

Rules and Regulations

Federal Register

Vol. 62, No. 63

Wednesday, April 2, 1997

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

RIN 0560-AF14

Special Combinations for Flue-Cured Tobacco Allotments and Quotas

AGENCY: Farm Service Agency, USDA.
ACTION: Interim rule with request for comments.

SUMMARY: This rule provides for special, but highly limited, combinations of flue-cured tobacco allotments and quotas of farms having production flexibility contracts under the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act) with farms without production flexibility contracts; and, for burley tobacco, an exemption to the loss of quota on farms with less than 1,000 pounds of quota when the farm would otherwise meet the requirements for a farm combination but for the existence of a production flexibility contract. Also this rule corrects certain technical references.

DATES: Effective April 2, 1997.
Comments must be received by May 2, 1997 to be assured of consideration.

ADDRESSES: Submit comments on the interim rule to: Director, Tobacco and Peanuts Division, USDA, FSA, STOP 0514, 1400 Independence Avenue SW, Washington, DC 20250-0514. Comments may be faxed to 202-690-2298. All written submissions made pursuant to this rule will be made available for public inspection in Room 5750 South Building, USDA, between the hours of 8:15 a.m. and 4:45 p.m., during regular Federal workdays.

FOR FURTHER INFORMATION CONTACT: Michael D. Thompson, Tobacco Branch, Tobacco and Peanuts Division, USDA, FSA, STOP 0514, 1400 Independence Avenue SW, Washington, DC 20250-0514, telephone 202-720-4318.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and therefore was not reviewed by OMB under Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this interim rule since the Farm Service Agency (FSA) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This interim rule has been reviewed in accordance with Executive Order 12988. The provisions of this interim rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this interim rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 723, the administrative appeal provisions set forth at 7 CFR part 780 and 7 CFR part 711, as applicable, must be exhausted.

Paperwork Reduction Act

This interim rule does not contain new or revised information collection requirements that require approval by

OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.). The information collections required in 7 CFR part 723 have previously been cleared under OMB control number 0560-0058.

Effective Date of Rule

It has been determined for purposes of all limitations that might otherwise apply, including any provisions of the Small Business Regulatory Enforcement Fairness Act of 1996, that this rule should be effective immediately. The nature of this rule is to provide relief to flue-cured tobacco producers who were adversely affected by a previous rule that prohibited the combinations of certain farms subject to a production flexibility contract. The planting season for flue-cured tobacco begins in April and producers must make planting decisions for their 1997 crop. Therefore, it has been determined that delaying the implementation of this rule would be unnecessary, impractical, and contrary to the public interest. Accordingly, the rule is effective upon publication in the **Federal Register**.

Background and Discussion

After enactment of the 1996 Act, the Department of Agriculture promulgated regulations which provided, in conformance with the 1996 Act, for "production flexibility contracts" (PFC). The 1996 Act provides that farm reconstitutions, which are handled under 7 CFR part 718, cannot increase a PFC farm's eligibility for marketing loans under the 1996 Act.

To implement the latter requirement, regulations were published in the **Federal Register** (61 FR 37559, July 18, 1996) that amended § 718.201(a)(1) to prohibit the combination of land under a PFC with land not under a PFC.

Because of lease and transfer restrictions that apply only to flue-cured tobacco allotments and quotas, farm combinations have been the accepted means for producers to consolidate allotments to provide sufficient planting flexibility for crop rotations to avoid disease problems and meet conservation compliance requirements. Further, because of an 11.5 percent increase in the flue-cured tobacco national marketing quota for 1997 and larger than normal undermarketings from the 1996 crop, many producers will have difficulty obtaining sufficient cropland to produce the 1997 crop. Because the

planting season for flue-cured tobacco begins in April, it is urgent that flue-cured tobacco producers make their planting decisions for the 1997 crop. Therefore, this rule is effective immediately upon publication in the **Federal Register**. It does not appear that Congress meant, by the production flexibility contract provisions, to adversely affect the ability of flue-cured tobacco producers to conduct normal operations to produce their crop, except as such restrictions might be needed to protect the production flexibility program.

