

## Commodity Credit Corporation, USDA

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(j) *Change in scope or objectives.* The Grantee must obtain prior approval from NRCS for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination, or recovery of grant funds.

(k) *Exceptions.* CCC may, in individual cases, make an exception to any requirement or provision of this part, provided that any such exception is not inconsistent with any applicable law or opinion of the Comptroller General, and provided further, that CCC determines that the application of the requirement or provision would adversely affect the Federal Government's interest.

(l) *Enforcement and refunds; liens and schemes or devices.* Grantees must comply with all conditions of the grant and any monies not spent or improperly spent must be returned immediately with interest to run at the normal rate for CCC obligations. Interest charges will be computed from the date of the CCC disbursement. Grantees must insure that parties that receive funds from the grantee comply with the grantee's application and return funds made available by the grantee where there is no such compliance. Any scheme or device to avoid any limits of this part will be considered to be a program violation with respect to any grant to which that scheme or device is related. Grant funds will be made available to the States or Tribes that are grantees under this part without regard to the claims of others, unless CCC determines otherwise.

[75 FR 39140, July 8, 2010, as amended at 79 FR 44641, Aug. 1, 2014]

## PART 1463—2005–2014 TOBACCO TRANSITION PROGRAM

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AUTHORITY: 7 U.S.C. 518–519a, 714b, and 714c.

SOURCE: 70 FR 7011, Feb. 10, 2005, unless otherwise noted.

## Subpart A—Tobacco Transition Assessments

### § 1463.1 General.

The Commodity Credit Corporation (CCC) will levy assessments from January 1, 2005 through September 30, 2014 on certain domestic manufacturers and importers of tobacco products as provided for in this subpart in order to fund the issuance of payments made under subpart B of this part and to fund other activities authorized by Title VI of the American Jobs Creation Act of 2004. The total amount of assessments that may be collected under this part shall not exceed \$10.140 billion.

### § 1463.2 Administration.

The provisions of this subpart will be administered under the general supervision of the Executive Vice President, CCC.

**§ 1463.3 Definitions.**

The definitions in this section shall apply for all purposes of administering the provisions of this subpart:

*Act* means Title VI of the America Jobs Creation Act of 2004 (Public Law 108–357).

*Adjusted market share* means the market share of a manufacturer of tobacco products or an importer of tobacco products adjusted to reflect such entity's share of a class of tobacco during the immediately preceding calendar year quarter. With respect to the 39th and 40th quarterly payments due on September 30, 2014, the adjusted market share will be the entity's share of a class of tobacco during the April 1–June 30, 2014 quarter.

*Base period* means the period July 1 through June 30 immediately preceding the beginning of a fiscal year.

*CCC's point of contact* means, for items physically sent to CCC, “Fibers, Peanuts, and Tobacco Analysis Group, Economic and Policy Analysis Staff, Farm Service Agency, United States Department of Agriculture (USDA), STOP 0515, Room 3720–S, 1400 Independence Avenue, SW., Washington, DC 20250–0515” unless otherwise specified by CCC through actual notice.

*Calendar year* means the period January 1 through December 31.

*Class of tobacco* means each of the following types of tobacco and tobacco products for which taxes are required to be paid for the removal of such into domestic commerce: cigarettes; cigars; snuff; roll-your-own tobacco; chewing tobacco; and pipe tobacco.

*Domestic manufacturer of tobacco products* means an entity that is required to obtain a permit from the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury with respect to the production of tobacco products under title 27 of the Code of Federal Regulations.

*Fiscal year* means the period October 1 through September 30.

*Gross domestic volume* means the volume of tobacco products removed, as defined by section 5702 of the Revenue Code, and not exempt from tax under chapter 52 of such code at the time of their removal under that chapter or the Harmonized Tariff Schedule of the United States.

*Importer of tobacco products* means an entity that is required to obtain a permit from the Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury with respect to the importation of tobacco products under title 27 of the Code of Federal Regulations.

*Market share* means the share of each domestic manufacturer and importer of a class of tobacco product, to the fourth decimal place, of the total volume of domestic sales of the class of tobacco product in the base period. Such sales shall be determined by CCC by using the total volume of such class of tobacco product that is removed into domestic commerce in the base period.

*National assessment* means the total amount of funding that CCC has determined to be necessary to collect in a year from domestic manufacturer and importer of tobacco products in order to reimburse CCC for expenditures that it will incur in the year for expenses incurred under sections 622 and 623 of the Act in making payments under subpart B of this part; losses sustained by CCC in the disposition of tobacco acquired under price support loan agreements as provided in section 641(c) of the Act; and costs incurred by CCC in the utilization of financial institutions in administering sections 622 and 623 of the Act.

*Revenue Code* means the Internal Revenue Code of 1986.

*Tobacco Trust Fund* means an account established for deposit of assessments collected under this subpart, plus interest that accrues on such assessments, to be used to implement this subpart.

[70 FR 7011, Feb. 10, 2005, as amended at 70 FR 17158, Apr. 4, 2005; 73 FR 23066, Apr. 29, 2008]

**§ 1463.4 National assessment.**

Annually, CCC will make a determination of a national assessment in as far in advance of when the first assessment is due as CCC determines to be practicable. Based upon the amount of assessments received and expenditures incurred in a calendar year quarter, CCC may adjust the national assessment for one or more classes of tobacco established for a particular year

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with respect to succeeding calendar year quarters.

### **§ 1463.5 Division of national assessment among classes of tobacco.**

(a) Except as provided in paragraph (b) of this section, the national assessment will be divided by CCC among each class of tobacco based upon CCC's determination of each class's share of the excise taxes paid using for all years the tax rates that applied in fiscal year 2005. The value of the excise taxes paid for each class of tobacco will be based upon the reports filed by domestic manufacturers and importers of tobacco products with the Department of the Treasury and the Department of Homeland Security:

(b) For fiscal year 2005, the national assessment will be divided as follows:

- (1) Cigarettes, 96.331 percent;
- (2) Cigars, 2.783 percent;
- (3) Snuff, 0.539 percent;
- (4) Roll-your-own tobacco products, 0.171 percent;
- (5) Chewing tobacco, 0.111 percent; and
- (6) Pipe tobacco, 0.066 percent.

(c) For fiscal years 2006 through 2014, the division of the national assessment for each class of tobacco will be adjusted annually.

