

after the payment of the penalty. Approval of return shall be by the county FSA committee, subject to the approval of the State FSA executive director.

§723.313 Identification of marketings.

(a) *Burley or flue-cured tobacco.* With respect to:

(1) *Identification of producer marketings.* Each auction and nonauction marketing of burley or flue-cured tobacco shall be identified by a valid marketing card, Form MQ-76, issued for the farm. The reverse side of the marketing card shall show in pounds:

- (i) 103 percent of quota,
- (ii) Balance of 103 percent of quota after each sale, and
- (iii) Date of each sale.

(2) *Cross-references of tobacco sale bill number to prior sale bill.* Each warehouse operator, for each lot of tobacco weighed in on the warehouse floor for sale the same day, shall cross-reference the tobacco sale bill to each prior tobacco sale bill for tobacco identified by the same marketing card. To accomplish the cross-reference, each other tobacco sale bill number shall be entered by the warehouse operator in the "Remarks" space on the tobacco sale bill, on all copies, at the time such tobacco is weighed at the warehouse.

(3) *Recording producer sale.* Each producer sale at auction shall be recorded on Form MQ-72-1, Report of Tobacco Auction Sale, and each producer sale at nonauction shall be recorded on a Form MQ-72-2, Report of Tobacco Non-auction Purchase. For producer sales at nonauction, the dealer purchaser shall execute Form MQ-72-2 and shall enter the data on Form MQ-76. For producer sales at auction, Form 72-1 and Form MQ-76 shall be executed only by the FSA marketing recorder.

(4) *Identification of dealer marketings of resale tobacco.* Each auction and non-auction marketing of resale tobacco in the current year, such tobacco shall be identified by a dealer identification card, Form MQ-79-2, issued to the dealer for use in the current marketing year.

(b) *Dark air-cured, fire-cured, or Virginia sun-cured tobacco.* With respect to dark air-cured, fire-cured, or Virginia sun-cured tobacco:

(1) *Identification of producer marketings.* Each marketing of such kind of tobacco from a farm shall be identified by a valid marketing card issued for the farm for the respective kind of a tobacco, either an MQ-76 or MQ-77 (including sale memo). With respect to each nonauction sale from:

(i) A within quota farm a check mark shall be entered on the inside of MQ-76, and

(ii) An excess farm for which an MQ-77 is issued, an executed bill of nonauction sale shall be prepared, and such bill of nonauction sale shall be delivered to a marketing recorder or other person who is authorized to issue sale memos.

(2) *Suspended sale and sales without marketing cards.* Any suspended sale, which is not identified by an MQ-76 or MQ-77 (including a sale memo) on or before the last warehouse sale day of the marketing season, or within 4 weeks after the date of marketing, whichever comes first, shall be identified by MQ-82, Sale Without Marketing Card, as a marketing of excess tobacco. Form MQ-82 shall be executed only by a marketing recorder or other representative of the State FSA executive director.

(3) *Other persons authorized to execute MQ-76 or MQ-77 (including sale memo).*

(i) A warehouse operator who has been authorized during the current marketing year on MQ-78, Tobacco Warehouse Organization, may record a sale on MQ-76 or MQ-77 (including the issuance of a sale memo) to identify a sale for a farm if a marketing recorder is not available at the warehouse when the marketing card is presented.

(ii) Any warehouse operator, or dealer, who engages in the business of acquiring scrap tobacco from farmers, and who has been authorized on MQ-78, may for each purchase of scrap tobacco execute an MQ-76, or MQ-77 (including a sale memo if the bill of nonauction sale has been executed).

(4) *Verification of sales processed during the absence of marketing recorder.* Any person authorized on MQ-78 to act as a marketing recorder shall promptly present to a marketing recorder for verification each warehouse bill (floor sheet) processed and identified by an MQ-76 or MQ-77 (including any sale

memos) executed in the absence of a marketing recorder.

(5) *Withdrawal of approval to act as marketing recorder.* The authorization on MQ-78 for persons may be withdrawn by the State FSA executive director if such action is determined to be necessary to properly enforce the regulations in this part.

(c) *Separate display on auction warehouse floor.* Any warehouse operator upon whose floor more than one kind of tobacco is offered for sale at public auction shall for each respective kind of tobacco:

(1) Display it in separate areas on the auction warehouse floor.

(2) Use a lot ticket that is distinguishably different from the lot ticket used to identify any other kind of tobacco.

(3) Identify each lot by a lot ticket clearly showing the kind of tobacco. However, if where the tobacco is represented to be a nonquota kind the lot ticket shall have imprinted thereon the type designation for the kind of quota tobacco normally marketed in the area.

(4) Make and keep records that will ensure a separate accounting and reporting of each of such kinds of tobacco (quota and nonquota) sold at auction over the warehouse floor.

(d) *Identification of returned first sale (producer) tobacco.* When resold at auction, tobacco which has been previously sold and returned to the warehouse by the buyer is resale tobacco. When such tobacco is resold by the warehouse operator, it shall be identified as leaf account resale tobacco.

(e) *Verification of penalties by warehouse operators or dealers.* Each sale of tobacco by a producer which is subject to penalty and which has been recorded by a marketing recorder shall be verified by a warehouse operator or dealer to determine whether the amount of penalty shown to be due has been correctly computed. Such warehouse operator shall not be relieved of any liability for the amount of penalty due because of any error which may occur in computing the penalty and recording the sale.

(f) *Check register.* The serial number of the tobacco sale bill(s) shall be recorded by the warehouse operator on

the check register or check stub for the check written covering the auction sale of tobacco by a producer.

(g) *Marketing card and sale memo for cigar tobacco.* With respect to cigar tobacco:

(1) If a sale of producer's cigar tobacco to a buyer is not identified with a marketing card (MQ-76 or MQ-77) issued for the farm, including a sale memo from MQ-77, by the end of the sale day and recorded and reported on MQ-79 (CF&B), Buyers Record, by the tenth day of the calendar month next following the month during which the sale occurred, the marketing shall be identified on MQ-79 (CF&B) as a marketing of excess tobacco and reported not later than the tenth day of the calendar month next following the month during which the sale date occurred, the marketing shall be identified on MQ-79 (CF&B) as a marketing of excess tobacco, and reported not later than the tenth day of the calendar month next following the month during which the sale day occurred.

(2) *Verification of penalty by buyer.* Each excess sale memo issued by a buyer shall be verified by the buyer to determine whether the amount of penalty shown to be due has been correctly computed and such buyer shall not be relieved of any liability with respect to the amount of penalty due because of any error which may occur in issuing the sale memo.

Subpart D—Recordkeeping, Reporting Requirements, Marketing Penalties, and Other Penalties

§ 723.401 Registration of burley and flue-cured tobacco warehouse operators and dealers.

(a) *Warehouse registration.* For burley and flue-cured tobacco, any warehouse operator dealing in either flue-cured or burley tobacco shall be registered with the U.S. Department of Agriculture. Such registration will be handled by the North Carolina State FSA Office, Raleigh, North Carolina.

(b) *Dealer registration.* Each person who expects to deal in burley or flue-cured tobacco during a marketing year shall complete a Dealer Application and Agreement (MQ-79-2-A) annually,