

production thereof in the United States during the calendar year in which such marketing year begins * * *.”

“‘Carry-over’ of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current * * *.”

“‘Marketing year’ means, in the case of the following commodities, the period beginning on the first and ending with the second date specified below:

* * * * *
 “Tobacco (flue-cured), July 1–June 30 * * *.”

“‘Reserve supply level’ of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.”

“The ‘normal supply’ of tobacco shall be a normal year’s domestic consumption and exports plus 175 per centum of a normal year’s domestic consumption and 65 per centum of a normal year’s exports as an allowance for a normal carry-over.”

“‘Normal year’s domestic consumption,’ in the case of * * * tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.”

“‘Normal year’s exports’ in the case of * * * tobacco * * * shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years * * * immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.”;

Whereas said Act provides, in section 301 (c), that “The latest available statistics of the Federal Government shall be used by the Secretary [of Agriculture] in making the determinations required to be made by the Secretary under this Act.”;

Whereas section 312 (d) of said Act provides:

“In connection with the determination and proclamation of any marketing quota for the 1938–1939 marketing year, the determination by the Secretary pursuant to subsection (a) of this section shall be made and proclaimed within fifteen days following the date of the enactment of this Act * * *.”; and

Whereas said Act was enacted on the 16th day of February, 1938:

Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States, acting under and pursuant to, and by virtue of, the authority vested in me by the Act of Congress known as the Agricultural Adjustment Act of 1938, approved February 16, 1938, upon the basis of the latest available statistics¹ of

¹ Rounded to the nearest 1,000,000 pounds.

the Federal Government, do hereby find, determine, specify, and proclaim, under section 312 of said Act:

(1) That the "reserve supply level" of flue-cured tobacco is 1,681,000,000 pounds;

(2) That the "total supply" of flue-cured tobacco for the marketing year for such tobacco beginning July 1, 1937, was 1,733,000,000 pounds and exceeds the reserve supply level of such tobacco; and

(3) That the amount of the national marketing quota for flue-cured tobacco in terms of the total quantity of such tobacco which may be marketed, which will make available during the marketing year beginning July 1, 1938, a supply of such tobacco equal to the reserve supply level of such tobacco, is 705,000,000 pounds.

Done at Washington, D. C., this 18th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Exhibit 2

38-AAA-1-A. Issued February 18, 1938. United States Department of Agriculture. Agricultural Adjustment Administration.

INSTRUCTIONS FOR HOLDING REFERENDA ON COTTON AND FLUE-CURED TOBACCO MARKETING QUOTAS ON THE 1938 CROP

(Pursuant to the Agricultural Adjustment Act of 1938)

Pursuant to sections 347 and 312 of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture is directed to conduct a referendum by secret ballot of farmers who were engaged in the production of cotton in 1937 and a separate referendum of farmers who were engaged in the production of flue-cured tobacco in 1937 in order to determine whether they favor or oppose cotton or flue-cured tobacco marketing quotas, as the case may be, with respect to the 1938 crop.

Although the referendum of cotton farmers as well as the referendum of flue-cured tobacco farmers will be conducted in the community on the same day and at the same place by the same community referendum committee, and although the procedure for conducting each referendum is very similar, the referenda are not otherwise related. Separate ballot boxes should be provided in each community where referenda are being held on both cotton and flue-cured tobacco marketing quotas. It should be clearly understood that a farmer to vote in either one or both of the referenda must be eligible. Cotton marketing quotas are effective if two-thirds or more of the cotton farmers voting in the referendum favor them; likewise flue-cured tobacco marketing quotas are effective if two-thirds or more of the tobacco farmers voting in the flue-cured tobacco referendum

favor them. The Secretary of Agriculture is directed to proclaim the result of each referendum not later than 45 days after the enactment of the act.

The following forms will be used:

Cotton 201—Notice—Cotton Marketing Quota Referendum.

Tobacco 201—Notice—Flue-Cured Tobacco Marketing Quota Referendum.

38-AAA-1-A—Instructions for Holding Referenda on Cotton and Flue-Cured Tobacco Marketing Quotas on the 1938 Crop.

Cotton 202—1938 Cotton Marketing Quota Referendum Ballot.

Tobacco 202—1938 Flue-Cured Tobacco Marketing Quota Referendum Ballot.

Cotton 203—Register of Ballots—1938 Cotton Marketing Quota Referendum.

Tobacco 203—Register of Ballots—1938 Flue-Cured Tobacco Marketing Quota Referendum.

Cotton 204—Community Summary of 1938 Cotton Marketing Quota Ballots.

Tobacco 204—Community Summary of 1938 Flue-Cured Tobacco Marketing Quota Ballots.

Cotton 205—County Summary of 1938 Cotton Marketing Quota Ballots.

Tobacco 205—County Summary of 1938 Flue-Cured Tobacco Marketing Quota Ballots.

Cotton 206—State Tabulation of 1938 Cotton Marketing Quota Ballots.

Tobacco 206—State Tabulation of 1938 Flue-Cured Tobacco Marketing Quota Ballots.

A. GENERAL INSTRUCTIONS TO COUNTY COMMITTEES

The county committee of the County Agricultural Conservation Association (hereinafter referred to as the county committee) shall be responsible for and in charge of the referendum on marketing quotas for cotton, and wherever applicable, for tobacco, which will be held in the county on Saturday, March 12, 1938, and it shall—

1. Designate a readily accessible place for balloting in each community and give public notice of the time and place for balloting by posting the appropriate notice form at least 5 days in advance of the voting day in one or more public places within each community. Make use (without advertising expense) of all available agencies of public information, including both the press and the radio, to give farmers in the county full and accurate notice of the day and hours of voting, the precise location of polling places, and the basis of eligibility to vote. Public notice should in all cases be given as soon as practicable after conditions of holding the referendum have been determined but must in every instance be given at least 5 days in advance of the date of the referendum.

2. Designate in each community three local farmers as members of the community referendum committee to be in charge of holding in the community the referendum on cotton marketing quotas as well as the referendum on flue-cured tobacco marketing quotas. One of the members shall be designated as chairman of the community referendum committee.

3. Assist each community referendum committee in providing a ballot box for the ballots cast in the referendum on marketing quotas for cotton and a separate ballot box for the ballots cast in the referendum on marketing quotas for flue-cured tobacco.

4. Furnish each community referendum committee with a list of all the persons (owner-operators, share tenants, tenant-renters, and share-croppers) in the community who were engaged in the production of cotton during 1937, and also a separate list of those engaged in the production of flue-cured tobacco in 1937.

5. Deliver to the chairman of each community referendum committee ballot forms, register forms for use by the community referendum committee in tabulating the results in the community, and three or more sets of community summary forms on which to record the summaries of the ballots cast in the community, together with instructions respecting balloting, keeping the registers, tabulating ballots, and certifying the results.

6. See that all appropriate measures are taken to insure that each referendum is conducted by secret ballot.

7. Convene not later than Monday, March 14, 1938, for the purpose of receiving and tabulating the data from community summaries, using the county summary forms for this purpose. Four copies of each county summary showing the county results shall be prepared and certified, two copies of which shall be sent to the State committee not later than 3 days after the date of the referenda, one copy of which shall be posted in a conspicuous place in or near the county office, and one copy of which shall be filed in or near the office of the County Agricultural Conservation Association. One copy of each community summary shall likewise be posted in a conspicuous place in or near the county office.

8. Make an investigation in each case of a controversy respecting eligibility of a voter. Where the ballot is found in a sealed envelope marked "Challenged" by the community referendum committee and bearing the voter's name, the eligibility of such person shall first be determined; and if such person is determined to be eligible the envelope shall be opened and the ballot tabulated on the county summary. If it is determined such person was not eligible to vote, the envelope shall remain sealed and shall be preserved with the ballots as provided in paragraph 9.

9. Seal the voted ballots, register sheets, and community summaries for each county in envelope or packages (marked "Cotton referendum, 1938" or "Flue-cured tobacco referendum, 1938," as the case may be, followed by the name of the county) which shall be

kept under lock and key in a safe place under the supervision of the secretary of the County Agricultural Conservation Association for a period of 60 calendar days. If no contest has arisen at the end of such time the ballots shall be destroyed and the community summaries filed in the county office.

10. Make an investigation in cases of dispute regarding the correctness of the summary of the referendum in a community on marketing quotas for either tobacco or cotton. No dispute shall be investigated unless it has arisen within 2 days after the date on which the referendum in question was held. The county committee shall promptly decide the disputed matter and immediately report its findings to the State committee and send by registered mail or deliver in person to the State office all voted ballots, register forms, and community summary sheets involved in the dispute.

B. INSTRUCTIONS TO COMMUNITY REFERENDUM COMMITTEES

The community referendum committee designated by the county agricultural conservation committee shall:

1. Arrange with the assistance of the county committee for conducting by secret ballot referenda of all eligible cotton and flue-cured tobacco farmers tendering ballots within the hours for receiving same.

2. Assist the county committee in giving public notice of the time and place for casting ballots to farmers at least 5 days in advance of the date on which the referenda will be held.

3. Provide a place where each farmer eligible to vote can prepare and cast a ballot without interference and without anyone seeing how he votes.

4. Open the polls not later than 9 a. m. on Saturday, March 12, 1938.

5. See that no device is used whereby any voter's ballot may be identified (except as provided in paragraph 11 below in the case of a challenged ballot), and instruct each voter to fold his ballot before placing it in the ballot box.

6. Provide ballot boxes where ballots may be deposited. Any container so arranged that ballots cannot be seen or removed without breaking seals on the container will be suitable. If strip adhesive paper or similar seals are used, such seals should be signed or initialed so that breaking or replacing the seal will affect or destroy the identifying marks.

7. Hold the referenda in a fair and unbiased manner and explain to eligible farmers making inquiry the procedure to be followed in casting their ballots.

8. Issue in each referendum one ballot to each eligible voter requesting it.

9. See that all appropriate measures are taken to insure that the referenda are conducted by secret ballot.

10. Record on the applicable register of ballots the name and address of each farmer to whom a ballot is issued.

11. Issue in each referendum a ballot to each person who claims a right to vote, even though his right to vote has been challenged by the community referendum committee. Such ballot, after being marked by the challenged voter, shall be placed in a sealed envelope bearing the name of the voter, the notation "Challenged," and the reason for the challenge. The sealed envelope containing the challenged ballot shall be placed in the ballot box and the name of each farmer whose vote is challenged shall be listed at the bottom of the applicable register of ballots.

12. Stop receiving ballots at 7 p. m. on the date of the referenda.

13. Tabulate and record the results on the applicable community summary sheet after closing the polls. The number of challenged ballots cast and sealed in envelopes shall be entered on the applicable community summary sheet in the space provided but should not be entered as being either for or against the marketing quota. If any ballots are found to be mutilated and cannot be entered as being either for or against the marketing quota the number should be entered in the space provided.

14. Sign the registers and community summary forms and certify to their accuracy.

15. Seal the registers and community summary forms, and the unused ballots, in envelopes provided for that purpose and deliver them to the county committee not later than 12 o'clock noon, Monday, March 14, 1938. The chairman of the community referendum committee shall be responsible for the safe delivery of the forms and ballots.

16. Post one copy of each community summary in a conspicuous place at the polls.

C. INSTRUCTIONS TO STATE COMMITTEES

The State committee shall be responsible for and in charge of the referendum in the State and it shall:

1. Summarize on State tabulation forms all county summaries and forward to the applicable regional director, Agricultural Adjustment Administration, Washington, D. C., two certified copies of each summary for the State, not later than 7 days after the day of the referenda. One copy of each such report shall be filed in the State office of the Agricultural Adjustment Administration. Should one sheet for each report prove insufficient for listing the information with respect to all counties in the State, additional copies of each State tabulation form may be used as continuation sheets, in which case the totals should be entered on the last page only.

2. Make an investigation of any report from any county regarding controversies, irregularities, or the correctness of reports of the referendum, not later than 7 days after the date of the referendum.

3. Forward to the applicable regional director its findings in such cases.

D. ELIGIBILITY AND GENERAL PROVISIONS

Official and final tabulation of the results of the referenda will be made by the Agricultural Adjustment Administration and the result of the referenda will be announced as soon as the Secretary of Agriculture has determined that such tabulations of the results are correct. State and county committees are at liberty to give out to the press unofficial reports of the total "Yes" and total "No" votes in each referendum in the State or county.

Only farmers who were engaged in the production of cotton in 1937 are eligible to vote in the cotton marketing quota referendum. Likewise, only farmers who were engaged in the production of flue-cured tobacco in 1937 are eligible to vote in the flue-cured tobacco marketing quota referendum. The fact that a farmer is eligible to vote in one referendum does not necessarily mean that he is eligible to vote in the other. Any person who shared in the proceeds of the 1937 cotton crop as landowner, operator, share-tenant or sharecropper shall be considered as engaged in the production of cotton. Likewise, any person who shared in the proceeds of the 1937 Flue-cured tobacco crop as landowner, operator, share-tenant, or sharecropper shall be considered as engaged in the production of flue-cured tobacco.

No farmer (whether an individual, partnership, corporation, firm, association, or other legal entity) shall be entitled to more than one vote in each referendum, even though he may have been engaged in 1937 in the production of cotton or flue-cured tobacco in two or more communities, counties, or States.

If a community referendum committee determines that a producer residing in the community within the jurisdiction of that committee is eligible to vote by reason of having been a cotton farmer or flue-cured tobacco farmer, as the case may be, in 1937 in another community, the committee may issue a ballot form to him and permit him to cast a ballot, provided the committee also determines that such farmer has not previously cast a ballot in another community. If the committee cannot so determine, the committee shall "challenge" the ballot as heretofore outlined.

There shall be no voting by proxy or agent but a duly authorized officer of a corporation, firm, association, or other legal entity shall be allowed to cast its vote.

In case several persons, such as husband, wife, and children, participated in the production of cotton or flue-cured tobacco in 1937 under a lease or sharecropping agreement, only the person or persons who signed or entered into the lease or sharecropping agreement shall be eligible to vote.

In the event two or more persons engaged in producing cotton or flue-cured tobacco in 1937 jointly, in common, or in community, each such person is entitled to vote.

Since marketing quotas are not applicable to cotton the staple of which is $1\frac{1}{2}$ inches or more in length, a person who was engaged in the production of such cotton in 1937 shall not be eligible to vote unless he was also engaged in the production of cotton in 1937 the staple of which was less than $1\frac{1}{2}$ inches in length.

If the Secretary of Agriculture deems it necessary, any report of any community referendum committee, county committee, or State committee shall be reexamined and rechecked by such persons or agencies as the Secretary may designate and a report to him made thereon.

Done at Washington, D. C., this 18th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Exhibit 3

By the Secretary of Agriculture of the United States of America.

A PROCLAMATION

Whereas, pursuant to the provisions of Section 312 of the Agricultural Adjustment Act of 1938, the Secretary of Agriculture conducted a referendum on March 12, 1938, to determine whether farmers who were engaged in production of the 1937 crop of flue-cured tobacco favor or oppose the establishment, pursuant to the provisions of Part I, Subtitle B, Title III of said Act, of a marketing quota for flue-cured tobacco marketed during the marketing year beginning July 1, 1938:

Now, therefore, be it known that I, Henry A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by said Section 312 of the Agricultural Adjustment Act of 1938, do hereby proclaim the result of said referendum to be as follows:

219,842 votes, 86.2 percent of the total votes cast, were in favor of such marketing quota;

35,253 votes, 13.8 percent of the total votes cast, were opposed to such marketing quota; and

255,095 were the total votes cast.

Done at Washington, D. C., this 25th day of March 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Exhibit 4

United States Department of Agriculture, Agricultural Adjustment Administration, Washington, D. C.

DETERMINATION OF THE APPORTIONMENT AND ADJUSTMENT OF THE NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO FOR THE 1938-39 MARKETING YEAR

UNITED STATES DEPARTMENT OF AGRICULTURE,
Office of the Secretary.

Pursuant to section 313 of the Agricultural Adjustment Act of 1938 (approved February 16, 1938), as amended, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby determine that the national marketing quota for flue-cured tobacco for the 1938-39 marketing year, as proclaimed by the Secretary of Agriculture on February 18, 1938, be apportioned and adjusted in accordance with the following table:

States and new farms (i. e., farms on which tobacco is produced for the first time in 5 years)	Apportionment of national quota proclaimed February 18, 1938	Adjustment pursuant to section 313 (a) to bring State up to 75% of 1937 production	Adjustment pursuant to section 313 (e) 4% increase all States	Adjustment pursuant to section 313 (e) to bring State up to minimum State poundage	Totals as apportioned and adjusted
Virginia.....	1,000 pounds 62,940	1,000 pounds 0	1,000 pounds 2,518	1,000 pounds 0	1,000 pounds 65,458
N. Carolina.....	466,998	0	18,680	0	485,678
S. Carolina.....	77,126	3,934	3,242	0	84,302
Georgia.....	68,320	0	2,733	0	71,053
Florida.....	8,393	2,191	423	0	11,007
Alabama.....	73	15	4	328	420
New farms.....	21,150	0	0	0	21,150
Total U. S.....	705,000	6,140	27,900	328	739,068

Done at Washington, D. C., this 22nd day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

M. L. WILSON,
Acting Secretary of Agriculture.

Exhibit 5

United States Department of Agriculture, Agricultural Adjustment Administration, Washington, D. C.

REVISED DETERMINATION OF THE APPORTIONMENT AND ADJUSTMENT OF THE NATIONAL MARKETING QUOTA FOR FLUE-CURED TOBACCO FOR THE 1938-39 MARKETING YEAR

UNITED STATES DEPARTMENT OF AGRICULTURE,
Office of the Secretary.

It having been determined to be necessary to revise the determination of the apportionment and adjustment of the national marketing

quota for flue-cured tobacco for the 1938-39 marketing year, made by the Secretary of Agriculture on the 22d day of July, 1938, I, M. L. Wilson, Acting Secretary of Agriculture, in revision of the aforesaid determination, and pursuant to Section 313 of the Agricultural Adjustment Act of 1938, as amended, do hereby determine that the national marketing quota for flue-cured tobacco for the 1938-39 marketing year, as proclaimed by the Secretary of Agriculture on February 18, 1938, be apportioned and adjusted in accordance with the following table:

States and new farms (i. e., farms on which tobacco is produced for the first time in 5 years)	Apportionment of national quota proclaimed February 18, 1938	Adjustment pursuant to Section 313 (a) to bring State up to 75% of 1937 production	Adjustment pursuant to Section 313 (e) 4% increase all States	Adjustment pursuant to Section 313 (e) to bring State up to minimum State poundage	Totals as apportioned and adjusted
	<i>1,000 pounds</i>	<i>1,000 pounds</i>	<i>1,000 pounds</i>	<i>1,000 pounds</i>	<i>1,000 pounds</i>
Virginia.....	66,215	0	2,649	0	68,864
N. Carolina.....	469,071	0	18,763	0	487,834
S. Carolina.....	69,212	11,848	3,242	0	84,302
Georgia.....	71,637	0	2,865	0	74,502
Florida.....	7,645	2,939	423	0	11,007
Alabama.....	70	18	4	328	420
New Farms.....	21,150	0	0	0	21,150
Total U. S.....	705,000	14,805	27,946	328	748,079

Done at Washington, D. C., this 13th day of August, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

M. L. WILSON,
Acting Secretary of Agriculture.

Exhibit 6

Form 38—Tobacco 28. United States Department of Agriculture.
Agricultural Adjustment Administration.

REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE 1938-1939 MARKETING YEAR

Issued July 22, 1938

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REGULATIONS PERTAINING TO FLUE-CURED TOBACCO MARKETING QUOTAS
FOR THE 1938-1939 MARKETING YEAR

UNITED STATES DEPARTMENT OF AGRICULTURE,
Office of the Secretary.

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938), as amended, I, M. L. Wilson, Acting Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations pertaining to flue-cured tobacco marketing quotas for the 1938-1939 marketing year, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said Act.

Done at Washington, D. C., this 22nd day of July, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

M. L. WILSON,
Acting Secretary of Agriculture.

ARTICLE I—GENERAL

SECTION 101. *Definitions.*—As used in these regulations and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires:

Act means the Agricultural Adjustment Act of 1938 and any amendments thereto.

Administrator means the Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

County Committee means the county committee utilized under the Act.

County Office means those persons or committees in the county who, under authorization by the Secretary of Agriculture, are responsible for the local administration of the Act.

Dealer means a person who engages, to any extent, in the business of acquiring tobacco from producers; but no warehouseman shall be considered a dealer because of any purchase of tobacco made by him on his own warehouse floor if the identical tobacco is subsequently resold by him on his own warehouse floor.

Farm means the farm for which the marketing quota was established.

Farm Marketing Quota or Quota means a flue-cured tobacco marketing quota established for a farm under Section 313 of the Act.

Field Assistant means a field assistant of the Agricultural Adjustment Administration, United States Department of Agriculture.

Flue-Cured Tobacco means tobacco classified in Service and Regulatory Announcement numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as types 11, 12, 13, and 14, and collectively known as flue-cured tobacco.

Marketing means the first bona fide disposition by sale, barter, or exchange. "Market" and "Marketed" shall have corresponding meanings to the term "marketing."

Marketing Card or Card means a marketing card (Form 38—Tobacco 14) issued for a farm pursuant to the regulations.

The 1938-39 Marketing Year means the period beginning with the 1st day of July 1938, and ending with the 30th day of June 1939.

Memorandum of Sale means a Form 38—Tobacco 17 in the case of warehouse sales and a Form 38—Tobacco 18 in the case of non-warehouse sales.

Non-Warehouse Sale means a marketing other than a warehouse sale.

Operator means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

Person means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest.

Pound means that amount of tobacco which, if weighed in its unstemmed form and in the condition with respect to its moisture content in which it is usually delivered by a grower, would equal one pound standard weight.

Producer means a person who, as owner, landlord, tenant, sharecropper, or laborer, is entitled to share in the tobacco available for marketing from the farm, or in the proceeds of the marketing, under the provisions of his agreement relating to the production of the tobacco.

Regulations means these Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938-39 Marketing Year.

Share of Tobacco means that part of the tobacco available for marketing, or of the proceeds of the marketing thereof, which a producer is entitled to receive or retain under his agreement relating to the production of the tobacco. Such share shall be computed without regard to the time of passage of title under State law, and without deduction on account of any claim of any creditor.

Tobacco means flue-cured tobacco.

Tobacco Available for Marketing from a Farm means all tobacco produced on the farm, which was not marketed (or otherwise disposed

of) prior to the beginning of the 1938-39 marketing year; but shall not include any such tobacco which was destroyed before its marketing.

Tobacco Section means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

Warehouse means a building or other place at which sales of tobacco at public auction, are regularly held by a warehouseman during the tobacco marketing season.

Warehouseman means a person regularly engaged in the business of holding sales of tobacco, at public auction, at a warehouse, and during the tobacco marketing season.

A Warehouse Sale means a marketing by sale at public auction on a warehouse floor.

