

any producer as marketing quota penalties, if the marketing that is the basis of assessment of penalty occurred while the warehouse was authorized to have custody of the marketing card, for:

(i) Burley or flue-cured tobacco for any overmarketing resulting from errors made at the warehouse in entering "balance after sale" pounds on the producer's marketing card or failure to deduct pounds sold on producer's marketing card.

(ii) Tobacco falsely identified for marketing by use of the producer's marketing card.

(iii) Producer's failure to account for any tobacco marketed by use of the producer's marketing card.

(iv) Any burley or flue-cured tobacco marketed at the warehouse in excess of 103 percent of quota as shown on the producer's marketing card.

(3) Agree to maintain an accurate and up-to-date journal containing a listing of all producer marketing cards retained by the warehouse to facilitate the scheduling of farmer's tobacco. The journal shall show for each card retained the:

- (i) Name of the operator;
- (ii) Serial number of farm;
- (iii) Marketing card number, if applicable;
- (iv) Date marketing card obtained from producer; and
- (v) Date marketing card returned to producer.

Such journals shall be maintained for the length of time and under the conditions required for other warehouse records.

(4) Agree to return the marketing card to the producer at any time the producer may so request, or in the absence of a request, return it to the producer within 7 days after the close of the warehouse for the season.

(5) Agree that this authorization may be terminated by FSA for failure to comply with provisions of this agreement.

(c) *Penalties considered to be the responsibility of warehouse operators.* Notwithstanding any other provision of this part, a warehouse operator who executes and files a written request with the State FSA committee (or county FSA committee if designated

by the State FSA committee) for authorization to retain producer's marketing cards at the warehouse, with grower permission, shall be responsible to FSA for an amount of money equal to the amount that may be assessed against the producer as marketing quota penalties if the marketing that is the basis of such assessment occurred while the warehouse was authorized to have custody of the marketing card, for:

(1) Any burley or flue-cured tobacco overmarketings resulting from errors made at the warehouse in entering "balance after sale" pounds on the burley or flue-cured producer's marketing card or failure to deduct pounds sold on the producer's marketing card. However, the warehouse operator shall not be responsible for any penalty under this subparagraph, if such penalty would not have been assessed against the producer in accordance with § 723.409(e) of this part.

(2) Tobacco falsely identified for marketing by use of the producer's marketing card.

(3) Producer's failure to account for any tobacco marketed by use of such producer's marketing card.

(4) With respect to burley or flue-cured producers, tobacco marketed at the warehouse in excess of 103 percent of quota as shown on the producer's marketing card.

**§ 723.403 Auction warehouse operators' records and reports.**

(a) *Report on Form MQ-78, Tobacco Warehouse organization.* Each warehouse operator shall annually, prior to opening of auction markets, furnish FSA an executed Form MQ-78 showing:

- (1) Form of business organization.
- (2) Names and addresses of warehouse officials and bookkeeper.
- (3) Names and addresses of other warehouses in which the officials and bookkeepers have a financial interest.
- (4) Names and addresses of custodians of warehouse records, including their location.

(b) *Separate records and reports.* Each auction warehouse operator shall keep the records and make the reports separately for each quota or nonquota kind of tobacco as provided in this section.

(c) *Record of marketing.* Each warehouse operator shall:

(1) *Auction or nonauction sale.* Keep such records as will enable the warehouse operator to furnish the following information to State FSA office with respect to each sale of tobacco made at such person's warehouse:

(i) The name of the operator of the farm on which the tobacco was produced and the name of the producer, in the case of a sale by a producer.

(ii) The name of the seller in the case of a resale.

(iii) Date of sale.

(iv) Number of pounds sold.

(v) Amount of any penalty and the amount of any deduction for such penalty from the price paid the producer.

(vi) With respect to each individual lot of tobacco constituting an auction sale, the:

(A) Name of purchaser.

(B) Number of pounds sold.

