

under this part up to the amount of the value of the tobacco so marketed. In addition, unless the Deputy Administrator determines otherwise, any persons or person, who as a warehouse operator, dealer, or receiving station official becomes affiliated with any person who at the time of affiliation is indebted under this part to the United States, shall be liable for the amount of the debt owed to the United States by the person with whom such person or persons become affiliated up to the amount of the value of any tobacco which is marketed by such affiliated warehouse operator, dealer, or receiving station official during the time of the affiliation with the indebted person. Affiliation may include any relationship in which the parties have a common interest in tobacco, or in an enterprise or entity involved in the marketing, processing, or handling of tobacco, or where the parties both hold a position of responsibility or ownership in such an enterprise or entity, or where there is common ownership of a business involved in the transaction, as determined by the Deputy Administrator. A warehouse operator, dealer, or receiving station official may also be considered to be affiliated with an indebted person when such warehouse operator, dealer, or receiving station official is associated with a person who is both:

(i) An employee or otherwise authorized to buy and sell tobacco for such warehouse operator, dealer, or receiving station official; and

(ii) * * *

(e) *TMQ lien notation.* Upon notification that a TMQ lien has been established, the producer marketing card (MQ-76 or MQ-76-C) or dealer identification card (MQ-79-2) shall be returned immediately to the issuing office for recording the TMQ lien. Failure to immediately return the applicable card will result in FSA notifying all registered warehouse operators, dealers, and receiving station officials of the TMQ lien information and of their responsibilities for collecting the TMQ lien. The card shall be promptly returned to the producer or dealer after it is annotated with the TMQ lien.

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7. In § 723.313 revise paragraphs (a)(1) introductory text, (a)(2), (a)(3), (b), (e), and (f) to read as follows:

§ 723.313 Identification of marketings.

(a) * * *

(1) *Identification of producer marketings.* Each auction and non-auction marketing of burley or flue-cured tobacco shall be identified by a

valid marketing card, Form MQ-76 or MQ-76-C, issued for the farm. The reverse side of the marketing card shall show in pounds:

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(2) *Cross-references of tobacco sale bill number to prior sale bill.* Each warehouse operator and receiving station official, for each lot of tobacco weighed in on the warehouse floor or receiving station floor for sale the same day, shall cross-reference the tobacco sale bill to each prior tobacco sale bill for tobacco identified by the same marketing card. To accomplish the cross-reference, each other tobacco sale bill number shall be entered by the warehouse operator or receiving station official in the "Remarks" space on the tobacco sale bill, on all copies, at the time such tobacco is weighed at the warehouse.

(3) *Recording producer sale.* Each producer sale at auction shall be recorded on Form MQ-72-1, Report of Tobacco Auction Sale, and each producer sale at a non-auction receiving station shall be electronically recorded in a format and transmitted according to standards issued by the Deputy Administrator. Receiving station officials may request approval from the Deputy Administrator to manually record on Form MQ-72-C, Report of Receiving Station Purchase, for producer sales. Dealer purchases shall be executed on Form MQ-72-2 and the data shall be entered on Form MQ-76-C. For producer sales at auction, Form MQ-72-1 and Form MQ-76 shall be executed only by the FSA marketing recorder. For producer sales at a receiving station, Form MQ-72-C and Form MQ-76-C shall be executed only by the FSA marketing recorder.

(4) * * *

(b) *Dark air-cured, fire-cured, or Virginia sun-cured tobacco.* With respect to dark air-cured, fire-cured, or Virginia sun-cured tobacco:

(1) *Identification of producer marketings.* Each marketing of such kind of tobacco from a farm shall be identified by a valid marketing card issued for the farm for the respective kind of a tobacco, either an MQ-76, MQ-76-C or MQ-77 (including sale memo). With respect to each non-auction sale from:

(i) A within quota farm a check mark shall be entered on the inside of MQ-76, and

(ii) An excess farm for which an MQ-77 is issued, an executed bill of nonauction sale shall be prepared, and such bill of nonauction sale shall be delivered to a marketing recorder or other person who is authorized to issue sale memos.

(2) *Other persons authorized to execute MQ-76, MQ-76-C or MQ-77 (including sale memo).*

(i) A warehouse operator who has been authorized during the current marketing year on MQ-78, Tobacco Warehouse Organization, may record a sale on MQ-76 or MQ-77 (including the issuance of a sale memo) to identify a sale for a farm if a marketing recorder is not available at the warehouse when the marketing card is presented.

(ii) A receiving station official who has been so authorized by the Deputy Administrator during the current marketing year may record a sale on MQ-76-C (including the issuance of a sale memo) to identify a sale for a farm if a marketing recorder is not available at the receiving station when the marketing card is presented.

(iii) Any warehouse operator, receiving station official or dealer, who engages in the business of acquiring scrap tobacco from farmers, and who has been authorized on MQ-78 or MQ-78-C, may for each purchase of scrap tobacco execute an MQ-76, MQ-76-C or MQ-77 (including a sale memo if the bill of non-auction sale has been executed).

(3) *Verification of sales processed during the absence of marketing recorder.* Any person authorized on MQ-78 or MQ-78-C by the Deputy Administrator to act as a marketing recorder shall promptly present to a marketing recorder for verification each warehouse bill (floor sheet) or receiving station sales bill processed and identified by an MQ-76, MQ-76-C, or MQ-77 (including any sale memos) executed in the absence of a marketing recorder.

(4) *Authorization to act as marketing recorder.* The authorization on MQ-78 or MQ-78-C for persons may be granted by the Deputy Administrator or may be withdrawn by the Deputy Administrator if such action is determined to be necessary to properly enforce the regulations in this part.

(e) *Verification of penalties by warehouse operators, receiving station officials, or dealers.* Each sale of tobacco by a producer which is subject to penalty and which has been recorded by a marketing recorder shall be verified by a warehouse operator, receiving station official, or dealer to determine whether the amount of the penalty shown to be due has been correctly computed. Such warehouse operator or receiving station official shall not be relieved of any liability for the amount of penalty due because of any error which may occur in computing the penalty and recording the sale.