

## Farm Service Agency, USDA

## § 723.310

for a price support loan shall be paid to the "Farm Service Agency, USDA" to the extent of the indebtedness shown. The acceptance and use of a marketing card bearing a notation and information concerning an indebtedness to the United States shall not constitute a waiver by the debtor-producer of any right to contest the validity of such indebtedness by appropriate appeal. As claim collections are made, the amount of the claim shown on the card shall be revised to show the claim balance. If requested by the producer, the county FSA executive director who issued the marketing card shall issue a claim-free marketing card when the claim has been paid.

(b) *Replacing, exchanging, or issuing additional marketing cards.* Subject to the approval of the county FSA executive director, two or more marketing cards may be issued for any farm. Upon the return to the county FSA office of a marketing card which had been used in its entirety and before the marketing of tobacco from the farm has been completed, a new marketing card bearing the same name, information, and identification as the used card shall be issued for the farm. A new marketing card shall be issued to replace a card which has been determined by the county FSA executive director who issued the card to have been lost, destroyed, or stolen.

### § 723.307 Invalid cards.

(a) *Reasons for being invalid.* A marketing card shall be invalid if:

(1) It is not issued or delivered in the manner prescribed;

(2) An entry is omitted or is incorrect;

(3) It is lost, destroyed, stolen, or becomes illegible; or,

(4) Any erasure or alteration has been made and not properly initialed by the county FSA executive director.

(b) *Validating invalid cards.* If any entry is not made on a marketing card as required, either through omission or incorrect entry, and the proper entry is made and initialed by the county FSA executive director who issued the card, or by a marketing recorder, then such card shall become valid.

(c) *Returning invalid cards.* In the event any marketing card becomes in-

valid (other than by loss, destruction or theft, or by omission, alteration, or incorrect entry, which has not been corrected by the county FSA executive director who issued the card, or by a marketing recorder), the farm operator, or the person in possession of the card, shall return it to the county FSA office at which it was issued.

### § 723.308 Rate of penalty.

The rate of penalty for a marketing year shall be equal to seventy-five (75) percent of the average market price for the kind of tobacco for the immediately preceding marketing year as determined and announced annually by the U.S. Department of Agriculture.

[55 FR 39914, Oct. 1, 1990, as amended at 63 FR 11582, Mar. 10, 1998]

### § 723.309 Persons to pay penalty.

Subject to any additional requirements or provisions for remittances which are contained in § 723.409 of this part, the persons to pay the penalty due on any marketing of tobacco subject to penalty shall be determined as follows:

(a) *Auction sale.* The penalty due on marketings by a producer or dealer through an auction sale shall be paid by the warehouse operator who may deduct an amount equivalent to the penalty from the price paid to the producer or dealer.

(b) *Nonauction sale.* The penalty due on tobacco acquired directly from a producer or dealer, other than at an auction sale, shall be paid by the person acquiring the tobacco who may deduct an amount equivalent to the penalty from the price paid to the producer or dealer in the case of a sale.

(c) *Marketing outside the United States.* The penalty due on marketings by a producer or dealer directly to any person outside the United States shall be paid by the producer or dealer making the sale.

[55 FR 39914, Oct. 1, 1990, as amended at 63 FR 11582, Mar. 10, 1998]

### § 723.310 Date penalty is due.

(a) *Payment of penalty.* Penalties shall become due at the time the tobacco is marketed, except that in the case of