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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 29

[Docket No. TB-99-07]

RIN 0581-AB75

#### Tobacco Inspection; Subpart B—Regulations

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, with minor formatting changes, the provisions of an interim final rule, the regulation governing the mandatory inspection of tobacco that added the term “purchaser” specifically to include in the regulatory text this segment of the industry from attempting to influence, impede, or discuss any matter related to grading while the tobacco inspectors are grading tobacco on the auction warehouse floor and removed the language allowing the producer to discuss the grading of their tobacco with the inspector at the time grading is being performed. This rule incorporates recommendations made by the Flue-Cured Tobacco Advisory Committee, the Five-State Flue-Cured Tobacco Committee, and industry representatives to clarify when it is allowable for someone to communicate with the grading personnel while they are performing their actual duties. The revisions better eliminate interference, distraction, and outside influence on the grading of tobacco.

**EFFECTIVE DATE:** May 15, 2000.

**FOR FURTHER INFORMATION CONTACT:** John P. Duncan III, Deputy Administrator, Tobacco Programs, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, PO Box

96456, Washington, DC 20090-6456; or Fax: (202) 205-0235.

**SUPPLEMENTARY INFORMATION:** The Department published in the **Federal Register** on September 27, 1999 (64 FR 51887) an interim final rule amending the regulation at 7 CFR part 29, subpart B. The Department requested comments on the regulation. The comment period expired on November 26, 1999. AMS received one comment from a buying segment of the tobacco industry favoring the amendments.

This final rule revises the regulation governing the mandatory inspection of tobacco pursuant to the provisions of the Tobacco Inspection Act (49 Stat. 741, 7 U.S.C. 511 *et seq.*).

The Department received recommendations from the Flue-Cured Tobacco Advisory Committee, the Five-State Flue-Cured Tobacco Committee, and industry representatives that changes to the regulation in subpart B, § 29.81(a), Interference with inspectors, is necessary to better eliminate interference, distraction, and outside influence on the grading of tobacco.

The prior regulation specified that, no person, including the owner, producer, warehouseman, agent, or employee thereof shall attempt to influence, impede, or discuss any matter relating to grading while the tobacco inspectors are grading tobacco on the auction warehouse floor. The interim final rule does not allow any member of the industry, including tobacco purchasers, to discuss any matter pertaining to grading while the tobacco inspectors are grading tobacco on the auction warehouse floor. Also, the interim final rule action removed language allowing a producer to discuss the grading of their tobacco with the inspector at the time grading is performed. While producers are allowed to be present when their tobacco is being graded, they cannot discuss the grade or attempt to influence or intimidate the inspector during the performance of grading duties. The interim final rule does not preclude the producer from appealing the decision of the inspector after a grade has been assigned.

This action finalizes the provisions of the interim final rule, with minor formatting changes, that added the term “purchaser” specifically to include in the regulatory text that segment of the industry from attempting to influence, impede, or discuss any matter related to

grading while tobacco inspectors are grading tobacco on the auction warehouse floor and that removed the language allowing the producer to discuss the grading of their tobacco with the inspector at the time grading is being performed.

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business. All tobacco warehouses and producers fall within the confines of “small business” which are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000 and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. There are approximately 190 tobacco warehouses and approximately 30,000 producers and most warehouses and producers may be classified as small entities.

The Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities. This rule continues revisions that amended the regulation governing the mandatory inspection of tobacco that: (1) Added the term “purchaser” to specifically include in the regulatory text this segment of the industry from attempting to influence, impeding, or discussing any matter relating to grading while tobacco inspectors are grading tobacco on the auction floor and (2) removed the language allowing a producer from discussing grading of their tobacco with the inspector at the time grading is being performed. Specifying the term “purchaser” in the text of the regulation merely identifies a segment of the industry already

prohibited from these actions. Further, removal of language allowing producers to discuss with inspectors their tobacco will have minimal impact on producers since producers would not be precluded from appealing the decision of an inspector after a grade has been assigned.

#### List of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, the interim final rule amending 7 CFR part 29 which was published at 64 FR 51887 on September 27, 1999, is adopted as a final rule with the following change:

#### PART 29—TOBACCO INSPECTION

##### Subpart B—Regulations

1. The authority citation for part 29, subpart B continues to read as follows:

**Authority:** 7 U.S.C. 511m and 511r.

2. In § 29.81, paragraph (a) is revised to read as follows:

##### § 29.81 Interference with inspectors.

(a) No person, including the owner, producer, warehouseman, purchaser, agent, or employee thereof shall attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or impede, in any manner, an inspector while the inspector is in the process of grading tobacco on the warehouse auction floor, or ask any question or discuss any matter pertaining to the grading of tobacco while the inspector is grading any tobacco on the warehouse auction floor. While inspectors are engaged in grading the day's sale, all requests for information concerning the grade designation on or requests to review the grade of any lot of tobacco shall be made only to the head grader or to the market supervisor grader.

\* \* \* \* \*

Dated: April 5, 2000.

**Kathleen A. Merrigan,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 00-9173 Filed 4-12-00; 8:45 am]

**BILLING CODE 3410-02-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

##### 14 CFR Part 71

[Airspace Docket No. 00-AWA-1]

RIN 2120-AA66

##### Revision of the Legal Description of the Houston Class B Airspace Area; TX

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the legal description of the Houston, TX, Class B Airspace Area. Specifically, this rule revises the description of the southern portion of the Houston Class B Airspace Area by eliminating references to the Hobby Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) as the point of origin. The new point of origin will be the current geographical location of the Hobby VOR/DME. The FAA is taking this action due to the planned relocation of the Hobby VOR/DME. This action does not change the actual dimensions, configuration, or operating requirements of the Houston Class B Airspace Area.

**EFFECTIVE DATE:** 0901 UTC, June 15, 2000.

**FOR FURTHER INFORMATION CONTACT:** Bil Nelson, Airspace and Rules Division, ATA-400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone: (202) 267-8783.

##### SUPPLEMENTARY INFORMATION:

##### Background

Due to construction on the William P. Hobby Airport property occurring in close proximity to the Hobby VOR/DME, the FAA will relocate the VORTAC approximately 2,000 feet to the east of its current location. This relocation of the Hobby VOR/DME will effect the current legal description of the Houston Class B airspace area. Specifically, the description of the southern portion of the Houston Class B Airspace area uses the Hobby VOR/DME as a reference. To assist general aviation in identifying the southern boundaries of the Houston Class B airspace area, the FAA will publish on the Houston Visual Flight Rules Terminal Area Chart geographical coordinates along with bearings/fix/distance information.

##### The Rule

This action amends the legal description of the Houston, TX, Class B

Airspace Area. Specifically, this rule revises the description of the southern portion of the Houston Class B Airspace Area by eliminating references to the Hobby Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) as the point of origin. As a result the FAA is establishing the point of origin for the southern portion of the Houston Class B airspace area, from the current geographical location of the Hobby VOR/DME. This action does not change the actual dimensions, configuration, or operating requirements of the Houston Class B Airspace Area.

Since this action merely involves a change in the legal description of the Houston Class B airspace area, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class B airspace area listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

##### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

##### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

##### PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.