(C) Gross sale price.

(2) *Separate account records.* Maintain records of all purchases and resales of tobacco by the warehouse operator to show a separate account for:

(i) Nonauction purchases by or on behalf of the warehouse operator of farmer-owned tobacco.

(ii) Purchases and resales of:

(A) Leaf account tobacco.

(B) Floor sweeping tobacco.

(d) *Tobacco sale bill for burley and flue-cured tobacco.* (1) Each burley or flue-cured tobacco warehouse operator shall use tobacco sales bills furnished at the warehouse operator's expense showing, as a minimum, the following information:

(i) Tobacco sale bill number;

(ii) For flue-cured tobacco only, registration number assigned the warehouse by the Department;

(iii) Name and address of warehouse where sale is held;

(iv) For flue-cured tobacco only, the identification of other producers having an interest in the tobacco;

(v) Date of sale;

(vi) Number of pounds in each lot;

(vii) Name and address of seller; and

(A) Farm number (including State and county codes) for producer tobacco, and

(B) Dealer registration number for resale tobacco;

(viii) Identification number, if available, for each lot of tobacco to be offered for sale;

(ix) Poundage balance before sale for producer tobacco based on 103 percent of farm quota;

(x) Name or symbol of purchaser of each lot which is sold;

(xi) Gross number of pounds sold;

(xii) Sale price for each lot and gross sale price for all lots sold;

(xiii) Nonauction purchases by the warehouse holding the sale;

(xiv) Tobacco grade for tobacco consigned to price support;

(xv) The buyer's grade symbol for tobacco bought by private buyers.

(xvi) The letters "N/A" in the buyer and grade space for nonauction purchases by the warehouse.

(xvii) Marketing quota penalty collected; and

(xviii) Amount withheld from sale to cover claims due the United States.

(2) At the end of each sale day, the tobacco sale bills shall be sorted and filed in numerical order by sale dates, and lot tickets shall be filed in an orderly manner by sale dates or by numerical order.

(e) *Identification of tobacco for marketing—(1) Marketing card.* Each marketing of tobacco from a farm in any State for which a farm marketing quota has been established for any kind of tobacco shall be identified by a marketing card issued for the farm on which such tobacco was produced (unless prior to the marketing of such tobacco an AMS inspection certificate is obtained showing that the tobacco offered for sale is a kind of tobacco not subject to marketing quotas).

(2) *Recording farm identification.* For burley or flue-cured tobacco, at the time the tobacco is weighed in, the warehouse operator shall record on the tobacco sale bill, the State and county codes and the farm serial number from the marketing card issued for the farm from which the tobacco is to be marketed.

(3) *Return of marketing card.* For tobacco that is to be sold at auction, the warehouse operator shall retain the marketing card until the producer has been paid for the sale of the tobacco or the tobacco is removed from the warehouse by the producer at which time

the marketing card shall be returned to the producer. In any case where a producer's marketing card is found in the possession of a warehouse operator, and no producer on the farm for which the card is issued has tobacco on the floor for sale, or tobacco for which settlement is not yet completed, such card will be picked up by an FSA representative for return to the producer. The warehouse operator shall be responsible for the safekeeping and proper use of the marketing card during such person's retention of the marketing card.

(4) *No price support.* For burley or flue-cured tobacco, if tobacco is to be marketed at auction from a farm for which a marketing card is issued bearing the notation "No Price Support", the warehouse operator shall enter the same notation on the tobacco sale bill at the time the tobacco is weighed in for sale. The warehouse operator shall prepare a separate tobacco sale bill to cover any tobacco which represents more than 103 percent of the effective farm marketing quota and the notation "No Price Support" shall be shown on such tobacco sale bill. The sale of such tobacco shall be considered a separate sale.

