

therefrom, the acquired portion shall be constituted as a separate farm on the date of displacement unless the tobacco is retained on the portion not acquired as provided in paragraphs (g)(3) and (g)(4) of this section, in which case the farm shall not be reconstituted but the farmland and cropland data shall be corrected on all appropriate records for the parent farm.

(l)(1) The displaced owner may request from the county committee a written designation of beneficiary of the rights in the tobacco attributable to the acquired land in the event of the death of the displaced owner, and may revise such designation from time to time. The beneficiary of a deceased owner may continue a lease or negotiate a lease with the agency, transfer rights with respect to farms owned by the beneficiary, and release, sale, lease, and owner transfer rights under this section.

(2) If the displaced owner does not file a designation of beneficiary under paragraph (l)(1) of this section and the displaced owner dies before displacement or after pooling occurs, the following persons shall be considered the beneficiary with applicable rights:

(i) The surviving joint owner of the farm where two persons own the farm as joint tenants with right of survivorship; and

(ii) The persons who succeed to the deceased displaced owner's interest under a will or by intestate succession. However, in the case of intestate succession, the person shall be limited to the surviving spouse, parent, sibling or child of the deceased displaced owner. In the settlement of the estate of the deceased displaced owner, the heirs may file a written agreement with the county committee for the division of the deceased displaced owner's rights under this section.

(m)(1) No transfer from the pool under paragraphs (h), (i), or (j) of this section shall be approved if there remains any unpaid marketing quota penalty due with respect to the marketing of the commodity from the acquired farm by the displaced owner, or if any of the commodity produced on the agency acquired farm has not been accounted for as required under applicable regulations.

(2) If tobacco for an acquired farm next established after the date of displacement would have been reduced because of false or improper identification of the commodity produced on or marketed from the farm, or as the result of a false acreage report, the tobacco shall be reduced in the pool accordance to applicable regulations.

§ 723.222 Exempting Federal prison farms and Federal wildlife refuges.

A marketing penalty shall not be assessed with respect to any commodity that is produced on a Federal prison farm or Federal wildlife refuge. This exception does not apply to penalties incurred by an individual who has a separate interest in a crop that is subject to marketing quotas and was produced on a Federal prison farm or Federal wildlife refuge.

§ 723.223 Transfer of allotments and quotas—State public lands.

(a) Transfers of allotments and quotas between farms in the same county may be permitted where both farms are lands owned by the State.

(b) An application requesting the transfer of one or more of the allotments and quotas on a farm entirely comprised of lands owned by a State shall be filed with the county committee by the State. The application shall identify the farms as being within the same county, show that each farm is entirely comprised of lands owned by the State, and list the allotments and quotas requested to be transferred. Additional information about the farm operations, including leases, shall also be included in the application.

(c) The State committee shall establish the closing date for filing applications under paragraph (b) of this section, for each year, which shall be no later than the general planting date in the county for the commodity involved in the transfer.

(d)(1) Each transfer of an allotment and quota shall be adjusted for differences in farm productivity if the yield projected for the year the transfer is to take effect for the farm to which transfer is made exceeds by more than ten percent the yield projected for the year the transfer is to take effect for the farm from which transfer is made. The county committee shall determine the amount of the allotment and quota to be transferred where a productivity adjustment is required to be made by dividing:

(i) The product of the yield for the farm from which the transfer is made and the acreage to be transferred from such farm, by

(ii) The yield for the farm to which the transfer is made.

(2) Acreage for the farm receiving the allotment or quota shall be adjusted by the same percentage as the allotment or quota being transferred is adjusted. The allotment and quota and related acreage transferred from the farm from which the transfer is made shall be the full amount, but the amount of all allotment or quota and related acreage for the farm

to which the transfer is made shall be the adjusted amount.

(e) The amount of allotment and quota on a farm after a transfer under this section is made shall not exceed the average amount of allotment or quota of at least three farms with acreage of cropland similar to the farm receiving the transfer in the community having the applicable allotment acreage and quota on these farms.

(f) Each transfer of any allotment and quota shall be require that acreage equal to the allotment and quota transferred shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made before any productivity adjustment. The acreage to be devoted to and maintained in permanent vegetative cover with respect to quota crops shall be determined by dividing the quota transferred by the yield of the farm from which the quota is transferred.

(g) Transfer of an allotment and quota under this section shall only be approved if:

(1) The county committee determines that a timely filed application has been received and that the provisions of this section have been met; and

(2) A representative of the State committee also determines that the provisions of this section have been met. If a transfer is approved, the county committee shall issue revised notices of the allotment or quota for each farm affected. If a county committee determines that requirements for a transfer were not met, a report shall be provided to the State committee. If the State committee agrees that requirements were not met, the transfer will be canceled, and the allotment and quota shall be transferred back to the original farm. Where a cancellation and transfer back is required, the county committee shall issue revised notices of the allotment or quota showing the reasons for the cancellation.

PART 1412—DIRECT AND COUNTER CYCLICAL PROGRAM AND PEANUT QUOTA BUYOUT PROGRAMS

7. Amend § 1412.407 as follows:

■ A. By revising paragraph (d)(2) to read as set forth below.

■ B. Amend paragraph (e) by adding Houston County, Alabama, Tazewell County, Illinois, and Clinton County, Pennsylvania as State Committee-established regions within the respective states.

§ 1412.407 Planting flexibility.

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(d) * * *

(2) The farm has a history of planting fruits, vegetables, or wild rice, as