

## § 723.101

723.220 Forfeiture of flue-cured tobacco acreage allotment and marketing quota.

### Subpart C—Tobacco Subject to Quota, Exemptions From Quotas, Marketing Cards, and General Penalty Provisions

- 723.301 Identification of tobacco subject to quota.  
723.302 Tobacco for experimental purposes.  
723.303 Production of registered or certified flue-cured tobacco seed.  
723.304 Determination of discount varieties.  
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### Subpart D—Recordkeeping, Reporting Requirements, Marketing Penalties, and Other Penalties

- 723.401 Registration of burley and flue-cured warehouse operators and dealers.  
723.402 Warehouse authorized to retain producer marketing cards between sales.  
723.403 Auction warehouse operators' records and reports.  
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723.406 Provisions applicable to damaged tobacco or to purchases of tobacco from processors or manufacturers.  
723.407 Cigar tobacco buyer's records and reports.  
723.408 Producer's records and reports.  
723.409 Producer violations, penalties, false identification collections and remittances by dealers, buyers, handlers, warehouses, and other parties; related issues.  
723.410 Penalties considered to be due from warehouse operators, dealers, buyers, and others excluding the producer.  
723.411 Records and reports regarding hauling, processing, and storage of tobacco.  
723.412 Separate records and reports from persons engaged in tobacco related businesses.  
723.413 Length of time records and reports are to be kept.  
723.414 Failure to keep records and make reports or making false report or record.  
723.415 Examination of records and reports.  
723.416 Information confidential.

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### Subpart E—Establishing Burley and Flue-Cured Tobacco National Marketing Quotas

- 723.501 Scope.  
723.502 Definitions.  
723.503 Establishing the quotas.  
723.504 Manufacturer's intentions; penalties.

AUTHORITY: 7 U.S.C. 1301, 1311-1314, 1314-1, 1314b, 1314b-1, 1314b-2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372-75, 1421, 1445-1, and 1445-2.

SOURCE: 55 FR 39914, Oct. 1, 1990, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 723 appear at 62 FR 15600, Apr. 2, 1997, and at 63 FR 11585, Mar. 10, 1998.

### Subpart A—General Provisions

#### § 723.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR part 723) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of U.S.C. chapter 35 and have been assigned OMB control numbers 0560-0058 and 0560-0006.

#### § 723.102 Applicability.

The regulations contained in this subpart are applicable to the 1990 and subsequent crops of burley; flue-cured; fire-cured; dark air-cured; Virginia sun-cured; cigar-filler and binder (types 42, 43, 44, 54, and 55); and Cigar filler (type 46) tobacco. These regulations govern the establishment of farm marketing quotas and acreage allotments, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties and the keeping of records and making of reports. All of the provisions of these regulations apply to each kind of tobacco for which marketing quotas are in effect unless the wording of the text indicates otherwise.

#### § 723.103 Administration.

(a) The regulations in this part will be administered under the general supervision of the Administrator, Farm Service Agency ("FSA") and shall be carried out in the field by State and

county Agricultural Stabilization and Conservation committees ("State and county FSA committees").

(b) State and county FSA committees, and representatives and employees thereof do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) The State FSA committee shall take any action required by these regulations which has not been taken by the county FSA committee. The State FSA committee shall also:

(1) Correct, or require a county FSA committee to correct any action taken by such county FSA committee which is not in accordance with the regulations of this part, or

(2) Require a county FSA committee to withhold taking any action which is not in accordance with the regulations of this part.

(d) No provision or delegation herein to a State or county FSA committee shall preclude the Administrator, FSA, or a designee, from determining any question arising under the regulations of this part or from reversing or modifying any determination made by a State or county FSA committee. Further, the Administrator or the Administrator's designee may modify any deadline or other provisions of this part to the extent that doing so is determined by such person to be appropriate and not inconsistent with the purposes of the program administered under this part.

[55 FR 39914, Oct. 1, 1990, as amended at 63 FR 9128, Feb. 24, 1998]

#### § 723.104 Definitions.

(a) *Applicability.* The definitions set forth in this section shall be applicable for all purposes of program administration for all kinds of tobacco except as may otherwise be indicated. The definitions in and provisions of parts 718 and 720 of this chapter are hereby incorporated by reference in these regulations unless the context or subject matter or the provisions of these regulations require otherwise.

(b) *Terms.* The following terms shall be defined as set forth in this paragraph.

*Act.* The Agricultural Adjustment Act of 1938, as amended.

*Active burley and flue-cured tobacco producer.* (1) Any person who shared in the risk of producing a crop of burley or flue-cured tobacco in at least one of the three years preceding the current year, or

(2) Any person who intends to become a burley or flue-cured tobacco producer in the current year by sharing in the risk of producing the crop and who provides a certification of such intentions on a form approved by the Deputy Administrator.

*Allowable floor sweepings.* The quantity of floor sweepings determined by multiplying 0.0024 times the total producer first sales of the respective kind of tobacco at auction for the season for the warehouse involved.

*Auction sale.* A marketing of tobacco by a sale at public auction through a warehouse in the regular course of business including sale of all lots of tobacco at public auction in sequence at a given time.

*Base Period.* The 5 calendar years immediately preceding the year for which farm acreage allotments or marketing quotas are currently being established. For burley tobacco marketing quotas established effective for the 1994 and subsequent crop years, the base period shall be the 3 calendar years immediately preceding the year for which farm marketing quotas are currently being established. For all other kinds of tobacco the five year base period shall remain in effect.

*Buyer.* A person who engages to any extent in acquiring or marketing tobacco in the form normally marketed by producers.

*Buyers corrections account.* The warehouse account of tobacco purchased at auction by the buyer but not delivered to the buyer, or any tobacco returned by the buyer, lost ticket, or any other valid reason, which is turned back to the warehouse operator and supported by an adjustment invoice from the buyer. This account shall include the pounds deducted resulting from returned lots, short lots, and short weights, and pounds added resulting from long lots and long weights, which buyers debit or credit to the warehouse operator and support with adjustment invoices.