(5) *Nonauction purchase.* The warehouse operator shall enter the letters "NA" on each line of a tobacco sale bill on which there is recorded tobacco purchased by or for the warehouse at non-auction sale and shall record on all such tobacco sale bills:

(i) For burley or flue-cured tobacco, the farm serial number from the marketing card that is used to identify the tobacco at the time of the nonauction purchase.

(ii) For tobacco other than burley or flue-cured, the serial number of the marketing card that is used to identify the tobacco at the time of the nonauction purchase.

(6) *Copy of sale bill.* The warehouse operator shall furnish to the producer a copy of the tobacco sale bill bearing the letters "NA" for any lot of such tobacco purchased by the warehouse operator.

(7) *Lot ticket.* At the time tobacco is weighed for marketing, the warehouse operator shall record the weight of the lot of tobacco on the tobacco sale bill

and on the lot ticket. The sale bill number on which the lot of tobacco is recorded shall be recorded on the lot ticket. If the marketing card which is presented to identify the tobacco at weigh-in bears the notation "No Price Support," the same notation shall be entered by the warehouse operator on the lot ticket for each lot of tobacco which is identified with the same marketing card.

(8) *Recording serial number of marketing card.* For tobacco other than burley or flue-cured, before the tobacco is offered for sale, the warehouse operator shall record, on the sale bill, the serial number of the Form MQ-76 or MQ-77 issued for the farm from which the tobacco is to be marketed at auction.

(9) *Recording sale bill number.* For tobacco other than burley or flue-cured, the serial number of the sale bill shall be recorded:

(i) By the warehouse operator on the check register or check stub from the check written to cover an auction sale of tobacco by a producer.

(ii) On the inside of the marketing card by the marketing recorder or warehouse operator for each sale of tobacco by a producer.

(10) *Burley or flue-cured marketings.* A marketing card used to cover a sale of burley or flue-cured tobacco shall show on the reverse side the poundage balance of the "103 percent of quota."

(i) *Auction sale.* At the time of weigh-in the tobacco sale bill shall show the poundage balance of 103 percent of the farm's quota. The tobacco sale bill shall show the pounds on which penalty is due, and the amount of penalty.

(ii) *Nonauction sale to a warehouse operator at the warehouse.* If the tobacco sale bill includes both an auction sale and a nonauction sale such combined pounds shall be used to compute and reflect the balance of the "103 percent of quota." The tobacco sale bill shall show the pounds on which penalty is due and the amount of the penalty.

(iii) *Nonauction country purchase by a warehouse operator.* The warehouse operator shall deduct, from the balance of the "103 percent of quota" entry on the marketing card, the pounds of tobacco purchased as a nonauction country purchase. In addition, each warehouse

operator shall record on Form MQ-79 and on Form MQ-72-2, Report of Tobacco Nonauction Purchase, each non-auction country purchase of tobacco made by such warehouse operator. The data to be reported on Form MQ-72-2 is set forth in § 723.404 of this part.

(11) *Sale memo and bill of nonauction sales.* For tobacco other than burley or flue-cured, a record of sales on Forms MQ-76, MQ-77, or MQ-82, Sale Without Marketing Card (including sale memo from MQ-77 or MQ-82), shall be obtained by a warehouse operator to cover each marketing of tobacco from a farm through a warehouse and each nonauction sale of tobacco purchased by or for the warehouse operator including scrap tobacco obtained as a result of providing curing space or stripping space for farmers. Each MQ-76 and MQ-77 (including sale memo) shall be executed as follows:

(i) *Auction sale.* An auction sale identified by MQ-76 shall show in the spaces provided thereon, the sale bill number, check-mark to show the sale was by auction, a check-mark to show nonauction for purchases identified "NA" on the sale bill, pounds sold, name and address of warehouse, and date of sale. In addition, each sale memo issued from MQ-77 to cover an auction sale shall show on the first page thereof in all of the spaces provided therefor, the warehouse bill number, pounds sold, amount of penalty due, name and address of warehouse, and date of sale.

