

become the preliminary farm yield and the farm yield for the farm shall be determined by multiplying the preliminary farm yield by the national yield factor for the current year.

(3) *Carryover tobacco.* Where carryover tobacco produced on a parent farm is marketed after the effective date of a reconstitution, such marketings shall be charged to the divided tracts in the same ratio as the marketing quotas are established for the divided tracts or as the county FSA committee determines that:

(i) The proceeds from such marketings are received by the owner or operator of one or more of the divided tracts, or

(ii) The owners of the divided tracts agree.

[55 FR 39914, Oct. 1, 1990, as amended at 56 FR 21441, May 9, 1991; 62 FR 15600, Apr. 2, 1997]

§ 723.209 Determination of acreage allotments, marketing quotas, yields for combined farms; and special tobacco combinations.

(a) *Burley tobacco.* The farm yield for a combined burley farm shall be the weighted average of the tract yields for the tracts being combined. The weighted average shall be the summation of the extensions of each respective tract's contribution percentage times the tract's yield.

(b) *Flue-cured tobacco.* Flue-cured farm acreage allotments, history acreages, and other basic data for combined farms shall be computed for the base period in accordance with part 718 of this chapter, except that the preliminary farm yield for a combined farm shall be the weighted average of the tract yields for the tracts that comprise the combination. The weighted average shall be the summation of the extensions of each respective tract's contribution percentage times the tract's yield. The farm yield for the combined farm shall be determined by multiplying the preliminary farm yield for the combined farm by the national yield factor for the current year.

(c) *Special tobacco combinations.* Notwithstanding other provision of this title, the Deputy Administrator may, upon proper application and to the extent deemed consistent with other obligations, permit farms, with respect to

tobacco allotments and tobacco quotas, to be considered combined for purposes of this part and part 1464 of this title only without being combined for other purposes. This allowance shall apply for tobacco of all kinds and types and with respect to all farms even if one or more of the farms to be combined is the subject of a production flexibility contract (PFC) executed in connection with the program operated under the provisions of 7 CFR part 1412. Such special, limited combinations must otherwise meet the requirements of 7 CFR part 718 for combinations, except the signature (consent) requirements of § 718.201(a)(2) of that part. The Deputy Administrator may set such consent requirements for special farm combinations under this section as the Deputy Administrator believes necessary or appropriate. Further, in any case in which one of the farms is a PFC farm, none of the land on any PFC farm that would have been used for the production of tobacco can be used for the production of a "PFC commodity" as defined in this section. Such permission shall be conditioned upon the agreement of all interested parties that land on the PFC allotment or quota farm that would have been used for the production of tobacco shall not be used for the production of any PFC commodity. In the event that such production nonetheless occurs, the special tobacco combination may be made void, retroactive to the date of original approval. Such curative action will likely result in a finding of excess tobacco plantings and sanctions and remedies, which would likely include liability for penalties and other sanctions for excess marketings of tobacco. The Deputy Administrator may set such other conditions on the combinations as needed or deemed appropriate to serve the goals of the tobacco program and the goals of the PFC. The term *PFC commodity* for purposes of this section means wheat, corn, grain sorghum, barley, oats, upland cotton, and rice.

[55 FR 39914, Oct. 1, 1990, as amended at 62 FR 15600, Apr. 2, 1997; 63 FR 9128, Feb. 24, 1998; 63 FR 26714, May 14, 1998]