SEC. 102. *Instructions and Forms*.—The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions and such forms as may be required to carry out these regulations.

SEC. 103. *Gender and Plural Meaning of Terms*.—Any term used in the masculine or in the singular shall also be construed or applied in the feminine or neuter gender, or in the plural person, wherever the context or application of such term so requires.

ARTICLE II.—FARM MARKETING QUOTAS

SECTION 201. *Establishment of Farm Marketing Quota*.—The quota for a farm shall be determined and established in accordance with the "Instructions for Determination of Flue-Cured Tobacco Farm Marketing Quotas for 1938" (Form 38—Tobacco 11) issued by the Secretary of Agriculture June 16, 1938, as amended. [Act, Sec. 313.]

SEC. 202. *Publication, Notice, Review*.—The publication, notice and review of quotas as established shall be in accordance with the "Regulations Governing (A) Applications and Hearings under Section 363 of Title III of the Agricultural Adjustment Act of 1938 Relating to Administrative Review of Marketing Quotas for Tobacco, Corn, Wheat, Cotton, and Rice Established Under said Title and (B) the Publication and Notice of such Quotas under Section 362 of said Act" (designated 38-AAA-2), issued by the Secretary of Agriculture.

SEC. 203. *Rights of Producers in Quota*.—Each producer having a share in the tobacco available for marketing from the farm shall be entitled to market, or to have marketed for him, under the quota his share of such tobacco; provided that if the quota is less than the total amount of such tobacco, each producer shall be entitled to market, or to have marketed for him, under the quota only that proportion of his share of such tobacco, which the quota is of the total quantity of such tobacco. [Act, Sec. 375.]

SEC. 204. *Successors in Interest.*—Any person who succeeds in whole or in part to the share of a producer in the tobacco available for marketing from the farm shall, to extent of such succession, have the same rights as the producer in the quota. [Act, Sec. 375.]

SEC. 205. *Marketing Card for Every Quota.*—There shall be issued for each farm to which a quota is allotted a marketing card (Form 38—Tobacco 14) as evidence of the number of pounds allotted to the farm as its quota; provided that the quota may be divided among such number of cards as the operator may request. Marketing cards shall be issued as provided in Article IV. [Act, Sec. 373 and 375.]

SEC. 206. *Marketings Charged against Quota.*—Marketings of tobacco shall be charged against the quota for the farm on which such tobacco was produced in the order in which the memoranda of sale (Forms 38—Tobacco 17 or 18) covering such marketings are issued; provided that a marketing shall not be charged against the quota to the extent that (as shown by the memorandum of sale or a Form 38—Tobacco 25) such marketing consists of tobacco (a) marketed subject to penalty, or (b) marketed solely for nicotine or other by-product uses, or (c) grown for experimental purposes only by a publicly owned experiment station. [Act, Sec. 314, 372, and 375.]

ARTICLE III.—MARKETING OF TOBACCO AND PENALTIES

SECTION 301. *A Memorandum of Sale to be Obtained for Every Marketing.*—Whenever any tobacco is marketed (whether the marketing is within the quota or not) the marketing card for the farm on which such tobacco was produced, together with the warehouse bill or other record of the marketing, shall be presented to the field assistant who is located most conveniently to the place of marketing for the purpose of obtaining a memorandum of sale (Form 38—Tobacco 17 in the case of warehouse sales and Form 38—Tobacco 18 in the case of non-warehouse sales) covering the tobacco marketed. A memorandum of sale shall then be issued by the field assistant; provided that, in the case of a non-warehouse sale which is subject to penalty, the memorandum shall not be issued unless the certificate on Form 38—Tobacco 18 as to the facts of the marketing is signed by the buyer and the producer (or by the producer alone if the marketing is made directly to a person outside of the United States). [Act, Sec. 373 and 375.]

SEC. 302. *Effect of Memorandum of Sale.*—A memorandum of sale shall identify the tobacco covered by the memorandum as tobacco the marketing of which is subject to penalty, or tobacco the marketing of which is free of penalty, as the memorandum, on its face, may show, and, if the marketing is subject to penalty, shall state the amount of the penalty upon the marketing.

It shall be the responsibility of the person liable for the payment of the penalty upon a marketing to check carefully the entries in the memorandum of sale issued to cover the marketing and the rec-

ords upon which such memorandum was based. Any errors should be brought immediately to the attention of the field assistant for correction. The failure of the person liable for the payment of the penalty to have any errors corrected will not relieve such person of the payment of the penalty due upon the basis of the correct entries. [Act, Sec. 314 and 375.]

SEC. 303. *Marketings Free of Penalty.*—Any marketing of tobacco shall be free of penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that—

(a) Such tobacco is marketed within the quota for the farm on which such tobacco was produced, as shown by a valid marketing card presented to obtain the memorandum of sale to cover such marketing; provided that if the producer and the person liable for the payment of the penalty shall (on Form 38—Tobacco 27) designate any tobacco as tobacco marketed subject to penalty, then such tobacco shall be deemed to be marketed in excess of the quota, and the memorandum of sale shall not identify such tobacco as marketed free of penalty; or

(b) Such tobacco is marketed solely for nicotine or other by-product uses and is so identified by a certificate made on Form 38—Tobacco 25 by the by-product manufacturer and the producer; or

(c) Such tobacco was grown for experimental purposes only by a publicly-owned agricultural experiment station and is so identified by a certificate made on Form 38—Tobacco 25 by an authorized representative of the experiment station and the producer.

[Act, Sec. 314, 372 and 375.]

SEC. 304. *Marketings Subject to Penalty.*—(a) Any marketing of tobacco shall be subject to penalty, and shall be so identified by the memorandum of sale covering the marketing, to the extent that the tobacco marketed cannot, as of the date of the issuance of the memorandum of sale, be identified pursuant to section 303 of these regulations as tobacco the marketing of which was free of penalty.

(b) If a memorandum of sale has not been issued to cover a marketing of tobacco such marketing shall be deemed to be a marketing which was subject to penalty. [Act, Sec. 314, 372 and 375.]

SEC. 305. *Amount of Penalty.*—The penalty upon any marketing of tobacco subject to penalty shall be 50 per centum of the market price of such tobacco on the date of marketing or 3 cents per pound, whichever is higher. The sale price of any tobacco will be considered as evidence of the market price on the date of marketing where accompanied by a warehouse bill in the case of warehouse sales, or in the case of non-warehouse sales where verified by the certificate (on Form 38—Tobacco 18) of the buyer and the producer. [Act, Sec. 314.]

SEC. 306. *Persons to Pay Penalty and Deduction from Purchase Price.*—(a) If the tobacco is marketed by the producer through a warehouseman (or other agent who performs services comparable to the services performed by a warehouseman) the penalty shall be paid

by the warehouseman (or such other agent); but the warehouseman (or such other agent) may deduct an amount equivalent to the penalty from the purchase price paid to the producer.

(b) If the tobacco is marketed by the producer directly to any person outside the United States, the penalty shall be paid by the producer.

(c) If the tobacco is marketed by the producer in a manner other than as described in subsections (a) and (b) of this section, the penalty shall be paid by the person who acquires the tobacco from the producer; but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale. [Act. Sec. 314.]

SEC. 307. *Payment of Penalties.*—Penalties upon the marketing of tobacco shall become due at the time of the marketing, and shall be paid by remitting the amount thereof to the Secretary of Agriculture (addressed for the attention of the Comptroller, Agricultural Adjustment Administration, Washington, D. C.), not later than the end of the calendar week next following the week in which the penalties became due. The remittance shall be accompanied,

(a) in the case of a warehouseman, by his report on Form 38-Tobacco 19, or

(b) in the case of a dealer, by his report on Form 38-Tobacco 22, or

(c) in the case of a producer, by his statement showing the number of pounds sold, the market price thereof and the person outside the United States to whom sold.

The remittance may be made by draft, money order, or check, payable to the order of the Secretary of Agriculture, but any such draft, money order, or check shall be received subject to payment at par. [Act, Sec. 314 and 372.]

SEC. 308. *Refund of Penalties.*—Whenever, pursuant to a claim filed with the Secretary of Agriculture within one year after payment to him of any penalty collected from any person pursuant to the Act, the Secretary of Agriculture finds that such penalty was erroneously, illegally, or wrongfully collected, the Secretary of Agriculture shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury, such amount as the Secretary of Agriculture finds the claimant is entitled to receive as a refund of such penalty. Any claim filed with the Secretary of Agriculture pursuant to this section shall be made in accordance with regulations to be prescribed by him. [Act, Sec. 372.]

ARTICLE IV.—MARKETING CARDS

SECTION 401. *Form of Card.*—The marketing card (Form 38-Tobacco 14) shall contain the signature, in ink or indelible pencil, of both the person authorized to issue the marketing card and the operator, and a statement of the following:

(a) The State and county code and serial number of the farm for which the marketing card is issued;

- (b) The number of the marketing card;
- (c) The name and address of the operator;
- (d) The amount of the marketing quota, of, if more than one marketing card is issued for the farm, the number of pounds for which the marketing card is issued, expressed in words on the face of the marketing card, and expressed in figures on the inside of the marketing card in column 1 opposite the word "Quota"; and
- (e) The date on which the marketing card was issued. [Act, Sec. 373 and 375.]

SEC. 402. *Persons to issue card.*—The county committee shall designate one of its members or the Secretary of the County Agricultural Conservation Association as the person authorized to issue marketing cards for farms in the county. Only one person shall be designated by the committee for this purpose, and, in the absence of a specific designation, the Secretary of the County Agricultural Conservation Association shall be deemed to be the person designated. [Act, Sec. 375.]

SEC. 403. *Receipt for card.*—After the marketing card or cards have been duly prepared, they shall be delivered to the operator upon his receipt therefor. There shall be listed in the operator's receipt (Form 38—Tobacco 13), in the appropriate spaces thereon, (a) each marketing card issued for the farm and received by him and the number of pounds for which each such marketing card was issued, and (b) the names of all producers having a share in the tobacco available for marketing from the farm, and (c) the operator's estimate of the number of pounds of tobacco which will be available for marketing from the farm. The receipt shall be retained in the county office and shall be available to any producer having a share in the tobacco available for marketing from the farm, whether such person be listed on the receipt or not, either for inspection or for evidence as to any matter to which the receipt relates. [Act, Sec. 375.]

SEC. 404. *Entries on card.*—No person other than a field assistant, or a person designated by the Chief of the Tobacco Section, or by the county committee, shall make any entry (except for the writing by the operator of his signature) on the marketing card; but every entry on the marketing card should be carefully checked by each interested person, and any error should be immediately reported for correction to a person authorized to make entries on the marketing card. [Act, Sec. 375.]

SEC. 405. *Rights of Producers in card.*—Each producer who has a share in the tobacco available for marketing from the farm shall have the right to market, or to have marketed for him, under the marketing card issued for the farm the quantity of such tobacco which he is entitled to market, or to have marketed, under the quota for the farm, as provided in section 203 of these regulations. [Act, Sec. 375.]

SEC. 406. *Invalid Cards.*—(a) A marketing card shall be invalid if the marketing card was not issued or delivered in the form and

manner required in this Article; but such invalid marketing card shall become valid when returned to the county office and reissued and delivered in the required form and manner.

(b) A marketing card shall be invalid if the entries on the marketing card with respect to the amount, portion or balance of quota are incorrect, or if, because of the omission of any entry which should have been made on the marketing card, the balance of unused quota is incorrect; but if, subsequent to the time of invalidation, no marketings have been made and entered on the marketing card which would have been subjected to penalty if the correct entries had been shown on the marketing card, then such invalid marketing card shall become valid when the error has been corrected by a person authorized to make entries on the marketing card, or, in any other case, when the marketing card has been returned to the Tobacco Section and the necessary corrections have been made under its direction.

(c) A marketing card shall be invalid if the marketing card is credited with an amount of quota, any part of which has been transferred in violation of the provisions of Article V; but such invalid marketing card shall become valid when the marketing card has been forwarded to the Tobacco Section and the necessary corrections have been made under its direction.

(d) A marketing card shall be invalid if any entry is made on the marketing card by a person not authorized to make such entry; but such invalid marketing card when returned to the county office shall be replaced by a new marketing card issued for an amount of quota determined as provided in section 409 of these regulations.

(e) The marketing card shall be invalid if it is presented and used to obtain a memorandum of sale covering the marketing of tobacco which was grown on a farm other than the farm for which the marketing card was issued; but such invalid marketing card shall become valid when returned to the Tobacco Section, and the necessary corrections have been made under its direction.

(f) The marketing card shall be invalid if it is lost or stolen; but if no entry has been made on the marketing card between the time of its loss or theft and its return to the operator of the farm for which the marketing card was issued, then such invalid marketing card shall become valid when it has been returned to the operator; or if any entry has been made on the marketing card between the time of its loss or theft and its return to the operator, then such invalid marketing card shall become valid when it has been returned to the Tobacco Section and the necessary corrections have been made under its direction; provided that if such lost or stolen marketing card is not found or returned to the operator prior to the issuance of a duplicate marketing card as provided in section 408 of these regulations, then such lost or stolen marketing card shall be permanently invalid.

(g) The marketing card shall be invalid if it is destroyed or becomes illegible; but a new marketing card shall be issued to replace

such destroyed or illegible marketing card as provided in section 408 of these regulations and such destroyed or illegible marketing card shall be permanently invalid. [Act, Sec. 375.]

SEC. 407. *Invalid Cards Suspended.*—(a) If any field assistant or the county office shall learn of or ascertain the invalidity of any marketing card, such person shall immediately notify the Tobacco Section of the code and serial number, and the name of the operator of the farm for which the marketing card was issued, and of the facts causing the invalidity of the marketing card; unless the marketing card is then in the possession of such person, in which case he shall retain and make disposition of the marketing card in accordance with the provisions of section 406 of these regulations. Upon receipt of such notice the Tobacco Section shall notify all field assistants, the operator of the farm, and the county committee of the county where the farm is located, that the marketing card has been suspended for invalidity.

(b) If any such marketing card shall thereafter come into the possession of any field assistant or the county office, such person shall retain and make disposition of the marketing card in accordance with the provisions of section 406 of these regulations. [Act, Sec. 375.]

SEC. 408. *Duplicate Card to Replace Card Which is Lost, Stolen, Destroyed, or Becomes Illegible.*—Whenever any marketing card is lost, stolen, destroyed, or becomes illegible, the county office shall be notified of the code and serial number, and the name of the operator of the farm for which the marketing card was issued, the number of the marketing card, and, if known, the amount of the unused quota evidenced by the marketing card. Such notice shall be in writing, subscribed by the operator of the farm for which the marketing card was issued. If, in the case of a lost or stolen marketing card, the producer is at or near a warehouse where he believes the loss or theft occurred, he shall also notify the field assistant at the warehouse.

When such notice has been given to the county office and a period of 2 weeks has elapsed from the time of its receipt of such notice, a duplicate marketing card may be issued by the county office for an amount of quota determined as provided in section 409 of these regulations.

Such marketing card shall bear the same number as the number of the marketing card which was lost, stolen, destroyed, or became illegible, and shall have written under the marketing number, in large letters, the word “duplicate.” The person issuing the marketing card, shall sign the card in the space provided for his signature and shall also sign below the word “duplicate.” [Act, Sec. 375.]

SEC. 409. *Amount of Quota for Duplicate Cards.*—Whenever the county office issues a duplicate marketing card for any marketing card which has become invalid the amount of quota for which such

card shall be issued shall equal whichever of the following amounts is the smaller:

(a) The unused quota as stated by the operator; or

(b) The unused quota as determined by subtracting from the quota for the farm the total marketings from the farm (as shown by memoranda of sale) and the amount of unused quota shown on all other marketing cards issued for the farm; provided that, if no amount is stated by the operator, the amount for which the card shall be issued shall equal the amount determined under (b) above. [Act, Sec. 375.]

SEC. 410. *Replacement of Old Card.*—Whenever, on any card, the space for recording marketings becomes inadequate, such marketing card shall be surrendered to the county office, and a new marketing card shall be issued for the amount of the quota remaining unused on the marketing card so surrendered. An appropriate entry shall be made on the surrendered marketing card showing that a new marketing card has been so issued. [Act, Sec. 375.]

ARTICLE V—TRANSFER OF QUOTAS

[Act, Sec. 313(d)]

SECTION 501. *Transfer Authorized.*—A Transfer of quota may be made to another farm only to the extent and in the manner provided in this Article.

SEC. 502. *Amount Transferable.*—The quota for a farm may be transferred only to the extent and in the event that such quota exceeds the sum of (a) the number of pounds of tobacco available for marketing from the farm which have not been marketed (or otherwise disposed of) at the time of the proposed transfer, (b) the number of pounds of tobacco marketed from the farm solely for nicotine or other by-product uses, and (c) the number of pounds of tobacco marketed from the farm which were grown for experimental purposes only by a publicly owned agricultural experiment station.

SEC. 503. *Place and Person to Make Transfer.*—Transfers may be made at a warehouse by a field assistant or at the county office by a person authorized to make transfers.

SEC. 504. *Transfer direct between Operators or through Warehouseman.*—Transfers of quota may be made as a result of direct negotiation between the operators of the farms concerned in the transfer; or, subject to the provisions of this Article, an operator may authorize a warehouseman to act as his agent to arrange a transfer of quota.

If the operator of a farm desires to have a warehouseman act for him in arranging a transfer of quota from the farm, the operator shall deliver to the warehouseman his authorization (Form 38—Tobacco 23) and the marketing card for the farm from which the transfer is to be made. Such warehouseman shall then enter in his transfer record book (Form 38—Tobacco 24) the number of pounds of quota to be transferred, and shall present the marketing card and

the authorization to a field assistant who shall charge the marketing card with the number of pounds to be transferred by making appropriate entries on the card. The marketing card shall then be returned to the warehouseman, and shall be retained by him until an examination of his transfer records has been made by an authorized representative of the Agricultural Adjustment Administration.

SEC. 505. *How Transfer Made.*—(a) If the transfer is to be made as a result of direct negotiation between the operators of the farms concerned in the transfer, the marketing cards for the respective farms, together with the authorization (Form 38—Tobacco 23) of the operator of the farm from which the transfer is to be made, shall be presented to a representative of the Agricultural Adjustment Administration authorized to make the transfer. Such representative shall then charge the marketing card for the farm from which the transfer is to be made, and credit the marketing card for the farm to the transfer is to be made, with the number of pounds of quota transferred, by making appropriate entries on the respective marketing cards.

(b) If the transfer is to be made through a warehouseman, the warehouseman shall charge on his transfer record book the number of pounds of quota to be transferred, and shall then present his book to the field assistant in lieu of the presentation of an authorization and marketing card for the farm from which the transfer is to be made. The field assistant shall then credit the marketing card for the farm to which the transfer is made with the number of pounds transferred by making appropriate entries on such card.

SEC. 506. *AAA Record of Transfer.*—A representative of the Agricultural Adjustment Administration who makes any transfer entries on a marketing card shall make a record thereof on Form 38—Tobacco 15.

SEC. 507. *Consideration for Transfer.*—(a) If a transfer is made as a result of direct negotiation between the operators of the farms concerned in the transfer, the consideration for the transfer shall be whatever consideration is agreed upon by the operators of the respective farms; provided that no such transfer shall be made for a consideration which is less than 5 cents per pound for each pound of quota transferred unless all the producers on the farm from which the quota is to be transferred have consented thereto.

(b) If a warehouseman acts as agent in connection with a transfer, the consideration for the transfer shall be a sum computed at the rate of, and at no other rate than, 5 cents per pound for each pound of quota transferred, and shall be paid by the warehouseman to the operator of the farm from which the transfer was made not later than the day next following the making of the transfer.

SEC. 508. *Producers' Rights in Transferred Quota.*—Each producer having a share in the tobacco available for marketing from the farm which has not been marketed at the time of the transfer shall be entitled to market, or to have marketed for him, under the transferred

quota that proportion of his share of such tobacco which his contribution to the consideration for such transfer is of the total consideration for the transfer.

SEC. 509. *Distribution of Consideration.*—The consideration received by the operator for the transfer of any portion of the quota shall be divided by him among the producers on the farm in proportion to their shares in the tobacco available for marketing from the farm, unless all such producers agree among themselves to a different division of the consideration; provided that, if the quota transferred is quota which was not allotted to the farm but was acquired by transfer, then the consideration shall be divided by the operator among such producers on the farm who contributed to the payment of the consideration for the transfer in the proportion which their contributions were of the total consideration for the transfer, unless such producers agree among themselves to a different division of the consideration.

SEC. 510. *Conditions of Warehouseman's Agency.*—No warehouseman shall act as agent for the purpose of arranging transfers of quota; unless

(a) He has executed an agreement on Form 38—Tobacco 26, and such agreement has been approved by the Chief of the Tobacco Section;

(b) With respect to each transfer, he has been authorized in writing to arrange the transfer (Form 38—Tobacco 23) by the operator of the farm from which the transfer is to be made; and

(c) His right to act as agent has not been terminated under the provisions of this Article.

SEC. 511. *Warehouseman's Charge for Services.*—A warehouseman acting as agent may charge the operator of the farm to which he arranges a transfer of quota a sum of not exceeding \$1 for his services in connection with each transfer to the farm; provided that all quota transferred to a farm at the same time, whether transferred from one or more farms, shall be considered as one transfer. No other charge shall be made by a warehouseman for his services in connection with a transfer.

SEC. 512. *Warehouseman's Record of Transfers.*—Every warehouseman who acts as agent in connection with the transfer of marketing quotas shall keep complete and accurate record relative thereto on a transfer record book (Form 38—Tobacco 24). The transfer record book shall be and remain the property of the Secretary of Agriculture, and shall be available at all times for inspection by a representative of the Agricultural Adjustment Administration authorized to make such inspection by the Chief of the Tobacco Section, and upon request by the Chief of the Tobacco Section shall be immediately surrendered to the Secretary of Agriculture by forwarding it to the Tobacco Section, or by delivering it to a representative of the Agricultural Adjustment Administration authorized by the Chief of the Tobacco Section to receive such transfer record book.

SEC. 513. *Order of Transfer.*—A warehouseman who acts as agent shall arrange for the transfer of quotas to farms in the order in which requests for such transfers, together with the marketing cards upon which the transfers are to be entered are received by him from producers; provided that he may require requests to be accompanied by a deposit of the consideration (i. e., 5 cents per pound of each pound of quota requested). For the purpose of fixing the order of priority, the warehouseman shall enter in his transfer record book (Form 38—Tobacco 24) in the order in which requests for quota are received by him, the name of the operator and the county code and farm serial number of the farm to which the transfer is requested, the amount of the requested transfer, the amount of the deposit, if any, received.

SEC. 514. *Termination of Agency.*—The warehouseman's right to act as agent shall be terminated by

- (a) Voluntary surrender of the right, or
- (b) Violation of any provision of this Article.

SEC. 515. *Effect of Voluntary Termination.*—If the termination is voluntary on the part of the warehouseman, he shall immediately notify the Chief of the Tobacco Section that he no longer desires to act as agent; and such warehouseman shall proceed as expeditiously as possible to settle all matters relating to the agency.

