

importer's control that may be relevant to imported tobacco that is subject to an assessment in accordance with this subpart or otherwise relevant to the administration of this subpart. Upon a failure to provide access or records, the Director may presume that such an inquiry would have produced information unfavorable to the party to the inquiry and shall make further determinations in the matter accordingly.

**§ 1464.108 Reconsideration and appeal.**

An importer may request the Director to reconsider any determination of the amount of any assessment due, any marketing penalty assessed, or other adverse determination rendered in accordance with this subpart. Any request for reconsideration shall be made within 30 calendar days of the date of the notification of such assessment, marketing penalty, or adverse determination. If the importer is dissatisfied with a determination rendered by the Director with respect to a request for reconsideration, such importer may appeal the determination to the Director, National Appeals Division, FSA. Any such appeal shall be handled in accordance with the provisions of 7 CFR part 780.

[59 FR 10944, Mar. 9, 1994, as amended at 62 FR 3199, Jan. 22, 1997]

**Subpart C—Tobacco Loss Assistance Program 1999**

SOURCE: 65 FR 7960, Feb. 16, 2000, unless otherwise noted.

**§ 1464.201 Applicability and basic terms for payments to states.**

(a) This subpart sets forth the terms and conditions of the Tobacco Loss Assistance Program (TLAP) authorized by Section 803 of the FY 2000 Agriculture Appropriations Act (Public Law 106-78). That section provides that \$328 million of funds of the Commodity Credit Corporation shall be made available to make payments to States for the benefit of certain persons for the reduction in quantity of tobacco quota.

(b) States, in order to be eligible for payment under this part, must be States having farms to which, for "eli-

gible kinds of tobacco" only, tobacco quotas or allotments were made available under 7 CFR part 723 for the 1999 crop years. "Eligible kinds of tobacco" for purposes of this part will be any kind of tobacco for which the national marketing quota for 1999 was reduced from the 1998 level.

(c) Except as provided in §1464.205, all payments under this part shall be made to States and only to those states with producers of eligible kinds of tobacco.

(d) Such payments shall be made to the State as soon as practicable after the application for such payment by the State.

(e) Payments from the \$328 million allotted to this program for loss of quota shall be made to the qualifying States in proportion, as determined by the Executive Vice President of CCC, to the relative quantity of lost quota apportioned to the qualifying States for eligible kinds of tobacco.

(f) In the case of a State that is a party to the National Tobacco Growers Settlement Trust, the State shall, to the extent practicable, distribute funds made available under this part (that is, under the TLAP) to eligible persons in the State in accordance with the formulas established pursuant to the Trust to the extent provided for in the authorizing statute. In the case of a State that is not party to the National Tobacco Growers Settlement Trust, the State shall distribute funds made available under TLAP to eligible persons in the State in a manner determined by the State and approved by the Executive Vice President, CCC. The National Tobacco Growers Settlement Trust referred to in this section is that private trust created by tobacco companies to make approximately \$5 billion in payments available to parties involved in the production of tobacco, and which has distributed the monies through local, state trusts.

**§ 1464.202 Administration.**

(a) This subpart shall be administered by CCC under the general supervision of the Executive Vice President of the CCC and the Deputy Administrator for Farm Programs of the Farm Service Agency of the Department of

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Agriculture (who shall be hereafter referred to in this part as the “Deputy Administrator”).

(b) The Deputy Administrator on behalf of the Executive Vice President will determine the allocation of funds available for apportionment to qualifying States.

(c) Funds allocated to States will be distributed directly to the State or may, at the direction of the State, be transferred to a disbursing or other agent of the State’s choice.

### § 1464.203 Eligibility.

(a) Except as provided in paragraph (d) of this section, the State’s receipt of funds or control of funds under this part shall be conditioned upon the promise, obligation and understanding that the funds will be distributed to eligible tobacco growers as that term is defined in this section, in accord with the provision of this part.

(b) For a person to be considered an eligible “tobacco grower” for purposes of this part, such person must own or operate, or produce tobacco on a farm:

(1) To which was assigned a poundage quota or acreage allotment for the 1999 crop year for an eligible kind of tobacco; and

(2) That was used for the production of tobacco during the 1998 or 1999 crop year.

(c) All disputes as to eligibility shall be the responsibility of the States and any terms in the authorizing statute that are contrary to the terms of this part shall be controlling.

(d) Any interest earned by the States on sums distributed in this part shall be distributed in turn to eligible tobacco growers.

(e) Of the sums made available to the States under this part, and interest earned on such sums, an amount may be deducted by the State for such reasonable amounts as may be needed to pay the cost of distributing the funds, including the cost of private agents who may be engaged to assist the State in that respect or provide service to the State in that respect.

[65 FR 7960, Feb. 16, 2000; 65 FR 10933, Mar. 1, 2000]

### § 1464.204 Appeals.

Any person who believes a determination made by the State government is in error should seek relief from the State government. Eligibility decisions and determinations made by the State government are not appealable to the Department of Agriculture under part 780 of this chapter and will not be considered to be determinations of the Department of Agriculture.

### § 1464.205 Alternate distribution.

Nothing in §§1464.201 through 1464.204 shall prohibit the Executive Vice President from providing assistance to the States with respect to the distribution of the monies to eligible tobacco growers or prevent the Executive Vice President from making distributions directly to the eligible growers in lieu of the manner of distribution otherwise provided for in this part.

## Subpart D—Tobacco Disaster Assistance Program

SOURCE: 65 FR 36581, June 8, 2000, unless otherwise noted.

### § 1464.300 [Reserved]

### § 1464.301 Applicability and basic terms for payments.

(a) This subpart sets forth the terms and conditions of the Tobacco Disaster Assistance Program (TDAP) authorized by Public Law 106-113. That legislation provides \$2.8 million to the Commodity Credit Corporation (CCC) to be made available to eligible persons who have suffered quality or quantity losses due to natural disasters on tobacco crops harvested and placed in a warehouse and not sold.

(b) Payments from the \$2.8 million allotted to this program shall be made to eligible persons in proportion, as determined by the Executive Vice President of CCC, to each person’s relative quantity of qualifying tobacco losses suffered due to natural disasters on crops harvested and placed in a warehouse and not sold.