### **Executive Order 12778**

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of the proposed rule are not retroactive and preempt State laws only to the extent such provisions are inconsistent with State laws. Before any judicial action may be brought concerning these provisions, the administrative appeal remedies at 7 CFR part 780 must be exhausted.

# **Federal Assistance Programs**

The titles and numbers of the Federal Assistance Programs, as found in the catalog of Federal Domestic Assistance, to which this rule applies are as follows:

Titles	Numbers
Commodity Loans and Purchases Cotton Production Stabilization Feed Grains Production Stabiliza- tion Wheat Production Stabilization Rice Production Stabilization	10.051 10.052 10.055 10.058 10.058

#### **Regulatory Flexibility Act**

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since CCC 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.

### **Environmental Evaluation**

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

### **Executive Order 12372**

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental 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).

# **Paperwork Reduction Act**

This proposed rule does not change the information collection requirements that were previously approved by the Office of Management and Budget (OMB) under provisions of 44 USC 33.

#### Background

This proposed rule would amend 7 CFR part 1413 to set forth the determination of whether certain discretionary cost reduction options of the 1985 Act will be implemented. Accordingly, the Secretary may take the

following actions if it is determined that they will reduce total direct and indirect commodity program costs without adversely affecting incomes of smalland medium-sized producers: (a) enter into the commercial market to purchase commodities covered by nonrecourse loans if the cost would be less than later acquiring the commodity through loan defaults; (b) provide for settlement of nonrecourse loans (including nonrecourse loans made to producers under the Farmer-Owned Reserve Program) at less than full principal plus interest; or (c) reopen signup to allow producers to submit bids for the conversion of planted acreage to diverted acreage with payment in kind from CCC stocks.

If, after the comment period, no cost reduction options are implemented under the final rule, the Secretary still reserves the right to initiate at a later date any action authorized by section 1009 of the 1985 Act, including the right to reopen and change a contract entered into by a producer under the program if the producer voluntarily agrees to the change.

This proposed rule would also amend 7 CFR part 1413 to set forth the determination of whether certain discretionary provisions of the 1949 Act will be implemented and, if implemented, the manner in which implementation would be made. Accordingly, the following program determinations are proposed to be made with respect to the provisions that are applicable to the 1995 crops of wheat, feed grains, upland and ELS cotton, and rice:

A. The percentage of the estimated deficiency payments that should be made available in advance to producers of the 1995 crop of wheat, feed grains, cotton and rice.

Section 114 of the 1949 Act requires that advance deficiency payments be made available to producers of wheat, feed grains, upland cotton, and rice if an acreage limitation is in effect. Section 103 of the 1949 Act provides discretionary authority to provide such payments for ELS cotton. Producers who participate in farm programs have the option to request advance deficiency payments. Advance payments must be between 40 and 50 percent of the projected payments for wheat and feed grains and between 30 and 50 percent for upland cotton and rice. Advance payment for ELS cotton, if offered, cannot exceed 50 percent of the projected payment rate.

CCC intends to make available advance deficiency payments of 50 percent of the projected payments for the 1995 crop of wheat, feed grains, rice, upland cotton and, if applicable, ELS cotton.

B. The types of crops that may not be planted on flexible acres.

Section 504 of the 1949 Act states that producers may plant on a farm crops other than the program crop on an acreage not to exceed 25 percent of any crop acreage base enrolled in the applicable CCC price support and production adjustment program. This acreage is known as "flexible" acreage.

Crops that may be planted on flexible acreage are: (a) any program crop; (b) any oilseed crop; (c) any other crop, except any fruit or vegetable crop (including dry edible beans, lentils, peas, and potatoes); and (d) mung beans. The planting of certain fruits or vegetables may be permitted if such crop is an industrial or experimental crop, or if no substantial domestic production or market exists for the crop. The planting of any crop on flexible acres may also be prohibited.

CCC intends to permit the same crops to be grown on flexible acreage in 1995 as were allowed in 1994. However, CCC will consider adding or removing crops to the list of prohibited crops that is set forth at 7 CFR part 1413.43(b)(6).

C. Whether to implement TOP.

Sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the 1949 Act, with respect to wheat, feed grains, upland cotton, or rice, provide that if an acreage limitation program is in effect, the Secretary may offer producers the option of increasing or decreasing the acreage reduction level, within certain restrictions, with a corresponding increase or decrease in the established (target) price of the commodity. The target price may be increased or decreased by not less than 0.5 percent nor more than 1 percent for each percentage point change in the acreage reduction level. The acreage limitation requirement cannot be increased by more than 15 percentage points or above 25 percent total for wheat; by more than 10 percentage points or above 20 percent of the total for feed grains; by more than 10 percentage points or above 25 percent of the total for cotton; nor by more than 5 percentage points or above 25 percent of the total for rice. The decrease in the acreage limitation requirement for all crops cannot be more than one-half of the announced acreage limitation percentage.

The Secretary shall, to the extent practicable, ensure that the TOP option does not have a significant effect on program participation or total production and will result in no additional budget outlays.