SEC. 516. *Effect of Involuntary Termination as to Warehouseman.*—If the termination is made by his violation of any of the provisions of this Article, the warehouseman shall immediately forward his transfer record book (Form 38—Tobacco 24) to the Tobacco Section and any interest which the warehouseman may have in any cards then on hand in connection with transfers shall be forfeited and such cards and any authorizations for transfer (Form 38—Tobacco 23) relating thereto shall be turned over forthwith to the field assistant to be forwarded to the Tobacco Section. The Tobacco Section shall cause such publication of the fact of termination as appears necessary to protect the interests of producers.

ARTICLE VI—RECORDS AND REPORTS

[Act, Sec. 373]

SECTION 601. *Warehouseman's Record of Marketing.*—Every warehouseman shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each sale or resale of tobacco made on his warehouse: The name of the seller, the name of the purchaser, the date of sale, the number of pounds sold, the sale price, and, in the case of a sale for a producer, the name of the operator of the farm on which the tobacco sold was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

SEC. 602. *Warehouseman's Record of Transfers.*—Every warehouseman who acts as agent in connection with transfers of quota, shall,

as required in Section 512 of these regulations, keep complete and accurate records relative thereto on Form 38—Tobacco 24.

SEC. 603. *Reports from Warehouseman.*—Every warehouseman shall report daily on Form 38—Tobacco 19, on Form 38—Tobacco 20, and on Form 38—Tobacco 21, those transactions made in his warehouse which are required to be shown on such forms. The report on Form 38—Tobacco 20 shall be delivered to the field assistant at the warehouse at the end of the day for which the report is made. The reports on Form 38—Tobacco 19 and Form 38—Tobacco 21 shall be sent to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the day next following the day for which the report is made; provided that, if he so elects, the warehouseman may accumulate the reports on Form 38—Tobacco 19 for one calendar week and make his return thereof on or before the end of the calendar week next following the week for which the reports were made.

Every warehouseman shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

SEC. 604. *Records of Dealers.*—Every dealer shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each purchase (or other acquisition) of tobacco and each sale (or other disposition) of tobacco made by him: The date when and the place where made, the number of pounds of tobacco involved, the price (or other consideration) paid or received, the name and address of the person from which acquired or to whom the disposition was made (or if acquired or disposed of by sale at auction on a warehouse floor, the name of such warehouse), and in case the tobacco is acquired from a producer, the name of the operator of the farm on which the tobacco marketed was produced, the amount of the penalty, and what part of the amount of the penalty was deducted by him from the price paid the producer.

SEC. 605. *Reports from Dealers.*—Except as otherwise provided in section 606 of these regulations, every dealer shall make a daily report on Form 38—Tobacco 22, of all purchases and sales of tobacco made by him on the day for which the report is made. The reports shall be forwarded to the Comptroller, Agricultural Adjustment Administration, Washington, D. C., not later than the end of the calendar week next following the week for which such daily reports are made.

Every dealer shall make such additional reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

SEC. 606. *Exception for Certain Dealers.*—Any dealer, who does not purchase or otherwise acquire tobacco except at warehouse sale and who does not resell, prior to the redrying thereof, more than 15 percent of the tobacco purchased by him, shall not be subject to the provisions of section 605 of these regulations; but every such dealer

shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

SEC. 607. *Records and Reports of Redryers, etc.*—Every person engaged in the business of redrying, prizing or stemming tobacco for producers shall keep such records as will enable him to furnish the Secretary of Agriculture a report of the following information with respect to each lot of tobacco received by him: The date of receipt of the tobacco, the number of pounds received, the purpose for which the tobacco was received, the name and address of the person from whom the tobacco was received (and, if received from a producer, the name and address of the operator, and the code and serial number, of the farm on which the tobacco was grown), the amount of any advance made by him on the tobacco, and the disposition of the tobacco.

Every such person shall make such reports to the Secretary of Agriculture as the Chief of the Tobacco Section may, from time to time, request.

SEC. 608. *Separate Records and Reports from Persons acting in more than one capacity.*—Any person, who is required to keep any record or make any report as (a) warehouseman, (b) dealer, or (c) processor, or as (d) a person engaged in the business of redrying, prizing or stemming of tobacco for producers, and who engages in more than one such business, shall keep such records as will enable him to make separate reports for each such business in which he is engaged, to the same extent as to each such business as if he were engaged in no other business.

SEC. 609. *Failure to keep record or make report.*—Any warehouseman, processor or common carrier of tobacco, or person engaged in the business of purchasing tobacco from producers, or person engaged in the business of redrying, prizing, or stemming tobacco for producers, who fails to make any report or keep any record as required under this Article or who makes any false report or record, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500.

SEC. 610. *Records open to inspection.*—For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary of Agriculture is authorized by the Act to examine such books, papers, records, accounts, correspondence, contracts, documents and memoranda as he has reason to believe are relevant and are within the control of any warehouseman, dealer, processor, common carrier, or person engaged in the business of redrying, prizing, or stemming tobacco for producers.

SEC. 611. *Information Confidential.*—All data reported to or acquired by the Secretary of Agriculture pursuant to the provisions of this Article shall be kept confidential by all officers and employees of the Department of Agriculture and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under Title III of the Act.

Exhibit 6 (a)

CERTIFICATE OF EACH TRANSFER TO FARM

Each undersigned Field Assistant (or person authorized to sign for the county office) certifies that a transfer of marketing quota as indicated in the line immediately above his signature, was made to the farm for which this marketing card was issued.

(Date this transfer) (Pounds this transfer)
(Signature of A. A. A. representative)

(Date this transfer) (Pounds this transfer)
(Signature of A. A. A. representative)

(Date this transfer) (Pounds this transfer)
(Signature of A. A. A. representative)

(Date this transfer) (Pounds this transfer)
(Signature of A. A. A. representative)

Form 38-Tobacco 14 U. S. D. A. A. A. Tobacco Section. June 1938.

(Code and serial number)

(Card number)

1938-39 MARKETING CARD (Flue-Cured Tobacco)

This is to certify that the marketing quota (or the portion of the marketing quota for which this card is issued) for the farm identified by the code and serial number above and operated in 1938 by—

(Name of operator)

(Address)

is (Write in words)

pounds of flue-cured tobacco.

(Date issued) (Signature of issuing agent)

(Signature of operator)

Loss of Card.—If this card is lost, stolen, or destroyed, notify county office immediately. If found, please return to nearest county office or to the operator.

Entries on Card.—No person other than a representative of the A. A. A. is authorized to make any entry on this card, but every entry hereon should be carefully checked by each person interested in the marketings entered, and any error immediately reported to the A. A. A. representative for correction.

			(Make no entries in this space because of fold)	
	Pounds (1)	Serial No. of Memo. of Sale and Date (2)		
Quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Pounds sold.....	-----
Unused quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Pounds sold.....	-----
Unused quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Pounds sold.....	-----
Unused quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Pounds sold.....	-----
Unused quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Pounds sold.....	-----
Unused quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Pounds sold.....	-----
Unused quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Pounds sold.....	-----
Unused quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Pounds sold.....	-----
Unused quota.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	Unused quota.....	-----
Pounds sold.....	-----	-----	forwarded.....	-----
				To card number

Exhibit 6 (b)

Form 38—Tobacco 13. U. S. Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. July 1938.

(Code and serial number)

OPERATOR'S RECEIPT FOR MARKETING CARD

The undersigned operator of the farm identified by the county code and serial number shown above hereby certifies that:

1. The marketing card (s) described below, covering a total number of pounds of tobacco equal to the marketing quota for the farm, has (have) been received by him for the use of all the producers who have a share in the tobacco (or the proceeds thereof) available for marketing from the farm during the 1938-39 marketing year, so that each such producer shall be able to market under the marketing quota of the farm his share of such tobacco, or, if the quota is less than the total amount of such tobacco, so that each such producer shall be able to market under said quota that proportion of his share of such tobacco which the farm marketing quota is of the total quantity of such tobacco.

Marketing card No.	Pounds quota	Marketing card No.	Pounds quota	Marketing card No.	Pounds quota
-----	-----	-----	-----	-----	-----
-----	-----	-----	-----	-----	-----
-----	-----	-----	-----	-----	-----
-----	-----	-----	-----	-----	-----

2. All the producers, other than himself, who are entitled to share in the tobacco (or the proceeds thereof) available for marketing from the farm during the 1938-39 marketing year are as follows:

Name of producer	Name of producer	Name of producer

3. He fully understands that, under the regulations of the Secretary, (a) the marketing quota for the farm can be transferred only in the event and to the extent that the tobacco available for marketing from the farm at the time of the proposed transfer is less than the part of the farm marketing quota remaining unused at such time; (b) no transfer can be made at less than 5 cents per pound, except with the knowledge and consent of all producers on the farm; (c) no transfer can be made at a price other than 5 cents per pound, except through direct negotiation between himself and the operator of the farm to which such transfer is to be made; and (d) the consideration received for the transfer of any part of the farm marketing quota is required to be divided among producers on the farm in the proportion which their shares in the tobacco available for marketing from the farm during the 1938-39 marketing year is of the total amount of such tobacco, unless all such producers agree among themselves to a different division of the consideration.

4. He estimates that ----- pounds of tobacco will be available for marketing from the farm in the 1938-39 marketing year.

(Date)

(Signature of operator)

The undersigned certifies that the marketing card(s) described above has (have) been delivered by me to the operator named above and the total number of pounds covered by such card(s) equals the marketing quota established for the farm.

(Date)

(Representative of Agricultural Adjustment Administration who issued card(s))

Exhibit 6 (c)

Form 38—Tobacco 27. U. S. Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. July 1938.

 (Serial number of memorandum of sale) (Code and serial number of farm)

REQUEST FOR SALE SUBJECT TO PENALTY

The undersigned certify that the quantity of tobacco shown on the above-numbered memorandum of sale as subject to penalty has been identified by them as tobacco the marketing of which was subject to penalty and that they have requested that a penalty be imposed upon the marketing of such tobacco.

----- (Date)	----- (Signature of producer)
----- (Date)	----- (Signature of warehouseman or buyer, or authorized representative)

Exhibit 6 (d)

Form 38—Tobacco 17. U. S. Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. June 1938. No. 1485070.

MEMORANDUM OF WAREHOUSE SALE

(Flue-Cured Tobacco)

It shall be the responsibility of the warehouseman to check carefully the entries in this memorandum and the records upon which such entries were based. Any errors should be brought immediately to the attention of the field assistant for correction. The failure of the warehouseman to have any errors corrected will not relieve the warehouseman of liability for the payment of the penalty computed upon the basis of the correct entries.

	Sale within quota		Sale subject to penalty		
	(Pounds)	\$ (Gross price)	(Pounds)	\$ (Gross price)	\$ (Penalty)
(Date of sale)	-----	-----	-----	-----	-----

----- (Name of operator of farm)	----- (Warehouse and town)
----- (Code and farm serial number)	----- (Signature of field assistant)

Exhibit 6 (e)

Form 38—Tobacco 18. U. S. Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. July 1938. N-77.

MEMORANDUM OF NONWAREHOUSE SALE

It shall be the responsibility of the person liable for the payment of the penalty to check carefully the entries in this memorandum and the records upon which such entries were based. Any errors should be brought immediately to the attention of the field assistant for correction. The failure of the person liable for the payment of the penalty to have any errors corrected will not relieve such person of the payment of the penalty due upon the basis of the correct entries.

(Date of sale)	WITHIN QUOTA			SUBJECT TO PENALTY		
	(Code and Farm Serial No.)	(Pounds)	\$(Gross price)	(Pounds)	\$(Gross price)	\$(Penalty)
(Name of operator of farm)	(Name and address of buyer)					
(Date)	(Signature of Field Assistant)					

CERTIFICATE OF BUYER AND PRODUCER ¹

For the purpose of furnishing proof of marketing and a basis for computation of the amount of penalty, if any, due to the United States on the marketing of tobacco described above, we, the undersigned, do hereby severally certify that the buyer purchased of the producer, and the producer sold to the buyer the number of pounds of tobacco shown above, for the sum stated above; that said sale was a bona fide sale; that said sum was the entire consideration therefor; that no agreement has been, or will be, made to pay, and that the buyer will not pay, to the producer any additional sum or consideration whatsoever for said tobacco; that the said sale was made on the date above stated; and that an amount equivalent to the amount of penalty $\left\{ \begin{array}{l} \text{was} \\ \text{was not} \end{array} \right\}$ ² deducted from the price paid to the producer.

BUYER'S INTERNAL REVENUE
REGISTRATION NUMBER

Bus.	No.	Dist.	State

Dated _____ at _____

----- (Signature of witness)	----- (Signature of buyer)
----- (Signature of witness)	----- (Signature of producer)

¹ This certificate is required to be executed only in connection with a marketing other than a warehouse sale, which is subject to penalty.
Any false certification will be subject to the provisions of the U. S. Criminal Code, and to the criminal provisions of Section 373 (a) of the Agricultural Adjustment Act of 1938.
² Strike out "was" or "was not" whichever is inapplicable.

Exhibit 6 (f)

Form 38—Tobacco 25. U. S. Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. July 1938.

----- (Serial No. of Memo of Sale) (Code and Serial No. of Farm) -----

CERTIFICATE OF EXEMPTION

The undersigned certify that the marketing of the tobacco identified in the above-numbered memorandum of sale is exempt from penalty because (strike out whichever of the following statements is inapplicable).

(a) such tobacco was grown for experimental purposes only by the publicly owned agricultural experiment station named below.

(b) such tobacco was purchased by the tobacco by-products manufacturer named below for use solely for nicotine or other by-product uses.

----- (Name of Experiment Station or Tobacco By-products Manufacturer) -----
----- (Date) ----- By ----- (Signature of authorized representative and title) -----
----- (Date) ----- (Signature of Producer) -----

Exhibit 6 (g)

Form 38—Tobacco 23. United States Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. July 1938.

AUTHORIZATION FOR TRANSFER

The undersigned operator of the farm identified by ----- (Code and Serial No.) hereby authorizes the transfer of ----- pounds from the marketing quota for the farm and certifies that (under Section 502 of the Regulations) said number of pounds of quota are available for transfer. He further certifies as follows:

(a) If he has authorized a warehouseman to act as his agent for the purpose of negotiating said transfer, that said warehouseman is named below.

(b) If such transfer is being made as the result of direct negotiation between the undersigned operator and the operator of the farm to which the transfer will be made and the consideration to be received therefor is less than 5c per pound, that all producers having an interest in such quota have consented to such transfer.

Date -----, 193---. ----- (Signature of Operator) -----
(Name of warehouseman authorized to act as agent of operator)

Exhibit 6 (h)

38—Tobacco 26. United States Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. July 1938.

WAREHOUSEMAN'S TRANSFER AGENCY AGREEMENT

(Name of warehouse) ----- (Name of market) -----
 In consideration of the privilege, granted to him by the Secretary of Agriculture of the United States, of acting as agent for the purpose of arranging transfers of farm marketing quotas under Regulations Pertaining to Flue-Cured Tobacco Marketing Quotas for the 1938-39 Marketing Year, the undersigned warehouseman agrees, with each and every producer of tobacco for whom he hereafter undertakes to act as agent for the purpose of arranging a transfer of quota, as follows:

(1) That, in arranging any transfer of quota, he will charge the operator of the farm to which the quota is transferred, and will pay to the operator of the farm from which the transfer is made, a sum computed at the rate of, and at no other rate than, 5¢ per pound for each pound of quota transferred; settlement to be made with each operator from whose farm a transfer has been made immediately following, and to the extent of, each transfer.

(2) That, in arranging any transfer, he will not make any charge for his services other than a charge made to the operator of the farm to which the transfer has been made, of a sum not exceeding \$1.00 for each transfer, which charge shall cover all services for any transfer made to the said farm at the same time, whether transferred from one or more farms.

(3) That he will arrange for transfers of quotas to farms in the order in which requests and cards for such transfers are received by him; provided that he may require requests to be accompanied by a deposit of the consideration (i. e., 5 cents per pound of each pound of quota requested).

Dated -----
 By -----
(Signature of warehouseman)
(Title)

Exhibit 6 (i)

Form 38—Tobacco 15. U. S. Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. July 1938.

RECORD OF QUOTA TRANSFER

The undersigned representative of the A. A. A. hereby certifies that a transfer of ----- pounds of quota from the farm operated by

----- and identified by ----- (or
 (Name of Operator) (Code and serial number)
 from Warehouseman's Record of Transfers, book No. -----,
 -----), was made on ----- at-----
 (Name of warehouse) (Date)
 ----- to the farm operated by -----
 (Warehouse and town or county office)
 ----- and identified by ----- (or to ware-
 (Name of operator) (Code and serial number)
 houseman's Record of Transfers, book No. -----,
 -----)
 (Name of warehouse)

 (Signature of A. A. representative) (Title)

NOTE.—This record of transfer is to be made in Duplicate. If the transfer is made from one farm to another, one copy will be filed at the county office(s) with other records for each farm involved in the transfers. If the transfer is made from or to a Warehouseman's Record of Transfers book, one copy will be retained by the Tobacco Section and one copy will be filed at the county office with the records for the farm involved in the transfer.

Exhibit 6 (j)

(Omitted by agreement as having been substantially covered by other exhibits.)

Exhibit 7

Form 38—Tobacco 11 (Part 1). United States Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. Washington, D. C.

INSTRUCTIONS FOR DETERMINATION OF FLUE-CURED TOBACCO FARM MARKETING QUOTAS FOR 1938

(Issued pursuant to the Agricultural Adjustment Act of 1938 as amended.)

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PART 1. Procedure for Determination of Flue-Cured Tobacco Marketing Quotas

SECTION 1. General Outline of Method of Establishing Farm Marketing Quotas.—This section outlines, in general terms, the procedure for establishing flue-cured tobacco farm marketing quotas in accordance with the provisions of the Agricultural Adjustment Act of 1938. The term “tobacco” as used in these instructions means flue-cured tobacco unless otherwise indicated.

A. Farms for Which Quotas Will be Established.—A marketing quota will be established for each farm on which tobacco is produced in the year 1938. For the purpose of establishing farm marketing quotas, farms are divided into two general classes:

1. *Old Farms.*—Farms producing tobacco in 1938 and on which tobacco also was produced in one or more of the four years, 1934–37, will be referred to as “old farms”. An old farm will also be referred to as a “large farm” if for the three years, 1935–37, the average tobacco production and diversion was more than 3,200 pounds, and as a “small farm” if the three-year average was 3,200 pounds or less. Diversion means the normal production of the acres on the farm diverted from the production of tobacco during the three years, 1935–37, under agricultural adjustment or conservation programs.

2. *New Farms.*—Farms on which tobacco is produced in the year 1938 for the first time since the year 1933 will be referred to as “new farms”.

B. Basis for the Establishment of Farm Marketing Quotas—1. Old Farms.—(a) Quotas for all old farms will be established by allotting the State marketing quota among such farms on the basis of the following factors:

(1) past marketings of tobacco, making due allowance for abnormal weather conditions and plant diseases; (2) land, labor, and equipment available for the production of tobacco; (3) crop-rotation practices; and (4) the soil and other physical factors affecting the production of tobacco. The quota for an old farm will not be less than the smaller of 3,200 pounds or the three-year (1935-37) average tobacco production and diversion.

(b) An addition to the State quota, of a number of pounds not exceeding four percent of such quota, will be used in the State to increase quotas for old farms which are inadequate in view of the past production of tobacco on the farm.

2. *New Farms.*—Marketing quotas will be established for new farms by the allotment among such farms of a number of pounds equal to three percent of the national marketing quota of 705,000,000 pounds. These allotments will be made upon the basis of the same factors as for old farms, except past marketings of tobacco. The marketing quota established for a new farm cannot be more than 75 percent of the quota which would be established for an old farm which was similar with respect to such factors.

C. *Determination of Normal Marketings.*—The first step in the procedure for the establishment of farm marketing quotas will be to determine for each farm on which tobacco is produced in 1938 a “normal marketings” based upon the same factors as are required to be taken into consideration in establishing farm marketing quotas (Sec. II). The normal marketings for old farms will be the sum of (1) seventy-five percent of the “adjusted past marketings” which will be calculated so as to take into account the marketings from the farm during the three years 1935-37 (making due allowance for abnormal weather conditions and plant diseases) and the soil and other physical factors affecting the production of tobacco on the farm (Sec. II, A), and (2) 25 percent of the marketings indicated by the land, labor and equipment available for the production of tobacco on the farm (Sec. II, B). The normal marketings for new farms will be 50 percent of the marketings indicated by the land, labor and equipment available for the production of tobacco on the farm (Sec. II, B). However, the normal marketings for a farm computed as indicated above, will be subject to certain limitations (Sec. III). These limitations will be measured by a factor representing the acreage necessary to permit crop-rotation practices on the farm (Sec. III, B) and also by the 1938 acreage of tobacco on the farm (Sec. III, A), the land, labor and equipment available for the production of tobacco on the farm in 1938 (Sec. III, C), and the past marketings of tobacco (Sec. III, D).

D. *Establishment of Farm Marketing Quotas on the Basis of Normal Marketings.*—Farm marketing quotas will be established by adjusting normal marketings in the following manner:

1. *Old Farms.*—The total of the normal marketings of all old farms in each State will be brought within the State marketing quota (or the balance of such quota remaining after deduction therefrom of

the amount, if any, reserved for adjustments as provided in Section IV (D)) by adjusting the normal marketings of each old farm by a uniform percentage. The normal marketings for old farms, after being thus adjusted, will be subject to such further adjustment as is necessary in order to provide each such farm with a "minimum quota" and at the same time keep the total of the quotas for all such farms equal to the State marketing quota after deduction therefrom of the amount, if any, reserved pursuant to section IV (D). The farm marketing quota will be the normal marketings adjusted as indicated above, plus such additions as may be made thereto from the 4 percent addition to the State quota (Sec. IV (C)), and from the amount reserved from the State quota (Sec. IV (D)).

2. *New Farms.*—The total of the normal marketings of all new farms in the United States will be brought within the amount represented by three percent of the national quota of 705,000,000 pounds by adjusting the normal marketings of each new farm by a uniform percentage. The normal marketings for new farms, after being thus adjusted, will be subject to such further adjustment as is necessary in order to provide each new farm with a "minimum quota" and at the same time keep the total of the quotas for all new farms within the amount reserved from the national quota for new farms. Normal marketings for a new farm, as finally adjusted, will constitute the farm marketing quota (Sec. IV, B).

E. *Detailed Procedure.*—The detailed procedure for the establishment of farm marketing quotas, in the manner outlined above, is set forth in the following sections of these instructions:

SECTION II. *Procedure for Calculation of Normal Marketings.*—The data for use in calculating normal marketings will be collected and tabulated by county offices in accordance with Sections VI to IX of those instructions.

