

§723.301

7 CFR Ch. VII (1-1-05 Edition)

comprised of lands owned by a State shall be filed with the county committee by the State. The application shall identify the farms as being within the same county, show that each farm is entirely comprised of lands owned by the State, and list the allotments and quotas requested to be transferred. Additional information about the farm operations, including leases, shall also be included in the application.

(c) The State committee shall establish the closing date for filing applications under paragraph (b) of this section, for each year, which shall be no later than the general planting date in the county for the commodity involved in the transfer.

(d)(1) Each transfer of an allotment and quota shall be adjusted for differences in farm productivity if the yield projected for the year the transfer is to take effect for the farm to which transfer is made exceeds by more than ten percent the yield projected for the year the transfer is to take effect for the farm from which transfer is made. The county committee shall determine the amount of the allotment and quota to be transferred where a productivity adjustment is required to be made by dividing:

(i) The product of the yield for the farm from which the transfer is made and the acreage to be transferred from such farm, by

(ii) The yield for the farm to which the transfer is made.

(2) Acreage for the farm receiving the allotment or quota shall be adjusted by the same percentage as the allotment or quota being transferred is adjusted. The allotment and quota and related acreage transferred from the farm from which the transfer is made shall be the full amount, but the amount of all allotment or quota and related acreage for the farm to which the transfer is made shall be the adjusted amount.

(e) The amount of allotment and quota on a farm after a transfer under this section is made shall not exceed the average amount of allotment or quota of at least three farms with acreage of cropland similar to the farm receiving the transfer in the community having the applicable allotment acreage and quota on these farms.

(f) Each transfer of any allotment and quota shall be require that acreage equal to the allotment and quota transferred shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made before any productivity adjustment. The acreage to be devoted to and maintained in permanent vegetative cover with respect to quota crops shall be determined by dividing the quota transferred by the yield of the farm from which the quota is transferred.

(g) Transfer of an allotment and quota under this section shall only be approved if:

(1) The county committee determines that a timely filed application has been received and that the provisions of this section have been met; and

(2) A representative of the State committee also determines that the provisions of this section have been met. If a transfer is approved, the county committee shall issue revised notices of the allotment or quota for each farm affected. If a county committee determines that requirements for a transfer were not met, a report shall be provided to the State committee. If the State committee agrees that requirements were not met, the transfer will be canceled, and the allotment and quota shall be transferred back to the original farm. Where a cancellation and transfer back is required, the county committee shall issue revised notices of the allotment or quota showing the reasons for the cancellation.

[68 FR 16181, Apr. 3, 2003]

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

§723.301 Identification of tobacco subject to quota.

(a) Except as provided in paragraphs (b) and (c) of this section, any tobacco which is determined by a representative of the State FSA committee or county FSA committee to have the same appearance and characteristics as a kind of tobacco for which marketing quotas are in effect shall be deemed to

be a quota kind of tobacco. Such tobacco shall continue to be deemed a quota kind of tobacco unless it has been certified by the Agricultural Marketing Service, U.S. Department of Agriculture, under the Tobacco Inspection Act (7 U.S.C. 511) and implementing regulations (7 CFR part 30), prior to removal of the tobacco from the State where it was produced, as a kind of tobacco not subject to marketing quotas.

(b) Any kind of tobacco for which marketing quotas are not in effect that is produced in a State where marketing quotas are in effect for any kind of tobacco shall be subject to the quota for the kind of tobacco for which marketing quotas are in effect in that State. If marketing quotas are in effect in a State for more than one kind of tobacco, nonquota tobacco produced in the State shall be subject to the quota for the kind of quota tobacco produced in the State having the highest price support under the Agricultural Act of 1949.

(c) Paragraph (b) of this section shall not apply to:

(1) Maryland (type 32) tobacco when it is nonquota tobacco and produced on a farm for which a marketing quota for Maryland (type 32) tobacco was established when marketing quotas for such kind of tobacco were last in effect (1965);

(2) Cigar-filler (type 41) tobacco when it is nonquota tobacco and produced in Pennsylvania;

(3) Cigar-wrapper (types 61 and 62) tobacco when it is nonquota tobacco and produced in Connecticut, Massachusetts, Georgia or Florida;

(4) Tobacco produced in a quota State that is represented to be nonquota tobacco and that is readily and distinguishably different from all kinds of quota tobacco, as determined by the Agricultural Marketing Service, U.S. Department of Agriculture, through application of the standards issued by the Secretary for the inspection and identification of tobacco. Such inspection and identification shall be made prior to removal of the tobacco from the State where it was produced; and

(5) Tobacco which is nonquota tobacco and produced in a quota area in which the total of the acreage allot-

ments for quota tobacco established for farms is less than twenty acres.

§ 723.302 Tobacco for experimental purposes.

For farms on which tobacco is being grown for experimental purposes by or under the direction of a publicly owned agricultural experiment station, such tobacco shall be exempt from any penalties otherwise required by this part if, before the beginning of the harvesting of tobacco from any farm on which experimental tobacco is being grown, the director of such publicly owned agricultural experiment station furnishes a report, to the State Executive Director for the State in which the farm is located, that includes the following information:

(a) Name and address of the publicly owned agricultural experiment station.

(b) Name of the owner, and name of the operator if different from the owner, and the farm number of each farm on which tobacco is grown for experimental purposes only.

(c) The acreage or poundage of tobacco that is to be grown on each farm for experimental purposes only.

(d) A certification signed by the director of the publicly owned agricultural experiment station to the effect that such acreage or poundage of tobacco is being grown for each farm for experimental purposes only, the tobacco is being grown under the auspices of such director, and the acreage of each plot was considered necessary for carrying out the experiment.

§ 723.303 Production of registered or certified flue-cured tobacco seed.

Producers of registered or certified flue-cured tobacco seed may devote flue-cured tobacco acreage in excess of the effective allotment to seed production without such acreage of tobacco causing a "No Price Support" entry on the marketing card issued for the farm if an agreement is signed by the farm operator, and the producer, if different from the operator, which provides:

(a) *Destruction prior to harvest.* For the destruction prior to harvest of all tobacco produced on the acreage designated for seed production.

(b) *Producer payment of compliance costs.* That the producers shall pay the