

**Farm Service Agency, USDA**

**§ 723.402**

shall be cause for suspension of the dealer identification card and the dealer shall be given 15 days to complete all necessary compliance measures or to show cause why the card should not remain suspended.

[55 FR 39914, Oct. 1, 1990, as amended at 56 FR 21443, May 9, 1991; 57 FR 43581, Sept. 21, 1992]

**§ 723.402 Warehouse authorized to retain producer marketing cards between sales.**

(a) *General.* Notwithstanding any other provisions of this part, to facilitate the scheduling of farmer's tobacco to the warehouse, marketing cards, with the permission of the producer, may be retained at the warehouse between sales even though no producer on the farm for which the card is issued has tobacco on the floor for sale or to be settled for, as provided in this section.

(b) *Warehouse eligible to retain producers marketing cards between sales.* A warehouse shall be eligible to retain producer marketing cards between sales if the operator thereof shall:

(1) Execute and file on a form approved by FSA a written request with the State FSA committee (or county FSA committee if designated by the State FSA committee).

(2) Agree to be responsible to FSA for an amount of money equal to that amount that may be assessed against any producer as marketing quota penalties, if the marketing that is the basis of assessment of penalty occurred while the warehouse was authorized to have custody of the marketing card, for:

(i) Burley or flue-cured tobacco for any overmarketing resulting from errors made at the warehouse in entering "balance after sale" pounds on the producer's marketing card or failure to deduct pounds sold on producer's marketing card.

(ii) Tobacco falsely identified for marketing by use of the producer's marketing card.

(iii) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

(iv) Any burley or flue-cured tobacco marketed at the warehouse in excess of 103 percent of quota as shown on the producer's marketing card.

(3) Agree to maintain an accurate and up-to-date journal containing a listing of all producer marketing cards retained by the warehouse to facilitate the scheduling of farmer's tobacco. The journal shall show for each card retained the:

- (i) Name of the operator;
- (ii) Serial number of farm;
- (iii) Marketing card number, if applicable;
- (iv) Date marketing card obtained from producer; and
- (v) Date marketing card returned to producer.

Such journals shall be maintained for the length of time and under the conditions required for other warehouse records.

(4) Agree to return the marketing card to the producer at any time the producer may so request, or in the absence of a request, return it to the producer within 7 days after the close of the warehouse for the season.

(5) Agree that this authorization may be terminated by FSA for failure to comply with provisions of this agreement.

(c) *Penalties considered to be the responsibility of warehouse operators.* Notwithstanding any other provision of this part, a warehouse operator who executes and files a written request with the State FSA committee (or county FSA committee if designated by the State FSA committee) for authorization to retain producer's marketing cards at the warehouse, with grower permission, shall be responsible to FSA for an amount of money equal to the amount that may be assessed against the producer as marketing quota penalties if the marketing that is the basis of such assessment occurred while the warehouse was authorized to have custody of the marketing card, for:

(1) Any burley or flue-cured tobacco overmarketings resulting from errors made at the warehouse in entering "balance after sale" pounds on the burley or flue-cured producer's marketing card or failure to deduct pounds sold on the producer's marketing card. However, the warehouse operator shall not be responsible for any penalty under this subparagraph, if such penalty would not have been assessed against

§ 723.403

7 CFR Ch. VII (1-1-02 Edition)

the producer in accordance with § 723.409(e) of this part.

(2) Tobacco falsely identified for marketing by use of the producer's marketing card.

(3) Producer's failure to account for any tobacco marketed by use of such producer's marketing card.

(4) With respect to burley or flue-cured producers, tobacco marketed at the warehouse in excess of 103 percent of quota as shown on the producer's marketing card.

**§ 723.403 Auction warehouse operators' records and reports.**

(a) *Report on Form MQ-78, Tobacco Warehouse organization.* Each warehouse operator shall annually, prior to opening of auction markets, furnish FSA an executed Form MQ-78 showing:

(1) Form of business organization.

(2) Names and addresses of warehouse officials and bookkeeper.

(3) Names and addresses of other warehouses in which the officials and bookkeepers have a financial interest.

(4) Names and addresses of custodians of warehouse records, including their location.

(b) *Separate records and reports.* Each auction warehouse operator shall keep the records and make the reports separately for each quota or nonquota kind of tobacco as provided in this section.

(c) *Record of marketing.* Each warehouse operator shall:

(1) *Auction or nonauction sale.* Keep such records as will enable the warehouse operator to furnish the following information to State FSA office with respect to each sale of tobacco made at such person's warehouse:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the producer, in the case of a sale by a producer.

(ii) The name of the seller in the case of a resale.

(iii) Date of sale.

(iv) Number of pounds sold.

(v) Amount of any penalty and the amount of any deduction for such penalty from the price paid the producer.

(vi) With respect to each individual lot of tobacco constituting an auction sale, the:

(A) Name of purchaser.

(B) Number of pounds sold.

(C) Gross sale price.

(2) *Separate account records.* Maintain records of all purchases and resales of tobacco by the warehouse operator to show a separate account for:

(i) Nonauction purchases by or on behalf of the warehouse operator of farmer-owned tobacco.

(ii) Purchases and resales of:

(A) Leaf account tobacco.

(B) Floor sweeping tobacco.

(d) *Tobacco sale bill for burley and flue-cured tobacco.* (1) Each burley or flue-cured tobacco warehouse operator shall use tobacco sales bills furnished at the warehouse operator's expense showing, as a minimum, the following information:

(i) Tobacco sale bill number;

(ii) For flue-cured tobacco only, registration number assigned the warehouse by the Department;

(iii) Name and address of warehouse where sale is held;

(iv) For flue-cured tobacco only, the identification of other producers having an interest in the tobacco;

(v) Date of sale;

(vi) Number of pounds in each lot;

(vii) Name and address of seller; and

(A) Farm number (including State and county codes) for producer tobacco, and

(B) Dealer registration number for resale tobacco;

(viii) Identification number, if available, for each lot of tobacco to be offered for sale;

(ix) Poundage balance before sale for producer tobacco based on 103 percent of farm quota;

(x) Name or symbol of purchaser of each lot which is sold;

(xi) Gross number of pounds sold;

(xii) Sale price for each lot and gross sale price for all lots sold;

(xiii) Nonauction purchases by the warehouse holding the sale;

(xiv) Tobacco grade for tobacco consigned to price support;

(xv) The buyer's grade symbol for tobacco bought by private buyers.

(xvi) The letters "N/A" in the buyer and grade space for nonauction purchases by the warehouse.

(xvii) Marketing quota penalty collected; and

(xviii) Amount withheld from sale to cover claims due the United States.