(ii) *Nonauction sale to a warehouse operator who does not prepare a sale bill.* An MQ-76 used to cover a nonauction sale of tobacco to a warehouse operator who does not prepare a sale bill to cover the sale shall show, a check-mark to indicate sale was by nonauction, pounds sold, name and address of the warehouse, and date of sale. When an MQ-77 is used under this paragraph, a sale memo shall be executed, including the signature of the producer on the reverse side.

(iii) *Nonauction sale to a warehouse operator who prepares a sale bill.* When a warehouse operator purchases:

(A) All the delivery of a producer's tobacco at a nonauction sale and prepares a sale bill to cover the purchase, on MQ-76 there shall be shown the bill

number, check-mark to show nonauction purchases, pounds sold, name and address of warehouse, and date of sale. When an MQ-77 is used a sale memo shall be executed, including the signature of the producer on the reverse side.

(B) Part of a delivery of a producer's tobacco as a nonauction purchase and the remainder of the tobacco is sold at auction, if such tobacco is identified by an MQ-76 the Record of Sales shall be completed to show the name and address of the warehouse, the date of sale, the sale bill number, check-mark under both auction and nonauction, and, under "Lbs. Sold," the total number of pounds covered by the entire delivery. If the sale is identified by an MQ-77, the sale memo (front) shall be completed to show the sale bill number, the total number of pounds covered by the entire delivery under "Lbs. Sold," the amount of penalty due, name and address of the warehouse, and the date of sale. In addition, the reverse side of the sale memo shall show the number of pounds sold at non-auction.

(f) *Nonquota tobacco or quota tobacco of a different kind.* If tobacco is presented for sale that is represented to be nonquota tobacco or should there be a question as to what kind of quota tobacco is being offered for sale, an inspection shall be obtained from the Agricultural Marketing Service of this Department (AMS) after the tobacco is weighed and in line for sale. The lot ticket for the tobacco shall be cross-referenced to the sale bill by sale bill number and date. The sale bill shall show the producer's name and address and the State and county code and farm number of the farm on which the tobacco was produced. If an AMS inspection shows that a lot of tobacco is of a different kind than that identified by the lot ticket, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared. Copies of the lot ticket and sale bill shall be furnished to the State FSA office at the end of the sale day.

(g) *Labeling tobacco sale bill for resale tobacco.* In the case of resales, each sale bill shall show "resale" and;

(1) For dealers, the name of the dealer making each resale; and

(2) For the warehouse, the name of the warehouse and either "floor sweepings" or "leaf account" tobacco.

(h) *Suspended sale record.* (1) Any tobacco sale bill covering sale of tobacco for which a valid marketing card or dealer identification card was not presented at the end of the sale day shall be given to a marketing recorder who shall stamp such bills, "Suspended", and shall handle according to instructions provided by the Deputy Administrator.

(2) When cleared, such suspended sale shall show "suspended-cleared" and date cleared. If a suspended sale is not cleared from suspension by the last auction sale day for the warehouse for the season (or for burley tobacco only, within 7 days of the sale if such date is earlier), it shall be considered a sale of excess tobacco and penalty at the full rate shall be remitted by the warehouse operator.

(i) *Payee to be shown on auction warehouse check.* Any auction warehouse which issues a check to cover the auction or nonauction sale of tobacco shall issue such check only in the name of the payee. A warehouse check shall not be issued in the name of the seller and bearer, for example "John Doe or Bearer."

(j) *Warehouse entries on other dealer's reports.* Each warehouse operator shall record, or have the dealer record, on a Form MQ-79 the total purchases and resales made by each such dealer or other warehouse operator during each sale day at the warehouse. Warehouse operators shall sign the Form MQ-79 on the same line as the transaction is recorded when a dealer resells tobacco at the warehouse. If any tobacco resold by the dealer and carried over by the dealer from a crop produced prior to the current crop, an entry shall be made on the MQ-79 to clearly show such fact.

