Agency, Commodity Credit Corporation USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the regulations at 7 CFR Part 704 and 7 CFR Part 1410 to allow holders of Conservation Reserve Program (CRP) contracts the opportunity to request and receive early release from contracts or to reduce the amount of acreage subject to the contracts. The purpose of the early release of acreage by current contract holders is to allow enrollment of new acreage in CRP which will meet higher environmental and conservation criteria. This action is required to implement provisions announced by the Secretary of Agriculture on December 14, 1994.

DATES: Effective Date: Interim rule effective May 8, 1995. Comments: Comments must be received on or before June 7, 1995 in order to be assured of consideration.

ADDRESSES: Comments should be mailed to George T. Denley, Consolidated Farm Service Agency, P.O. Box 2415, Room 4714-S, Washington, DC 20013-2415; telephone 202-720-

6304. Comments received may be inspected between 9 a.m. and 4 p.m., Monday through Friday, except holidays, in room 4768, South Agriculture Building, United States Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: George T. Denley, Conservation and Environmental Protection Division, CFSA, P.O. Box 2415, Room 4768-S, Washington, DC 20013-2415.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule because neither CFSA nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not adversely affect the environmental, historical, social, or economic resources of the Nation. Therefore, it has been determined that these actions will not require an Environmental Assessment or an Environmental Impact Statement.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Federal Domestic Assistance Program

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are the Conservation Reserve Program—10.069.

Paperwork Reduction Act

This interim rule amends the existing information collection as approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) under OMB control number 0560-0125 and has been submitted to OMB for clearance.

Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule are not retroactive and preempt State and local laws to the extent such laws are inconsistent with the provisions of this rule. Before any action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded program participants at 7 CFR part 780 must be exhausted.

Request for Comments

Comments are requested with respect to this interim rule and such comments shall be considered in developing the final rule.

Background

The current regulations in 7 CFR Part 704 and 7 CFR Part 1410 implemented the CRP, which was authorized by Title XII of the Food Security Act of 1985, as amended.

The intent of CRP is to permit the CCC to enter into contracts with owners and operators of highly erodible and certain other cropland to assist such owners and operators in conserving and improving the Nation's soil and water resources and wildlife habitat. By entering into a contract, the owner or operator agrees to implement a conservation plan approved by the local Conservation District for converting highly erodible cropland normally devoted to the production of an agricultural commodity to a conserving use and to a reduction in certain crop acreage bases, allotments, or quotas. CCC provides (1) technical assistance by way of a conservation plan, (2) financial assistance for the costs of establishing the conservation practices required by the conservation plan, and (3) annual land rental payments to compensate the owner or operator for taking the cropland out of production.

Program Changes

On December 14, 1994, the Secretary of Agriculture announced that during calendar year 1995 the Department will take several actions regarding the CRP, including targeting the CRP to more environmentally sensitive acres. These actions will be implemented in two separate rules. This interim rule provides for considering requests from CRP participants to be released from CRP contracts or to modify current contracts to reduce the amount of acreage subject to the contracts. A subsequent proposed rule will address enrollment of acreage under new contracts which meets higher environmental and conservation criteria to "replace" the acreage that was

released and to bring the amount of acres in the CRP to the statutory maximum of 38 million acres.

This interim rule provides CRP participants the option for early termination with an effective date not to exceed September 30, 1995, of certain acreage under CRP contract in whole or in part without penalty or obligation to refund previous payments issued under the contract, provided the acreage released, if farmed, is farmed under a basic conservation system as determined by the Natural Resources Conservation Service (NRCS) until the date the contract would have expired or, if hayed or grazed, is hayed or grazed in accordance with an approved haying or grazing plan as determined by NRCS.

Crop acreage bases, allotments, and quotas will be reinstated effective for the 1996 crop year.

Prior to this rule, participants requesting to release CRP acreage before contract termination were required to refund with interest annual rental and, in many cases, cost-share payments previously paid under the contract and to pay liquidated damages unless CCC determined that the release was in the public interest. If farmed, released acres were only required to be farmed according to an Alternative Conservation System to be eligible for certain USDA benefits. Further, the purpose of this early release option is to replace those acres released under this authority with acreage under new contracts. Acreage released either before or after this limited early release period cannot be replaced with other acreage. Producers who voluntarily terminated their contracts did so with the understanding that payments would have to be refunded and damages would have to be paid. This requirement was a term of all CRP contracts and participants were aware of this requirement before the contracts were entered into. To retroactively relieve these participants from this obligation would treat unfairly those participants who did not terminate their contracts because of the refund and penalty requirement. Accordingly, the early contract termination authority under this rule is not retroactive.