[70 FR 7011, Feb. 10, 2005, as amended at 75 FR 76923, Dec. 10, 2010]

### **§ 1463.6 Determination of persons liable for payment of assessments.**

(a) All domestic manufacturers and importers of tobacco products are required to pay to CCC their proportionate share of a calendar year's national assessment. Such entities are those that import or manufacture tobacco products in a calendar year and are required to report to the United States Department of the Treasury or to the Department of Homeland Security the removal of tobacco products into domestic commerce under the Revenue Code or are required to pay taxes under chapter 52 of such code.

(b)(1) Such entities must provide to CCC's point of contact:

(i) Entity name; mailing address of the entity's principal place of business; an office or individual that CCC may contact for further information; an e-mail address and postal address at

which they wish to receive notifications required by the Act to be made to them by CCC; and

(ii) On a monthly basis for each class of tobacco, the total amount of tobacco products, summarized by employer identification number or such other method as may be prescribed by CCC, that are required to be reported to the United States Department of the Treasury or to the Department of Homeland Security in each month beginning October 1, 2004, and ending September 30, 2014.

(2) The information required to be submitted to CCC under paragraph (b)(1) of this section must be submitted by:

(i) With respect to fiscal year 2005 activities occurring prior to February 10, 2005, by February 25, 2005; and

(ii) With respect to all other activities, on the same date the information was required to be submitted to the United States Department of the Treasury or to the Department of Homeland Security.

### **§ 1463.7 Division of class assessment to individual entities.**

(a) In order to determine the assessment owed by an entity, that portion of the national assessment assigned to each class of tobacco will be further divided at the entity level. The amount of the assessment for each class of tobacco to be paid by each domestic manufacturer and importer of tobacco products will be determined by multiplying:

(1) With respect to each class of tobacco, the adjusted market share of such manufacturer or importer; by

(2) The total amount of the assessment for that class of tobacco for the calendar year quarter.

(b) For purposes of determining the volume of domestic sales of each class of tobacco products and for each entity, such sales shall be based upon the reports filed by domestic manufacturers and importers of tobacco with the Department of Treasury and the Department of Homeland Security and shall correspond to the quantity of the tobacco product that is removed into domestic commerce by each such entity:

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(1) For cigarettes and cigars, on the number of cigarettes and cigars reported on such reports;

(2) For all other classes of tobacco, on the number of pounds of those products.

(c) In determining the adjusted market share of each manufacturer or importer of a class of tobacco products, except for cigars, CCC will determine to the fourth decimal place an entity's share of excise taxes paid of that class of tobacco product during the immediately prior calendar year quarter. With respect to cigars, CCC will determine the adjusted market share for each manufacturer or importer of a class of tobacco products based on the number of such products removed into domestic commerce.

(d) The amount of a quarterly assessment owed by a domestic manufacturer or importer of tobacco products that must be remitted to CCC by the end of a calendar year quarter is based upon the application of the manufacturer's or importer's adjusted market share to the amount of the national assessment that has been allocated to one of the six specified tobacco product sectors under §1463.5. As provided in §1463.3, this adjusted market share is determined by the actions of such manufacturer or importer in a prior calendar year quarter. Accordingly, this amount must be remitted to CCC whether or not the manufacturer or importer is engaged in the removal of tobacco or tobacco products into commerce in the calendar year quarter in which it receives notification of the amount of assessment owed to CCC.

[70 FR 7011, Feb. 10, 2005, as amended at 70 FR 17158, Apr. 4, 2005]

### § 1463.8 Notification of assessments.

(a) Once CCC has determined a national assessment, CCC will collect that amount on a quarterly basis from all domestic manufacturers and importers of tobacco products subject to §1463.5.

(b) 30 calendar days prior to the end of each calendar year quarter domestic manufacturers and importers of tobacco products will receive notification of:

(1) The national assessment;

(2) The percentage of the national assessment that has been allocated to each class of tobacco product and the total amount of assessments due from each such class;

(3) Any adjustments that have been from the prior fiscal year with respect to the allocation of the gross domestic volume determined for use in a fiscal year among the classes of tobacco products;

(4) An adjustment in the national assessment if CCC determines that the assessments imposed will result in insufficient funds due to changes in the amount of expenditures that CCC has determined will be made in a calendar year;

(5) The volume of gross sales of each class of tobacco that CCC has allocated to the domestic manufacturer or importer of tobacco products for the purposes of determining such entity's adjusted market share. The volume of gross sales of each class of tobacco allocated to such an entity shall correspond to the quantity of the tobacco product that is removed into domestic commerce by each such entity;

(6) The total volume of gross sales of each class of tobacco that CCC has allocated to a class of tobacco, within the gross domestic volume determined for use in a fiscal year, that was used for the purpose of determining a tobacco manufacturer's or tobacco importer's adjusted market share. The total volume of gross sales of each such class of tobacco shall correspond to the total quantity of the tobacco product that is removed into domestic commerce.

(7) For that quarter, the adjusted market share of the domestic manufacturer or importer of tobacco products;

(8) Beginning with the 2nd quarter of 2008, or as soon as practicable thereafter, the applied market share for that quarter of each other manufacturer and importer, for the applicable class of tobacco product of those manufacturers and importers that have provided such information to CCC in accordance with the provisions of §1463.6, as determined by the Deputy Administrator, Farm Service Agency.

(9) The manner in which assessments are to be remitted to CCC; and

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(10) Identification of those Department of the Treasury and Department of Homeland Security forms filed by the domestic manufacturer or importer of tobacco products that are used to calculate assessments.

[70 FR 7011, Feb. 10, 2005, as amended at 70 FR 17158, Apr. 4, 2005; 73 FR 23066, Apr. 29, 2008]

### § 1463.9 Payment of assessments.

(a) Assessments under this subpart are imposed for the expenditures CCC has determined it will incur in the 2005 through 2014 calendar years. Except as provided in paragraph (c) of this section, payment of such assessments are due to CCC no later than the end of each calendar year quarter. If prior to 30 calendar days before the end of a calendar year quarter CCC has not notified an entity of the amount that is required to be remitted in that quarter, no interest will be assessed by CCC under paragraph (d) of this section until 30 calendar days have elapsed from the date CCC provided notification of the amount owed.

(b) Payments due under this subpart must be submitted to CCC by electronic fund transfer unless prior written approval has been obtained from CCC.

(c) The final two calendar year quarterly payments due to CCC under this part shall be due to CCC on September 30, 2014.