The normal marketings for each old farm will be seventy-five percent of the adjusted past marketings as calculated pursuant to subsection A below, plus twenty-five percent of the marketings for the farm indicated by land, labor, and equipment, as calculated pursuant to subsection B below. The normal marketings for each new farm will be 50 percent of the marketings indicated by the land, labor, and equipment available for the production of tobacco on the farm. If necessary, adjustments of the normal marketings for a farm will be made pursuant to Section III below.

A. *Calculation of Adjusted Past Marketings.*—(1) The adjusted past marketings for any farm will be the largest of the following three items:

(a) $33\frac{1}{3}$ percent of the total harvested and diverted acreage in the three years, 1935-37, multiplied by the farm yield;

(b) 40 percent of the total harvested and diverted acreage in the two years of the three years, 1935-37, in which such acreage was the highest, multiplied by the farm yield;

(c) 60 percent of the highest harvested and diverted acreage in any one of the three years, 1935-37, multiplied by the farm yield;

Provided, that, if, for any farm, the average of the marketings from the farm and of the normal production of tobacco on the diverted acreage during the three years, 1935-37, is greater than any of the items (a), (b), or (c) above, and records satisfactorily to the community and county committees have been presented in support of all marketings, reported by the operator, the three-year average of marketings and diversion shall be used in lieu of items (a), (b), or (c) above.

(2) The harvested acreage shall be the acreage actually harvested on the farm, except that if the community and county committees find that, because of flood, drought, hail, or blue-mold, the harvested acreage of tobacco for the farm in any of the three years, 1935-37, was less than 60 percent of the base acreage established for the farm such year under the agricultural adjustment or conservation program the harvested acreage for such year shall be adjusted to 70 percent of such base acreage.

(3) The farm yield shall be the 1935 yield per acre for the farm, if such yield is known, subject to the following adjustments:

(a) If the 1935 yield per acre for the farm is more than 300 pounds below the 1935 county average yield,¹ the farm yield shall be fixed at 300 pounds below the 1935 county average yield unless adjusted upward as provided in (c) below.

(b) If the 1935 yield per acre for the farm is more than 300 pounds above the 1935 county average yield¹ the farm yield shall be fixed at 300 pounds above the 1935 county average yield¹ or, if larger, at the average yield per acre for the farm in the three years, 1935, 1936, and 1937.

(c) If the committee finds that because of flood, drought, hail, or blue-mold the 1935 yield per acre for any farm was materially lower than the yield which otherwise would have been obtained, the committee shall assign as the farm yield that yield which it finds to be normal for the farm, taking into consideration the yield on farms in the locality which have similar types of soil; provided that such yield shall not be more than the higher of the 1936 or 1937 yield per acre for the farm nor more than the maximum yield which could be established under (b) above.

If the 1935 yield per acre for a farm is not known, the 1935 community average yield per acre¹ shall be used as the farm yield.

If the 1935 county or community average yield cannot be established because the 1935 yields for farms in such county or community are not known, the average yield for the nearest county or com-

¹ The 1935 community average yield and the 1935 county average yield shall be determined by calculating the simple average of the 1935 tobacco yields per acre for a representative sample of tobacco farms in each community and in the county. A "representative sample" shall be 20 percent or more of the tobacco farms from each of the communities in the county. The farms included in the sample shall consist, as far as practical, of alternate farms (i. e., every third, fourth, or fifth farm listed on Form 38—Tobacco 10) in each community.

munity which the State committee finds to be most similar with respect to type of soil, topography, and productivity to such county or community, as the case may be, shall be used. If, for any community, the committee finds that the 1935 average yield was reduced materially because of flood, drought, hail, or blue-mold, the county committee shall make recommendations to the State committee with respect to an adjusted yield for the community and the State committee shall establish a 1935 yield for the community on the basis of the recommendations of the county committee and other available information.

B. Calculation of Marketings Indicated by Land, Labor, and Equipment.—1. *County land-and labor-cash crops factors.*—For each county in which tobacco is produced in 1938, a county land-cash crops factor and a county labor-cash crops factor shall be established by computing the following items with respect to a representative sample² of tobacco farms:

(a) The acres of cropland;

(b) The 1937 harvested and diverted acres of flue-cured tobacco;

(c) The sum of:

(1) the number of acres of tobacco other than flue-cured tobacco on such farms in 1937; (2) one-half of the number of the harvested and diverted acres of cotton on such farms in 1937; (3) one-half of the number of acres of peanuts harvested for nuts on such farms in 1937; (4) one-half of the number of acres of commercial truck and vegetables (including Irish potatoes) on such farms in 1937.

(d) The number of families on such farms in the year 1938;

(e) Item (a) shall be divided into the sum of item (b) and (c) and the quotient shall be the "county land-cash crop factor."

(f) Item (d) shall be divided into the sum of (b) and (c) and the quotient shall be the "county labor-cash crop factor."

2. *Land.*—(a) Multiply the number of acres of cropland in each farm by the county land-cash crops factor.

(b) From item (a) above, subtract the sum of: (1) the number of acres of tobacco other than flue-cured tobacco on the farm in 1937; (2) one-half of the number of the harvested and diverted acres of cotton on the farm in 1937; (3) one-half of the number of acres of peanuts harvested for nuts on the farm in 1937; (4) one-half of the number of acres of commercial truck and vegetables (including Irish potatoes) on the farm in 1937.

(c) The number of acres obtained under item (b) above, will represent the land available for the production of tobacco on the farm in relation to other farms.

3. *Labor.*—(a) Multiply the number of families on each farm by the county labor-cash crop factor.

(b) From item (a) above, subtract the sum of: (1) the number of the harvested and diverted acres of tobacco other than flue-cured tobacco on the farm; (2) one-half the number of harvested and

² Same as described in footnote 1.

diverted acres of cotton on the farm in 1937; (3) one-half of the number of acres of peanuts harvested for nuts on the farm in 1937; (4) one-half of the number of acres of commercial truck and vegetables (including Irish potatoes) on the farm in 1937.

(c) The number of acres obtained under item (b) above will represent the labor available for the production of tobacco on the farm in relation to other farms.

4. *Equipment*.—Compute for each farm the average acreage capacity of the flue-cured tobacco curing barns on the farm in condition for use in 1938. The average acreage capacity of such barns will be computed as follows:

Size Barn	Average Acres	Capacity
16' x 16'-----		4
16' x 18'-----		5
16' x 20'-----		6
20' x 20'-----		7

5. *Land, Labor and Equipment*.—Marketings for a farm as indicated by the land, labor and equipment available for the production of tobacco on the farm will be one-third of the sum of the number of acres computed for the farm under "land," "labor," and "Equipment" (items 2, 3, and 4,) multiplied by the farm yield.

Section III. *Adjustments of Normal Marketings*.—Normal marketing for a farm computed as provided in Section II shall be adjusted as follows:

A. *Marketings in Relation to 1938 Acreage of Tobacco*.—The normal marketings for any farm shall not be greater than the number of pounds obtained by multiplying the farm yield by 150 percent of the 1938 acreage of tobacco on the farm.

B. *Marketings in Relation to Acreage Required for Minimum Crop-Rotation Practices*.—The normal marketings for any farm shall not be greater than the number of pounds obtained by multiplying a percentage of the cropland in the farm by the farm yield. The percentage of cropland shall be 40 to 50 percent, increasing above 40 percent by 1 percent for each acre by which the cropland in the farm is less than 25 acres.

C. *Marketings in Relation to Land, Labor, and Equipment and to 1938 Acreage*.—For any farm for which the "adjusted past marketings" was the number of pounds obtained by multiplying 33⅓ percent of the harvested and diverted acreage on the farm for the three years (1935-37) by the farm yield and to which B above is not applicable, the normal marketings shall not be less than 90 percent of the smaller of:

(1) The marketings indicated by land, labor, and equipment available for the production of tobacco; or

(2) 150 percent of the acreage of flue-cured tobacco to be harvested on the farm in 1938 multiplied by the farm yield.

D. *Marketings in Relation to Past Marketings*.—In no case shall the normal past marketings for any farm be more than twice as large as the "adjusted past marketings" for the farm.

E. Marketings for New Farms in Relation to Equipment and 1938 Acreage of Tobacco.—The normal marketings for any new farm shall not be less than the smaller of (a) 1,000 pounds for the farm plus an additional 1,000 pounds for each tobacco curing barn on the farm in condition for use in 1938, or (b) 150 percent of the acreage of tobacco to be harvested on the farm in 1938 times the farm yield.

Section IV. Calculation of Farm Marketing Quotas from Normal Marketings.—Farm marketing quotas will be established by adjusting normal marketing determined as provided in Sections II and III above, and apportioning the 4 percent addition to the State quota, as follows:

A. Old Farms.—(1) The normal marketings for all old farms (large and small) in each State will be adjusted by a uniform percentage (determined by the State office and the Agricultural Adjustment Administration) so as to equal the State marketing quota after deduction therefrom of the amount, if any, reserved pursuant to paragraph D below.

(2) There will be allocated to each such farm a “minimum quota” equal to the three-year average (1935–37) for the farm of marketings and diversion, but not more than 3,200 pounds, and not less than a number of pounds obtained by multiplying a yield 200 pounds below the farm yield by the smaller of (a) the 1938 acreage of tobacco to be harvested on the farm, or (b) 2.5 acres. The sum of such “minimum quotas” for all farms in each State will be deducted from the State quota.

(3) There will be subtracted from the normal marketings for each farm, as adjusted under item 1 above, the “minimum quota” for the farm. The resulting figure will be the “excess” for the farm.

(4) The “excess” for all farms in each State will be reduced by a uniform percentage so as to equal the amount of the State quota remaining after subtraction therefrom of the total (computed under item 3) “minimum quotas” for all farms in the State, and the amount, if any, reserved from the State marketing quota pursuant to paragraph D below.

(5) The marketing quota for each farm will be the “minimum quota” for the farm plus the “excess” (if any) for the farm as adjusted under item 4 above, and plus such additions as may be made thereto pursuant to paragraphs C and D below.

B. New Farms.—(1) The normal marketings for all new farms will be adjusted by a uniform percentage (determined by the Agricultural Adjustment Administration) so as to equal 3 percent of the national marketing quota of 705,000,000 pounds.

(2) There will be allocated to each new farm a “minimum quota” of that number of pounds obtained by multiplying a yield 200 pounds below the farm yield by the smaller of (a) the acreage of tobacco to be harvested on the farm in 1938, or (b) 1.3 acres. The sum of such “minimum quotas” for all farms will be deducted from the amount equal to 3 percent of the national marketing quota of 705,000,000 pounds.

(3) There will be subtracted from the normal marketings for each new farm as adjusted under item (1) above, the "minimum quota" for the farm. The resulting figure will be the "excess" for the farm.

(4) The "excess" for all new farms will be reduced by a uniform percentage so as to equal that portion of 3 percent of the national marketing quota of 705,000,000 pounds remaining after subtraction therefrom of the total (computed under item (3) above) "minimum quotas" for all new farms.

(5) The marketing quota for each new farm will be the "minimum quota" for the farm plus the "excess" (if any) for the farm as adjusted under item (4) above.

C. Four Percent Addition to the State Quota.—A number of pounds equal to 4 percent of the quotas established pursuant to A above for all old farms in a State will be apportioned among such farms as follows: (1)

(1) A "State percent" will be computed for each State by increasing by 10 that percent which the quotas established for all farms in the State pursuant to A above is of the normal marketing for all such farms.

(2) There will be computed for each farm in the State the amount by which the farm marketing quota established pursuant to A above is less than the number of pounds obtained by taking the "State percent" of whichever of the following amounts is the smaller:

(a) The adjusted past marketings for the farm, or

(b) 150 percent of the 1938 acreage of tobacco to be harvested on the farm in 1938 multiplied by the farm yield.

(3) The amounts computed under item (2) above for all farms in the State reduced by a uniform percentage (*viz.*, that percentage which will reduce the total for all farms to an amount equal to 4 percent of the farm marketing quotas established for such farms pursuant to A above) will constitute the apportionments to such farms.

D. Reserve for Adjustment by County Committees.—An amount not in excess of 5 percent of the State marketing quota may be reserved therefrom for the purpose of making adjustments as in this paragraph provided. The amount so reserved shall be allocated by the State committee among the counties of the State upon the basis of (1) the relationship of the total "excess" (computed pursuant to paragraph A (3) above) for old farms in the county to the total "excess" for old farms in all counties in the State and (2) the relative needs of the counties for adjustments of the quotas determined for old farms thereon. The amount so allocated to a county shall be allotted by the county committee among these old farms in the county whose marketing quotas, as compared with the marketing quotas for other similar farms in the county, are determined by the county committee to require adjustment in order to take into adequate account past marketings of tobacco, making due allowance for abnormal weather conditions, plant-bed and other diseases; land, labor, and equipment

available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco.

E. *Preliminary Farm Marketing Quota*.—A preliminary quota not to exceed that number of pounds obtained by multiplying the number of acres of tobacco to be harvested on the farm in 1938 by 400 pounds may be assigned to a farm, if, within two days of the opening of the tobacco markets on which the operator of the farm states that he desires to market the tobacco produced on the farm, the farm marketing quota has not yet been allotted to the farm; provided that in the case of a new farm the preliminary quota shall not exceed the smaller of (1) the sum of 300 pounds for the farm plus 300 pounds for each tobacco curing barn on the farm in condition for use in 1938, or (2) the number of pounds obtained by multiplying the number of acres of tobacco to be harvested on the farm in 1938 by 300 pounds.

Section V. *Definitions*.—As used in these instructions and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires:

1. *Act* means the Agricultural Adjustment Act of 1938 and any amendments thereto.

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

3. *Administrator* means the Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

4. *State office* means those persons or committees in the State who, under authorization by the Secretary of Agriculture, are responsible for the administration in the State of the Agricultural Adjustment Act of 1938.

5. *State Committee* means the group of persons designated within any State to assist in the administration in the State of the Agricultural Adjustment Act of 1938.

6. *Committee* means a committee within a county or community utilized under the Agricultural Adjustment Act of 1938. "County committee," "community committee," or "local committee" shall have corresponding meanings in the connection in which they are used.

7. *County Office* means those persons or committees in the county who, under authorization by the Secretary of Agriculture, are responsible for the local administration of the Agricultural Adjustment Act of 1938.

8. *Family* means a body of persons who live in one house and under one head. In the determination of the number of families on a farm, a family shall be considered as "on a farm" if the head of the family and other members of the family who ordinarily take part in farm work are regularly engaged in work on the particular farm, even though such family may not live in a house located on the farm. If a family lives in a house located on one farm and works part time

on that farm and part time on another farm, the family shall be included as a family on the farm on which the greater proportion of time is spent in work.

9. *Diversion* means the normal production on diverted acreage; diverted acreage for a farm for any year means the acres on the farm diverted from the production of tobacco during such year under the agricultural adjustment or conservation program for such year.

10. *Person* means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State or of the Federal Government. The term "person" shall include two or more persons having a joint or common interest. Words importing the masculine gender may be construed or applied in the feminine or neuter gender wherever the context or application of such words so requires or permits.

11. *Owner* or *Landlord* means a person who owns farm land and rents such land to another person or operates such land.

12. *Cash Tenant* or *Standing-Rent Tenant* or *Fixed-Rent Tenant* means a person who rents land from another for a fixed amount of cash or a commodity to be paid as rent.

13. *Share Tenant* means a person other than a share-cropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

14. *Sharecropper* means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

15. *Operator* means a person who as a landlord or cash tenant or standing or fixed-rent tenant is operating a farm and is entitled to receive all or a portion of the crops produced thereon or the proceeds of such crops, or who as a share tenant is operating a whole farm and is entitled under a written or oral lease or agreement to receive a portion of the crops produced thereon or of the proceeds of such crops.

16. *Producer* or *Farmer* means a person who is entitled to a share of the tobacco crop, or the proceeds thereof, produced on the farm in 1938, as owner, landlord, cash tenant, standing-rent tenant, fixed-rent tenant, share-tenant or sharecropper. The term "producer" or "farmer" also includes a wage hand (or cropper) who as a laborer on a farm instead of receiving daily or other cash wages for his labor receives either all the tobacco produced by him or another on an agreed or specified acreage or all the tobacco produced on an agreed or specified portion of the acreage cultivated by him or another.

17. *Farm* means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with work-stock, farm machinery, and labor substantially separate from that for any other land) the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crop on any of the land to be included in the farm, which request and agreement shall be applicable to designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under these instructions.

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops;

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or the local administrative area within the county, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county or local administrative area, as the case may be, in which the major portion of the farm is located.

18. *Tobacco* means flue-cured tobacco unless otherwise indicated.

19. *Flue-Cured Tobacco* means tobacco classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the Department, as types 11, 12, 13 and 14 collectively known as flue-cured tobacco.

20. *Farm Marketing Quota* means a flue-cured tobacco marketing quota established for a farm under section 313 of the Agricultural Adjustment Act of 1938.

21. *Cropland* means farm land tilled annually or in regular rotation, excluding commercial orchards.

Done at Washington, D. C., this 16th day of June 1938.³ Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

³This is the original date of issue of these instructions, but Supplements 1-5 subsequently issued are included herein.

Form 38—Tobacco 11 (Part 2). Issued June 16, 1938. United States Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. Washington, D. C.

**INSTRUCTIONS FOR DETERMINATION OF FLUE-CURED TOBACCO FARM
MARKETING QUOTAS FOR 1938**

(Issued pursuant to the Agricultural Adjustment Act of 1938 as amended.) (Extra Copies.)

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**PART 2. COLLECTION OF DATA AND DETAILED DESCRIPTION OF FORMS AND
CALCULATIONS IN CONNECTION WITH THE DETERMINATION OF FLUE-
CURED TOBACCO FARM MARKETING QUOTAS**

Section VI. Information Required for Calculation of Farm Quotas

County offices will notify the operator of each farm on which tobacco is produced in 1938 as to the information required for determination of the farm marketing quota. A copy of Form 38—Tobacco 7, "Sales Record Sheet" shall be sent to the operator with the notice.

County offices may designate places at which committeemen or clerks will be available on specified days to enter information on Form 38—Tobacco 8, "Farm Data Sheet." If the operator of a farm fails to submit the information by the date specified, committeemen or supervisors will obtain the information through visits to the farm.

The operator should be requested to prepare a list of tobacco marketings on Form 38—Tobacco 7 from warehouse bills or farm accounts, and to submit the bills or accounts together with the list for checking by committeemen, supervisors, or clerks when other information required on Form 38—Tobacco 8 is submitted. A separate list should be prepared for each farm.

Corrections will be made in the listed sales at the time warehouse bills or accounts are presented for checking. The list of sales as corrected will be attached to the Farm Data Sheet and any calculation necessary to obtain or check totals can be made at the county office.

The county code will be stamped or written, (preferably with a red or blue pencil) across each warehouse bill or each page of an account so as to indicate that the record has been presented in support of marketings.

Each of the spaces for an entry on Form 38—Tobacco 8, "Farm Data Sheet" is numbered on a copy of the form and a description of entries is given on pages 14 to 17 of these instructions.

While information is being collected on Form 38—Tobacco 8, "Farm Data Sheet," clerks in the county office shall enter on Form 38—Tobacco 9, "Farm Quota Sheet" data already available from records in the office. Data from Form 38—Tobacco 8, "Farm Data Sheet" shall be entered on Form 38—Tobacco 9, "Farm Quota Sheet" as received. Each of the spaces for an entry on Form 38—Tobacco 9 is numbered and a copy of the form and a description of the entries is given on pages 18 to 22 of these instructions.

Section VII. Extent of Calculations and Rule of Fractions

All acreages (except the county labor-cash crops factor) shall be calculated to the nearest one-tenth (.1) of an acre. The county labor-cash crops factor shall be calculated to the nearest whole acre. All percentages shall be calculated to the nearest whole percent. Fractions of more than five-tenths (.5) or five-hundredths (.05), as the case may be, shall be rounded upward and fractions of five-tenths (.5) or less or five-hundredths (.05) or less, as the case may be, shall be dropped.

All yields per acre shall be calculated to the nearest 10 pounds. Between intervals of ten, amounts of more than five pounds shall be rounded upward and amounts of five pounds or less shall be dropped.

All marketings figures resulting from multiplication of acreage by farm yields shall be calculated to the nearest 100 pounds. The three-year average of reported marketings and diversion shall be rounded to the nearest 100 pounds in all cases. Between intervals of 100, amounts of more than 50 pounds shall be rounded upward and amounts of 50 pounds or less shall be dropped.

Section VIII. Description of Entries on Farm Data Sheet

Entry number	Entry	Source of entry
1-5	Entries as described on Form	1938 county office records.
6-14	Name of head of family	1938 operator.
15-23	See footnote 1 on Form	1938 operator.
24	Total number of heads of family	Total number of families listed in Col. B, lines 1 through 9, and any supplementary listing.
25	Entry as described on Form	1938 operator.
26-29	Number of tobacco curing barns	1938 operator.
30-34	Entries as described on Form	Calculations as indicated on Form.
35	1938 measured acreage flue-cured tobacco, if available.	County office records.
36	Operator's statement of 1938 flue-cured tobacco acreage.	1938 operator, (This Statement should be obtained in all cases, and if necessary, it should be adjusted to conform with estimates of committeemen or supervisors.)
37-39	Sum of entries on "Sales Record Sheet" for each year for which bills are submitted.	1938 operator.

Entry number	Entry	Source of entry
	Warehouse bills submitted in support of reported marketings "shall be accepted by committeemen only when such warehouse bills have been entered on a Sales Record Sheet" furnished to the producer for such purpose. Committeemen will check such warehouse bills against the entries on the Sales Record Sheet and stamp or enter (with a red or blue pencil) the county code on each warehouse bill entered on the Sales Record Sheet and accepted. Any entry on the Sales Record Sheet which is not acceptable will be crossed out. Totals will be made for reported marketings in each year on the Sales Record Sheet in the county office and entered in Column B, Section IV of the Farm Data Sheet. The Sales Record Sheet will be filed with the producer's other 1938 tobacco forms in the county office.	
40-42	Sum of marketings from farm.....	1938 operator. Enter county code, on each page as indicated for warehouse bills.
43	Sum of 1935 Tax Payment Warrants.....	County office records.
44-46	Operator's estimated pounds for each year reported.	1938 operator.
47-49	Reported past marketings of tobacco adjusted by the committee.	Committee adjustment. (See footnote 4 on Form.)
	In making adjustments, committeemen should be careful to determine accurately the reported marketings for small farms with a 3-year average of 3200 pounds or less, as such average will determine the minimum quotas which are required by the Act to be established for such farms.	
50-52	Initials of community committeeman for committee.	Community committeemen. (See footnote 4 on Form.)
53-55	Initials of county committeeman for committee.	County committeemen. (See footnote 4 on Form.)
	Community and County committeemen will initial Column G and H, respectively, only when an adjustment has been made in Column F. Initials of a member of the community committee and of county committee both are required in all cases where adjustment(s) are made. Adjustment(s) for each year should be initialed separately.	
56	Year, cause and estimated damage from abnormal conditions. For example, "1936, blue-mold reduced crop from 12 to 6 acres;" or "1937, hail destroyed 80 percent of crop."	1938 operator.
57-60	Entries as described on Form.....	As described on Form.