CRP contract acreage which is not eligible for early contract termination under this rule includes acreage within an average of 100 feet of a stream or other waterbody, acreage on which a CRP easement is filed, and acreage on which there exist the following practices installed or developed as a result of participation in the CRP: grass waterways, filter strips, shallow water areas for wildlife, bottomland timber established on wetlands, field

windbreaks, and shelterbelts. Exclusion of these areas will contribute to continued prevention of soil erosion and protection of water quality and certain wildlife habitat. Acreage enrolled in the CRP, however, may be devoted to one or more of many different conservation or wildlife practices which are designed to provide the highest benefits for the specific land in question. The broader expanse of environmental issues reflected in the CRP, ranging from reducing soil erosion to fostering diverse wildlife habitats to improving water quality, will be addressed in the subsequent proposed rule.

The acreage released under this voluntary opportunity to current contract holders will be replaced with acreage targeted to obtain enhanced environmental benefits such as wildlife habitat, water quality, or soil erosion.

CRP participants are not obligated to request early release from their contracts. All signatories to the CRP contract must agree to release of the acreage before it can be released from CRP.

Because CRP participants are making planting plans and wish to carry out these plans as early as possible, it is necessary that this regulation be effective upon publication. The purpose of the early release is to allow enrollment of replacement acreage in the CRP which will meet higher environmental and conservation criteria. In order to optimize the acreage released, this action must be effective immediately to provide CRP participants the opportunity to finalize their farming plans. Accordingly, good cause is shown for making this rule effective upon publication in the **Federal Register**.

List of Subjects

7 CFR Part 704

Administrative practices and procedures, Conservation System, Contracts, Technical assistance, Natural resources, Environmental indicators, and Base protection.

7 CFR Part 1410

Administrative practices and procedures, Conservation System, Contracts, Technical assistance, Natural resources, Environmental indicators, and Base protection.

Accordingly, 7 CFR Parts 704 and 1410 are amended as follows:

**PART 704—1986—1990
CONSERVATION RESERVE PROGRAM**

1. The authority citation for 7 CFR Part 704 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C 3801–3847.

2. Section 704.20 is amended by adding paragraph (a)(4) to read as follows:

§ 704.20 Contract modifications.

(a) * * *
(4) Terminate certain contracts prior to the expiration date with an effective date no later than September 30, 1995, provided the acreage released, if farmed, is farmed under a basic conservation system as determined by the Natural Resources Conservation Service (NRCS) until the date the contracts would have expired or, if hayed or grazed, is hayed or grazed in accordance with an approved haying or grazing plan as determined by the NRCS. Annual payments will be prorated to the effective date of termination and will be made as otherwise provided in this part. Contract acreage located within an average of 100 feet of a stream or other waterbody, on which a CRP easement is filed, and contract acreage on which there exist the following practices installed or developed as a result of participation in the CRP are not eligible for termination prior to the expiration date of the contract as provided in this paragraph (a)(4): grass waterways, filter strips, shallow water areas for wildlife, bottomland timber established on wetlands, field windbreaks, and shelterbelts.
* * * * *

**PART 1410—CONSERVATION
RESERVE PROGRAM**

1. The authority citation for 7 CFR Part 1410 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3831–3847.

2. Section 1410.116 is amended by adding paragraph (a)(5) to read as follows:

§ 1410.116 Contract modifications.

(a) * * *
(5) Terminate certain contracts prior to the expiration date with an effective date no later than September 30, 1995, provided the acreage released, if farmed, is farmed under a basic conservation system as determined by the Natural Resources Conservation Service (NRCS) until the date the contracts would have expired or, if hayed or grazed, is hayed or grazed in accordance with an approved haying or grazing plan as determined by the NRCS. Payments will be prorated to the effective date of termination and will be made as otherwise provided in this part. Contract acreage located within an average of 100 feet of a stream or other

waterbody, acreage on which a CRP easement is filed, and contract acreage on which there exist the following practices installed or developed as a result of participation in the CRP are not eligible for termination prior to the expiration date of the contract as provided in this paragraph (a)(5): grass waterways, filter strips, shallow water areas for wildlife, bottomland timber established on wetlands, field windbreaks, and shelterbelts.
* * * * *

Signed at Washington, DC, on May 3, 1995.

Grant Buntrock,

Acting Administrator, Consolidated Farm Service Agency and Acting Executive Vice President Commodity Credit Corporation.

[FR Doc. 95–11260 Filed 5–5–95; 8:45 am]

BILLING CODE 3410–05–P

7 CFR Parts 723 and 1464

RIN 0560–AD62

1995 Marketing Quota and Price Support for Flue-Cured Tobacco

AGENCIES: Consolidated Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to codify determinations made by the Secretary of Agriculture (Secretary) with respect to the 1995 crop of flue-cured tobacco. In accordance with the Agricultural Adjustment Act of 1938, as amended, (1938 Act), the Secretary determined the 1995 marketing quota for flue-cured tobacco to be 934.6 million pounds. In accordance with the Agricultural Act of 1949, as amended, (1949 Act), the Secretary determined the 1995 price support level to be 159.7 cents per pound.

EFFECTIVE DATE: December 15, 1994.

FOR FURTHER INFORMATION CONTACT: Robert Miller, CFSA, USDA, room 3739, South Building, P.O. Box 2415, Washington, DC 20013–2415, on 202 720–8839.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by OMB under Executive Order 12866.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are