(d) Notwithstanding any other provision of this chapter, if CCC has not received payment of assessments determined to be owed at the end of a calendar year quarter, CCC will assess interest on such unpaid amount beginning on the first day of the calendar year quarter immediately following the end of such prior quarter. Such interest will be at the rate CCC assesses on delinquent debts in accordance with part 1403 of this title.

(e) With respect to funds placed in escrow that are refunded to the domestic manufacturer or importer of tobacco products due to the resolution of an appeal, interest will be paid on such amount from the date of receipt by CCC until the date of the refund. Such interest rate will be at the rate charged by the U.S. Treasury for CCC's

borrowing that is in effect on the date of receipt by CCC of such funds.

### § 1463.10 Civil penalties and criminal penalties.

(a) Any person who knowingly fails to provide information required to be filed under this subpart, or provides false information under this subpart, may be subject to the penalties prescribed in 15 U.S.C. 714m, 18 U.S.C. 1003, and such other civil and criminal statutes as the United States determines to be appropriate.

(b) In addition to an action that may be taken under paragraph (a) of this section, with respect to any person who knowingly fails to provide information required to be filed under this subpart, or that provides false information under this subpart, a person may be subject to assessment of a civil penalty by CCC. Such civil penalty will be imposed by CCC taking into account the severity of the action; whether the action is of a repetitive nature; and the disruption the action has caused with respect to other parties subject to this subpart. Any such civil penalty will not exceed two percent of the value of the kind of tobacco products manufactured or imported by such entity in the fiscal year in which the violation occurred.

### § 1463.11 Appeals and judicial review.

(a) An entity may appeal any adverse determination made under this subpart, including with respect to the amount of the assessment, by submitting a written statement that sets forth the basis of the dispute to Darlene Soto, Tobacco Transition Assessment Program Manager, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 3722, Mail Stop 0515, Washington DC 20250-0514, within 30 business days of the date of receipt of the notification by CCC of its determination.

(b) The Executive Vice President shall assign a person to act as the hearing officer on behalf of CCC. The duty of the hearing officer will be to develop an administrative record that will provide the Executive Vice President, or a designee, with sufficient information to render a final determination on the matter in dispute. The hearing to be

conducted by the hearing officer will be an informal hearing at which the appellant may present oral and written evidence in support of the appellant's position. A copy of the rules of conduct that will be applicable to the proceeding will be provided to the appellant upon receipt of the appeal by CCC.

(c) For any appeals filed after October 1, 2014, appellants must submit all supporting documentation within 30 calendar days following the date of the initial written appeal to CCC. Any documents received after that time will not be considered by the hearing officer.

(1) The final date that entities may file an appeal is January 14, 2016.

(2) If 30 calendar days elapse following receipt by CCC of the final submission of supporting documentation by an appellant with respect to any appeal filed under this section regarding an assessment imposed on a domestic manufacturer or importer of tobacco products, without a final administrative decision by CCC, then all administrative remedies available to the appellant will be deemed to be exhausted; except, if the 30th calendar day would fall on a weekend day or federal holiday, then the 30th calendar day will be deemed the next business day following such weekend day or federal holiday.

(d) Any domestic manufacturer or importer of tobacco products aggrieved by a determination made by CCC under this subpart may seek review of the determination upon the exhaustion of the administrative remedies provided by this part in the United States District Court for the District of Columbia, or for the district in which such importer or manufacturer has its principal place of business.

[70 FR 7011, Feb. 10, 2005, as amended at 79 FR 19464, Apr. 9, 2014]

### Subpart B—Tobacco Transition Payment Program

SOURCE: 70 FR 17159, Apr. 4, 2005, unless otherwise noted.

#### § 1463.100 General.

(a) The Commodity Credit Corporation (CCC) will make payments to tobacco quota holders and tobacco pro-

ducers as provided in this subpart with respect to farms for which a tobacco marketing quota had been established by the Farm Service Agency (FSA). To be eligible for a payment, such person must meet all provisions of this part; submit to CCC an application provided by CCC to enter into a contract for payment; and submit other information as may be required by CCC. Payments will be made by CCC annually over a 10-year period.

(b) As provided in this part, a tobacco quota holder or tobacco producer who is not the subject of an outstanding claim established by the United States may, under the terms and conditions established by CCC and with the prior approval of CCC, enter into a successor in interest contract with another person or entity. Upon approval by CCC, all rights and obligations of the quota holder or producer, with respect to payments made by CCC under this part, will be terminated and transferred to the successor party.

(c) As provided in this part, a tobacco quota holder or tobacco producer who may, under the terms and conditions established by CCC, and with the prior approval of CCC, may assign the right to receive a payment to be made under this part by executing an assignment as provided in § 1463.111.

(d) Notwithstanding any other provision of this chapter, the provisions of 7 CFR parts 723 and 1464 shall not be applicable to the 2005 and subsequent crops and the 2005 and subsequent marketing years.

#### § 1463.101 Administration.

(a) The program will be administered under the general supervision of the Executive Vice President, CCC, and shall be carried out by FSA State and county committees (State and county committees).

(b) State and county committees and their representatives and employees have no authority to modify or waive provisions of this subpart.

(c) The State committee shall take any action required by the regulations of this subpart that has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by

such county committee that is not in accordance with this subpart; or

(2) Require a county committee to withhold taking any action that is not in accordance with this subpart.

(d) No provision or delegation herein to a State or county committee shall preclude the Executive Vice President, CCC, or designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee. Further, the Executive Vice-President, CCC, or designee, may modify any deadline in this subpart to the extent doing so is determined to be appropriate and consistent with the purposes of the program.

(e) A representative of CCC may execute a contract for a transition payment only under the terms and conditions of this part, and as determined and announced by the Executive Vice President, CCC. Any contract that is not executed in accordance with such terms and conditions, including any purported execution prior to the date authorized by the Executive Vice President, CCC, is null and void and shall not be considered to be a contract between CCC and any person executing the contract.

#### § 1463.102 Definitions.

The definitions in this section shall apply for all purposes of administering the Tobacco Transition Payment Program (TTPP) authorized by this subpart.

*Act* means the Fair and Equitable Tobacco Reform Act of 2004.

*Actual marketings* means tobacco that was disposed of in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift between living persons.

*Actual undermarketings* means the amount by which the effective quota is more than the amount of tobacco marketed.

*Assignee* means the person designated by a tobacco quota holder or tobacco producer on the correct CCC form to receive a payment to be made by CCC under this subpart.