(k) *Warehouse data for burley or flue-cured tobacco.* (1) Each operator of a burley or flue-cured tobacco auction warehouse shall prepare at the end of each sale day a report on MQ-80, Daily Warehouse Sales Summary, showing for each sale day:

(i) For each manufacturer, buyer, order buyer, and any tobacco cooperative, pounds of tobacco purchased at

auction (consigned in the case of tobacco cooperatives).

(ii) The sum of the items for paragraph (k)(1)(i) of this section.

(iii) Resales at auction for each person listed under paragraph (k)(1)(i) of this section.

(iv) For each dealer subject to reporting purchases and resales on MQ-79, as originally billed, the total pounds of tobacco purchased at auction, and resales at auction.

(v) The total pounds purchased at auction at the warehouse for the leaf account.

(vi) The total pounds purchased at nonauction at the warehouse for the leaf account.

(vii) The sum of the total pounds for paragraphs (k)(v) and (vi) of this section.

(viii) The total leaf account resales.

(ix) The total floor sweeping resales.

(x) The sum of the total purchases for paragraphs (k)(1)(ii), (iv), and (vii) of this section.

(xi) The sum of the total resales for paragraphs (k)(1)(ii), (iv), (viii) and (ix) of this section.

(xii) The totals of the purchases column on the Form MQ-79 representing the nonauction purchases for the warehouse leaf account.

(xiii) The totals of the resales column on Form MQ-79 representing the nonauction resales (including floor sweepings nonauction sales) by the warehouse.

(xiv) For each warehouse sale of excess tobacco from a farm, the applicable farm number with daily remittance of the penalty due to accompany Form MQ-72-1.

(xv) For each dealer, at the time of settlement having excess resale tobacco, the applicable dealer identification number with daily remittance of the penalty due.

(2) As to the information required to be entered on MQ-80, Daily Warehouse Sales Summary, by the marketing recorder, the warehouse operator shall keep and make available such records as will enable the marketing recorder to enter thereon:

(i) The total number of Forms MQ-72-1 for the sale day and the sum of pounds sold, and

§ 723.403

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

(ii) The total number of suspended sale bills and the sum of such pounds sold.

(3) At the end of the season, each warehouse operator shall:

(i) Report on the final MQ-80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location, provided further that if on inspection it is determined that there is damaged tobacco in the warehouse or otherwise on hand, no carryover credit for the next marketing year shall be allowed for the damaged tobacco and the amount of pounds of damaged tobacco shall be deducted from the operator's purchase credit for the current year,

(ii) Permit its inspection by a representative of FSA, and

(iii) Provide for the weighing of such tobacco, to be witnessed by an FSA representative, and furnish to such representative a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

(4) The warehouse operator shall furnish to the marketing recorder a copy of each executed MQ-80.

(5) Before the next marketing season begins, carryover tobacco reported by the warehouse operator as provided in paragraph (k)(3) of this section shall be reinspected by a representative of FSA.

(i) If the reinspection indicates an amount of carryover tobacco different from that amount determined by the initial inspection, the warehouse operator shall:

(A) Provide for the weighing of such tobacco which shall be witnessed by a representative of FSA.

(B) Furnish to such representative at the time of weighing a certification as to the actual weight of the tobacco.

(ii) If the FSA representative determines that the weight of the tobacco is different, by reweighing, than the amount reported on the initial certification, the initial weight, together with the reweighed quantity after taking into consideration any purchases and resales that occurred subsequent to the initial certification as provided

in paragraph (k)(3) of this section, shall be used for the purpose of determining the amount of penalty, if penalty is due.

(iii) The reweighed quantity shall be the official pounds to be credited to the account as carryover tobacco.

(iv) If upon reinspection by a representative of FSA, there is an amount of tobacco determined to be damaged tobacco, the pounds of damaged tobacco shall be deducted from the purchase credit, if not done so previously, and no carryover credit shall be allowed for such damaged tobacco for the next marketing year.

