

(1) The soil and other physical factors affecting the production of tobacco on the farm, and

(2) The farm yields determined for other farms on which the soil and other physical factors affecting the production of tobacco are similar.

(b) *Burley tobacco.* The farm yield for a farm on which a farm yield has been established shall be the same in the current year as the farm yield previously established for the farm. For any farm not having a previously established yield, the county FSA committee shall establish a yield based on similar farms having a farm yield; however, such yield shall not exceed 3500 pounds.

(c) *All kinds of tobacco except burley and flue-cured.* The normal yield for a farm shall be that yield which the county FSA committee determines is normal for the farm taking into consideration the yields obtained on the farm during any of the years of the base period for which data are available, the soil and other physical factors affecting the production of tobacco on the farm, and the yields obtained on other farms in the locality which are similar with respect to such factors. The normal yield first determined for a farm for any year in accordance with the foregoing provision shall serve as the normal yield for the farm for all purposes in connection with the tobacco marketing program for the year for which such normal yield is determined.

§ 723.205 Determination of farm acreage allotments and effective farm acreage allotments for flue-cured tobacco.

(a) *Farm acreage allotments.* The farm acreage allotment shall be determined by multiplying the national acreage factor as determined by the Secretary for the current year by the preliminary farm acreage allotment for the current year and adjusting the result by:

(1) *Upward adjustment.* Adding the:

(i) Acreage approved in accordance with the provisions of § 723.210 of this part in order to adjust for an inequity or to correct an error;

(ii) Acreage determined by dividing the pounds of quota which are purchased in the current year by the farm yield; and

(iii) Acreage determined by dividing the pounds of forfeited quota which are approved for adjustment from the forfeiture pool by the farm yield.

(2) *Downward Adjustment.* Subtracting the:

(i) Acreage determined by dividing the pounds of quota sold in the current year by the farm yield; and

(ii) Acreage of forfeited allotment.

(b) *Effective farm acreage allotment.* The effective farm acreage allotment for the current year shall be determined by dividing by the effective farm marketing quota by the farm yield.

§ 723.206 Determining farm marketing quotas and effective farm marketing quotas.

(a) *Burley tobacco.* The burley farm marketing quota shall be determined by multiplying the national factor as determined by the Secretary for the current year by the preliminary farm marketing quota for the current year and adjusting the result for permanent quota adjustments.

(b) *Flue-cured tobacco.* The flue-cured farm marketing quota shall be determined by multiplying the farm acreage allotment by the farm yield.

(c) *Burley or flue-cured tobacco.* The effective farm marketing quota shall be the farm marketing quota adjusted by:

(1) *Upward adjustments.* Adding the:

(i) Effective under marketings from the preceding marketing year, but effective for the 2002 and subsequent marketing years, the aggregate amount for all farms of under marketings of burley tobacco for all farms that can be carried over shall be limited to 10 percent of the national basic quota of the preceding year. If needed, factoring will be undertaken to insure that the limit of the preceding sentence is not exceeded.

(ii) The pounds of quota which are temporarily transferred to the farm in the current year.

(2) *Downward adjustments.* Subtracting the pounds of quota that are:

(i) Overmarketed from the preceding marketing year,

(ii) Overmarketed from any year before the preceding year but have not been subtracted when determining the

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effective farm marketing quota in a prior year.

(iii) Temporarily transferred from the farm in the current year.

(iv) Reduced in the current year as a result of a violation in a prior year as provided for in § 723.408 of this part.

(v) [Reserved]

(vi) Determined, for flue-cured tobacco only, by multiplying the farm yield by the acres reduced from the flue-cured tobacco acreage allotment during the current year in accordance with part 704 of this chapter.

(vii) For burley tobacco only, designated for reduction under a Conservation Reserve Program contract in accordance with part 704 of this chapter.

[55 FR 39914, Oct. 1, 1990, as amended at 66 FR 53509, Oct. 23, 2001; 66 FR 59675, Nov. 30, 2001]

§ 723.207 Determination of acreage allotments or burley marketing quotas for new farms.

(a)(1) *All kinds of tobacco.* The acreage allotment or burley marketing quota established in any crop year for all new farms shall not exceed the national acreage or poundage, as applicable, reserved for new farms for the respective kind of tobacco. The acreage allotment or burley marketing quota for a new farm shall be that acreage or burley marketing quota which the county FSA committee, with the approval of the State FSA committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Such acreage allotments or burley marketing quota shall not exceed 50 percent (75 percent for Cigar-filler and Binder tobacco) of the average of the applicable acreage allotments or burley marketing quotas established for at least two but not more than five old farms which are similar with respect to land, labor; and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco; and with respect to flue-cured tobacco

acreage allotments, shall not exceed one acre.

(2) *Kinds of tobacco, except burley and flue-cured.* If the acreage planted to tobacco on a new tobacco farm is less than 75 percent of the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the sum of the tobacco planted acreage and the prevented planted tobacco acreage as determined under part 718 of this chapter for the farm.

(b)(1) *Written application.* The farm operator must file an application for a new farm acreage allotment or marketing quota at the office of the county FSA committee where the farm is administratively located on or before February 15 of the year for which the new farm acreage allotment or marketing quota is requested.

(2) *Operator requirements.* The operator requesting a new farm acreage allotment or marketing quota must be the sole owner of the farm, except for Cigar-filler and Binder tobacco, the operator need not own the farm. The farm operator shall not own or have an ownership interest in or operate any other farm in the United States for which a tobacco allotment or quota for any kind of tobacco is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production necessary to the production of tobacco on the farm.

(4)(i) *Income from farming.* The operator must expect to obtain during the current year more than 50 percent of the producer's income from the production of agricultural commodities or products. The following shall be considered in computing the operator's income:

(A) *Farm income.* Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). The estimated return from the production of the requested new farm allotment or quota shall not be included.