Form 38—Tobacco 8

1
(Code and Serial Number)

2
(Name of Farm)

FARM DATA SHEET
1938 FLUE-CURED TOBACCO MARKETING QUOTA

3 (Community) 4 (1938 Operator) 5 (Address)

Section I. Labor Working Regularly on Farm in 1938		Section II. Tobacco Curing Barns on Farm in Condition for Use in 1938			
Name of head of family	Indicate tenure ¹	Size barn	Number barns	Average acres capacity	Number barns X average acres capacity
A	B	A	B	C	D
6	15		26	4	30
1. 7	16	11. 16' x 18'	27	5	31
2. 8	17	12. 16' x 18'	28	6	32
3. 9	18	13. 16' x 20'	29	7	33
4. 10	19	14. 20' x 20'			34
5. 11	20	15. Total acres capacity			
6. 12	21	Section III. Acreage of Flue-Cured Tobacco to be harvested on this farm in 1938			
7. 13	22	16. (a) Measured 35			
8. 14	23	(b) Operator's Statement 36			
9. 14	24				
10. (a) Total number of heads of families.		10. (b) Number tenant houses occupied in 1938 25			

Section IV. Reported Marketings of Tobacco and Supporting Records

Year	Ware-house bills (pounds) ²	Farm ² account (pounds)	Warrants (pounds) ³	Estimate (pounds)	Com- mittee adjusted (pounds) ⁴	Initialed for com- mittee by ⁴	
						Com- munity	County
A	B	C	D	E	F	G	H
17. 1935	37	40	43	44	47	50	53
18. 1936	38	41	xxxx	45	48	51	54
19. 1937	39	42	xxxx	46	49	52	55

20. Indicate years affected by abnormal conditions, and cause and amount of estimated damage for each year. 56

¹ Indicate whether Operator (O), Share tenant (T), Share-cropper (C), or Wage hands (W). Include operator's family only if working on farm, but do not count operator's family for more than one farm. An overseer's or superintendent's family can be included as "wage hands," but not on more than one farm.
² Enter the pounds of tobacco sold from the farm in each of the years 1936 and 1937 in Columns B, C, or E, whichever is applicable.
³ County office will enter total of sales obtained from tax payment warrants.
⁴ The reported marketings for any year shall be adjusted by the committee if it determines that the amount of such marketings as shown by the records submitted by the operator, or as estimated by him, is larger than the amount of tobacco which reasonably

I hereby certify that the data entered herein (other than the adjusted marketing figures (if any) in Column F of Section IV) are in accordance with information furnished by me and that such data to the best of my knowledge and belief are correct.

-----57-----
(Date)

-----58-----
(Signature of operator or his representative)

I hereby certify that the data entered herein are in accordance with information furnished to me by the operator or his representative.

-----59-----
(Date)

-----60-----
(Committeeman or County Office Clerk)

Section IX. Description of Entries on Farm Quota Sheet

Entry number	Entry	Source of entry
1-4	Entries as described on form	1938 county office records.
5-7	1935, 1936 and 1937 base acres	County office records.
8-10	1935, 1936 and 1937 harvested acres	County office records.
<p>If the county office records do not show the harvested acreage for any year due to the fact that such acreage was not measured in connection with the agricultural adjustment or conservation program in such year, the acreage reported by the operator as having been harvested in such year shall be adjusted (except in those cases where the adjustments have already been made) if the committee determines that such reported acreage is larger than the number of acres which reasonably could be harvested in such year. The committee's determination should take into consideration the acres of curing barn space available, the cropland, the acres of other crops grown on the farm and the labor on the farm for such year. The adjusted harvested acreage for any one year shall be an acreage which the committee finds on the basis of the factors indicated in the sentence above could reasonably be expected to have been produced on the farm in such year. Any necessary adjustment of reported harvested acres should be made on the form from which obtained prior to entry on the Farm Quota Sheet.</p>		
11	1935 rented acres	Base minus harvested acres, but not over 15 percent of 1935 tobacco base.
12	1936 diverted acres	Base minus harvested acres, but not over 30% of 1936 tobacco base.
13	1937 diverted acres	Base minus harvested acres, but not over 25% of 1937 tobacco base.
14-16	Harvested acres adjusted for abnormal conditions.	(Footnote 1 on Form).
17-19	Adjusted harvested and diverted acres	Col. D plus Col. E on Farm Quota Sheet.
20-22	Pounds of tobacco sold from the farm in each of the years 1935-37 as adjusted by the committee on Farm Data Sheet.	Section III, Column F on Farm Data Sheet.
23	Initials of one county committeeman for county committee; or of clerk designated by county committee.	(See footnote 2 on Form).
24	Total diverted acreage for years 1935-37	Sum of Col. D, lines 1, 2, and 3.
25	Farm yield (nearest 10 pounds)	See footnote 3 on Form and Instructions, Sec. II, page 4.
26	Total normal production on diverted acreage for years 1935-37	Calculation as indicated on Form.
27	Total reported marketings for years 1935-37	Sum of Col. G, lines 1, 2, and 3.
28	Total reported marketings plus total diversion for years 1935-37	Entry 26 plus entry 27.
29	Three-year average marketings and diversion	One-third of entry 28.
30	Total adjusted harvested and diverted acreage for years 1935-37	Sum of Col. F, lines 1, 2, and 3.
31	Total adjusted harvested and diverted acreage for two highest years 1935-37	Sum of two highest entries in Col. F, lines 1, 2, and 3.

could be expected to have been marketed from the farm in such year. The determination of the committee should take into consideration the acreage planted to tobacco on the farm in such year, the yield on the farm in years for which records acceptable to the committee are available, the yields obtained in such year on other farms in the same community which are similar with respect to soil, topography, and production facilities, and the community average yield for such year. The adjusted marketings for any one year shall be the amount of tobacco which the community committee working under supervision of the county committee finds on the basis of the factors indicated in the sentence above could reasonably be expected to have been marketed from the farm in such year. All adjusted marketings shall be initiated by a community committeeman on behalf of the community committee and by a county committeeman on behalf of the county committee.

Entry number	Entry	Source of entry
32	Adjusted harvested and diverted acreage for highest year 1935-37.	Largest entry in Col. F, lines 1, 2, and 3.
33-35	Entries as described on Form.....	Calculation as indicated on Form.
36	Farm yield.....	Same as entry 25.
37	Pounds (nearest 100 pounds).....	Largest acreage in Col. C, Sec. II, times farm yield.
38	Adjusted past marketings.....	As described on form.
39	Cropland in farm.....	County office records.
40	County land-cash crops factor (nearest whole percent).	Obtained by dividing the sum of items 7 (f), plus the 1937 harvested and diverted acres of flue-cured tobacco, for a representative sample of farms (not less than 20% of the tobacco farms in the county, including tobacco farms from each community) by the sum of the cropland for the same farms.
41	Entry as described on Form.....	Calculation as indicated on Form.
42-44	Entries as described on Form.....	County office records.
45-47	Entries as described on Form.....	Calculations as indicated on Form.
48	Entry as described on Form.....	County office records.
49	Adjusted acres cash crops for the farm other than flue-cured tobacco.	Sum of entries 45 through 48.
50	Land available for tobacco.....	Entry 41 minus entry 49. If negative, enter zero.
51	Number of families on farm.....	Farm Data Sheet, line 10 (a).
52	County labor-cash crops factor (nearest whole acre).	Divide the sum of items 7 (f) plus the 1937 harvested and diverted acreage of flue-cured tobacco, as obtained for entry 46, by the total number of families on the same farms.
53-55	Entries as described on Form.....	As indicated on Form.
56	Entry as described on Form.....	Farm Data Sheet, line 15.
57	Entry as described on Form.....	Sum of entries 50, 55, and 56.
58	One-third of acres indicated by land, labor and equipment.	One-third of entry 57.
59	Farm yield.....	Same as entry 25.
60	Marketings indicated by land, labor and equipment (nearest 100 pounds).	Calculation as indicated on Form.
61	Three times adjusted past marketings.	Three times entry 38.
62	Marketings indicated by land, labor and equipment.	Same as entry 60.
63	Entry as described on form.....	Calculation as indicated on Form.
64	Marketings indicated by adjusted past marketings and land, labor, and equipment.	Calculation as indicated on Form.
65	One and one-half times 1938 acreage of flue-cured tobacco.	Farm Data Sheet, line 16 (a), if available, otherwise line 16 (b).
66	Farm yield.....	Same as entry 25.
67	Maximum marketings indicated by 1938 acreage of flue-cured tobacco (nearest 100 pounds).	Calculation as indicated on Form.
68	Percentage factor.....	(See footnote 4 on Form).
69	Cropland in farm.....	Same as entry 29.
70	Entry as described on Form.....	Calculation as indicated on Form.
71	Farm yield.....	Same as entry 25.
72	Marketings adjusted for minimum crop rotation practices (nearest 100 pounds).	Calculation as indicated on Form.
73	Minimum marketings in relation to land, labor and equipment and to 1938 acreage of flue-cured tobacco. (Applicable only if line 5 (a) was used in arriving at the adjusted past marketings and item 14 is larger than item 12) (nearest 100 pounds).	If applicable, 90 percent of smaller of entries 60 or 67. If not applicable, zero.
74	Normal marketings.....	Smallest of entries 64, 67, or 72 but, if applicable, not less than entry 73. In no case will entry 74 be more than twice as large as entry 38.

Form 38—Tobacco 9. United States Department of Agriculture.
Agricultural Adjustment Administration. June 1938.

1

(Code and Serial Number)

FARM QUOTA SHEET 1938 FLUE-CURED TOBACCO MARKETING
QUOTA

2

(Township or District)

3

(1938 Operator)

4

(Address)

Section I. Past Marketings (Adjusted for Abnormal Conditions), and
the Soil and Other Physical Factors

Year	Base Acreage	Harvested Acreage	Diverted Acreage	Adjusted Harvested Acreage ¹	Adj. Har. and Div. Acreage	Marketings (Pounds)	Initialed for Committee by:
A	B	C	D	E	F	G	H
1. 1935	5	8	11	14	17	20	23
2. 1936	6	9	12	15	18	21	
3. 1937	7	10	13	16	19	22	

$$4. \frac{24}{\text{(Total Div. Acres 3-yrs.)}} \times \frac{25}{\text{(Farm Yield)}} = \frac{26}{\text{(Total Diversion)}} + \frac{27}{\text{(Total Reported Marketings 3-yrs.)}} = \frac{28}{\text{(Pounds)}} \times 33\frac{1}{4}\% = \frac{29}{\text{(Pounds)}}$$

Adjusted Harvested and Diverted Acres 1935-1937	Per-cent	Acres	Farm Yield (Pounds)	
A	B	C	D	E
5. (a) 30 (Total 3 years)	× 33 $\frac{1}{4}$	= 33	36 Multiply yield by largest acreage in Col. C.	37 (Pounds)
(b) 31 (Total 2 highest years)	× 40	= 34		
(c) 32 (Highest year)	× 60	= 35		

¹ Where the committee finds that in any of the three years 1935-37 an acreage less than 60 percent of the base acreage for such year under the agricultural adjustment or conservation program was harvested because of flood, drought, hail or blue-mold, the harvested acreage for such year shall be adjusted to 70 percent of the base acreage.

² One county committeeman (or a clerk designated by the committee) will initial for county committee if all reported marketings have been substantiated by records acceptable to the committee. The county committee will not initial in any case where an adjustment has been made in the reported marketings for any year by the community or county committee as shown in Column F of Section IV of the Farm Data Sheet.

³ If available, use 1935 farm yield adjusted to not more than 300 pound above or below the 1935 county yield, otherwise use the 1935 community yield (See Sec. II, A 3 of Form 38—Tobacco II for instructions regarding adjustments for abnormal conditions).

6. Adjusted Past Marketings. (Use line 5 in all cases unless all reported marketings are substantiated by records acceptable to the county committee, in which case the larger of line 4 or line 5 will be used.)----- 38
(Pounds)

Section II. Land, Labor and Equipment Available for Tobacco.

7. Land:
- | | | | | | | |
|--|---------|---|---------------------------------|---|---|---------|
| (a) Cropland | 39 | × | 40 | % | = | 41 |
| | (Acres) | | (County land-cash crops factor) | | | (Acres) |
| (b) 1937 harvested and diverted acreage cotton | | | 42 | × | ½ | 45 |
| | | | (Acres) | | | (Acres) |
| (c) 1937 acreage peanuts harvested for nuts | | | 43 | × | ½ | 46 |
| | | | (Acres) | | | (Acres) |
| (d) 1937 acreage commercial truck and vegetables (including Irish potatoes) | | | 44 | × | ½ | 47 |
| | | | (Acres) | | | (Acres) |
| (e) 1937 harvested and diverted acreage of tobacco other than flue-cured | | | | | | 48 |
| | | | | | | (Acres) |
| (f) Adjusted cash crops other than flue-cured tobacco (sum of (b) through (e)) | | | | | | 49 |
| | | | | | | (Acres) |
| (g) Land available for tobacco relative to other farms (item 7 (a)—item 7 (f)) | | | | | | 50 |
| | | | | | | (Acres) |
8. Labor:
- | | | | | | |
|---|-------------------|---|----------------------------------|---|---------|
| (a) | 51 | × | 52 | = | 53 |
| | (Number families) | | (County labor-cash crops factor) | | (Acres) |
| (b) Adjusted cash crops for farm other than flue-cured tobacco (Item 7 (f)) | | | | | 54 |
| | | | | | (Acres) |
| (c) Acres representing labor available for tobacco relative to other farms (Item 8 (a)—8 (b)) | | | | | 55 |
| | | | | | (Acres) |
9. Equipment:
- | | | | | | |
|---|--|--|--|--|---------|
| Curing barns on farm in condition for use in 1938 (allowing average capacity) | | | | | 56 |
| | | | | | (Acres) |
10. Total of acres representing land, labor and equipment available for tobacco (7 (g) plus 8 (c) plus 9)----- 57
(Acres)
11. Marketings Indicated by Land, Labor, and Equipment:
- | | | | | |
|----------------|---|--------------|----------------|----------|
| 58 (acres) | × | 59 | ³ = | 60 |
| (¼ of item 10) | | (Farm yield) | | (Pounds) |

³ If available, use 1935 farm yield adjusted to not more than 300 pounds above or below the 1935 county yield; otherwise use the 1935 community yield (See Sec. II, A 3 of Form 38—Tobacco II for instructions regarding adjustments for abnormal conditions).

Section III. Determination of Normal Marketings of Tobacco.

12. Marketings indicated by adjusted past marketings and land, labor, and equipment:

$$\frac{61}{(\text{Item 6} \times 3)} + \frac{62}{(\text{Item 11})} = \frac{63}{(\text{Pounds})} \div 4 = \frac{64}{(\text{Pounds})}$$

13. Maximum marketings indicated by 1938 acreage of tobacco:

$$\frac{65}{(1\frac{1}{2} \times 1938 \text{ acreage of fire-cured tobacco})} \times \frac{66^3}{(\text{Farm Yield})} = \frac{67}{(\text{Pounds})}$$

14. Marketings adjusted for minimum crop rotation practices:

$$\frac{68^4}{(\text{Percent})} \times \frac{69}{(\text{Cropland})} = \frac{70}{(\text{Acres})} \times \frac{71^3}{(\text{Farm Yield})} = \frac{72}{(\text{Pounds})}$$

15. Minimum marketings in relation to land, labor, and equipment and to 1938 acreage of tobacco
- ⁵
-

$$\frac{73}{(\text{Pounds})}$$

16. Normal Marketings (Smaller of items 12, 13, or 14 but, if applicable, not less than item 15)
- ⁶
-

$$\frac{74}{(\text{Pounds})}$$

Done at Washington, D. C., this 16th day of June 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Exhibit 7 (a)

(Omitted by agreement as having been substantially covered by other exhibits.)

³ If available, use 1935 farm yield adjusted to not more than 300 pounds above or below the 1935 county yield; otherwise use the 1935 community yield (See Sec. II, A 3 of Form 38—Tobacco II for instructions regarding adjustments for abnormal conditions).

⁴ Maximum of 40 to 50%, increasing 1% from 40% to 50% for each acre by which cropland is less than 25 acres.

⁵ Item 15 will be applicable only if line 5 (a) was used in arriving at the adjusted past marketings and item 14 is larger than item 12. If applicable, item 15 will be 90 percent of the smaller of item 11 or item 13. If not applicable, item 15 will be zero.

⁶ In no case shall the normal marketings for any farm be more than twice as large as item 6.

Exhibit 7 (b)

Form 38—Tobacco 8. U. S. Department of Agriculture. Agricultural Adjustment Administration. Tobacco section. June 1938.

(Code and serial number)

(Name of farm)

FARM DATA SHEET

1938 FLUE-CURED TOBACCO MARKETING QUOTA

(Community)

(1938 Operator)

(Address)

Section I.—Labor Working Regularly on Farm in 1938

Section II.—Tobacco Curing Barns on Farm in Condition for Use in 1938

	Name of head of family A	Indicate tenure ¹ B	Size barn		Average acres capacity C	Number of barns B	Number of barns X average acres capacity D
			A	B			
1			11	16' x 16'	4		
2			12	16' x 18'	5		
3			13	16' x 20'	6		
4			14	20' x 20'	7		
5			15	Total acres capacity			
6			Section III.—Acreage of Flue-Cured Tobacco to be Harvested on This Farm in 1938				
7			16	(a) Measured			
8				(b) Operator's statement			
9							
10	(a) Total number of heads of families		10	(b) Number tenant houses occupied in 1938			

Section IV.—Reported Marketings of Tobacco and Supporting Records:

Year	Warehouse bills ² (pounds)	Farm account ² (pounds)	Warrants (pounds) ³	Estimate ² (pounds)	Com- mittee adjusted (pounds) ⁴	Initialed for com- mittee by ⁴	
						Com- munity	County
A	B	C	D	E	F	G	H
17 1935							
18 1936			x x x x x				
19 1937			x x x x x				

20. Indicate years affected by abnormal conditions, and cause and amount of damage.

I hereby certify that the data entered herein (other than the adjusted marketing figures [if any] in col. F of sec. IV) are in accord-

¹ Indicate whether operator (O), share tenant (T), sharecropper (C), or wage hands (W). Include operator's family only if working on farm, but do not count operator's family for more than one farm. An overseer's or superintendent's family can be included as "wage hands," but not on more than one farm.

² Enter the pounds of tobacco sold from the farm in each of the years 1936-37 in column B, C, or E, whichever is applicable.

³ County office will enter total of sales obtained from tax payment warrants.

⁴ The reported marketings for any year shall be adjusted by the committee if it determines that the amount of such marketings as shown by the records submitted by the operator, or as estimated by him, is larger

ance with information furnished by me and that such data to the best of my knowledge and belief are correct.

 (Date) (Signature of operator or his representative)

I hereby certify that the data entered herein are in accordance with information furnished to me by the operator or his representative.

 (Date) (Committeeman or county office clerk)

Exhibit 7 (c)

Form 38—Tobacco 9. U. S. Department of Agriculture. Agricultural Adjustment Administration Tobacco Section. June 1938.

 (Code and serial number)

FARM QUOTA SHEET

1938 FLUE-CURED TOBACCO MARKETING QUOTA

 (Community) (1938 Operator) (Address)

Section I.—Past Marketings (Adjusted for Abnormal Conditions), and the Soil and Other Physical Factors

Year	Base acreage	Harvested acreage	Diverted acreage	Adjusted harvested acreage ¹	Adjusted harvested and diverted acreage	Marketings (Pounds)	Initialed for committee by: ---
A	B	C	D	E	F	G	H
1. 1935.....							}
2. 1936.....							
3. 1937.....							

4. $\frac{\text{Total diverted acres 3 years} \times \text{Farm yield}}{\text{Total pounds diversion}} + \frac{\text{Total marketings 3 years}}{\text{Total pounds}} = \text{---} \times 33\frac{1}{2}\% = \text{---}$ (Pounds)

than the amount of tobacco which reasonably could be expected to have been marketed from the farm in such year. The determination of the committee should take into consideration the acreage planted to tobacco on the farm in such year, the yield on the farm in years for which records acceptable to the committee are available, the yields obtained in such year on other farms in the same community which are similar with respect to soil, topography, and production facilities, and the community average yield for such year. The adjusted marketings for any one year shall be the amount of tobacco which the community committee, working under the supervision of the county committee, finds on the basis of the factors indicated in the sentence above could reasonably be expected to have been marketed from the farm in such year. All adjusted marketings shall be initialed by a community committeeman on behalf of the community committee and by a county committeeman on behalf of the county committee.

¹ Where the committee finds that in any of the three years 1935-37 an acreage less than 60 percent of the base acreage for such year under the agricultural adjustment or conservation program was harvested because of flood, drought, hail, or blue-mold, the harvested acreage for such year shall be adjusted to 70 percent of the base acreage.

² One county committeeman (or a clerk designated by the committee) will initial for county committee if all reported marketings have been substantiated by records acceptable to the committee. The county committee will not initial in any case where an adjustment has been made in the reported marketings for any year by the community or county committee as shown in Column F of Section IV of the Farm Data Sheet.

³ Use 1935 farm yield if such yield is known; otherwise use 1935 community yield. See Sec. II, A, 3 of Form 38—Tobacco 11 for instructions regarding adjustments for abnormal condition.

5. Adjusted harvested and diverted acres 1935-37	Percent	Acres	Farm ³ yield (pounds)
(A)	(B)	(C)	(D)
(a) ----- (Total 3 years)	× 33 $\frac{1}{3}$ =	-----	×
(b) ----- (Total 2 highest years)	× 40 =	-----	×
(c) ----- (Highest year)	× 60 =	-----	×
			} (Multiply yield by (Pounds) largest acreage in column (C) line 5(a), 5(b), or 5(c))
6. Adjusted Past Marketings.—(Use line 5 in all cases unless all reported marketings are substantiated by records acceptable to the county committee, in which case the larger of line 4 or line 5 will be used.)			----- (Pounds)

Section II.—Land, Labor, and Equipment Available for Tobacco

7. Land:			
(a) Cropland -----	×	%	-----
(Acres)	(County land-cash crops factor)		(Acres)
(b) 1937 harvested and diverted acreage cotton -----		× $\frac{1}{2}$ =	-----
(Acres)		(Acres)	
(c) 1937 acreage peanuts harvested for nuts -----		× $\frac{1}{2}$ =	-----
(Acres)		(Acres)	
(d) 1937 acreage commercial truck and vegetables (including Irish potatoes) -----		× $\frac{1}{2}$ =	-----
(Acres)		(Acres)	
(e) 1937 harvested and diverted acreage of tobacco other than flue-cured -----			(Acres)
(f) Adjusted cash crops other than flue-cured tobacco (sum of items (b) through (e)) -----			(Acres)
(g) Land available for tobacco relative to other farms (item 7 (a) - 7 (f)) -----			(Acres)
8. Labor:			
(a) -----	×	(acres) =	-----
(Number families)	(County labor-cash crops factor)	(Acres)	
(b) Adjusted cash crops for farm other than flue-cured tobacco (item 7 (f)) -----			(Acres)
(c) Acres representing labor available for tobacco relative to other farms (item 8 (a) - 8 (b)) -----			(Acres)
9. Equipment:			
Curing barns on farm in condition for use in 1938 (allowing average capacity) -----			(Acres)
10. Total acres indicating land, labor, and equipment available for tobacco (7 (g) plus 8 (c) plus 9) -----			
			(Acres)
11. Marketings Indicated by Land, Labor, and Equipment:			
-----	acres ×	³ =	-----
($\frac{1}{2}$ of item 10)	(Farm yield)		(Pounds)

Section III.—Determination of Normal Marketings of Tobacco

12. Marketings indicated by adjusted past marketings and land, labor, and equipment:			
-----	+	=	-----
(Item 6×3)	(Item 11)	(Pounds)	÷ 4 =
			(Pounds)
13. Maximum marketings indicated by 1938 acreage of tobacco:			
-----	×	³ =	-----
($1\frac{1}{2}$ × 1938 acreage of flue-cured tobacco)	(Farm yield)		(Pounds)

³ Use 1935 farm yield if such yield is known; otherwise use 1935 community yield. See Sec. II, A, 3 of Form 38—Tobacco 11 for instructions regarding adjustments for abnormal condition.