(l) *Warehouse data for tobacco other than burley or flue-cured.* (1) Each operator of a tobacco auction warehouse, other than the operator of a burley or flue-cured auction warehouse, shall prepare and promptly forward at the end of each sale day to the State FSA office a report on MQ-80, Daily Auction Warehouse Report, showing for each sale day, unless otherwise stated below:

(i) For each dealer or buyer as originally billed, the total pounds of tobacco purchased at auction and resales at auction on the warehouse floor.

(ii) For any association as originally billed, the total pounds and gross amount of loan tobacco acquired at auction, and resales at auction, if any, on the warehouse floor.

(iii) The total pounds of:

(A) Leaf account purchases at auction on the warehouse operator's own floor,

(B) Leaf account purchases at non-auction sale for which a floor sheet is prepared,

(C) All leaf account resales at auction on the warehouse operator's own floor, including resales of tobacco from the warehouse operator's buyers corrections account, and

(D) All resales at auction on the warehouse operator's own floor of floor sweepings which accumulated on the warehouse operator's own floor.

(iv) The respective sums of the purchases, including loan tobacco, and resales for paragraphs (l)(1)(i), (ii), and (iii) of this section.

(v) The computed total of first sales at auction on the warehouse floor.

(vi) The warehouse gross sale pounds for the day as billed to buyers.

(vii) The pounds on warehouse check register if shown thereon, and

(viii) The total pounds of the resales,

(ix) On the report for the last sale day for the season, the pounds of all tobacco on hand whether such tobacco represents leaf account tobacco or floor sweepings which accumulated on the warehouse operator's own floor.

(x) For each warehouse sale of excess tobacco from a farm, the applicable sale memo and numbers thereof with remittance of the penalty due as shown thereon.

(2) As to information required to be entered on MQ-80, Daily Auction Warehouse Report, by the marketing recorder, the warehouse operator shall keep and make available such records as will enable the marketing recorder to enter thereon:

(i) For each sale identified by an MQ-76, MQ-77 (including sale memo), or MQ-82, Sale Without Marketing Card, the pounds sold;

(ii) For each sale suspended, the warehouse bill(s) number and pounds sold;

(iii) For each sale cleared from suspension, the MQ-76 number or, for MQ-77 or MQ-82, the sale memo number and the date of clearance.

(3) When a producer rejects the sale of a lot of tobacco, and the tobacco has been billed out and the bills presented to the buyer, the warehouse operator shall not change the marketing card, or Form MQ-80 on which the sale was reported. If the warehouse operator gains possession of the tobacco and it is resold by such warehouse operator, it shall be identified as resale tobacco.

(4) In balancing first sales (represented by marketing recorder's total) with computed first sales (bill-out total minus resales as reported by the warehouse operator) the State FSA executive director is authorized to approve reports with variance not to exceed one-half of 1 percent of such pounds.

(5) At the end of the season, each warehouse operator shall:

(i) Report on the final MQ-80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location,

(ii) Permit its inspection by a representative of FSA, and

(iii) Provide for the weighing of such tobacco (to be witnessed by a representative of FSA) and furnish to such representative a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due. Separate data shall be reported for floor sweeping tobacco.

(m) *Bill-out invoice.* For flue-cured tobacco when the tobacco has been sold at auction, the bill-out invoice to the buyer shall include the warehouse registration number (warehouse code), sale bill number, and line number on which the lot of tobacco was recorded on the sale bill.

(n) *Maintaining copies of bill-out invoices to purchaser or daily summary journal sheet to reflect daily transactions.*

For each marketing year, the warehouse operator shall maintain copies of the bill-out invoice to the purchaser by grades showing the pounds purchased. In lieu of this requirement, the warehouse operator may prepare and maintain for each sale day on a current basis a daily summary journal sheet to reflect for each purchaser (including warehouse leaf account or other similar account) pounds and dollar amounts for:

(1) Tobacco originally billed to the purchaser.

