

area the senior executive's converted rate of basic pay may not exceed the rate for level III of the Executive Schedule. The newly converted rate is the senior executive's SES rate of basic pay.

(d) On the first day of the first applicable pay period beginning on or after January 1, 2004, a law enforcement officer (LEO), as defined in 5 CFR 531.301, who is a member of the SES will have his or her rate of basic pay, plus any applicable special geographic pay adjustment established for LEOs under section 404(a) of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509) to which he or she was entitled immediately before that date, converted to a new SES rate of basic pay. The newly converted rate is the senior executive's SES rate of basic pay, and any pay adjustments approved on or after January 11, 2004, must be computed based on the senior executive's converted rate of basic pay. Conversion to a new SES rate of basic pay is not considered a pay adjustment for the purpose of applying § 534.404(c).

■ 19. Section 534.407 is added to read as follows:

**§ 534.407 Pay computation and aggregate compensation.**

(a) Except as provided in paragraph (b) of this section, pay for members of the SES must be computed in accordance with 5 U.S.C. 5504(b).

(b) To determine the hourly rate of pay for members of the SES, divide the annual SES rate of basic pay by 2,087 and round to the nearest cent, counting one-half cent and over as a whole cent. To derive the biweekly rate, multiply the hourly rate by 80.

(c) Senior executives are subject to the applicable aggregate limitation on pay in 5 CFR part 530, subpart B.

■ 20. In newly redesignated § 534.408, in the last sentence of paragraph (b) remove the word "subject" and add in its place the word "subpart."

**PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS**

■ 21. The authority citation for part 575 continues to read as follows:

**Authority:** 5 U.S.C. 1104(a)(2), 5753, 5754, 5755 and 5757; Pub. L. 107-273, 116 Stat. 1780; secs. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101-509), 104 Stat. 1462 and 1466, respectively; E.O. 12748, 3 CFR, 1992 Comp. p. 316.

**Subpart C—Retention Allowances**

■ 22. In § 575.306, paragraph (b) is revised to read as follows:

**§ 575.306 Payment of retention allowance.**

\* \* \* \* \*

(b) The head of an agency may not authorize a retention allowance for an employee if or to the extent that such an allowance, when added to the employee's estimated aggregate compensation, as defined in 5 CFR 530.202, would cause the aggregate compensation actually received by the employee during the calendar year to exceed the applicable aggregate limitation on pay under 5 CFR part 530, subpart B, at the end of the calendar year.

\* \* \* \* \*

■ 23. In § 575.307, paragraph (a) is revised to read as follows:

**§ 575.307 Reduction or termination of retention allowance.**

(a) The agency must reduce or terminate the authorized amount of a retention allowance to the extent necessary to ensure that the employee's estimated aggregate compensation, as defined in 5 CFR 530.202, does not exceed the applicable aggregate limitation on pay under 5 CFR part 530, subpart B, at the end of the calendar year.

\* \* \* \* \*

[FR Doc. 04-26728 Filed 12-1-04; 5:03 pm]

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**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**7 CFR Part 1464**

**RIN 0560-AH13**

**Tobacco Loan Program—Removal of Requirement That Producers of Burley and Flue Cured Tobacco Designate Sales Locations**

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations governing the tobacco price support program to remove the requirement that flue-cured tobacco farmers designate the auction warehouses where they will sell their tobacco and that burley tobacco farmers designate all locations where they will sell their tobacco. Currently price support is available only at designated auction warehouses on eligible tobacco.

**DATES:** *Effective Date:* December 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ann Wortham, (202) 720-2715 or [ann\\_wortham@wdc.usda.gov](mailto:ann_wortham@wdc.usda.gov). Tobacco Division (TD), Farm Service Agency,

United States Department of Agriculture (USDA), STOP 0514, Room 5750-S, 1400 Independence Avenue, SW., Washington, DC 20250-0514.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Farm Service Agency (FSA) published in the **Federal Register**, on June 22, 2004, (69 FR 34615) a proposed rule to rescind the price support eligibility provision that requires flue-cured and burley tobacco farmers to designate the locations where they will sell their tobacco. The proposed rule requested public comments, and the comment period ended on July 22, 2004. To the extent practicable, some comments that were received after that date were also considered.

**Summary of Comments**

FSA received 368 comments on the proposed rule. Two respondents asked that no change be made in the current designation requirement. This request was considered, however, weighing the requests to maintain the existing program against the prevalence of comments requesting elimination of the program, as was proposed, weigh heavily in favor of changing the current requirements.

Eighteen respondents asked that the designation program be eliminated entirely. Although FSA proposed rescinding the designation program in June when the Agency requested input from the public, the majority of the comments on the proposed rule did not favor total elimination of the program. In deference to the majority of the comments on the proposed rule, FSA will not entirely eliminate the designation program. Thus, the final rule still contains a limited designation requirement.