14. Marketings adjusted for minimum crop rotation practices:

----- ⁴ ×	-----	-----	×	----- ³	-----
(Percent)	(Cropland)	(Acres)	(Farm yield)	(Pounds)	
15. Minimum marketings in relation to land, labor, and equipment and to 1938 acreage of tobacco ⁵					-----
16. Normal Marketings (Smallest of items 12, 13, or 14 but, if appli- cable, not less than item 15) ⁶					----- (Pounds)

Exhibit 8

38-A. A. A.-2. Issued July 13, 1938. United States Department of Agriculture. Agricultural Adjustment Administration. Washington, D. C.

(Review Regulations)

REGULATIONS GOVERNING (A) APPLICATIONS AND HEARINGS UNDER SECTION 363 OF TITLE III OF THE AGRICULTURAL ADJUSTMENT ACT OF 1938 RELATING TO ADMINISTRATIVE REVIEW OF MARKETING QUOTAS FOR TOBACCO, CORN, WHEAT, COTTON, AND RICE ESTABLISHED UNDER SAID TITLE AND (B) THE PUBLICATION AND NOTICE OF SUCH QUOTAS UNDER SECTION 362 OF SAID ACT (PUBLIC, NO. 430—75TH CONGRESS—52 STAT. 31, AS AMENDED)

UNITED STATES DEPARTMENT OF AGRICULTURE,
Office of the Secretary.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act of 1938, I, HENRY A. WALLACE, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations, to be in force and effect from the date hereof until amended or superseded by regulations hereafter made by the Secretary of Agriculture under the authority of said act.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto in the City of Washington, this 13th day of July, 1938.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

³ Use 1935 farm yield if such yield is known; otherwise use 1935 community yield. See Sec. II, A, 3 of Form 38—Tobacco 11 for instructions regarding adjustments for abnormal conditions.

⁴ Maximum of 40 to 50 percent, increasing 1 percent from 40 percent to 50 percent for each acre by which cropland is less than 25 acres.

⁵ Item 15 will be applicable only if line 5 (a) was used in arriving at the adjusted past marketings and item 14 is larger than item 12. If applicable, item 15 will be 90 percent of the smaller of item 11 or item 13. If not applicable, item 15 will be zero.

⁶ The normal marketings for any farm shall in no case be more than twice as large as item 6.

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ARTICLE I. DEFINITIONS

SECTION 100. As used in these regulations:

(a) The term "act" means the Agricultural Adjustment Act of 1938 and any amendments thereto.

(b) The term "Secretary of Agriculture" means the Secretary of Agriculture of the United States.

(c) The term "Department" means the United States Department of Agriculture.

(d) The term "Hearing Clerk" means the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C.

(e) The term "review committee" means the review committee whose appointment by the Secretary of Agriculture is provided for by section 363 of title III of the act.

(f) The term "committee", except when referring to review committee, means a committee utilized under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act.

(g) The term "quota" means a marketing quota established for a farm, in the case of tobacco, corn, wheat, and cotton, and for a producer, in the case of rice, under title III of the act.

(h) The term "acreage allotment" means an acreage allotment established for a farm, in the case of corn, wheat, and cotton, and for a producer, in the case of rice, under title III of the act.

(i) The term "application" means an application for review of a marketing quota, the filing of which is provided for by section 363 of title III of the act.

ARTICLE II. PUBLICATION OF ACREAGE ALLOTMENTS AND MARKETING QUOTAS
AND NOTICE OF QUOTAS

SECTION 200. *Publication.*—(a) Immediately upon the establishment of acreage allotments and of quotas for any commodity, the county committee shall prepare a list containing the information specified in sections 201 and 202 of this article.

(b) A copy of the list so prepared shall be permanently kept freely available for public inspection in the office of the county committee, and a copy of the list shall be posted for not less than thirty days in a conspicuous place in the county (or in the case of cotton in each local administrative area in the county if the county is divided into two or more local administrative areas for the purpose of the cotton marketing quota provisions of the act). Another copy of the list shall be furnished to the County Agricultural Extension Agent who shall keep the list permanently available for public inspection in his office.

SECTION 201. *List of Acreage Allotments.*—The list shall contain the following information relating to acreage allotments:

(a) the allotment for each farm or, in the case of rice, for each producer;

(b) the identification of the farm by giving the name of the owner or operator and the legal description of the farm, the location of the farm, or the name by which the farm is commonly known; in the case of rice, the name of the producer shall be given;

(c) the serial number for each farm or, in the case of rice, for each producer;

(d) the calendar year for which such acreage allotment is made.

SECTION 202. *List of Marketing Quotas.*—The list shall contain the following information relating to marketing quotas:

(a) the acreage allotment, if any, for each farm, or in the case of rice, for each producer;

(b) the marketing percentage of the acreage allotment in the case of corn and wheat;

(c) the normal yield per acre for each farm in the case of corn, wheat, and cotton;

(d) the storage amount for each farm in the case of corn;

(e) the marketing quota for each farm or, in the case of rice, for each producer, expressed insofar as practicable in applicable units, such as pounds, bales, barrels, or bushels;

(f) the identification of the farm by giving the name of the owner or operator and the legal description of the farm, the location of the farm, or the name by which the farm is commonly known; in the case of rice, the name of the producer shall be given;

(g) the serial number for each farm, or, in the case of rice, for each producer;

(h) the marketing year or, in the case of corn, the crop, for which such marketing quota is effective.

SECTION 203. *Notice of Quotas.*—(a) Immediately upon the establishment of quotas for any commodity, the county committee shall mail a written notice of the quota to the producer, in the case of rice, and to the operator of the farm, in the case of tobacco, corn, wheat, or cotton. A notice to the operator of the farm shall contain at or near the top thereof the following statement: "To all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which this quota is established," and such notice shall constitute notice to all such persons. The notice shall contain the information required by section 202 of this article to be contained in the list of marketing quotas for publication. The notice shall contain also, on the face or back thereof, a brief reference to, or statement of, the procedure whereby application for review of the quota may be made.

(b) A copy of each notice, containing a notation thereon, of the date of mailing, shall be kept among the records of the county committee, and, upon request, a copy of such notice, certified by the secretary of the county committee as true and correct, shall be furnished without charge to any person interested in the farm in respect to which the quota is established.

SECTION 204. *Other Regulations.*—The provisions of this article may be supplemented by regulations issued by the Secretary of Agriculture in respect to acreage allotments or marketing quotas for any specific commodity.

ARTICLE III. APPLICATIONS FOR REVIEW OF QUOTAS

SECTION 300. *Manner and Time of Filing Application.*—An application shall be in writing and addressed to, and filed with, the secretary of the county committee through which the quota sought to be reviewed was established. The application shall be filed within fifteen days after the date of mailing of the notice of such quota.

SECTION 301. *Contents of Application.*—The application shall be accompanied by the original mailed notice of the quota sought to be reviewed, or by a copy of such notice certified as true and correct by the secretary of the county committee, and shall contain :

- (a) the date of the application;
- (b) the correct full name and full address of the applicant;
- (c) a statement of the amount of quota which it is claimed should have been made;
- (d) a brief statement of each ground upon which the application is based;
- (e) the signature of the applicant.

SECTION 302. *Record of Applications.*—The secretary of the county committee shall make a notation on each application of the date of the receipt thereof by him and give such application an identification number.

SECTION 303. *Insufficient and Untimely Applications.*—If the secretary of the county committee finds that any application filed (a) is not in substantial compliance with the provisions of section 301 of this article, or (b) is not made within the period fixed for the filing of applications, he shall so notify the applicant in writing by depositing the writing, accompanied by a copy of these regulations in the United States mails, registered and addressed to the applicant at his last known address. In the case of an insufficient application filed within the period fixed for the filing of applications, the applicant may, within fifteen days after the date of mailing of the notification aforesaid, file with such secretary an amended application containing the matter specified in section 301 of this article.

SECTION 304. *Clerk to Review Committee.*—The Secretary of the county committee shall act as clerk to the review committee, unless and until some other person shall have been designated by the county committee as clerk to the review committee. The county committee may designate a person other than the secretary of the county committee to act as clerk to the review committee. If not already an employee, the person so designated shall thereby become an employee of such county committee. Immediately upon such designation, the county committee shall notify the State committee thereof. In the event of such designation, the secretary of the county committee shall transmit to the person so designated any and all applications received by him and all papers and information relating thereto.

SECTION 305. *Transmission of Information.*—The clerk to the review committee shall furnish to the State committee such information pertaining to applications filed with him as the State Committee may require.

ARTICLE IV. THE REVIEW COMMITTEE

SECTION 400. *Eligibility.*—Any farmer who now is, who may hereafter become, or who is eligible to become a member of any county or community committee shall be eligible to serve on review committees to hear applications for review of quotas established in counties or communities which are adjacent to or nearby the county or community, as the case may be, for which he is a committeeman or eligible to become a committeeman. The eligibility hereby declared shall be subject at all times to the provisions of the following sections of this article. No farmer who is a member of a county or community committee of, or whose legal residence is in, one State shall be eligible to serve on a review committee in any other State.

SECTION 401. *Establishment.*—Three eligible farmers shall be designated to serve on a review committee for a county, a group of counties, a community, or group of communities, and of the farmers so designated one shall be named chairman, and another vice-chairman, of such committee. The vice-chairman shall perform the duties, and exercise the powers, of the chairman in the absence of the chairman. No review committee shall include any member of the county or community committee through which was determined any matter relating to any quota for the review of which the review committee is established. Subject to the provisions of this section and of section 400 of this article, the same farmer may be designated to serve on more than one review committee. An eligible farmer may be designated as alternate member of the committee to serve in the event of the absence of any regular member thereof, or in case of a vacancy in the committee.

SECTION 402. *Vacancies.*—Subject to the requirements of eligibility set forth in sections 400 and 401 of this article, a farmer shall be designated to fill any vacancy occurring in any review committee. Where a single vacancy occurs after a hearing is begun and before the final determination, the remaining two members of the committee shall thenceforth constitute an entire committee for the purposes of such hearing. If more than one such vacancy occurs, or if the two remaining members of the committee cannot agree upon a determination, there shall be a new hearing, after the filling of the vacancy, by the entire committee of three members.

SECTION 403. *Manner of Designation.*—The designations mentioned in sections 401 and 402 of this article with respect to a review committee and the area for which the committee shall serve, shall be

made in writing by the Secretary of Agriculture and notice of such designation shall be sent to (a) the farmer so designated, (b) the clerk to the review committee, and (c) the State committee.

SECTION 404. *Time of Designation.*—Any designation may be made before, during, or after the period during which applications are required to be filed.

SECTION 405. *Period of Designation.*—A review committee shall hear applications for review of any quota established in the area for which, and becoming effective during the calendar year in which, the committee is established.

SECTION 406. *Reservation of Powers of Secretary of Agriculture.*—Notwithstanding any of the foregoing provisions of this article, the Secretary of Agriculture shall have the continuing power to revoke or suspend any designation made pursuant to the provisions of this article, and, subject to the provisions of the act, to make such other designation as he may deem proper.

SECTION 407. *Effect of Changes in Review Committee.*—Nothing contained in the foregoing provisions of this article relating to any vacancy or revocation or suspension of designation, and nothing done pursuant to such provisions, shall be construed as affecting the validity of any prior hearing conducted or determination made in accordance with these regulations, in which the member of the review committee, whose place has become vacant, participated, or as affecting in any way any court proceeding which may be instituted, pursuant to the provisions of the act, for the review of such determination.

SECTION 408. *Compensation.*—The members of a review committee designated in accordance with the provisions of this article shall receive the same compensation as that received by the members of the county committee through which were established the quotas sought to be reviewed. The payment of such compensation shall be governed by instructions issued by the Agricultural Adjustment Administration. The members of a review committee shall not be entitled to receive compensation for services as members of such committee for more than thirty days in any one year. Reimbursement for travel expenses shall be made at such rates and under such conditions as may be prescribed by the Agricultural Adjustment Administration.

ARTICLE V. HEARINGS

SECTION 500. *Place of Hearing.*—The place of hearing shall be in the office of the county committee through which the quota sought to be reviewed was established, or such other appropriate place in the county as may be designated by the review committee.

SECTION 501. *Notice of Hearing.*—As soon as practicable after its establishment, the review committee shall arrange with the clerk to

the committee for the appointment of the time and the designation of the place for hearing on applications. Notice of the hearing shall be given by such clerk. The notice shall be in writing and shall specify the time, place and purpose of the hearing. Such notice shall be given to the applicant by depositing the same, at least ten days prior to the time appointed for the hearing, in the United States mails, registered and addressed to the applicant at his last known address. The State committee shall also be notified in writing of such hearing. A copy of all such notices shall be kept and recorded by such clerk.

SECTION 502. Time and Place of Hearing.—Such hearing shall be held at the time and place set forth in the notice of hearing, or in any subsequent notice amending or superseding the prior notice, and also may, without notice other than an announcement at the hearing by the chairman of the review committee, in the exercise of the discretion of the committee, be continued from day to day, or adjourned to a different place in the county or to a later date, or to a date and place to be fixed in a subsequent notice to be issued in the manner provided in sections 500 and 501 of this article. In the temporary absence of any member of the committee, the member or members present shall postpone the hearing to a later date and place. In the absence of the entire committee, the postponement shall be made by the clerk.

SECTION 503. Conduct and Scope of Hearing.—Except as provided in section 402 of article IV of these regulations, every such hearing shall take place before the entire review committee and shall be presided over by the chairman thereof. The hearing shall be publicly conducted. The committee shall provide for the taking of such notes at the hearing as will enable it to make a written summary of the relevant evidence received at the hearing. A stenographic transcript of the testimony received shall be made if (a) the applicant requests such transcript and provides for the making thereof and for the payment of the expense therefor, or (b) the State committee requests that such transcript be made. Immediately upon the completion of any such transcript made at the request of the applicant, three legible copies thereof shall be furnished to the review committee without charge. The committee shall consider only such matters as, under the applicable provisions of the act and regulations of the Secretary of Agriculture thereunder, are required to be considered by the county committee in the establishment of the quota sought to be reviewed. The review committee shall not give consideration to any evidence which is irrelevant to the determination of the quota for the applicant. The hearing shall be conducted in a manner determined by the committee to be conducive to the proper dispatch of business and the attainment of justice.

SECTION 504. *Representation.*—The applicant and the Secretary of Agriculture may be represented at the hearing.

SECTION 505. *Withdrawal of Applications.*—An application may be withdrawn upon the written request of the applicant. Any application so withdrawn shall be endorsed “Dismissed at the Request of the Applicant.” This endorsement shall be made by the clerk to the review committee if the withdrawal takes place before the hearing and by the chairman of the committee if the withdrawal takes place after the hearing has begun.

SECTION 506. *Nonappearance of Applicant.*—If, at the time of such hearing, the applicant is absent and no appearance is made on his behalf, the review committee shall, after a lapse of such period of time as it may consider proper and reasonable, have the name of such absent applicant called in the hearing room. If, upon such call, there is no response, and no appearance on behalf of such applicant, the committee may thereupon close the hearing as to such applicant, and, without further proceedings in the case, make an order dismissing the application, or continue the hearing to a later date.

SECTION 507. *Evidence.*—(a) The review committee shall permit the applicant, members of the appropriate county and community committees, and appropriate officers and agents of the Department, and all persons appearing on behalf of such parties, respectively, to give and produce relevant testimony and evidence, to cross-examine witnesses and to present argument on the testimony and evidence adduced at the hearing. The facts relating to any quota under review shall be ascertained in a simple and direct manner, and rules of evidence prevailing in courts of law or equity shall not be controlling. The chairman of the review committee shall administer an oath or affirmation to each person so testifying.

(b) Subject to the right of any requested cross-examination of the affiant, affidavits of general economic facts relating to the commodity in question shall be received and made part of the record of the proceedings for the purpose only of any applicable court review.

SECTION 508. *Burden of Proof.*—Upon all issues of fact raised by the application, the burden of proof shall be upon the applicant.

SECTION 509. *Time Consumed by Hearing; Briefs.*—(a) Full opportunity to be heard upon the issues raised by the application shall be afforded the applicant, the county committee, and appropriate officers and agents of the Department. The hearing, however, shall be concluded within such reasonable time as shall be determined by the review committee.

(b) Written briefs in triplicate for the consideration of the review committee may be filed with the clerk to the committee within such reasonable time after the conclusion of the hearing as shall be prescribed by the chairman of the committee.

SECTION 510. *Consolidation of Hearings.*—Wherever practicable, two or more applications relating to the same commodity and the same farm shall be consolidated, and heard at the same time on the same record.

SECTION 511. *Amendments.*—Upon due application, and within the discretion of the review committee, the right of amendment of the application and of all procedural documents in connection with any hearing, shall be granted upon such reasonable terms as the committee may deem right and proper.

SECTION 512. *Reopening Hearing.*—The review committee (a) on its own motion, or upon due application therefor, may, within fifteen days from the date of mailing to the applicant of a copy of the determination of the committee, reopen the hearing for the purpose of taking additional evidence or of adding any relevant matter or document, and (b) upon application by or on behalf of the Secretary of Agriculture made for any purpose within a period of thirty days from the date of mailing to the applicant of a copy of the determination of the committee, shall reopen the hearing.

SECTION 513. *Determination by Review Committee.*—(a) The committee shall make an order dismissing without further hearing any insufficient application or any application which was not filed within the period required for the filing of applications.

(b) As soon as practicable after hearing on any sufficient application filed within the period required for the filing of applications, the committee shall make a determination upon the application. If it is determined by the committee that the application should be denied, the committee shall make an order dismissing the application. If it is determined that the application should be granted in whole or in part, the committee shall establish the quota which it finds to be proper. Each determination made by the committee shall be in writing and shall contain specific findings of fact and conclusions, which shall be based solely upon the testimony and evidence adduced at or in connection with the hearing. The concurrence of two members of the committee shall be sufficient to make a determination. The written determination shall contain such subscription by each member of the committee as will indicate his concurrence therein or his dissent therefrom.

SECTION 514. *Service of Determination.*—A copy of such determination, or of any order dismissing the application, as provided in section 506 or 513 of this article, certified by the clerk to the review committee as a true and correct copy of the signed original, shall be served upon the applicant by depositing the same in the United States mails, registered and addressed to the applicant at his last known address. The copy of the determination or order shall contain at the top thereof the following statement: "To all persons who as operator,

landlord, tenant or sharecropper are interested in the farm for which this quota is established," and such statement shall constitute notice to all such persons. The clerk shall make a notation on the original determination or order of the date and place of such mailing. The clerk forthwith shall forward a copy of such determination or order to the Hearing Clerk, to the chairman of the State committee, and to the chairman of the county committee.

SECTION 515. *The Record*.—The record of the proceedings shall be prepared by the clerk to the review committee and shall consist of the following:

(a) All procedural documents in the case under review, including the application and written notice of hearing and any other written notice in connection with the application.

(b) Copies of such pertinent proclamations, announcements, general regulations, and apportionments, national, State, or county, issued by the Secretary of Agriculture in respect to acreage allotments and marketing quotas for the commodity in question, as may be presented at the hearing by or on behalf of the Secretary of Agriculture.

(c) Any stenographic transcript or written summary of the evidence made in accordance with these regulations, to which shall be annexed any documentary evidence received at the hearing. The review committee shall make such corrections in any stenographic transcript made as will make the text conform to the correct meaning. The corrections shall be made in such manner as will not obscure the original text of the transcript. In each case which is followed by the institution by the applicant of proceedings in court for a review of the determination of the review committee, (1) the committee, in the absence of any stenographic transcript of the testimony, shall prepare a written summary of the evidence, and (2) in addition to the items mentioned in (a) and (b) above, the record shall include a copy of the notice of the designation of the members of the review committee, and a copy of these regulations.

(d) The written determination of the review committee.

(e) A list of all papers included in the record, and a certificate by the clerk to the review committee, stating that such record is true, correct, and complete.

ARTICLE VI. COURT PROCEEDINGS

SECTION 600. *Duty of Review Committee*.—(a) The committee is required, by section 365 of title III of the act, upon the institution of any suit against the committee for the purpose of reviewing its determination upon any application for review of a quota, to certify and file in court a transcript of the record upon which the determination was made, together with the findings of fact made by the committee. Any suit for review is required to be instituted by the

applicant within fifteen days after a notice of the committee's determination is mailed to him by registered mail. Such suit may be instituted in the United States District Court or in any court of record of the State having general jurisdiction, sitting in the county or the district in which the applicant's farm is located. A bill of complaint in such proceeding may be served by delivering a copy thereof to any member of the committee.

(b) Upon the institution of such suit, the clerk to the review committee shall immediately send a telegram addressed to the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C. The telegram shall state the name of the plaintiff, the name of the court in which the suit is instituted, and the time within which appearances must be made in such suit in behalf of the committee. Any member of the committee served with papers in such suit shall forward such papers to the clerk to the committee, who shall in turn forward them to the Hearing Clerk. No member of the committee shall appear or permit any appearance in his behalf or in behalf of the committee, or take any action in respect to the defense of such suit, except in accordance with the instructions from or on behalf of the Secretary of Agriculture.

ARTICLE VII. FORMS AND CUSTODY AND INSPECTION OF RECORDS

SECTION 700. *Forms.*—The forms required in connection with the publication, notice and review of quotas shall be prescribed by the Secretary of Agriculture.

SECTION 701. *Custody.*—The clerk to the review committee shall carefully keep and preserve a record of all applications and of all proceedings relating to the review of such applications.

