

Farm Service Agency, USDA

§ 723.303

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

cost of compliance visits to a farm by representatives of the county FSA committee for the purposes of:

(1) Designating and determining the acreage of seed production, and

(2) Determining that no tobacco has been harvested from the acreage designated for seed production and to witness destruction of tobacco leaves.

(c) *Agreement.* That the producer(s) signing the agreement shall agree to timely notify the county FSA office when the tobacco seed has been harvested.

(d) *No history credit.* That the planting of the tobacco acreage for seed production will not create history acreage for the purpose of establishing future farm allotments.

(e) *Cancellation of marketing cards.* That if the county FSA committee determines that any of the terms and conditions of the agreement have been violated or any material misrepresentation has been made, any marketing card issued for the farm in recognition of the agreement shall be recalled and canceled, and a marketing card shall be issued to reflect that tobacco produced on the farm is not eligible for price support.

§ 723.304 Determination of discount varieties.

(a) *Definition.* *Discount variety* means any of the flue-cured tobacco seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, Reams 266, or Dixie Bright 244, or a mixture or strain of such seed varieties, or any breeding line of flue-cured tobacco seed varieties, including, but not limited to, 187-Golden Wilt (also designated by such names as No-Name, XYZ, Mortgage Lifter, Super XyZ), having the quality and chemical characteristics of the seed varieties designated as Coker 139, Coker 140, Coker 316, Reams 64, Reams 266, or Dixie Bright 244. However, where there is growing in a field of type plants of not more than 2 percent, such of type plants shall not be considered in certifying the flue-cured tobacco variety being produced. Flue-cured tobacco variety which is not certified to be discount variety shall be considered as "acceptable variety."

(b) *Producer report.* The operator, or any producer, on each farm producing

flue-cured tobacco shall file with the county FSA office a report on MQ-32 showing whether or not discount variety tobacco was planted on the farm.

(c) *Failure to file report.* If the operator of a farm on which flue-cured tobacco is being produced in the current year fails or refuses, within 7 days after a request of the county FSA committee on MQ-34-1, Notice of Action Required Regarding Determination of Seed Varieties of Flue-Cured Tobacco, to file a report on MQ-32, showing whether or not there was planted any of the discount varieties of flue-cured tobacco on such farm, all flue-cured tobacco produced on such farm shall be considered by the county FSA committee to be discount variety tobacco unless the county FSA committee finds that failure to comply with the request was due to circumstances beyond the control of the farm operator.

(d) *Notice to farm operator.* The farm operator having discount variety tobacco shall be given written notice by certified mail on MQ-34-2, Notice of Determination of Discount Variety of Flue-Cured Tobacco. This notice to the farm operator shall constitute notice to all persons who, as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco grown on the farm.

(e) *Producer's right to recertify.* Any producer on a farm who received a Form MQ-34-2 notifying such producer that the farm has discount variety tobacco when in fact an acceptable variety is being produced may recertify on Form MQ-32.

(f) *Issuance of marketing cards.* (1) If a farm is considered to have discount variety tobacco available for marketing and the farm is eligible for price support, the county FSA executive director shall issue MQ-76, bearing the notation "Discount Variety-Limited Price Support." If the farm is considered to have discount variety tobacco but it is not eligible for price support, the county FSA executive director shall issue MQ-76, bearing the notation "Discount Variety-No Price Support."

(2)(i) Where an MQ-76, bearing the notation, "Discount Variety-Limited Price Support" is issued for a farm, the card may be exchanged at the county