Three hundred and forty three comments suggested adjustments to the timing of the designation requirements. Of these, 101 respondents asked only that the waiting period for re-designation be reduced to five days or less, 13 respondents asked that the designation program proceed as it is currently outlined, 209 respondents asked that both designation and subsequent re-designation requirements be made more simple. Two hundred and twenty two of these same commentors requested that designations be made immediately effective, and that designations be suspended and not necessary after the first week of tobacco sales. These comments and suggestions are addressed below.

Twenty-five comments expressed concerns about the burley tobacco designation program. These respondents

asked that designations end on August 1 of the market year, followed by two re-designation periods at the beginning of October and November, and then immediately effective re-designations beginning on November 25. These comments requested no other changes to the current requirements. These comments were not adopted for the reasons discussed below.

The existing technology that the Agency uses for this program does not allow FSA to make designations immediately effective. Therefore, this suggestion will not be adopted.

On October 22, 2004, the Fair and Equitable Tobacco Reform Act of 2004 repealed the tobacco marketing quota and acreage allotment and price support programs effective for the 2005 and subsequent crop years. The designation program, part of these programs, will end with the close of the 2004 marketing year. Accordingly, this rule deletes the price support eligibility requirement that flue-cured and burley tobacco farmers designate the locations where they will sell their tobacco. The majority of the commentors wanted the designation program to remain unchanged through the first week of tobacco sales, a time period which has ended for both flue-cured and burley tobaccos. Rescinding the designation requirements effective December 3, 2004, will have the effect of complying with the majority of commentors' requests that designation and subsequent re-designation requirements not be necessary after the first week of sales. Tobacco producers will be able to sell their tobacco where they wish, without waiting for a designation to become effective through this final crop year of the tobacco quota and price support programs.

#### Executive Order 12372

This final rule is not subject to the provisions of Executive Order 12372, which require 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).

#### Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this proposed rule because USDA is not 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.

#### Unfunded Mandates

This rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local and tribal governments or the private sector. Therefore, this rule is not subject to sections 202 and 205 of the UMRA.

#### Federal Assistance Programs

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance to which this rule applies, are: 10.051—Commodity Loans and Loan Deficiency Payments.

#### Environmental Evaluation

The environmental impacts of this rule have been considered under 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 regulations of the Farm Service Agency (FSA) of the Department of Agriculture (USDA) for compliance with NEPA, 7 CFR part 799. An environmental evaluation was completed and the action has been determined not to have the potential to significantly impact the quality of the human environment and no environmental assessment or environmental impact statement is necessary. A copy of the environmental evaluation is available for inspection and review upon request.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 5501 *et seq.*), the information collection or recordkeeping requirements of 7 CFR part 1464 are approved by the Office of Management and Budget (OMB) under OMB control numbers 0560–0058 and 0560–0217. Also, section 642(b) of FETRA provides these regulations be promulgated without regard to the Paperwork Reduction Act, nor be subject to the normal requirement for a 60-day public comment period. Nonetheless, this action will reduce the information collected and the Agency's currently approved burden, thus, a new burden estimate will be submitted to OMB for approval.

#### List of Subjects in 7 CFR Part 1464

Price support programs, Tobacco, Warehouses.

■ Accordingly, 7 CFR part 1464 is amended as follows:

#### PART 1464—TOBACCO

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

**Authority:** 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1 and 1445–2; 15 U.S.C. 714b, 714c; Pub. L. 106–78, 113 Stat. 1135; Pub. L. 106–113, 113 Stat. 1501; Pub. L. 1087, 117 Stat. 11.

#### Subpart A—Tobacco Loan Program

■ 2. Amend 7 CFR 1464.2 by removing paragraph (b)(2) and redesignating paragraphs (b)(3), (b)(4) and (b)(5) as (b)(2), (b)(3), and (b)(4), respectively.

Signed at Washington, DC, on November 19, 2004.

**James R. Little,**

*Executive Vice-President, Commodity Credit Corporation.*

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#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003–CE–48–AD; Amendment 39–13886; AD 2004–24–10]

**RIN 2120–AA64**

#### Airworthiness Directives; Bombardier, Inc. Model DHC–3 Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA adopts a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–3 airplanes modified with A.M. Luton's Supplemental Type Certificate (STC) number SA3777NM. This AD requires you to inspect the wiring for the heating blankets on P<sub>3</sub> and P<sub>Y</sub> pneumatic lines and the push-to-test function lights to ensure that they are wired to the correct schematic; replace the circuit breaker switch as applicable; and replace the flight manual supplement currently in use with Revision G, dated March 28, 2001 (incorporates Revision I of Sheet 1 of Drawing 20075, "Electrical System Schematic," dated October 10, 2000). This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Canada. We are issuing this AD to detect and correct wiring installed in accordance with an incorrect drawing, which shows the pneumatic heating blankets to the P<sub>3</sub> and P<sub>Y</sub> pneumatic lines wired in series with the indicator lights, rather than parallel. This can result in reduced