*Assignor* means the owner of a farm, or a producer on a farm, who has been determined by CCC to be eligible for a payment under this subpart and who

has elected to assign to another person on the correct CCC form, the payment to be made by CCC under this subpart.

*Average production yield* means, for each kind of tobacco, other than burley (type 31) and flue-cured (types 11-14), the average of the production of a kind of tobacco in a county, on a per-acre basis, for the 2001, 2002, and 2003 crop years. For quota holders only, if no records are available to provide the average production of a kind of tobacco in a county, the average yield will be the production yield established by the National Agricultural Statistical Service of the Department of Agriculture (NASS) for the 2002 marketing year for the applicable kind of tobacco.

*Basic allotment* means the factored allotment plus and minus permanent adjustments.

*Basic quota* means the factored quota plus permanent adjustments.

*Base Quota Level (BQL)* means the payment pounds as determined under this subpart.

*Calendar year* means the twelve-months from January 1 through December 31.

*Claim* means any amount of money determined by any Federal agency to be owed by a tobacco quota holder or a tobacco producer to the United States, or any agency or instrumentality thereof, that has been the subject of a completed debt collection activity that is in compliance with the Debt Collection Improvement Act of 1996.

*Considered planted* means tobacco that was planted but failed to be produced as a result of a natural disaster, as determined by CCC.

*Contract* means a Tobacco Transition Payment Quota Holder Contract, a Tobacco Transition Payment Producer Contract, a Tobacco Transition Payment Quota Holder Successor In Interest Contract, or a Tobacco Transition Payment Producer Successor In Interest Contract.

*Contract payment* means a payment made under a contract entered into under this subpart.

*Dependent* means an offspring child who is under 18 years of age.

*Disaster lease* means, as approved by FSA, a written transfer by lease under certain natural disaster conditions of flue-cured or burley tobacco when the

transferring farm has suffered a loss of production due to drought, excessive rain, hail, wind, tornado, or other natural disasters. A disaster transfer of flue-cured tobacco must have occurred after June 30 and on or before November 15. A disaster transfer of burley tobacco must have occurred after July 1 and on or before February 16 of the following calendar year.

*Effective allotment* means the basic farm allotment plus or minus temporary adjustments.

*Effective quota* means the current year farm marketing quota plus or minus any temporary quota adjustments.

*Effective undermarketings* means the smaller of the actual undermarketings or the sum of the previous year's basic quota plus pounds of quota temporarily transferred to the farm for the previous year.

*Eligible quota holder* means only a person who, as of October 22, 2004, has either a fee simple interest or life estate interest in the farm for which FSA established a farm basic marketing quota for the 2004 marketing year. An eligible quota holder does not include any other person who: claims a lien, security interest or other similar equitable interest in the farm or in any personal asset of the owner of the farm or a producer on the farm; has a remainder interest or any other contingent interest in the farm or in any personal asset of the owner of the farm or a producer on the farm; or who may have caused any such marketing quota to have been transferred to the farm.

*Eligible tobacco producer* means an owner, operator, landlord, tenant, or sharecropper who shared in the risk of producing tobacco on a farm where tobacco was produced, or considered planted, pursuant to a tobacco poundage quota or acreage allotment assigned to the farm for the 2002, 2003 or 2004 marketing years and who otherwise meets the requirements in § 1463.104.

*Experimental tobacco* means tobacco grown by or under the direction of a publicly-owned agricultural experiment station for experimental purposes.

*Factored allotment* means allotment that has been factored to equate it to the 2002 basic allotment level.

*Factored quota* means quota that has been factored to equate it to the 2002 basic quota level.

*Family member* means a parent; grandparent or other direct lineal ancestor; child or other direct lineal descendant; spouse; or sibling of a tobacco quota holder or tobacco producer.

*Farm* means a farm as defined in part 718 of this title.

*Fiscal year* means the twelve-month period from October 1 through September 30.

*Marketing year* means, for flue-cured tobacco, the period beginning July 1 of the current year and ending June 30 of the following year. For kinds of tobacco other than flue-cured, the period beginning October 1 of the current year and ending September 30 of the following year.

*NASS* means the National Agricultural Statistics Service of USDA.

*New farm* means a farm for which a basic marketing quota was established for the 2003 or 2004 year from the national reserve that is set aside for such purposes from the national marketing quota established for the applicable year for the kind of tobacco.

*Overmarketings* means the pounds by which the pounds marketed exceed the effective farm marketing quota.

*Permanent quota adjustments* means adjustments made by FSA under part 723 of this title for:

- (1) Old farm adjustments from reserve;
- (2) Pounds of quota transferred to the farm from the eminent domain pool;
- (3) Pounds of quota transferred to or from the farm by sale; or
- (4) Pounds of forfeited quota.

*Secretary* means the Secretary of the United States Department of Agriculture.

*Share in the risk of production* means having a direct financial interest in the successful production of a crop of tobacco through ownership of a direct share in the actual proceeds derived from the marketing of the crop, which share is conditional upon the success of that marketing.

*Successor party* means the means the person who has assumed all rights and



obligations of a quota holder or tobacco producer arising under this part by executing a TTPP contract.

*Temporary quota adjustments* means adjustments made by FSA under part 723 of this title for:

- (1) Effective undermarketings;
- (2) Overmarketings from any prior year;
- (3) Reapportioned quota from quota released from farms in the eminent domain pool;
- (4) Quota transferred by lease or by owner, for all kinds of tobacco except flue-cured and cigar tobacco; except for flue-cured disaster lease;
- (5) Violations of the provisions of part 723 of this title and part 1464 of this chapter.

*Tobacco* means the following kinds of tobacco: Burley tobacco (type 31); cigar-filler and cigar binder tobacco (types 42, 43, 44, 53, 54, and 55); dark air-cured tobacco (types 35 and 36); fire-cured tobacco (types 21, 22 and 23); flue-cured tobacco (types 11, 12, 13 and 14); and Virginia sun-cured tobacco (type 37).

*TTPP effective quota* means effective quota plus or minus temporary adjustments because of disaster lease and transfer and before adjustment to the 2002 level for establishment of BQL.

*United States* includes any agency and instrumentality thereof.

#### § 1463.103 Eligible quota holder.

(a) CCC will make a payment under this subpart to a person determined by CCC to be an eligible quota holder, as defined in §1463.102.

(b) The wetlands and highly erodible land provisions of part 12 of this title, the controlled substance provisions of part 718 of this title, and the payment limitation provisions of part 1400 of this chapter shall not be applicable to payments made under this part to an eligible quota holder.

