

other benefit of any kind payable for that year and any other year);

(3) The total amount of such relief which has been previously provided to the participant using this special authority for errors in that year, as calculated above, is not more than \$5,000;

(4) The total amount of loans, payments, and benefits of any kind for which relief is provided to similarly situated participants by the SED (or the SED's predecessor) for errors for any year under the authority provided in this section, as calculated above, is not more than \$1,000,000.

(b) *Report of the exercise of the power.* A grant of relief shall be considered to be under this section and subject to the special finality provided in this section only if the SED grants the relief in writing when granting the relief to the party who will receive the benefit of such relief and only if, in that document, the SED declares that they are exercising that power. The SED must report the exercise of that power to the Deputy Administrator so that a full accounting may be made in keeping with the limitations of this section. Absent such a report, relief will not be considered to have been made under this section.

(c) *Additional limits on the authority.* The authority provided under this section does not extend to:

(1) The administration of payment limitations under part 1400 of this chapter (§§ 1001 to 1001F of 7 U.S.C. 1308 *et seq.*);

(2) The administration of payment limitations under a conservation program administered by the Secretary; or

(3) Highly erodible land and wetland conservation requirements under subtitles B or C of Title XII of the Food Security Act of 1985 (16 U.S.C. 3811 *et seq.*) as administered under 7 CFR part 12.

(d) Relief may not be provided by the SED under this section until a written opinion or written acknowledgment is obtained from OGC that grounds exist for determination that the program participant has, in good faith, detrimentally relied on the guidance or actions of an authorized FSA representative in accordance with the provisions of this subpart, or that the producer otherwise failed, in good faith, to

fully comply with the requirements of the program and that the granting of the relief is within the lawful authority of the SED.

(e) *Relation to other authorities.* The authority provided under this section is in addition to any other applicable authority that may allow relief. Generally, the SED may, without consultation other than with OGC, decide all matters under \$20,000 but those decisions shall not be subject to modification within the Farm Service Agency to the extent provided for under the rules of this section.

PART 723—TOBACCO

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- 723.501 Scope.
- 723.502 Definitions.
- 723.503 Establishing the quotas.
- 723.504 Manufacturer's intentions; penalties.

AUTHORITY: 7 U.S.C. 1301 *et seq.*; 7 U.S.C. 1421; 7 U.S.C. 1445-1 and 1445-2.

SOURCE: 55 FR 39914, Oct. 1, 1990, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 723 appear at 62 FR 15600, Apr. 2, 1997, and at 63 FR 11585, Mar. 10, 1998.

Subpart A—General Provisions**§ 723.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

The information collection requirements contained in these regulations (7 CFR part 723) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of U.S.C. chapter 35 and have been assigned OMB control numbers 0560-0058 and 0560-0006.

§ 723.102 Applicability.

The regulations contained in this subpart are applicable to the 1990 and subsequent crops of burley; flue-cured; fire-cured; dark air-cured; Virginia sun-cured; cigar-filler and binder (types 42, 43, 44, 54, and 55); and Cigar filler (type 46) tobacco. These regulations govern the establishment of farm marketing quotas and acreage allotments, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties and the keeping of records and making of reports. All of the provisions of these regulations apply to each kind of tobacco for which marketing quotas are in effect unless the wording of the text indicates otherwise.

§ 723.103 Administration.

(a) The regulations in this part will be administered under the general supervision of the Administrator, Farm Service Agency ("FSA") and shall be carried out in the field by State and county Agricultural Stabilization and Conservation committees ("State and county FSA committees").

(b) State and county FSA committees, and representatives and employees thereof do not have the authority to modify or waive any of the provisions of this part.

(c) The State FSA committee shall take any action required by these regulations which has not been taken by the county FSA committee. The State FSA committee shall also:

(1) Correct, or require a county FSA committee to correct any action taken by such county FSA committee which is not in accordance with the regulations of this part, or

(2) Require a county FSA committee to withhold taking any action which is not in accordance with the regulations of this part.

(d) No provision or delegation herein to a State or county FSA committee shall preclude the Administrator, FSA, or a designee, from determining any question arising under the regulations of this part or from reversing or modifying any determination made by a State or county FSA committee. Further, the Administrator or the Administrator's designee may modify any deadline or other provisions of this part to the extent that doing so is determined by such person to be appropriate and not inconsistent with the purposes of the program administered under this part.

[55 FR 39914, Oct. 1, 1990, as amended at 63 FR 9128, Feb. 24, 1998]

§ 723.104 Definitions.

(a) *Applicability.* The definitions set forth in this section shall be applicable for all purposes of program administration for all kinds of tobacco except as may otherwise be indicated. The definitions in and provisions of parts 718 and 720 of this chapter are hereby incorporated by reference in these regulations unless the context or subject matter or the provisions of these regulations require otherwise.

(b) *Terms.* The following terms shall be defined as set forth in this paragraph.

Act. The Agricultural Adjustment Act of 1938, as amended.

Active burley and flue-cured tobacco producer. (1) Any person who shared in the risk of producing a crop of burley or flue-cured tobacco in at least one of the three years preceding the current year, or

(2) Any person who intends to become a burley or flue-cured tobacco producer in the current year by sharing in the risk of producing the crop and who provides a certification of such intentions on a form approved by the Deputy Administrator.

Allowable floor sweepings. The quantity of floor sweepings determined by multiplying 0.0024 times the total producer first sales of the respective kind of tobacco at auction for the season for the warehouse involved.