

been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0560-0006.

#### § 729.102 Applicability.

The regulations contained in 7 CFR part 729 are issued in accordance with the Agricultural Adjustment Act of 1938, as amended, and are applicable to the 1996 through 2002 crops of peanuts. They govern the establishment of farm poundage quotas, the issuance of marketing cards, the identification of marketings of peanuts, the collection and refund of penalties, the keeping of records, and the making of reports incident thereto. The peanut marketing quota and disposition requirements for peanuts for the 1991 through 1995 crops shall, as applicable, continue to be governed by the regulations codified at 7 CFR part 729, as of April 1, 1996.

[56 FR 16211, Apr. 19, 1991, as amended at 61 FR 36999, July 16, 1996]

#### § 729.103 Definitions.

(a) *Applicability.* The definitions set forth in this section shall be applicable for all purposes of program administration for peanuts except as may otherwise be indicated. The definitions in, and provisions of, parts 718, 719, and 720 of this chapter and 1446 of this title are hereby made applicable to these regulations unless the context or subject matter or the provisions of these regulations require otherwise.

(b) *Terms.* The following terms shall be defined as set forth in this paragraph.

*Act.* The Agricultural Adjustment Act of 1938, as amended.

*Additional peanuts.* Any peanuts which are marketed from a farm other than peanuts marketed or considered marketed as quota peanuts.

*Base period.* The 3 crop years immediately preceding the current year for which a basic quota is being established.

*Basic penalty rate.* The per pound amount determined by multiplying the national support level per ton for quota peanuts, as announced by the Secretary for the applicable marketing year, by 1.4 and dividing the result by 2000.

*Basic quota.* A farm's share of the peanut poundage quota allocated to a State. The basic quota for the current year is the preliminary quota as adjusted pursuant to this part for any:

(i) Increase or decrease in the State poundage quota from the poundage quota allocated to the State for the preceding year;

(ii) Reduction in the quota due to nonproduction;

(iii) Reduction for permanent release of quota from the farm in the current year;

(iv) Permanent transfers of quota to or from the farm for the current year; and

(v) Reallocation of quota to the farm from quotas;

(A) Reduced for nonproduction.

(B) Permanently released.

*Buyer.* A person, who also may be known as a handler, who:

(i) Buys or otherwise acquires peanuts in any form;

(ii) Markets, as a commission merchant, broker, cooperative, agent, or in any other capacity, any peanuts for the account of a producer and is responsible to the producer for the amount received for the peanuts; or

(iii) Receives peanuts as collateral for, or in settlement of, a price support loan.

*CCC.* The Commodity Credit Corporation, a financial instrumentality within the United States Department of Agriculture.

*Commingled peanuts.* Peanuts that were produced on 2 or more farms and loaded into a single conveyance in such manner that the peanuts become, or can become, intermingled and as a result making it impossible to divide the peanuts into separate lots in such manner that the peanuts may be identified accurately as to the farm of production at the time of marketing.

*Considered produced credit.* If the marketings of peanuts from a farm in the current year are less than such farm's basic quota, the credit granted in the current year (but not to exceed the basic quota established for the farm for the current year less the pounds of peanuts which were produced and marketed from the farm during the current marketing year) for the amount of one or more of the following as may apply:

(i) Peanuts that the county committee determines, according to instructions provided by the Deputy Administrator, were not produced because of drought, flood or any other natural disaster or any other condition beyond the control of the producer. Conditions beyond the control of the producer are for this purpose:

(A) Unavailability of an adequate supply of seed to plant an acreage of peanuts that is sufficient to produce the basic quota.

(B) A court order that prevents access to the farm or otherwise prevents the release or transfer of the peanut quota in a manner in which considered produced credit could be earned.

(ii) A peanut poundage quota that was leased and transferred by a transfer agreement that was filed before August 1 of the current year to the extent the quota was produced or considered produced on the receiving farm; provided further, that to the extent that for any base period a farm receives credit under this paragraph, such farm may not receive credit under paragraph (iii) of this definition.