#### § 1463.104 Eligible tobacco producer.

(a) CCC will make a payment under this subpart to a person determined by CCC to be an eligible tobacco producer, as defined in §1463.102.

(b) The wetlands and highly erodible land provisions of part 12 of this title and the controlled substance provisions of part 718 of this title shall be applica-

ble to payments made under this part to an eligible tobacco producer. However, the payment limitation provisions of part 1400 of this chapter shall not be applicable to payments made under this part to an eligible tobacco producer.

(c) For purposes of determining if an eligible tobacco producer has shared in the risk of producing a crop in the 2002, 2003, or 2004 crop years, CCC will consider evidence presented by a producer that includes, but is not limited to: written leases; contracts for the purchase of tobacco; crop insurance documents; or receipts for the purchase of items used in the production of tobacco.

#### § 1463.105 Base quota levels for eligible quota holders.

(a) The BQL is determined separately for each kind of tobacco for each farm for which a 2004 basic marketing year quota was established under part 723 of this title. Any marketing quota assigned by FSA to a new farm in 2003 or 2004, other than through transfer from another farm, shall not be considered when determining the BQL.

(b) For burley tobacco quota holders BQL is established according to the following table, except as adjusted under paragraph (e) of this section:

(1) Farm BQL. The 2004 basic quota, multiplied by the BQL adjustment factor 1.071295. (NOTE: The factor adjusts the 2004 basic quota to the 2002 basic quota level.)

(2) Quota holder BQL. The farm BQL multiplied by the quota holder's ownership share in the farm. (NOTE: In the case of undivided tract ownership, BQL must be distributed among the tract quota holders by the tract owners.)

(c) For flue-cured tobacco quota holders the BQL is established according to the following table, except as adjusted under paragraph (e) of this section:

(1) Farm BQL. The 2004 basic quota, multiplied by the BQL adjustment factor 1.23457. (NOTE: The factor adjusts the 2004 basic quota to the 2002 level.)

(2) Quota holder BQL. The farm BQL multiplied by the quota holder's ownership share in the farm. (NOTE: In the case of undivided tract ownership, BQL

must be distributed among the tract quota holders by the tract owner.)

(d) For quota holders of all other kinds of tobacco the BQL is established according to the following table, except as adjusted under paragraph (e) of this section:

(1) Farm BQL. The basic allotment established for the farm in 2002 multiplied by the county average production yield. The following NASS yields are to be used for any county without production:

- (i) Fire-cured (type 21)—1746 lbs.
- (ii) Fire-cured (types 22-23)—2676 lbs.
- (iii) Dark Air-cured (types 35-36)—2475 lbs.
- (iv) Virginia Sun-cured (type 37)—1502 lbs.
- (v) Cigar Filler/Binder (types 42-44, 54, 55)—2230 lbs.

(2) Quota holder BQL. The farm BQL multiplied by the quota holder's ownership share in the farm. (NOTE: In the case of undivided tract ownership, BQL must be distributed among the tract quota holders by the tract owner.)

(e)(1) CCC will divide the BQL for the farm between the parties to the agreement as CCC determines to be fair and equitable, taking into consideration the proportionate amounts of cropland sold, if:

(i) On or before October 22, 2004, the owner of a farm had entered into an agreement for the sale of all or a portion of a farm for which a farm marketing quota was established for the 2004 marketing year; and

(ii) Such agreement had not been fulfilled or terminated prior to that date; and

(iii) The parties to the agreement are unable to agree to the disposition of the contract payment to be made with respect to the farm.

(2) If, on or before October 22, 2004, the owner of a farm had entered into an agreement for the permanent transfer of all or a portion of a tobacco marketing quota and the transfer had not been completed by such date, the owner of the farm to which such quota was to be transferred shall be considered to be the owner of the marketing quota for the purposes of this subpart. The BQL's for the transferring farm and the receiving farm will be adjusted to reflect this transfer.

(f) Any tobacco marketing quota preserved under part 1410 of this chapter as the result of the enrollment of a farm in the Conservation Reserve Program shall be included in the determination of the BQL of the farm.

**§ 1463.106 Base quota levels for eligible tobacco producers.**

(a) BQL is determined separately, for each of the years 2002, 2003 and 2004, for each kind of tobacco and for each farm for which a 2002 farm marketing quota had been established under part 723 of this title.

(b) The BQL for producers of burley tobacco is established as follows:

(1) The 2002-crop year BQL for burley producers is the 2002 effective quota pounds actually marketed, adjusted for disaster lease and transfer, and considered-planted undermarketings and overmarketings. The BQL is then multiplied by the producer's share in the 2002 crop to determine the producer's 2002 BQL. The adjustments for disaster lease and transfer and considered-planted undermarketings and overmarketings are made as follows:

(i) Disaster-leased pounds are added to the marketings of the transferring farm and deducted from the marketings of the receiving farm;

(ii) Considered-planted pounds are added to the farm's actual marketings, and includes only undermarketings that were not part of the farm's 2003 effective quota.

(iii) Pounds actually marketed as overmarketings and sold penalty-free are added to the farm BQL after the BQL adjustment factor of 1.12486 has been applied to the overmarketed pounds.

(2) The 2003-crop year BQL for burley producers is the 2003 effective quota pounds actually marketed, adjusted for disaster lease and transfer and considered-planted undermarketings and overmarketings, as follows:

(i) Disaster leases are added to the marketings of the transferring farm and deducted from the marketings of receiving farm.

(ii) Considered-planted pounds are added to the farm's actual marketings, and includes only undermarketings that were not part of the farm's 2004 effective quota.

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(iii) Pounds actually marketed as overmarketings and sold penalty-free are added to the farm BQL after the BQL adjustment factor of 1.071295 has been applied to the overmarketed pounds.  
(iv) After these adjustments the BQL is calculated as follows:

Step	Calculation
1 .....	Subtract all 2002 undermarketings from the 2003 marketings, including undermarketings from the parent farm in any special tobacco combinations. Leased pounds are apportioned undermarketing history by dividing the transferring farm's undermarketings by the transferring farm's effective quota, before any temporary transfers, resulting in the percentage of undermarketings that were leased.
2 .....	Multiply the 2003 marketings remaining after Step 1 times 1.12486 (the 2003-BQL adjustment factor).
3 .....	Add the undermarketings that were subtracted in Step 1 to the sum of Step 2 to determine the farm 2003 BQL.
4 .....	Multiply the sum from Step 3 times the producer's share in the 2003 crop to determine the producer's 2003 BQL.

