

(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

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farm acreage allotment and marketing quota, file application in writing with the county FSA office to have such allotment and marketing quota reviewed by a review committee in accordance with part 711 of this chapter.

§723.215 **Transfer of tobacco farm acreage allotment or farm marketing quota that cannot be planted or replanted due to a natural disaster.**

(a) *Designation of counties affected by a natural disaster.* The State FSA committee shall determine those counties affected by a natural disaster (including but not limited to hurricane, rain, flash flood, hail, drought, and any other severe weather) which prevents the timely planting or replanting of any of the tobacco acreage allotment or marketing quota for any farm in the county. The county FSA committee of each county affected by the determination shall publicize the determination.

(b) *Application for transfer.* The owner or operator of a farm in a county designated for any year under paragraph (a) of this section may file a written application for transfer of tobacco acreage with the farm acreage allotment or marketing quota for such year to another farm or farms in the same county or in any other nearby county in the same or another State if such acreage cannot be planted or replanted because of the natural disaster determined for such year. The application shall be filed with the county FSA committee for the county in which the farm affected by such disaster is located. If the application involves a transfer to a nearby county, the county FSA committee for the nearby county shall be consulted before action is taken by the county FSA committee receiving the application.

(c)(1) *Amount of burley tobacco transfer.* The burley quota to be transferred shall not exceed the smaller of:

(i) The effective farm quota established under this part less such quota planted to tobacco and not destroyed by the natural disaster, or

(ii) The quota requested to be transferred.

(2) *Amount of transfer for other than burley tobacco.* The allotment to be transferred shall not exceed the smaller of:

(i) The farm allotment established under this part less such acreage planted to tobacco and not destroyed by the natural disaster, or

(ii) The allotment requested to be transferred.

(d) *County FSA committee approval.* The county FSA committee shall approve the transfer if it finds that:

(1) All or part of the farm acreage allotment or marketing quota for the transferring farm could not be timely planted or replanted because of the natural disaster.

(2) One or more of the producers of tobacco on the transferring farm will be a bona fide producer engaged in the production of tobacco on the receiving farm and will share in the proceeds of the tobacco.

(e) *Cancellation of transfer.* If a transfer is approved under this section and it is later determined that the conditions in paragraph (d) of this section have not been met, the county FSA committee, or the Deputy Administrator may cancel such transfer. Action by the county FSA committee to cancel a transfer shall be subject to the approval of the State FSA committee or its representative.

(f) *Acreage history credits.* Any acreage transferred under this paragraph shall be considered for the purpose of determining future allotments or quotas to have been planted to tobacco on the farm from which such allotment or quota is transferred.

(g) *Closing dates.* The closing date for filing applications for transfers with the county FSA committee shall be July 15 of the current year. Notwithstanding such closing date requirement, the county FSA committee may accept applications filed after the closing date upon a determination by the county FSA committee that the failure to timely file an application was the result of conditions beyond the control of the applicant and a representative of the State FSA committee approves such determination.

§723.216 **Transfer of tobacco acreage allotment or marketing quota by sale, lease, or owner.**

(a) *General.* The allotment or quota established for a farm may be transferred to another farm to the extent