(iii) Peanut poundage quota that was voluntarily released for the current year, or was leased and transferred by a transfer agreement that was filed before August 1 of the current year, if neither of the following are applicable:

(A) Part, or all, of the quota was voluntarily released during any 2 or more years of the base period, or

(B) Part, or all, of the quota was leased and transferred to another farm within the same county during any 2 or more years of the base period.

(iv) A farm's basic quota that was not produced if the Farmers Home Administration or the Farm Service Agency had control of, or title to, such farm.

(v) Peanut quota converted from the production of peanuts in accordance with part 1410 of this title.

(vi) Quota in an eminent domain pool.

*Converted penalty rate.* The per pound amount determined by multiplying the basic penalty rate by the result obtained when the absolute value (positive or negative) of the difference between the acreage of peanuts reported by the farm operator and the acreage

of peanuts determined to have been planted on the farm as determined in accordance with part 718 of this chapter is divided by the acreage of peanuts determined for such farm.

*Deputy Administrator.* The Deputy Administrator for Farm Programs, Farm Service Agency.

*Director.* The Director, or Acting Director, Tobacco and Peanuts Division, Farm Service Agency, U.S. Department of Agriculture.

*Effective quota.* The basic quota as adjusted for the applicable crop year for:

(i) Temporary transfers of quota to or from the farm;

(ii) Temporary releases of quota from the farm;

(iii) Temporary reapportionment of quota to the farm;

(iv) Quota converted and reduced in the current year from the production of peanuts pursuant to regulations in part 704 of this chapter for the Conservation Reserve Program, or in any other regulations for that program or similar program; and

(v) Temporary seed quota allocated to the farm.

*Electronic (smart) marketing card.* A CCC approved standard card for use in identifying peanuts when marketed, and which contain a micro computer chip on which applicable:

(i) Farm data is recorded by the county FSA office before the marketing card is issued to the farm operator.

(ii) Marketing data is recorded at the buying point when the peanuts are marketed.

*Excess peanuts.* The quantity of peanuts:

(i) Marketed or considered marketed as quota peanuts from the farm in the current marketing year in excess of the farm's effective quota, or

(ii) Marketed as contract additional peanuts from the farm in the current marketing year in excess of the amount contracted in accordance with part 1446 of this title.

*False identification.* The deliberate or inadvertent identification of peanuts at the time of marketing as being produced on a farm when the peanuts were not produced on such farm.

*Farm production history.* The sum of the produced and considered produced

quantity of peanuts for a farm during the base period.

*Farm yield.* The yield established for a farm for the immediately preceding year on the basis of peanut production on the farm or on similar farms during the years 1973 through 1977 or, if a farm yield was not established for the preceding year, the yield appraised by the county committee that is fair and reasonable on the basis of farm yields established on other farms in the locality on which the soil and other physical factors affecting production are similar.

*Farmers stock peanuts.* Picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels that are removed from farmers stock peanuts before such farmers stock peanuts are marketed.

*Final acreage.* The acreage devoted to peanuts on a farm, excluding any acreage devoted to green peanuts, as determined in accordance with part 718 of this chapter.

*First purchaser.* Any person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to CCC or brought from the price support loan inventory, the term means the person acquiring the peanuts from CCC or the inventory.

*FSA.* The Farm Service Agency of the Department of Agriculture.

*Green peanuts.* Peanuts which, before drying or removal of moisture from the peanuts either by natural or artificial means, are marketed by the producer for consumption exclusively as boiled peanuts.

*Inspector.* A Federal or Federal-State inspector authorized or licensed by the Secretary, U.S. Department of Agriculture to grade peanuts.

*Loan additional peanuts.* Peanuts which are pledged as collateral for a price support loan at the applicable additional loan rate established by or for CCC.

*Market.* To dispose of peanuts (including farmers stock peanuts, shelled peanuts, cleaned peanuts, or peanuts in

processed form) by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos. The terms "marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used. The terms "barter" and "exchange" shall include the use of any quantity of peanuts by the producer as payment to another for any reason including payment for the harvesting, picking, threshing, cleaning, crushing, or shelling of peanuts, or for any other service rendered to the producer. Any lot of farmers stock peanuts will be considered as marketed when acquired from the producer. Peanuts which are delivered by the producer as collateral for, or in settlement of, a price support loan will be considered as marketed at the time of delivery. Delivery shall be deemed to have occurred when the peanuts are unloaded at the delivery point. Any peanuts produced on a farm which are retained on the farm after January 31, or such later date as may be established by the Executive Vice President, CCC, of the year following the year in which the peanuts were produced shall be considered as marketed for domestic edible use as of January 31, or such later date.