(3) The 2004-crop year BQL for burley producers is the 2004 effective quota before disaster lease and transfer is calculated as follows:

Step	Calculation
1 .....	Subtract all 2003 undermarketings from the 2004 effective quota, including undermarketings from the parent farm in any special tobacco combinations. Leased pounds are apportioned undermarketing history by dividing the transferring farm's undermarketings by the transferring farm's effective quota, before any temporary transfers, resulting in the percentage of undermarketings that were leased.
2 .....	Multiply the 2004 effective quota remaining after Step 1 times 1.071295 (the 2004 BQL adjustment factor).
3 .....	Multiply the undermarketings that were subtracted in Step 1 times 1.12486 (the 2003 BQL adjustment factor).
4 .....	Add the effective quota from Step 2 to the undermarketings in Step 3 to determine the farm 2004 BQL.
5 .....	Multiply the sum from Step 4 times the producer's share in the 2004 crop to determine the producer's 2004 BQL.

(c) The BQL for producers of flue-cured tobacco is established by year, as follows:

(1) The 2002-crop year BQL for flue-cured producers is the effective 2002 quota actually marketed, adjusted for disaster lease and transfer and considered-planted undermarketings and overmarketings. The BQL is then multiplied by the producer's share in the 2002 crop to determine the producer's 2002 BQL. Adjustments for disaster lease and transfer and considered-planted undermarketings and overmarketings are calculated as follows:

(i) Disaster-leased pounds are added to the marketings of the transferring farm and deducted from the marketings of the receiving farm;

(ii) Considered-planted pounds are added to the farm's actual marketings, and include only undermarketings that were not part of the farm's 2003 effective quota.

(iii) Pounds actually marketed as overmarketings and sold penalty-free are added to the farm BQL after the

BQL adjustment factor of 1.10497 has been applied to the overmarketed pounds.

(2) The 2003-crop year BQL for flue-cured producers is the 2003 effective quota actually marketed, adjusted for disaster lease and transfer and considered-planted undermarketings and overmarketings, as follows:

(i) Disaster leases are added to the marketings of the transferring farm and deducted from the marketings of the receiving farm.

(ii) Considered-planted pounds are added to the farm's actual marketings, and includes only undermarketings that were in not part of the farm's 2004 effective quota.

(iii) Pounds actually marketed as overmarketings and sold penalty-free are added to the farm BQL after the BQL adjustment factor of 1.23457 has been applied to the overmarketed pounds.

(iv) After these adjustments the BQL is calculated as follows:

Step	Calculation
1 .....	Subtract all 2002 undermarketings from the 2003 marketings, including undermarketings from the parent farm in any special tobacco combinations.
2 .....	Multiply the 2003 marketings remaining after Step 1 times 1.10497 (the 2003 BQL adjustment factor).
3 .....	Add the undermarketings that were subtracted in Step 1 to the sum of Step 2 to determine the farm 2003 BQL.
4 .....	Multiply the sum from step 3 times the producer's share in the 2003 crop to determine the producer's 2003 BQL.

(3) The 2004-crop year BQL for flue-cured producers is the 2004 effective quota before disaster lease and transfer. The 2004 BQL is calculated as follows:

Step	Calculation
1 .....	Subtract all 2003 undermarketings from the 2004 effective quota, including undermarketings from the parent farm in any special tobacco combinations.
2 .....	Multiply the 2004 effective quota remaining after Step 1 times 1.23457 (the 2004 BQL adjustment factor).
3 .....	Multiply the undermarketings that were subtracted in Step 1 times 1.10497 (the 2003 BQL adjustment factor).
4 .....	Add the effective quota from Step 2 to the undermarketings in Step 3 to determine the farm 2004 BQL.
5 .....	Multiply the sum from Step 4 times the producer's share in the 2004 crop to determine the producer's 2004 BQL.

(d) The BQL for producers of cigar filler and binder tobacco is established by years, as follows:

(1) The 2002-crop year BQL for cigar filler and binder tobaccos is calculated as follows:

Step	Calculation
1 .....	Multiply the 2002 farm's basic allotment times the farm's average yield for 2001, 2002, and 2003 to get the 2004 farm base pounds total.
2 .....	Multiply any 2002 special tobacco combination acres times the 2002-equivalence factor of 1.000.
3 .....	Multiply the sum from Step 2 times the farm's average yield for 2001, 2002, and 2003 to get the 2002 farm special tobacco combination pounds total.
4 .....	Add the sum from Step 1 to the sum from Step 3 to get the 2004 farm BQL total.
5 .....	Multiply the sum from Step 4 times the producer's share in the 2002 crop to get the producer 2002 BQL.

(2) The 2003-crop year BQL for cigar filler and binder tobaccos is calculated as follows:

Step	Calculation
1 .....	Multiply the 2002 farm's basic allotment times the farm's average yield for 2001, 2002, and 2003 to get the 2003 farm base pounds total.
2 .....	Multiply any 2003 special tobacco combination acres times the 2003 BQL adjustment factor of 0.8929.
3 .....	Multiply the sum from Step 2 times the farm's average yield for 2001, 2002, and 2003 to get the 2003 farm special tobacco combination pounds total.
4 .....	Add the sum from Step 1 to the sum from Step 3 to get the 2003 farm BQL total.
5 .....	Multiply the sum from Step 4 times the producer's share in the 2003 crop to get the producer 2003 BQL.

(3) The 2004-crop year BQL for cigar-filler and binder tobaccos is calculated as follows:

Step	Calculation
1 .....	Multiply the 2002 farm's basic allotment times the farm's average yield for 2001, 2002, and 2003 to get the 2004 farm base pounds total.
2 .....	Multiply any 2004 special tobacco combination acres times the 2004 BQL adjustment factor of 0.9398.
3 .....	Multiply the sum from Step 2 times the farm's average yield for 2001, 2002, and 2004 to get the 2003 farm special tobacco combination pounds total.
4 .....	Add the sum from Step 1 to the sum from Step 3 to get the 2004 farm BQL total.
5 .....	Multiply the sum from Step 4 times the producer's share in the 2004 crop to get the producer 2004 BQL.