(2) Mathematical billing errors and corrections (added and deducted) from purchaser's adjustment invoices.

(3) Short (deducted) and long (added) weights from purchaser's adjustment invoices.

(4) Short (deducted) and long (added) lots from purchaser's adjustment invoices.

(5) Net tobacco received and paid for by purchase.

(o) *Handling rejected (producer) sale after bill-out.* Where a producer rejects the sale of a lot of tobacco, and the tobacco has been billed-out and bills presented to the buyer, the warehouse operator shall not change the MQ-76 or MQ-80 on which the sale was reported. If the warehouse operator gains possession of the tobacco, and it is resold by

such warehouse operator, it shall be identified as resale tobacco.

(p) *Report to county FSA office of long weights and long lots.* Each warehouse operator shall report to the county FSA office or marketing recorder long weights and long lots of producer tobacco (first sales) for which the farmer has been paid.

(q) *Record and report of warehouse operator's leaf account purchases and resales not on such warehouse operator's floor.* (1) Each warehouse operator shall keep a record and make reports on MQ-79, Dealer's Report, showing:

(i) All nonauction purchases of tobacco, except nonauction purchases at such warehouse operator's warehouse which are reported on MQ-80.

(ii) All purchases and resales of tobacco at public auction through warehouses other than such operator's own warehouse.

(iii) All nonauction resales of tobacco.

(2) Form MQ-79 shall be prepared and a copy, including copies of Form MQ-72-2 for all nonauction purchases of burley or flue-cured tobacco, forwarded to the State FSA office not later than the end of the calendar week (at the end of each sale day during the auction season for such warehouse) in which such tobacco was purchased or resold.

(3) If tobacco is purchased prior to the opening of the local auction market, an MQ-79 shall be prepared and a copy, together with copies of MQ-72-2 for all nonauction purchases of burley or flue-cured tobacco, forwarded to the State FSA office not later than the end of the calendar week which would include the first sale day of the local auction markets.

(4) A remittance for all penalties shown by the entries on Form MQ-79 and Form MQ-72-2 to be due shall be forwarded to the State FSA office with the original copy of MQ-79.

(5) Resales of floor sweepings shall be reported separately from leaf account tobacco.

(r) *Buyers corrections account.* Each warehouse operator shall keep such records including negative adjustment invoices as will enable the warehouse operator to furnish a weekly report on Form MQ-71 to the State FSA office showing the total pounds of the debits

(for returned lots, short lots, and short weights of tobacco) and the credits (for long lots and long weights of tobacco) to the buyers corrections account. Where the warehouse operator returns to the seller tobacco debited to the buyers corrections account, the warehouse operator shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the buyers corrections account and a corresponding purchase (debit entry) in the case of a dealer on such dealer's MQ-79, Dealer's Report. Any balancing figure reflected on the warehouse operator's summary of bill-outs shall not be included in the buyers corrections account.

(s) *Reporting of processed leaf account tobacco.* Any warehouse operator who delivers tobacco to a firm for the purpose of redrying, processing, or stemming of such tobacco shall, by the end of the week in which such tobacco was delivered, report to the State FSA office on MQ-79, Dealer's Report:

(1) The date delivered;

(2) Name and address of the firm to which the tobacco was delivered, and

(3) The pounds of tobacco (green weight) delivered which shall be entered in the resales pounds column. Such tobacco shall be considered a resale on the date of delivery for the purpose of balancing the warehouse account and collection of penalties where penalties are due.

(t) *Report of farm scrap resulting from grading tobacco for farmers.* Any warehouse operator or any other person who grades tobacco for farmers shall maintain records which will enable such person to furnish the State FSA office the name of the farm operator and the approximate amount of scrap tobacco obtained from the grading of tobacco from each farm.