*Marketing year.* The 12 month period beginning on August 1 of a current year in which the peanuts are grown and ending July 31 of the following year.

*National poundage quota.* The poundage quota announced by the Secretary for the relevant crop year.

*Nonquota farm.* A farm that does not have a basic quota greater than zero for the current year.

*Peanut quantity marketed or considered marketed.* With respect to a lot of farmers stock peanuts, the quantity of such peanuts that is marketed or considered marketed shall be:

(i) *Inspected peanuts.* For peanuts inspected by the Federal-State Inspection Service at the time of marketing, the gross weight of the lot less foreign material in the lot and less moisture in excess of 7 percent of gross weight for the lot.

(ii) *Noninspected peanuts.* For peanuts not inspected by the Federal-State Inspection Service at the time of marketing, the gross weight of the lot.

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(iii) *Shelled peanuts.* For shelled peanuts marketed by a producer, the poundage of the shelled peanuts in the lot multiplied by a factor of 1.5.

*Peanuts.* All peanuts produced, excluding:

- (i) Any peanuts which were not dug;
- (ii) Any dug peanuts not picked or threshed which are disposed of under the direction and supervision of FSA personnel; and
- (iii) Green peanuts.

*Planted acreage.* The acreage on which peanuts were planted in a workmanlike manner determined in accordance with the provisions of part 718 of this chapter.

*Preliminary quota.* For the current year and an eligible farm, the basic quota established for the farm for the preceding year to the extent that the farm is not subject to a reduction in quota.

*Quota farm.* A farm having a basic quota greater than zero in the current year.

*Quota peanuts.* Peanuts (except green peanuts) which are marketed or considered marketed from a farm for domestic edible use. Quota peanuts shall be considered to be all peanuts which are dug on a farm except the following:

- (i) Green peanuts;
- (ii) Peanuts which are placed under loan at the additional loan rate and not redeemed by the producer;
- (iii) Peanuts which are marketed in accordance with the requirements of this part as contract additional peanuts.
- (iv) Peanuts considered marketed but because of conditions beyond the control of the producer had no commercial value as determined by the FSA at the time the peanuts were marketed.

*Seed sheller.* A person who in the course of such person's usual business operations shells peanuts for use as seed for the subsequent year's crop.

*Temporary seed quota.* Quota temporarily allocated for the current crop year only and in an amount determined by FSA to account for the amount of seed peanuts planted on the farm for production of peanuts, excluding green peanuts and peanuts produced under the one-acre exemption set forth in § 729.306 of this part.

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*Tillable cropland.* Cropland (excluding orchards, vineyards, land devoted to trees, and land being prepared for non-agricultural uses) which the county committee determines can be planted to crops without unusual preparation or cultivation.

*Yield per acre or actual yield.* The yield of peanuts for a farm for a crop year computed by dividing the total production of peanuts for the farm by the final acreage of peanuts for the farm.

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### § 729.104 Administration.

(a) The regulations in this part will be administered under the general supervision of the Administrator, FSA, and shall be carried out in the field by State and county FSA committees.

(b) State and county committees, and representatives and employees thereof do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee:

(1) Shall instruct a county committee to:

(i) Correct any action taken by such committee which is not in accordance with the regulations of this part, or

(ii) Withhold taking any action which such committee is known to be contemplating if such action is not in accordance with the regulations of this part.

(iii) Take any action required in accordance with the regulations of this part if such county committee has knowingly failed to take such action.

(2) May, after duly instructing a county committee in accordance with paragraph (c)(1) of this section, correct or modify any action required by these regulations that such committee has failed or refused to take.

(d) The Deputy Administrator:

(1) Shall instruct a State committee to:

(i) Correct any action taken by such committee which is not in accordance with the regulations of this part, or

(ii) Withhold taking any action which such committee is known to be