

§ 723.208

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

farm for which an acreage allotment or marketing quota had been established and for which the current or a former owner sold or permanently transferred all of the tobacco acreage allotment or marketing quota.

(d) *False information.* Any new farm acreage allotment or marketing quota which was determined by the county FSA committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant, shall be canceled by the county FSA committee as of the date the allotment or quota was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the allotment or quota shall be canceled effective for the current crop year.

(e) *Failure to plant.* A new farm acreage allotment or marketing quota shall be reduced to zero if no tobacco is planted on the farm the first year.

§ 723.208 Determination of acreage allotments, marketing quotas, and yields for divided farms.

(a) *Flue-cured tobacco.* The farm acreage allotment for the divided farm shall be divided pursuant to the provisions of part 718 of this chapter. History acreages and other basic data shall be apportioned among the divided tracts as provided in part 718 of this chapter.

(b) *Burley tobacco.* (1) *Division of farm marketing quota.* The farm marketing quota for the divided farm shall be divided according to part 718 of this chapter. Other basic data shall be apportioned among the resulting farms in the same proportion as the farm marketing quota.

(2) *Divided burley tobacco farms with less than 1,000 pounds of quota.* If a farm is divided through reconstitution and the burley tobacco poundage quota which transfers with the resulting farms receive less than 1,000 pounds of quota, the owners of such farms shall take action by July 1 of the current crop year to increase the quota to a minimum of 1,000 pounds or the quota shall be reduced to zero. The quota on the divided farms may be increased by:

(i) Combining the farm having less than 1,000 pounds with other land owned by the same person so that the

combined farm has a minimum of 1,000 pounds of farm marketing quota, or

(ii) Purchasing a sufficient amount of quota so that the farm has at least 1,000 pounds of quota.

(3) *Sale of Quota.* If the owners of the divided farms fail to increase the quota on such farms to a minimum of 1,000 pounds as provided in paragraph (b)(2), the owner must sell the quota by July 1 of the current crop year.

(4) *Effective Quota.* For the current crop year, the effective farm marketing quota on the divided farms shall be considered to be zero for leasing and planting purposes until the farm complies with the 1,000 pound minimum quota.

(5) *Reduction of Quota.* The county FSA committee shall reduce the quota to zero on the divided farms if the owners of such farms fail to take action as provided in paragraph (b)(2) and (3) of this section.

(6) *Farm Exemptions.* Farms exempt from the 1,000 pound minimum quota limitation are farm divisions:

(i) among immediate family members,

(ii) through probate or,

(iii) when no sale or change in ownership of land occurs or,

(iv) when the buyer and purchaser can furnish proof acceptable to the county FSA committee, in accordance with guidelines provided by the Deputy Administrator, that the transaction was finalized prior to November 15, 1990.

(v) when the individual tract or farm with less than 1,000 pounds of quota could be combined with another tract or farm with sufficient quota to reach 1,000 pounds but for the existence of a production flexibility contract on one of the farms.

(c) *Burley and flue-cured tobacco.* (1) *Tract yield.* The tract yield for the tracts divided from a parent farm shall be the same as the tract yield established for the tracts before the division of the parent farm. If a tract is divided, the tract yields for the resulting tracts shall be the same as the tract yield established for the tract before it was divided.

(2) *Single tract farm.* If a tract that is divided from a parent farm becomes a single tract farm, the tract yield shall

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]