(u) *Report of farm scrap resulting from furnishing stripping space for farmers.* Any warehouse operator or any other person who provides tobacco curing space or stripping space for farmers shall maintain records which will enable such person to furnish the State FSA office the name of the farm operator and the approximate amount of scrap tobacco obtained from each farm resulting from providing such space.



(v) *Producer tobacco.* Producer tobacco (first sale) in possession of a warehouse operator, resulting from long weights and long lots, which has not previously been identified by a sale shall be recorded and reported in the same manner as a nonauction sale to a warehouse operator who does not prepare a warehouse bill (floor sheet) and shall be reported on MQ-79, Dealer's Record. Penalty shall be due on this tobacco at the full penalty rate for the respective kind of tobacco or, if the kind is not known, at the penalty rate for the kind of tobacco generally marketed through the warehouse.

[55 FR 39914, Oct. 1, 1990, as amended at 57 FR 43582, Sept. 21, 1992]

**§ 723.404 Dealer's records and reports, excluding cigar tobacco buyers.**

(a) *General.* This section is applicable to all kinds of tobacco except cigar tobacco.

(1) Each dealer, except as provided in § 723.405 of this part shall keep by kinds of tobacco the records and make the reports separately for each kind (quota and nonquota) of tobacco as provided in this section. Adjustment invoices, including the adjustment invoices for any sale day for which there is no adjustment to be made, required to be furnished to an auction warehouse shall be identified by the warehouse identification number (if applicable) and the reporting dealer's identification number (if applicable) as well as the names of the warehouse and dealers involved in the transaction.

(2) Each dealer shall properly execute the "Receipt for Dealer's Record" contained in MQ-79, which is issued to the dealer, and shall transmit such receipt to the applicable State FSA office.

(b) *Record of marketings.* A dealer shall keep records which provide the following information for each lot of tobacco, including scrap tobacco, purchased or sold by the dealer:

(1) *Purchases.* (i) The name of:

(A) The warehouse through which the tobacco was purchased, if purchased at a warehouse auction; or

(B) The operator of the farm on which the tobacco was produced, if purchased from a producer as a nonauction purchase, and the name of the producer

of the tobacco, if different from the operator; or

(C) The seller if purchased as a non-auction purchase from a warehouse operator or dealer.

(ii) The identification number of the warehouse, farm, or dealer, as applicable, at/from which the tobacco was purchased.

(iii) The address, the producer association number, if applicable, and percentage share of the proceeds of the farm operator and any other producer from whom tobacco was purchased as a nonauction purchase.

(iv) The date of purchase.

(v) The pounds of tobacco purchased.

(vi) The gross purchase price.

(vii) The amount of penalty.

(viii) The amounts remitted for the No Net Cost and the Tobacco Marketing Assessments.

(ix) The quantity of tobacco purchased from a prior crop and carried over for marketing in a subsequent crop year.

(2) *Sales.* (i) The name and identification number of the:

(A) Warehouse through which the tobacco was sold, if sold at a warehouse auction, or

(B) Buyer if the tobacco was sold at a nonauction sale.

(ii) The date of sale.

(iii) The pounds of tobacco sold.

(iv) The gross sale price.

(c) *Nonauction purchase.* (1) Each purchase of tobacco from a producer from a quota producing area shall be identified by a marketing card, issued for the farm on which the tobacco was produced unless an AMS inspection is obtained prior to purchase which shows that tobacco being offered for sale is a kind not subject to marketing quotas.

(2) For burley and flue-cured tobacco:

(i) After each nonauction purchase, the dealer shall enter a declining balance of "103 percent of quota" on the reverse side of the marketing card. The declining balance shall be determined by reducing the previous "103 percent of quota" entry on the marketing card by the number of pounds of tobacco purchased. The date the tobacco was purchased also shall be entered on the marketing card at the time each lot of tobacco is purchased.