Accordingly, this rule amends the tobacco regulations in 7 CFR part 723 to allow the Deputy Administrator to permit special highly limited combinations of flue-cured tobacco allotments and quotas on PFC farms and non-PFC farms which will be effective for flue-cured tobacco purposes only. Such permission will be conditioned upon the agreement of interested parties not to use the land on the PFC farm that otherwise would have been planted to tobacco to produce a PFC commodity. The following commodities are PFC commodities under the 1996 Act: wheat, corn, grain sorghum, barley, oats, upland cotton, and rice. Failure to comply with that agreement will render the special combination void and can result in penalties for tobacco marketings that are in excess of allowable marketings. The Deputy Administrator may set other conditions as necessary to comply with all relevant statutory schemes.

In addition, a related change is made for burley tobacco in 7 CFR part 723 concerning situations in which, due to a farm reconstitution by division, a resulting farm may have less than 1,000 pounds of burley quota. That restriction is derived from section 379(c) of the Agricultural Adjustment Act of 1938. In order to avoid the loss of such quota on these farms, the quota may be sold, additional quota purchased, or the farm combined with another farm owned by the person so that at least 1,000 pounds of quota is amassed on the resulting farm. Here also, because of a PFC participation, some farm combinations which would otherwise be permitted, may no longer be allowed. This rule allows the Deputy Administrator to grant an exception to this minimum quota requirement if the farm could otherwise be combined with another farm so that the resulting farm would meet the 1,000 pound minimum, but such combination is prohibited because of PFC participation.

Regulations governing the reconstitutions of farms that were previously in 7 CFR part 719 are now found in 7 CFR part 718, subpart C as

a result of a rule published in the **Federal Register** on July 18, 1996 (61 FR 37544, July 18, 1996). This interim rule corrects the references contained in part 723 accordingly.

List of Subjects in 7 CFR Part 723

Acreage allotments, Auction warehouses, Dealers, Domestic manufacturers, Marketing quotas, Penalties, Reconstitutions, Tobacco.

Interim Rule

For the reasons set forth in the preamble, 7 CFR part 723 is amended as follows:

1. The authority citation for 7 CFR part 723 continues to read as follows:

PART 723—[AMENDED]

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1377–79, 1421, 1445–1, and 1445–2.

2. Section 723.209 is amended by adding paragraph (c) to read as follows:

§ 723.209 Determination of acreage allotments, marketing quotas, and yields for combined farms.

* * * * *

(c) *Special combinations.*

Notwithstanding other provisions of this title, the Deputy Administrator may, upon proper application and to the extent deemed consistent with other obligations, permit, with respect to allotments and quotas for flue-cured tobacco, two farms to be considered combined for purposes of this part and part 1464 of this title only, even though one of the farms involved is subject to a production flexibility contract (PFC) entered into under the provisions of 7 CFR part 1412. Such farms must otherwise meet the requirements for farm combinations in part 718. Such permission shall be conditioned upon the agreement of all interested parties that land on the PFC flue-cured quota farm that would have been used for the production of tobacco shall not be used for the production of any PFC commodity. A failure to comply with this provision shall render this special combination void, retroactive to the date of original approval. Such action may result in tobacco acreage in excess of the allotment and in marketing quota penalties on any excess marketings of tobacco. The Deputy Administrator may set such additional conditions on the production of tobacco on such farms as deemed necessary to serve the goals of the tobacco program and the goals of the production flexibility contract. The term "PFC commodity" for purposes of this paragraph means wheat, corn, grain

sorghum, barley, oats, upland cotton, and rice.

3. Section 723.208 is amended by adding paragraph (b)(6)(v) to read as follows:

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

* * * * *

(b) * * *

(6) * * *

(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.

* * * * *

§§ 723–723.509 [Amended]

4. Sections 723.101 through 723.509 are amended by removing the numbers "719" each time they appear and adding in their place "718".

Signed at Washington, DC, on March 25, 1997.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 97–8415 Filed 4–1–97; 8:45 am]

BILLING CODE 3410–05–P

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulations H and K, Docket No. R–0921]

Government Securities Sales Practices; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Joint final rule; correction.

SUMMARY: The Office of the Comptroller of the Currency (OCC), Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) published in the **Federal Register** of March 19, 1997, a document regarding sales practices concerning government securities by depository institutions within their respective jurisdictions. This document corrects two inadvertent errors regarding the Board's interpretation entitled "Obligations concerning institutional customers." **DATES:** Effective on July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Lawranne Stewart, Senior Attorney (202–452–3513), Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, D.C. 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202–452–3544).

SUPPLEMENTARY INFORMATION: The OCC, Board and FDIC published their joint