SECTION 702. *Filing of Papers by Hearing Clerk.*—The Hearing Clerk shall maintain a file of all records, documents and papers specifically required by these regulations to be sent to such clerk.

SECTION 703. *Inspection.*—All records, documents, and papers filed with the clerk to the review committee or the Hearing Clerk shall be available for public inspection at the respective places of filing.

ARTICLE VIII. CONSTRUCTION

SECTION 800. Nothing contained in these regulations shall be, or shall be construed to be, in derogation or modification of the rights of the Secretary of Agriculture or of the United States (a) to exercise any jurisdiction or powers granted by title III of the act or otherwise, or (b) to act in the premises in accordance with such jurisdiction and powers whenever such action is deemed advisable.

ARTICLE IX. PUBLIC NOTICE OF FOREGOING REGULATIONS

SECTION 900. Public notice of the issuance of the foregoing regulations shall be given by (a) publishing the regulations in the Federal Register; and (b) posting a copy of the regulations on the official bulletin board of the Department at Washington, D. C.

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Exhibit 8 (b)

Form 38—Tobacco 12. U. S. Department of Agriculture. Agricultural Adjustment Administration. Tobacco Section. July 1938.

(County association and address)

NOTICE OF FARM MARKETING QUOTA FOR FLUE-CURED TOBACCO

(Pursuant to the Agricultural Adjustment Act of 1938, as amended)

(Name by which farm is commonly known)

(Code and farm serial number)

To -----
(Name and address of operator)

and to all persons who as operator, landlord, tenant, or sharecropper, are interested in the farm for which this quota is established :

You are hereby given notice that a flue-cured tobacco marketing quota of ----- pounds has been established for the 1938-39 marketing year for the farm identified by the code and farm serial number and name shown above.

Date -----, 1938.

COUNTY COMMITTEE,
By -----
(Chairman or Secretary)

Review of Quotas.—Any farmer who is dissatisfied with the farm marketing quota established for his farm may, by making application within 15 days after the mailing to him of the notice of such quota, have such quota reviewed by a review committee composed of three farmers appointed by the Secretary of Agriculture. Unless such application is made within such 15 days the original determination of the farm marketing quota shall be final. All applications for review shall be made in accordance with regulations prescribed by the Secretary of Agriculture. These regulations are available at the office of the County Committee.

If the farmer is dissatisfied with the determination of the review committee he may, within 15 days after notice thereof is mailed to him by registered mail, institute proceedings to have the determination of the review committee reviewed by a court, as provided by Section 365 of the Act.

Exhibit 8 (c)

Form No. 38—A. A. A. 9. United States Department of Agriculture. Agricultural Adjustment Administration.

OATH OF REVIEW COMMITTEEMAN

(Issued and executed with respect to Title III of the Agricultural Adjustment Act of 1938 and Article IV of the Regulations 38—A. A. A. 2)

I, _____, do solemnly swear (or affirm) that I will faithfully, justly, and honestly perform, to the best of my ability, all the duties devolving upon me as a member of a committee for the review of farm marketing quotas as established by the Secretary of Agriculture through local committees under and by virtue of Title III of the Agricultural Adjustment Act of 1938, So help me God.

(Signature of appointee)

Subscribed and sworn to before me this ____ day of ____, A. D., 193__ at _____, _____
(City or place) (State)

[SEAL] _____

Exhibit 8 (d)

Form No. 38—AAA 3. United States Department of Agriculture. Agricultural Adjustment Administration. _____
(Date)

APPLICATION FOR REVIEW OF FARM MARKETING QUOTA

To _____, Secretary, _____ County, _____
(Agricultural Conservation Committee) (Post Office) (State)

The undersigned, _____, of _____, acting pursuant to Section 363 of Title III of the Agricultural Adjustment Act of 1938, as amended, and Article III, Sections 300 and 301 of Review Regulations, 38—AAA 2, issued by the Secretary of Agriculture, hereby applies for a review of the flue-cured tobacco farm marketing quota for farm identified by A. A. A. State and county code and farm serial No. _____
(Name in full) (Address in full) (Commodity)

The original notice of the farm marketing quota (or copy thereof certified as true and correct by the Secretary of the county committee) is attached hereto and made a part hereof.

This application is based upon the following grounds:

Wherefore, the undersigned claims the marketing quota should have been established at-----

(Signature of Applicant)

In the Matter of the Application of ----- for review of farm marketing quota—A. A. A. State and county code and farm serial No. ----- No. ----- Commodity ----- The within application was received by me on the ----- day of -----, 19-----, Secretary, County Agricultural Conservation Committee.

Exhibit 8 (e)

Form No. 38—AAA 4. United States Department of Agriculture. Agricultural Adjustment Administration. -----

(Date of Mailing)

NOTICE OF UNTIMELY FILING

Review Application No. -----

In the Matter of the Application of ----- for a review of the ----- farm marketing quota—A. A. A. State and county code and farm serial No. -----

(Full name)

(Commodity)

To -----, -----

(Full name of applicant)

(Full address of applicant)

You are hereby advised that, according to my record, the application for review in the above-entitled case, filed by you with the undersigned on the ----- day of -----, 193--, appears to me not to have been made, as required by Review Regulations, 38—AAA 2, within fifteen days after -----, the date on which notice of the farm marketing quota was mailed to the operator of the farm identified above. Your attention is directed to Sections 300 and 513 of the Review Regulations, copy of which is enclosed. Your application will be referred to the Review Committee for appropriate action by it.

Secretary, -----County

(Agricultural Conservation Committee)

Address:

Exhibit 8 (f)

Form No. 38—AAA 5. United States Department of Agriculture.
Agricultural Adjustment Administration. -----
(Date of mailing)

NOTICE OF INSUFFICIENCY

Review Application No. -----

In the matter of the application of ----- for
(Full name)
a review of the ----- farm marketing quota—A. A. A.
(Commodity)
State and county code and farm serial No. -----.

To -----
(Full name of applicant) (Full address of applicant)

You are hereby advised that the application for review in the
above-entitled case, filed by you with the undersigned on the -----
day of -----, 19____, appears to be insufficient in
view of the provisions of Article III, Section 301, of the Review
Regulations, 38—AAA 2, for the reason (s) that -----

A copy of the Review Regulations is enclosed.

An amended application containing the matter specified in said
Article III, Section 301, of the Review Regulations should be filed
by you with the undersigned within fifteen days after the date of
the mailing of this notice. You will later receive notice of the action
taken by the review committee on the application, if you do not file
an amended application within the time prescribed above.

----- County
Secretary, Agricultural Conservation Committee.
Address:

Exhibit 8 (g)

Form No. 38—AAA 6. United States Department of Agriculture.
Agricultural Adjustment Administration. -----
(Date of mailing)

NOTICE OF HEARING

Review Application No. -----

In the matter of the application of ----- for
(Full name)
a review of the ----- farm marketing quota—A. A. A.
(Commodity)
State and county code and farm serial No. -----.

To -----
(Full name of applicant) (Full address of applicant)
 Take notice, that the ----- day of -----,
 19-----, at ----- o'clock, --- m., has been designated as the time, and
 -----, as the place, for a hearing on the
 application for review in the above-entitled case.

At such hearing you will be given full opportunity to present testimony and evidence and to be heard on all such matters and issues presented by the filing of the application as, under Article V of Review Regulations, 38—AAA 2, may be considered by the review committee.

The review committee, at such hearing, will first pass upon any question as to whether the application was filed within the time, and in the manner, provided by Sections 300 and 301 of the Review Regulations, and, secondly, if it finds that the application was filed in conformity with such regulations, will review the marketing quota established for the farm.

(Clerk to Review Committee)

Address:

Exhibit 8 (h)

Form No. 38—AAA 7. United States Department of Agriculture.
 Agricultural Adjustment Administration.

ORDER OF DISMISSAL

Review Application No. -----

In the Matter of the application of ----- for a
(Full name)
 review of the ----- farm marketing quota—A. A. A. State
(commodity)
 and county code and farm serial No. -----.

To -----
(Full name of applicant) (Full address of applicant)
 and to all other persons who, as operator, landlord, tenant, or share-cropper, are interested in the farm for which this quota is established.

The application for review in the above-entitled case having been referred to the undersigned review committee, duly appointed by the Secretary of Agriculture pursuant to the provisions of Title III of the Agricultural Adjustment Act of 1938, and

It appearing to the review committee that the application is not in compliance with the requirements of Article III of Review Regulations, 38—AAA—2, for the reason(s) that -----

It is therefore ordered that the said application for review be, and the same is hereby, temporarily dismissed, and that this order of dismissal shall automatically become final at the expiration of fifteen days from the date of this order as indicated below unless, on or before such expiration date, the applicant files with the clerk to the review committee a written request for a hearing on said application. Upon the making of such request, the applicant shall be entitled to a hearing. At such hearing, the review committee will pass, first, upon the questions indicated above, and secondly, if it finds that the application was filed in conformity with said regulations, will review the marketing quota established for the farm.

A copy of this order, certified by the clerk to the review committee as a true and correct copy of the signed original, shall be served upon the applicant by depositing the same in the United States mails, registered and addressed to the applicant at his last-known address.

Done at _____ this _____ day of _____, 19_____.

Certified as a true and correct copy of the signed original.

(Clerk to Review Committee)
Address:

Exhibit 8 (i)

Form No. 38—A. A. A. 8. United States Department of Agriculture. Agricultural Adjustment Administration.

DETERMINATION OF REVIEW COMMITTEE

Review Application No. _____

In the Matter of the Application of _____ for a review of flue-cured tobacco farm marketing quota—A. A. State and county code and farm serial No. _____
(Full name)
(Commodity)

To all persons who, as operator, landlord, tenant, or sharecropper, are interested in the farm for which this quota is established.

STATEMENT OF THE CASE, FINDINGS OF FACT, CONCLUSIONS, AND DETERMINATION

STATEMENT OF THE CASE

This case came on for hearing before the undersigned review committee, duly appointed by the Secretary of Agriculture pursuant to

the provisions of Title III of the Agricultural Adjustment Act of 1938, to hear the application for review of the farm marketing quota in this case. The hearing was conducted pursuant to Review Regulations, 38—A. A. A. 2, issued by the Secretary of Agriculture under the authority of said Act.

A notice of hearing to take place on the ----- day of -----, 19----, at ----- o'clock, --- m., at -----, was duly given the applicant, and the hearing was held at said time and place. (Place of hearing)

The applicant was ----- present at the hearing and was represented by----- (not)

There was afforded the applicant an opportunity to be heard and to produce evidence and testimony bearing upon such matters and issues presented by the filing of the application as, under said regulations, the review committee is entitled to consider.

The applicant claims that instead of -----, as established through the county committee, the farm marketing quota should have been established at -----, and the application sets forth the following grounds for this claim :

Upon the entire record of proceedings in this case, including the evidence and testimony introduced at the hearing and all exhibits filed in the case, the review committee makes the following findings of fact, conclusions, and determination :

FINDINGS OF FACT

CONCLUSIONS

DETERMINATION

The marketing quota for this farm should be ----- pounds.

A copy of this determination, certified by the clerk to the review committee as a true and correct copy of the signed original, shall be served upon the applicant by depositing the same in the United States mails, registered and addressed to the applicant at his last-known address.

Done at -----, ----- this ----- day of -----, 19-----.

(Concurring)

(Dissenting)

Certified as a true and correct copy of the signed original.

(Clerk to Review Committee)

Address: -----

Exhibit 8½

Form ACP-71. United States Department of Agriculture. Agricultural Adjustment Administration. Washington, D. C.

ARTICLES OF ASSOCIATION OF COUNTY AGRICULTURAL CONSERVATION ASSOCIATION

(As amended July 28, 1938)

ARTICLE I—NAME

SECTION 1. The name of this Association shall be the Agricultural Conservation Association of ----- County, -----
(State)
 ----- hereinafter referred to as the "Association."

ARTICLE II—PURPOSE

SEC. 21. *Purpose.*—The purpose of the Association shall be to cooperate with the Secretary of Agriculture of the United States, hereinafter referred to as the "Secretary of Agriculture," the Agricultural Adjustment Administration, and other agencies of the Department of Agriculture in carrying out the provisions of Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, the Agricultural Adjustment Act of 1938, the Federal Crop Insurance Act, the Sugar Act of 1937, and any amendments to such acts, and such other acts of Congress as the Secretary of Agriculture may designate. The Association shall not engage in other activity.

ARTICLE III—MEMBERSHIP

SEC. 31. *Qualification for Membership.*—Any person who is participating or cooperating in any program developed under any of said acts of Congress, or who has an interest in a farm and who states in writing on a form prescribed by the Agricultural Adjustment Administration his intention to participate or cooperate in any such program, with respect to any farm or ranch in the county shall be a member of the Association.

SEC. 32. *Termination of Membership.*—Any person otherwise a member of the Association shall cease to be a member thereof when it becomes evident that he cannot qualify for any payment or grant of aid in the county in connection with the programs under Acts of Congress listed in Section 21.

ARTICLE IV—LOCAL AND COUNTY ORGANIZATIONS

SEC. 41. *Local Administrative Areas.*—The county may be divided into local administrative areas, hereinafter referred to as communities. The boundaries of the communities shall be fixed by the Secre-

tary of Agriculture. No such community shall include more than one county or parts of different counties.

SEC. 42. *Delegates to the County Convention.*—Except in any county in which there is only one community committee, members of the Association entitled to vote at the community election meetings, shall, at the time of the election of the community committee, elect from their number a delegate, and an alternate delegate to serve in case of absence, disability, resignation, disqualification, or removal of the delegate, to a county convention for the election of the county committee.

SEC. 43. *Community Committee Members and Alternates.*—Members of the Association residing in a community and participating or cooperating in any program currently administered in such community through the Association shall elect annually from their number a community committee of three members, of whom one shall be elected as a chairman and one as vice-chairman. At the same election members of the Association residing in the community shall also elect from their number first and second alternate members of the community committee to serve in the order elected in case of the absence, disability, resignation, disqualification, or removal of any committeeman. With the prior approval of the Agricultural Adjustment Administration, a smaller number of members and alternates may be elected to any community committee.

SEC. 44. *County Committee.*—A. The delegates to the county convention from the several communities in a county shall, in an annual convention held at such time and at such place as may be prescribed by the Agricultural Adjustment Administration, elect the county committee for the county, which shall consist of three farmers who are members of the Association. One of such members shall be elected as chairman and one as vice-chairman of the county committee. At the same election such delegates shall also elect from the members of the Association first and second alternate members of the county committee to serve in the order elected in case of the absence, disability, resignation, disqualification, or removal of any county committeeman.

B. If the county agricultural extension agent for the county is not elected secretary to the county committee, he shall be *ex officio* a member of the county committee but shall not have the power to vote.

C. In any county in which there is only one community committee the community committee shall also be the county committee.

SEC. 45. *Vacancies.*—In case of a vacancy in the office of chairman of a county or community committee, the respective vice-chairman shall become chairman; in case of a vacancy in the office of vice-chairman the third regular member shall become vice-chairman; in case of a vacancy in the office of the third regular member, the first alternate shall become the third regular member; and in case of a vacancy in the office of the first alternate, the second alternate shall become the first alternate. In the event that a vacancy occurs in the membership of the committee when no alternate is available to fill

the vacancy, an election to fill such vacancies as exist in the membership and in the panel of alternates shall be held in the manner prescribed in this Article IV.

ARTICLE V—COMMITTEES, OFFICERS, AND EMPLOYEES

SEC. 51. *Eligibility of Committeemen, Delegates, and Alternates.*—

A. Any member of the Association otherwise qualified shall be eligible to serve as a committeeman, delegate, or alternate only if such member—

(1) is engaged in farming or ranching and derives a substantial part of his income directly from farming or ranching;

(2) is a resident of the community or county for which the committee, delegate, or alternate is elected;

(3) has during the current year qualified for a payment or grant of aid in connection with a program administered by the Association in the county for which the committee, delegate, or alternate is elected or in the county in which he was engaged in farming or ranching during such year;

(4) is not holding, or is not, has not been during the current year, or does not become a candidate for, any Federal, State, or major county office filled by an election held pursuant to law;

(5) is not an officer or employee of any political party or organization;

(6) has not been removed for cause from office as committeeman, delegate, alternate, officer, or employee of any Association or like organization, or from public office, or convicted of any fraud, larceny, or embezzlement, or any felony.

B. Any member of the Association otherwise qualified who has been elected as a member of the community committee may also be elected as a delegate to the county convention or as a member of the county committee, or both, but, unless otherwise provided by the Agricultural Adjustment Administration, when a member of the community committee becomes a member of the county committee he shall cease to be a member of the community committee.

SEC. 52. *Secretary to the County Committee.*—The secretary to the county committee and the Association (hereinafter referred to as secretary to the county committee) shall be selected by the county committee, subject to the approval of the Agricultural Adjustment Administration. The secretary need not be a member of the Association, and may be the county agricultural extension agent but shall not be a member of the county committee.

SEC. 53. *Treasurer of the County Committee.*—A. The treasurer of the county committee and of the Association (hereinafter referred to as the treasurer of the county committee) shall be selected by the county committee, subject to the approval of the Agricultural Adjustment Administration. The treasurer need not be a member of the Association but shall not be the county agricultural extension agent or a member of the county committee. The offices of secretary

to and treasurer of the county committee may, in the discretion of the county committee, be combined, except where the county agricultural extension agent shall have been selected as secretary to the county committee.

B. The treasurer of the county committee shall furnish good and sufficient bond, faithfully to carry out the duties of his office. The amount, terms, conditions, and form of the bond shall be fixed by the Agricultural Adjustment Administration, and any cost of furnishing said bond shall be an item of expense of the Association. No person shall qualify as treasurer until the bond has been filed and approved.

SEC. 54. *Secretary to Community Committee.*—A community committee shall select a secretary subject to the approval of the Agricultural Adjustment Administration or may utilize the county agricultural extension agent or secretary to the county committee for such purpose.

SEC. 55. *Term of Office.*—A. The terms of office of all members, alternates, and officers of county and community committees shall begin on January 1 after their election unless an earlier date is specified for any area by the Agricultural Adjustment Administration and shall continue for a period of one year or until their respective successors have been elected and have qualified. For the year 1938 the term of office of such members, alternates, and officers shall commence immediately upon their election and qualification.

B. The terms of office of delegates and their alternates shall begin immediately upon their election and shall continue until their successors have been elected.

SEC. 56. *Removal from Office.*—A. Any member or officer of the community committee or officer or employee of the county committee who fails to perform the duties of his office, is incompetent, or commits fraud may be removed by the county committee subject to the approval of the Agricultural Adjustment Administration. If the county committee fails to act promptly in such case the Agricultural Adjustment Administration may remove such committeeman, officer, or employee.

B. Any elected member of the county committee who fails to perform the duties of his office, is incompetent, or commits fraud, may be removed by the Agricultural Adjustment Administration.

C. Any community or county committeeman who is removed from office shall have the right of appeal to the Agricultural Adjustment Administration for a review of the facts. Any individual who on such review is cleared of charges shall not be considered ineligible by reason of such removal within the meaning of Section 51A (6).

SEC. 57. *Political Activity.*—A. No person who has been a candidate during the current year or who holds or becomes a candidate for a Federal, State, or major county office filled by an election held pursuant to law or who is an officer or employee of any political party shall be eligible to serve as a member, officer, or employee of

a county or community committee or as a delegate to the county convention. The tenure of office of any committeeman, delegate, officer, or employee shall be automatically terminated and a vacancy shall exist when such person becomes such a candidate or accepts such a political position.

B. The office, clerical, mailing, or other facilities of the Association shall not be used for political purposes, nor shall any such facility be used in any way to support, assist, or oppose any political candidate or party or for any other purpose than those set forth in Article II.

ARTICLE VI—DUTIES OF COMMITTEES AND OFFICERS

SEC. 61. *Duties of County Committee.*—The county committee, subject to the general direction and supervision of the Agricultural Adjustment Administration, shall be generally responsible for the carrying-out of the purposes of the Association in the county. In so doing the committee shall—

(a) Determine farm acreage allotments, goals, normal yields, and other agricultural facts required under the programs formulated under the statutes listed in Section 21 for farms in the county, in accordance with regulations prescribed by the Secretary of Agriculture and instructions issued by the Agricultural Adjustment Administration;

(b) Select the secretary to and the treasurer of the county committee, provide for the employment of necessary personnel of the county committee, and fix the rate of compensation for such personnel, subject to the approval of the Agricultural Adjustment Administration;

(c) Supervise and direct the activities of the community committees established in the county;

(d) Review and certify, if otherwise correct, prescribed forms filed by, or on behalf of, members of the Association;

(e) Make available to members of the Association authorized information with respect to programs in which the Association is being utilized;

(f) Recommend to the Secretary of Agriculture changes in boundaries of communities;

(g) Recommend to the Agricultural Adjustment Administration changes in or additions to programs under the statutes listed in Section 21;

(h) Conduct such hearings and investigations as the Agricultural Adjustment Administration may request; and

(i) Perform such other duties as may be prescribed by the Agricultural Adjustment Administration.

SEC. 62. *Duties of Officers of the County Committee.*—A. *Chairman.*—The chairman of the county committee shall preside at meetings of the county committee and of the Association, supervise the work of the county committee, certify, if otherwise correct, such doc-

uments as may require his certification, and perform such other duties as may be assigned to him.

B. *Vice-Chairman*.—The vice-chairman of the county committee shall, in the absence of the chairman, serve as acting chairman of the county committee and in such capacity he shall perform such duties as would be performed by the chairman.

C. *Secretary*.—The secretary to the county committee shall be custodian of all the records and documents filed in the office of the Association. He also shall—

(1) Maintain an adequate supply of official forms required for use by members of the Association;

(2) Certify the results of all elections held in the county or communities within the county;

(3) Give public notice of the designation and boundaries of each community within the county not less than ten days prior to the election of community committeemen and delegates or alternates;

(4) Cause due notice to be given of all acreage allotments and such other information as may be required;

(5) Provide for the accessibility of information to the public as follows:

(a) Make available for public inspection in the Association office information pertaining to each farm within the county with respect to the number of acres in acreage allotments or goals that may be established for the farm, the average yields or productivity indexes established for the farm, and the acreage of range land and grazing capacity thereof for each ranching unit owned or operated in the county by members of the Association;

(b) Post conspicuously in the office of the Association a list of the names (but not the mail addresses) of all members of the Association receiving payments for cooperating in the authorized programs, together with the amount of the payment or payments received by each. This information shall be posted not sooner than 30 nor later than 60 days after payments have been received by the farmers;

(c) Post conspicuously in the office of the Association each year the names and addresses of all committeemen, officers, and employees of the Association, the amount received as pay by each as such committeeman, officer, or employee, and the total amount of the Association's administrative expenses for that year;

(6) Give due public notice at least five calendar days in advance of all meetings of the Association, all elections of community committeemen, and all conventions of delegates to elect the county committeemen; and

(7) Perform such other duties as may be assigned to him by the county committee or the Agricultural Adjustment Administration.