(e) The BQL's for producers of all kinds of tobacco other than burley, flue-cured and cigar filler and binder, are established by year, as follows:

(1) The 2002-crop year BQL's for these kinds of tobaccos are calculated as follows:

Step	Calculation
1 .....	Multiply the 2002 farm's basic allotment times the farm's average yield for 2001, 2002, and 2003 to get the 2002 farm base pounds total.
2 .....	Multiply any 2002 special tobacco combination acres times the farm's average yield for 2001, 2002, and 2003 to get the 2002 special tobacco combinations pounds total.
3 .....	Add the sum from Step 1 to the sum from Step 2.
4 .....	Multiply any 2002 acres leased to or from the farm times the farm's average yield for 2001, 2002, and 2003 to get the 2002 lease pounds total. Then, to the sum from either: (i) Step 3, add pounds leased to the farm to get the farm 2002 BQL total (ii) Step 3, subtract pounds leased from the farm to get the farm 2002 BQL total.

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Step	Calculation
5 .....	Multiply the result from Step 4 times the producer's share in the 2002 crop to get the producer 2002 BQL.

(2) The 2003-crop year BQL's for these kinds of tobaccos are calculated as follows:

Step	Calculation
1 .....	Multiply the 2002 farm's basic allotment times the farm's average yield for 2001, 2002, and 2003 to get the 2003 farm base pounds total.
2 .....	Multiply any 2003 special tobacco combinations acres times the applicable 2003 BQL adjustment factor: (i) Fire-cured (type 21)—1.0000 (ii) Fire-cured (types 22–23)—.980392 (iii) Dark Air-cured (35–36)—.952381 (iv) Virginia Sun-cured (type 37) 1.0000
3 .....	Multiply the sum from Step 2 times the farm's average yield for 2001, 2002, and 2003 to get the 2003 farm special tobacco combination pounds total.
4 .....	Add the sum from Step 1 to the sum from Step 3.
5 .....	Multiply any 2003 acres leased times the applicable 2003 BQL adjustment factor: (i) Fire-cured (type 21) 1.0000 (ii) Fire-cured (types 22–23)—.980392 (iii) Dark Air-cured (35–36)—.952381 (iv) Virginia Sun-cured (type 37) 1.0000
6 .....	Multiply the sum from Step 5 times the farm's average yield for 2001, 2002, and 2003 to get the 2003 lease pounds total.
7 .....	To the sum from Step 4 either: (i) Add pounds from Step 6 leased to the farm to get the farm 2003 BQL total (ii) Subtract pounds from Step 6 leased from the farm to get the farm 2003 BQL total.
8 .....	Multiply the sum from Step 7 times the producer's share in the 2003 crop to get the producer 2003 BQL total.

(3) The 2004-crop year BQL's for these kinds of tobaccos are calculated as follows:

Step	Calculation
1 .....	Multiply the 2002 farm's basic allotment times the farm's average yield for 2001, 2002, and 2003 to get the 2004 farm base pounds total.
2 .....	Multiply any 2004 special tobacco combinations acres times the applicable 2004 BQL adjustment factor: (i) Fire-cured (type 21) 1.0000 (ii) Fire-cured (types 22–23)—.951837 (iii) Dark Air-cured (35–36)—.94264 (iv) Virginia Sun-cured (type 37) 1.0000
3 .....	Multiply the sum from Step 2 times the farm's average yield for 2001, 2002, and 2003 to get the 2004 farm special tobacco combination pounds total.
4 .....	Add the sum from Step 1 to the sum from Step 3.
5 .....	Multiply any 2004 acres leased times the applicable 2004 BQL adjustment factor: (i) Fire-cured (type 21) 1.0000 (ii) Fire-cured (types 22–23)—.951837 (iii) Dark Air-cured (35–36)—.92464 (iv) Virginia Sun-cured (type 37) 1.0000
6 .....	Multiply the sum from Step 5 times the farm's average yield for 2001, 2002, and 2003 to get the 2004 lease pounds total.
7 .....	To the sum from Step 4 either: (i) Add pounds from Step 6 leased to the farm to get the farm 2004 BQL total (ii) Subtract pounds from Step 6 leased from the farm to get the farm 2004 BQL total.
8 .....	Multiply the sum from Step 7 times the producer's share in the 2004 crop to get the producer 2004 BQL total.

**§ 1463.107 Payment to eligible quota holders.**

(a) The total amount of contract payments that may be made to an eligible quota holder shall be the product obtained by multiplying:

\$7.00 per pound × the BQL for the quota holder as determined under § 1463.105 for each kind of tobacco

(b) During each of the fiscal years 2005 through 2014, CCC will make a payment to each eligible quota holder in an amount equal to 10 percent of the total amount due under a contract entered into under this subpart, except that in the case an application was filed after June 17, 2005, the applicant will receive only the TTPP payments that have not been made as of the date the contract is approved. However, in

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order for the contract participant to receive the 2005 TTPP payment an application to enter into a TTPP contract must be filed no later than June 17, 2005. CCC may, in its discretion, extend any deadline set forth in this paragraph. However, CCC will make the FY 2005 payment between June and September of 2005, and subsequent payments will be made in January, to the extent practicable, of each FY.

### § 1463.108 Payment to eligible tobacco producers.

(a) Subject to paragraph (b) of this section, the total amount of contract payments that may be made to an eligible tobacco producer shall be the product obtained by multiplying:

\$3.00 per pound × the BQL for the producer determined under §1463.106 for each kind of tobacco

(b) Payments to an eligible producer shall be equal to:

(1) For an eligible producer that produced tobacco that was marketed or considered by CCC as planted under a marketing quota in all of the 2002, 2003, and 2004 marketing years, 100 percent of the rate specified in paragraph (a) of this section;

(2) For an eligible producer that produced tobacco that was marketed or considered by CCC as planted under a marketing quota in any two of the 2002, 2003, and 2004 marketing years,  $\frac{2}{3}$  of the rate specified in paragraph (a) of this section; and

(3) For an eligible producer that produced tobacco that was marketed, or considered by CCC as planted under a marketing quota in any one of the 2002, 2003, and 2004 marketing years,  $\frac{1}{3}$  of the rate specified in paragraph (a) of this section.

(c) During each of the fiscal years 2005 through 2014, CCC will make a payment to each eligible producer in an amount equal to 10 percent of the total amount due under a contract entered into under this subpart except that in the case an application was filed after June 17, 2005, the applicant will receive only the TTPP payments that have not been made as of the date the contract is approved. However, in order for the contract participant to receive the 2005 TTPP payment, an application to enter

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into a TTPP contract must be filed no later than June 17, 2005. CCC may, in its discretion, extend any deadline set forth in this paragraph. However, CCC will make the FY 2005 payment between June and September of 2005, and subsequent payments will be made in January, to the extent practical, of each FY.

