

§723.211

7 CFR Ch. VII (1-1-01 Edition)

total of all adjustments in old farm allotments or quotas under this paragraph shall not exceed the pounds apportioned to the county for such purpose.

(c)(1) *Burley tobacco.* Adjustments in a farm marketing quota under this paragraph shall become a part of the farm marketing quota.

(2) *Flue-cured tobacco.* Acreage apportioned to a farm under this section becomes a part of the farm acreage allotment. The farm marketing quota for such a farm shall be adjusted by multiplying the adjusted farm acreage allotment by the farm yield.

(3) *All other kinds of tobacco.* For all other kinds of tobacco, acreage approved for a farm under this section becomes a part of the farm acreage allotment.

(d) *Making certain adjustments on a common ownership unit basis.* Notwithstanding other provisions of this section, inequity adjustments may be allotted by common ownership unit rather than by farm when it is determined by the county FSA committee that the making of the allocation on that basis provides greater equity.

[55 FR 39914, Oct. 1, 1990, as amended at 63 FR 11582, Mar. 10, 1998]

**§723.211 Allotments, quotas, and yields for farms acquired under right of eminent domain.**

(a) *Determination of acreage allotments and marketing quotas.* The determination of farm acreage allotments and marketing quotas for farms acquired by an agency having the right of eminent domain, the transfer of such allotments or quotas to a pool, and re-allocation from the pool shall be administered as provided in part 718 of this chapter. Where all or a part of an allotment or quota is pooled, all or a proportionate part of the farm acreage allotment or marketing quota shall be pooled.

(b) *Closing dates.* The State FSA committee shall establish, in accordance with instructions issued by the Deputy Administrator, a final date for:

(1) *Release.* Releasing pooled farm acreage allotment or farm marketing quota to the county FSA committee for reapportionment to other farms in

the county having allotments or quotas for the same kinds of tobacco.

(2) *Request for reapportionment.* Filing a request to receive reapportioned acreage or quota from the county FSA committee for the current year.

(c) *Displaced owner release.* The displaced owner of a farm may, not later than the final release date established by the State FSA committee for the current year, release in writing to the county FSA committee for the current year, all or any part of the acreage allotment or burley tobacco marketing quota for the farm in a pool under part 718 of this chapter for reapportionment for the current year by the county committee to other farms in the county having allotments or marketing quotas for the same kind of tobacco.

(d) *Reapportionment.* The county FSA committee may reapportion, not later than 30 days after the final date established by the State FSA committee for requesting reapportioned acreage or marketing quota for the current year, the released acreage or quota or any part thereof to other farms in the county on the basis of the past farm acreage or marketings and the past farm acreage allotments or quotas for the same kind of tobacco; land, labor, and equipment available for the production of such kind of tobacco; crop rotation practices; and soil and other physical factors affecting the production of such kind of tobacco.

(e) *Effect of reapportionment.* For purposes of establishing future farm allotments or quotas, any reapportioned allotment or quota shall not be considered as planted on the farm to which the allotment or quota was reapportioned.

(f) *Burley or flue-cured tobacco provisions.* For burley or flue-cured tobacco:

(1) *Farm yield.* The farm yield for a farm to which a pooled marketing quota is transferred shall be determined in accordance with instructions issued by the Deputy Administrator.

(2) *Undermarketings or overmarketings.* The undermarketings of a farm acquired by eminent domain shall be added to the marketing quota for the receiving farm and the overmarketings of the acquired farm shall be subtracted from the marketing quota of the receiving farm.

(3) *Undermarketings while in eminent domain pool.* The pooled quota is considered planted while in the pool. Therefore, for the purpose of determining undermarketings during the time the quota is pooled, the effective quota is considered to be zero.

**§ 723.212 Time for making reduction of farm marketing quotas or acreage allotments for violation of the marketing quota or acreage allotment regulations for a prior marketing year.**

Any reduction made in a farm acreage allotment or farm marketing quota for the current year for any of the reasons provided for in § 723.408 of this part, shall be made no later than April 1 of the current year in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia; or May 1 in all other States. If the reduction cannot be made by such dates for the current year, the reduction shall be made in the farm acreage allotment or farm marketing quota next established for the farm, but no later than by corresponding dates in a later year. No reduction shall be made in the farm acreage allotment or farm marketing quota for any farm for a violation if the farm acreage allotment or marketing quota for such farm for any prior year was reduced because of the same violation.

**§ 723.213 Approval of acreage allotments and marketing quotas and notices to farm operators.**

(a) *Review by State FSA committee.* All farm yields, acreage allotments, and marketing quotas shall be determined by the county FSA committee of the county in which the farm is located and shall be reviewed by a representative of the State FSA committee.

(b) *Notice to farm operator.* An official notice of the effective farm acreage allotment or farm marketing quota shall be mailed to the operator of each farm shown by the records of the county FSA committee to be entitled to an allotment or quota. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment or quota is established. Insofar as practicable, all notices shall be

mailed in time to be received prior to the date of any tobacco marketing quota or acreage allotment referendum. A copy of such notice containing the date of mailing or a print-out summary of such data shall be maintained for not less than 30 days in a conspicuous place in the county FSA office and shall thereafter be kept available for public inspection in the office of the county FSA committee. A copy of the notice of acreage allotment or marketing quota certified as true and correct shall be furnished to any person interested in the farm for which the allotment or quota is established.

(c) *Marketing quota erroneous notice.*  
(1) If the official written notice of the farm acreage allotment and marketing quota issued for any farm erroneously stated an acreage allotment or marketing quota larger than the correct effective farm acreage allotment or marketing quota, the acreage allotment or marketing quota shown on the erroneous notice shall be deemed to be the tobacco acreage allotment or marketing quota for the farm for the current year only, if the county FSA committee determines (with the approval of the State Executive Director) that the:

(i) Error was not so gross as to place the operator on notice thereof, and

(ii) Operator, relying upon such notice and acting in good faith, materially changes the operator's position with respect to the production of the crop.

(2) Undermarketings and overmarketings for farms for which the erroneous notice of marketing quota is applied shall be determined based on the correct effective farm marketing quota.

(3) For purposes of determining history acreage the correct acreage allotment shall be used, in determining whether or not 75 percent of the allotment has been planted.

[55 FR 39914, Oct. 1, 1990, as amended at 63 FR 11582, Mar. 10, 1998]

**§ 723.214 Application for review.**

Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for the producer's farm may, within 15 days after mailing of the official notice of the