D. *Treasurer*.—The treasurer of the county committee shall have custody of all funds of the Association and shall disburse such funds only upon the authorization of the chairman of and secretary to the county committee, evidenced in writing on forms prescribed by

the Agricultural Adjustment Administration. Such treasurer shall also receive, hold, dispose of, and account for any other funds, negotiable instruments, or property, private or public, as provided in applicable rules, regulations, or instructions which are now or may hereafter become effective, authorizing him to receive and so handle such other funds, negotiable instruments, or property.

SEC. 63. Duties of Community Committees.—The community committee shall—

(a) Assist the county committee in determining acreage allotments, goals, normal yields, and other agricultural facts required under the programs listed in Section 21 for farms in the county;

(b) Inform farmers concerning the purposes and provisions of programs being administered in the county through the Association;

(c) Assist in arranging for and conducting the necessary community meetings of members of the Association; and

(d) Perform such other duties as shall be assigned to them by the county committee or the Agricultural Adjustment Administration.

SEC. 64. Duties of Officers of Community Committees.—**A. Chairman of community committee.**—The chairman of the community committee shall preside at all meetings of the community committee and of the members of the Association in the community. He shall supervise the work of the members of the community committee.

B. Vice-Chairman.—The vice-chairman of the community committee shall, in the absence of the chairman, perform such duties and functions as would be performed by the chairman.

C. Secretary.—The secretary to the community committee shall perform such duties as may be assigned to him by the secretary to the county committee or by the Agricultural Adjustment Administration.

ARTICLES VII—OFFICES

SEC. 71. Office of the County Association.—The office of the Association shall be located at such place in the county as may be selected by the county committee subject to the approval of the Agricultural Adjustment Administration.

ARTICLE VIII—CUSTODY AND PUBLICATION OF BOOKS AND RECORDS

SEC. 81. Custody.—All books, records, and documents of the Association shall be the property of the Agricultural Adjustment Administration and shall be maintained in good order in the office of the Association in the custody of the secretary to the county committee.

SEC. 82. Inspection.—The books, records, and documents of the Association shall be available for examination (1) at all times by officers and committeemen in the performance of their duties and by any authorized representative of the Secretary of Agriculture or of the Agricultural Adjustment Administration, and (2) at any reasonable time by any member of the Association insofar as his in-

terest under the programs administered by the Association may be affected. They shall not be available for inspection or examination by any other person, except with the prior approval of the Secretary of Agriculture or of the Agricultural Adjustment Administration.

ARTICLE IX—MEETINGS

SEC. 91. *Purpose.*—Meetings of any community committee or of the county committee shall be called only when necessary for the performance of the duties of the committee.

SEC. 92. *Time and Place of Meetings.*—Meetings of the county committee and of the Association may be held at the office of the Association or at any other suitable and readily accessible place within the county.

Meetings of delegates to the county convention shall be held at such time and at such place within the county as may be prescribed by the Agricultural Adjustment Administration.

SEC. 93. *Call and Notice.*—Due notice shall be given of each meeting of any community committee, the county committee, the county convention, or the Association. Any such committee meeting may be called by the chairman or acting chairman of the committee.

SEC. 94. *Quorum.*—A majority of any committee shall constitute a quorum for the transaction of business. A majority of the delegates elected to the county convention shall constitute a quorum for the election of county committeemen.

SEC. 95. *Voting.*—Each member of the Association, delegate to the county convention, or member of a community or county committee eligible to vote shall be entitled to only one vote. There shall be no voting by proxy.

ARTICLE X—DEDUCTIONS FOR ASSOCIATION EXPENSES

SEC. 101. *Deductions for Expenses and Notice Thereof.*—A. All or such part, as the Secretary of Agriculture may prescribe, of the estimated administrative expenses of the Association may be deducted pro rata from any payments or loans made to members of the Association in connection with any program with which the Association is concerned.

B. In each case where any administrative expenses are deducted in connection with a program current after June 30, 1938, each member of the Association shall be apprised, in the form of a statement on a form prescribed by the Agricultural Adjustment Administration accompanying the check evidencing the payment or loan, of the amount or percentage deducted from such payment or loan on account of such administrative expenses.

ARTICLE XI—AMENDMENTS

SEC. 111. These Articles of Association may be amended from time to time by the Secretary of Agriculture.

ARTICLE XII—ADOPTION OF ARTICLES

SEC. 121. These Articles of Association shall become effective upon approval by the Secretary of Agriculture.

SEC. 122. Nothing herein contained shall necessitate the reorganization of any community or county committee elected and constituted for the year 1938 prior to February 1, 1938, nor require the change of any procedure established for the filling of vacancies in such committees, except in counties where community boundaries are changed by the Secretary of Agriculture during 1938.

The foregoing Articles of Association are hereby approved, effective as of the date shown below.

H. A. WALLACE,
Secretary of Agriculture.

By _____
Duly Authorized Representative

Date: _____

Exhibit 9, a map, showing tobacco-growing districts of the United States, omitted by agreement of parties.

IN UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF
GEORGIA, VALDOSTA DIVISION

In Equity. No. 97

JAMES H. MULFORD et al., Plaintiffs,

vs.

NAT SMITH et al., Original Defendants, and UNITED STATES
OF AMERICA, Intervening Defendant

OPINION—Filed October 7, 1938

SIBLEY, Circuit Judge :

Some of the reasons supporting the foregoing Conclusions of Law may profitably be stated.

It is mainly urged for plaintiffs that the part of the Act in controversy is not a regulation of interstate and foreign commerce but is a regulation of all sales of tobacco by producers whether for export from the State or for manufacture and consumption within the State, and whether large or small; and that the real purpose and effect of it is to regulate and restrict the production of tobacco, which is a local activity. We may concede that agriculture, mining, manufacture and the like are in themselves local activities the regulation of which generally belongs to the States and not to Congress. So are sales made within the State not intended at the time to result in removing the goods from the State. But it may not be maintained that such intrinsically local matters do not under some circumstances become so interwoven with interstate and foreign commerce as to render it necessary and proper for Congress to affect or control them in order to regulate the interstate and foreign commerce which springs from them. The power of Congress to regulate such commerce is paramount and is very broad. If regulation of any kind is needed, the Congress and not the States must furnish it; and it may be of any kind not prohibited by other constitutional provisions. A State prior to the Union would so have regulated by virtue of its general police power. After the Union, this sphere of the police power vests in the Congress. Within its sphere, the power of Congress is in its nature a police power, to be exerted for the public good and in any way, not

prohibited, which Congress deems calculated to achieve the desired regulatory effect. This may involve, as above stated, the affecting or controlling what would usually pertain to the State police power. Thus intrastate rates may be controlled by Congress when so involved with interstate commerce as to make it necessary. Possession of intoxicating liquor under prohibition was controlled by Congress though its constitutional power extended only to the manufacture, transportation and sale thereof. Very extensive regulation of the production of distilled liquors has always been allowed to secure payment of the federal taxes on the liquors, though such production would otherwise be only of State concern. But the law in controversy does not directly regulate the production of tobacco. It does not penalize or forbid the production of any amount the grower pleases. He may do what he likes with it except to market it. Since most tobacco is grown only to be sold, the inability to sell the excess of a quota except at a loss at least of all profit would tend to and probably would result in the non-production of the excess so far as the grower can prevent it. But the Act directly deals with the marketing, and not with the planting or production of tobacco.

Since marketing is an act of commerce, like transportation, if marketing in interstate and foreign commerce alone had been regulated there would be no fair doubt of the power of Congress generally to regulate. The trouble arises from the inclusion of all sales of tobacco by producers. Congress rests that inclusion on its right to regulate not particular sales as such, but the commerce in tobacco as a great whole, because it is overwhelmingly a matter of interstate and foreign traffic, and so unified in fact as that it must be dealt with generally and on a nationwide scale. The price to producers, the stability of which is asserted by Congress to be a main concern both because the support of hundreds of thousands of persons depends on it, and because it in turn controls the amount of tobacco which will be grown and if too low may destroy the industry altogether, is a countrywide matter. No State acting alone could wisely or effectively regulate the situation. Conflict and reprisals would almost certainly follow State effort. In Georgia all tobacco, except a negligible amount, is sold for export from the State, and this is predominantly true in all the States which produce tobacco. The commerce in it is in fact overwhelmingly interstate and foreign. The stable supply to meet the stable

demand and to result in a stable price which Congress seeks to achieve can in its judgment practically be reached only by a countrywide regulation controlling the entire market. Courts may not overrule the considered judgment of Congress on the point, where the conclusion is not clearly irrational and arbitrary. They must enforce the law without questioning its wisdom or effectiveness. Should Congress, (except in a case of clear usurpation), seek unjustifiably to control matters which ought to remain with the States the issue becomes so far political that solution might better be had in the elections as of a public question between the States and the Union than in the courts at the instance of private litigants.

The Act is not a price-fixing one. The price is still fixed by the will of buyer and seller, and more remotely by the circumstances that normally affect prices. It seeks merely to stabilize one of those circumstances, to-wit, the available marketable supply for the year. Protective tariffs affect prices similarly. It does not take the property of any producer. It affects the value of his excess, if intentionally or unintentionally he makes more tobacco than his quota, for he has to hold it for another quota year, or else use it in some other way. In so far as it takes his liberty of selling what is his own for what he can obtain for it, or indirectly affects his liberty to plant what he pleases on his own land, the taking is not without due process of law but is the ordinary restraint of liberty which accompanies every exercise of police power for the public good. One may be prohibited by competent authority from raising or selling tobacco if by so doing he injures others. *Sec utere tuo ut alienum non laedas*, a nounless maxim, qualifies both the property and the liberties of everyone.

This particular Act does not fail for vagueness in the standards for fixing quotas, nor leave everything to the Secretary so as to make him legislator. The language of Sect. 213(b) refers to farm quotas, and in speaking of "past marketing of tobacco" means the marketing from each several farm, and so in reference to considering "land, labor and equipment available for production of tobacco" reference is made to each farm. These are the things that one would naturally consider in fixing fair quotas for individual farms, and they furnish a sufficient legislative guide, and they were satisfactorily applied to these plaintiffs.

The application of a quota in 1938 after crop preparation had begun may entail some hardship and loss but does not deprive of property without due process of law. When the Act was passed in February, preparation had not proceeded far. Even in March when the referendum made it certain there would be a quota it was not too late to plant some of the tobacco land in other crops, at a loss of some of the young plants. The Act does not penalize one for having prepared too much land or having started too many young plants, but only for selling too much tobacco months afterward. Had the quotas been fixed in December, as hereafter they will be, many producers would have produced an excess anyhow, the season having been unusually favorable. That chance always must exist. If the conduct to be penalized has not happened and may be avoided when the penal law is passed there is no constitutional transgression although some preparation may have been made to do it. Witness the fate of liquor stocks when laws prohibiting their sale were passed. The excess tobacco, it is argued, would spoil if kept unless further treated, and plaintiffs had no facilities for treating it. But all that is sold is thus treated by the purchasers. The growers, foreseeing excesses, could have arranged to have their unsalable tobacco processed, either by shipping it elsewhere or by converting a warehouse into a processing plant. At any rate it was their burden.

The penalties incurred by wilful sales this year of excess tobacco must be paid.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

[Title omitted]

CONCURRING OPINION—Filed October 7, 1938

On the Bill of Complaint and the Stipulation of Facts, made by the Complainants and the Defendants, I believe the decree I am signing is proper.

I concur in the result reached by Judge Sibley, but not entirely in the reasoning or opinion.

C. B. Kennamer, United States District Judge.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

[Title omitted]

FINDINGS OF FACT AND CONCLUSIONS OF LAW—Filed October
7, 1938

The plaintiffs, numerous producers of tobacco in Georgia and Florida, brought in a State court a bill quia timet against the defendants, the tobacco warehousemen doing business in Valdosta, Ga., to and through whom the plaintiffs intended to market their tobacco in the selling season of August, 1938, to enjoin the defendants from retaining and paying over to the United States as a penalty one-half of the purchase price of tobacco marketed in excess of the several quotas of the plaintiffs fixed under Sections 311, 312, 313 and 314 of the Agricultural Adjustment Act of 1938. The case was removed to this court as one arising under the law regulating commerce. 28 U. S. C. A. Sec. 41(8). The bill was amended to seek a decree declaring unconstitutional and void the said sections of the Agricultural Adjustment Act as beyond the power of Congress, and as delegating legislative power to the Secretary of Agriculture, and especially as applied to the crop of 1938 because operating to take property without due process of law. The United States intervened to defend the Act. The case was submitted to a court of three judges upon a stipulation of the evidentiary facts.

FINDINGS OF FACT

The facts as stipulated are true. The important conclusions are:

The plaintiffs have each marketed in August, 1938, tobacco produced by them in excess of quotas for this season fixed for their several farms pursuant to the Agricultural Adjustment Act and the Regulations made under it by the Secretary of Agriculture. No complaint is made of the fairness of the quotas if there was authority to make quotas. The penalties for the excess marketing have under order of the Court been paid into Court to await decision as to their disposition.

The tobacco of plaintiffs was sold to buyers for shipment to other States and to foreign countries. The manufacture of tobacco in Georgia is negligible. The Florida plaintiffs

brought their tobacco into Georgia to market it at the warehouses, where sales are customarily made, as a sort of tobacco exchange.

The tobacco business as a whole is essentially a matter of interstate and foreign commerce. A number of States produce some tobacco, but the bulk of it is produced in the six States of Virginia, Kentucky, North Carolina, South Carolina, Georgia and Florida. It is consumed everywhere. It is manufactured extensively in Virginia and North Carolina and in many non-producing States. Over half of the tobacco produced is exported to foreign countries. It is sold by producers in market towns, for the most part in warehouses maintained for the purpose, during seasons of only a few weeks. The price is fixed by the buyers, mainly manufacturers and exporters, who are supposed to compete as purchasers. The demand is practically stable from year to year, but the supply of tobacco is very variable, depending not only on the acreage planted but also on uncontrollable factors of weather, pests and misfortune. Tobacco when further cured and packed away will keep indefinitely and is improved by aging; and manufacturers maintain large stocks of it. When the supply does not exceed the normal demand the manufacturers compete in buying and the price is relatively high. When the supply is excessive the buyers hold off, the price is greatly depressed, sometimes below the cost of production. Average prices in recent years have varied from twenty-seven cents per pound to as low as eight cents. The price variations are not local but countrywide.

Commerce in tobacco in the United States is very extensive and of public importance. Over 700,000 families are engaged in producing it and over 300,000 in producing the kind of tobacco quotas on which are here involved. Around a billion pounds are produced annually and the manufactured product exceeds in value a billion dollars. Before passing the Act in question Congress made very thorough and deliberate investigation of the business, holding many hearings about it. The Act was not hastily passed but represents the considered and matured conclusion of the Legislature. As stated in Section 311 it was found as a fact that "the marketing of tobacco constitutes one of the great basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point, and stable conditions therein are necessary to

the general welfare. Tobacco produced for market is sold on a nationwide market and with its products moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer * * *. The disorderly marketing of such abnormally excessive supplies affects, burdens and obstructs interstate and foreign commerce" in ways stated. "Whenever an abnormally excessive supply of tobacco exists * * * the operation of the provisions of this Part becomes necessary in order to promote, foster and maintain an orderly flow of such supply in interstate and foreign commerce." If a court may question such legislative fact findings, in this case the legislature has found truly.

An abnormally excessive supply of tobacco was in prospect when the Act was passed on Feby. 18, 1938. The National quota was fixed and proclaimed on that very date, and on March 16 submitted in a referendum to the producers, who approved it by a vote of about six to one, though only 62% of Georgia producers voted for it. How the plaintiffs voted does not appear. The State quotas at once followed by mathematical computation. The Farm quotas were not definitely fixed till June. Some adjustments were made in these as late as August, but they were enlargements and did not prejudice any plaintiff. The quotas were fair and according to the Act and Regulations. When the Act was passed the plaintiffs had planted their seeds in beds, and the plants were probably up and growing. When the referendum was held in March the land had been prepared and fertilized, though most plants were not transplanted till about April 1. When the farm quotas were definitely made in June the crop had been cultivated and was approaching maturity. When the marketing was done in August each plaintiff knew what his quota was.

CONCLUSIONS OF LAW

1. The provisions of Sects. 312, 313 and 314 of the Agricultural Adjustment Act of 1938 are regulations of interstate and foreign commerce within the power given Congress by the Constitution.
2. The provisions as to fixing farm quotas in Sect. 313 (b) are not so indefinite as to deny due process of law or to vest unconstitutionally legislative power in the Secretary of Agriculture.

3. The provisions of Sect. 312 (d) for making quotas for the 1938 crop while entailing some hardship on growers who had already planted their crops, do not operate to deprive them of property without due process of law.

Samuel H. Sibley, United States Circuit Judge. C. B. Kennamer, United States District Judge. ———, United States District Judge.

[File endorsement omitted.]

IN UNITED DISTRICT COURT, MIDDLE DISTRICT OF GEORGIA,
VALDOSTA DIVISION

In Equity. No. 97

JAMES H. MULFORD et al., Plaintiffs,

vs.

NAT SMITH et al., Original Defendants, and UNITED STATES
OF AMERICA, Intervening Defendant

DECREE—Filed October 7, 1938

This cause came on for final hearing upon an agreed statement of facts before a Court composed of Honorable Samuel H. Sibley, United States Circuit Judge, Honorable Bascom S. Deaver and Honorable Charles B. Kennamer, District Judges, and was argued by counsel, and decision reserved. The Court being now fully advised in pursuance of Findings of Fact and Conclusions of Law filed herewith, it is considered and decreed by the Court:

1. That Sections 312, 313 and 314 of the Agricultural Adjustment Act of 1938, exhibited in the petition, are constitutional and valid as against the attacks made by the plaintiffs thereon.

2. That the application of the Act to the marketing season of 1938 is not unconstitutional, but the quotas fixed thereunder for the marketing of plaintiffs' tobacco are valid and binding, and marketing by them of tobacco in excess of such quotas may validly be penalized according to the Act.

3. The injunction prayed for is denied, and the restraining order heretofore granted is dissolved. The funds in the hands of the Clerk are to be returned to the parties who

paid them in, for disposition according to law. Should any dispute arise touching said fund, jurisdiction is reserved to hear and determine it.

4. The bill is dismissed, the costs are adjudged against the plaintiffs in favor of the defendants, to be taxed by the Clerk.

This October 5, 1938.

Samuel H. Sibley, United States Circuit Judge. C. B.
Kennamer, United States District Judge. —
—, United States District Judge.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR APPEAL—Filed October 21, 1938

To the Said Honorable Court:

Plaintiffs in the above stated cause, being aggrieved by the final order and decree entered on October 7th, 1938 in the above entitled cause, do hereby appeal from said final order and decree to the Supreme Court of the United States, and they pray that their appeal may be allowed; and that a transcript of the record and proceedings and papers upon which said final decree was based and made may be sent to the Supreme Court of the United States.

A. J. Little, Valdosta, Ga.; C. A. Avriett, Jasper, Fla.;
J. L. Blackwell, Live Oak, Fla.; L. E. Heath,
Douglas, Ga., Attorneys for Plaintiffs.

ORDER ALLOWING APPEAL

It is ordered that the appeal be allowed as prayed for.
This 18th day of October, 1938.

Samuel H. Sibley, United States Circuit Judge.
Charles B. Kennamer, United States District Judge.
Bascom S. Deaver, United States District Judge.

[File endorsement omitted.]

IN UNITED STATES DISTRICT COURT

[Title omitted]

ASSIGNMENT OF ERRORS—Filed October 21, 1938

Plaintiffs-appellants assert that the Statutory District Court erred in rendering final judgment and decree against them signed on October 5, 1938 and entered of record on October 7, 1938, and say that in said final judgment and decree the said Court erred in the following particulars :

(1) In holding that Sections 312, 313 and 314 of the Agricultural Adjustment Act of 1938 constitute a regulation of the marketing of tobacco within the power of Congress to regulate commerce with the foreign nations and among the several States, against the contention of the Plaintiffs-appellants that the provisions of said section constitute a regulation of the production of tobacco in invasion of the powers reserved to the States under the Tenth Amendment of the Constitution of the United States.

(2) In holding that Sections 312, 313 and 314 of the Agricultural Adjustment Act of 1938 constitute a valid regulation of all marketing of tobacco within the power of congress to regulate commerce with the foreign nations and among the several States, against the contention of the plaintiffs-appellants that the disposition of tobacco by producers by sale, barter, or exchange is a transaction in intrastate commerce, and such regulation of all such marketing involves an invasion of the powers reserved to the States under the Tenth Amendment of the Constitution of the United States.

(3) In holding that the provisions of sub-section (c) of Section 313 of the Agricultural Adjustment Act of 1938, relating to the establishment of marketing quotas for tobacco farms, are not so vague and indefinite as unconstitutionally to vest in the Secretary of Agriculture legislative power, against the contention of the plaintiff-appellants that the provisions of said sub-section do not prescribe a sufficient standard for the establishment of farm marketing quotas of tobacco and, therefore, vest in the Secretary of Agriculture legislative power in violation of Article 1, Section 1 of the Constitution of the United States.

(4) In holding that the provisions of sub-section (c) of Section 313 of the Agricultural Adjustment Act of 1938, relating to the establishment of marketing quotas for tobacco farms, are not so vague and indefinite as to constitute a denial of due process of law to the plaintiffs-appellants under the Fifth Amendment of the Constitution of the United States, against the contention of the plaintiffs-appellants that under said provisions there is not sufficient protection to the plaintiffs-appellants against unreasonable, arbitrary and capricious action on the part of the Secretary of Agriculture in the establishment of such farm marketing quotas.

(5) In holding that Sections 312, 313 and 314 of the Agricultural Adjustment Act of 1938 are valid as against the attacks thereon made by the plaintiffs-appellants, against the contention of the plaintiffs-appellants that said subsections constitute, in substance and in effect, a statutory plan to regulate the production of tobacco and all marketing of tobacco in invasion of the powers reserved to the States under the Tenth Amendment of the Constitution of the United States; involve an invalid delegation of legislative power to the Secretary of Agriculture in violation of Article 1, Section 1 of the Constitution of the United States; and deny to the plaintiffs-appellants due process of law in violation of the Fifth Amendment of the Constitution of the United States.

(6) In holding that the provisions of sub-section (d) of Section 312 of the Agricultural Adjustment Act of 1938, whereby farm marketing quotas for tobacco were established for the 1938-1939 marketing year, while entailing some hardship upon producers who had planted their crops of tobacco, do not operate to deprive the plaintiffs-appellants of their property without due process of law, against the contention of the plaintiffs-appellants that the establishment of said marketing quotas, after the planting and cultivation of such tobacco, render it impossible for the plaintiffs-appellants to take into consideration at the time of planting and cultivation possible restrictions on marketing and thereby avoid the expense of producing tobacco in excess of marketing quotas.

(7) In denying the relief prayed for in the bill of complaint and in ordering the Clerk of the District Court to tax the costs against the plaintiffs-appellants in favor of the defendants-appellees.