### § 1463.109 Contracts.

(a) CCC will enter into a contract with eligible tobacco quota holders and producers. To the extent a person has filed such a contract with CCC, but a final administrative decision has not been made with respect to such person's status as an eligible quota holder or tobacco producer prior to the final enrollment date, CCC will enter into such a contract only upon the issuance of a final determination of eligibility and the passing of any deadline for any administrative appeal under parts 780 and 11 of this title.

(b)(1) If contracts or other written claims are provided to CCC by June 3, 2005, by two or more persons with respect to the same tobacco BQL used to calculate a program payment, CCC will not issue such payment until CCC has determined the eligibility status of each claimant.

(2) If CCC has made a payment to a person after June 3, 2005, a person who is not an eligible holder or producer, as identified on FSA records, for such farm, or claims to be an eligible tobacco holder or producer and submits a contract or other written claim with CCC for the same quota used to issue the initial payment, CCC will issue no further payments for such farm until CCC has determined the eligibility status of each person who has submitted a contract or other written claim for such farm and the occurrence of the repayment of the initial payment made by CCC.

### § 1463.110 Misrepresentation and scheme or device.

A person must refund all payments received on all contracts entered into under this subpart, plus interest as determined in accordance with part 1403 of this chapter, and pay to CCC liquidated damages as specified in the

contract, if CCC determines the person has:

- (a) Erroneously represented any fact affecting a program determination made in accordance with this subpart;
- (b) Adopted any scheme or device that tends to defeat the purpose of the program; or
- (c) Made any fraudulent representation affecting a program determination made in accordance with this subpart.

**§ 1463.111 Offsets and assignments.**

(a) TTPP payments made to any person under this subpart shall be made without regard to questions of title under State law and without regard to any claim or lien against the tobacco quota, tobacco marketing allotment, or the farm for which a tobacco quota had been established under part 723 of this title by any creditor or any other person.

(b) The provisions of part 1404 of this title shall not apply to this part.

(c) A quota holder or tobacco producer who is eligible to receive a payment under this part may assign a payment, or a portion thereof, to be made under this part to another person using the correct CCC form. Such an assignment will become effective upon approval by CCC. In order to provide for the orderly issuance of payments under this part, CCC may limit, in its sole discretion, the number of assignments that may be made with respect to a contract.

(d)(1) CCC will establish, after consultation with the Department of the Treasury, a discount rate that reflects the value of any remaining payments due under this part if such payments were to be made as a lump sum payment in the current year. Unless there is consideration for such contract in an amount equal to or greater than the discounted value of the payments, subject to the assignment, based on the discount rate established for such payments by CCC, CCC will not approve any assignment other than to:

- (i) A family member; or
- (ii) A party who had purchased a tobacco marketing quota prior to October 22, 2004 and had placed the quota on a farm with the owner's consent prior to that date in the manner that had

been prescribed by FSA under part 723 of this chapter.

(2) The discount rate established by CCC will be determined by adding 200 basis points to the prime lending rate, as determined by CCC. If this sum is a fraction of a number, CCC will round the discount rate to the nearest whole number. Rounding of a half percent will be to the next higher whole number.

(e) CCC will issue a payment to an assignee only to the extent and amount of payment that CCC would otherwise have issued to the quota holder or producer in the absence of the assignment. In accordance with part 1403 of this title, any claim owed by the assignor to the United States will be deducted from any payment made under this part prior to the issuance of the payment to the assignee.

(f) CCC will report to the Internal Revenue Service any payment assigned under this section as income earned by the assignor.

**§ 1463.112 Successor in interest contracts.**

(a) A quota holder or tobacco producer who is eligible to receive a payment under this part, and for whom a claim has not been established by the United States, may enter into a successor in interest contract with another party using the correct CCC form. Such successor in interest contract will become effective upon approval by CCC, and will not include the 2005 payment. Only one such successor in interest contract may be entered into by a quota holder or tobacco producer with respect to a farm for each kind of tobacco.

(b) Annually, CCC will establish, after consultation with the Department of the Treasury, a discount rate that reflects the value of any remaining payments due under this part if such payments were to be made as a lump sum payment in the current year. This discount rate will be determined as provided in § 1463.111(d)(2). Unless there is consideration for such contract in an amount equal to or greater than the discounted value of the payments, subject to the successor in interest or contract, based on the discount rate established for such payments by CCC,

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CCC will not approve any succession in interest contract other than to:

(1) A family member; or

(2) A party who had purchased a tobacco marketing quota prior to October 22, 2004 and had placed the quota on a farm with the owner's consent prior to that date in the manner that had been prescribed by FSA under part 723 of this chapter.

(c) CCC will issue a payment, except the 2005 payment, to a successor party only if such party is otherwise in compliance with all other applicable regulations, which includes for successors to producer contracts only the wetlands and highly erodible land provisions of part 12 of this chapter. In accordance with part 1403 of this title, any claim owed by the successor party to the United States will be deducted from any payment made under this part prior to the issuance of the payment to the successor party.

(d) CCC will report to the Internal Revenue Service any payment made under a successor in interest contract as income earned by the successor party.

### § 1463.113 Issuance of payments in event of death.

If a quota holder or tobacco producer who is eligible to receive a payment under this subpart dies, the right to receive payments shall be transferred to the estate of the quota holder or tobacco producer unless such person is survived by a spouse or one or more dependents, in which case the right to receive the payments shall be transferred to the surviving spouse.

### § 1463.114 Appeals.

A person may obtain reconsideration and review of any adverse determination made under this subpart in accordance with the appeal regulations found at parts 11 and 780 of this title.

## Subpart C—Miscellaneous Provisions

### § 1463.201 Refunds of importer assessments.

Assessments paid on imported flue-cured or burley tobacco under sections 106A and 106B of the Agricultural Act of 1949 with respect to imports in the

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2004 and prior marketing years may be refunded by CCC in accordance with the provisions of 7 CFR 1464.105 that were in effect prior to March 30, 2005, so long as such request for refunds are filed in accordance with such part no later than:

(a) August 1, 2005 for flue-cured tobacco; and

(b) November 1, 2005 for burley tobacco.

[70 FR 17159, Apr. 4, 2005]

## PART 1464—REGIONAL CONSERVATION PARTNERSHIP PROGRAM

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AUTHORITY: 15 U.S.C. 714b and 714c; 16 U.S.C. 3871 *et seq.*