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of this section as they regard production, the determination of whether paragraph (a)(2) of this section applies shall be made based on the crop last planted before the date on which the determination is to be made.

(e) *Allocating forfeited quota and sales of quotas subject to paragraph (a).* Except for the exemption for involuntary acquisition in § 729.205(c), beginning in 1997 any farm poundage quota held on or after August 1 of 1997 by an ineligible person as determined under paragraph (a) of this section shall be allocated from the quota farm to other farms in the same State in accordance with § 729.206 of this part; provided, however, that if the ineligibility arises solely because of a purchase of a farm after August 1, 1997, or involves a quota which is acquired because of the expiration of a CRP contract after August 1, 1997, the quota shall not be forfeited but may not be used to market peanuts until the ineligibility is determined by the county committee to have been removed or the quota is sold to an eligible farm. Such reallocations shall be made to the extent practicable but shall take into account those instances in which the regulations call for an ineligibility for quota allocation rather than forfeiture of the quota.

[61 FR 37000, July 16, 1996, as amended at 62 FR 25438, May 9, 1997]

§ 729.206 Determining a farm's basic quota.

(a) *No change in State poundage quota.* If the poundage quotas allocated to the State for the current year is the same as the State's poundage quota for the preceding year, the current year's basic quota for each quota farm in the State shall be the same as such farm's preliminary quota for the current year.

(b) *Increase in State poundage quota—*
(1) *Eligible farms.* If the poundage quota allocated to a State for the current year is greater than the poundage quota allocated to such State for the preceding year, the amount of increase in the poundage quota shall be allocated proportionately, on the basis of each farm's production history as determined under this part, among:

- (i) All quota farms in the State.
- (ii) All other farms in the State that were nonquota farms in the preceding

year and on which peanuts were produced and marketed in at least 2 years of the base period.

(2) *Factor.* A factor shall be determined to apportion, to eligible farms, the increase in the State's poundage quota. The factor shall be determined by dividing the amount of increase in the State poundage quota by the total of the farm production history for all eligible farms determined in accordance with paragraph (b)(1) of this section.

(3) *Basic quota.* The current year basic quota for each:

(i) Quota farm in the State shall be the preliminary quota plus an amount determined by multiplying the farm's production history by the factor determined in accordance with paragraph (b)(2) of this section.

(ii) Eligible farm that was a nonquota farm in the preceding year shall be the result obtained by multiplying such farm's production history by the factor determined in accordance with paragraph (b)(2) of this section.

(c) *Decrease in State poundage quota.* If the poundage quota allocated to a State for the current year is less than the poundage quota allocated to such State for the preceding year, the current year's basic quota for each quota farm in the State shall be determined by multiplying the current year's preliminary quota by a factor determined by dividing the State quota by the total of the current year's preliminary quotas on all farms in the State.

(d) *Reduction for nonproduction of quota—*(1) *Reconstitutions.* If the farm resulted from a farm reconstitution during the base period, any reduction determined according to this paragraph for nonproduction of the basic quota shall be made separately for the individual tracts in the farm in such manner as the Deputy Administrator determines to be appropriate.

(2) *Reduction amount.* The current year's basic quota otherwise determined for a farm in accordance with paragraph (a), (b), or (c) of this section shall be reduced if, with respect to any 2 years of the base period, the county committee determines that part, or all, of the basic quota for such farm was not produced or considered produced on the farm. The amount of the reduction

shall be the sum of the two smallest quantities, including zero pounds if applicable, of nonproduced quota determined in accordance with this subpart for such farm during the base period.

(e) *Reallocation of quota reduced or permanently released*—(1) *Eligible farms.* The total of quotas permanently released and quotas reduced for nonproduction according to paragraph (d) of this section, hereinafter referred to as the State quota available for reallocation, shall be reallocated to farms on which peanuts were produced and marketed in at least 2 years of the base period.

(2) *Factor for reallocation of quotas.* The factor(s) for reallocating the State quota available for reallocation shall be determined as follows:

(i) Determine State totals of farm production history separately for eligible:

(A) Quota farms.

(B) Nonquota farms.

(ii) If the totals of the farm production history from eligible quota farms is equal to or greater than 3 times the total of the farm production history from eligible nonquota farms, determine a factor by dividing the State quota available for reallocation by the sum of the separate State totals of farm production history from eligible quota and nonquota farms.

(iii) If paragraph (e)(2)(ii) of this section is not applicable, determine separate factors for eligible quota and nonquota farms as follows:

(A) For eligible quota farms, determine the factor by multiplying the State quota available for reallocation by .75 and dividing the result by the State total of the farm production history from eligible quota farms.

(B) For eligible nonquota farms, determine the factor by multiplying the State quota available for reallocation by .25 and dividing the result by the State total of farm production history from eligible nonquota farms.

(iv) Notwithstanding paragraphs (e)(2)(ii) and (iii) of this section, if the factor determined for a nonquota farm is greater than 0.3333 a factor of 0.3333 shall be used to reallocate to the nonquota farm such nonquota farm's share of the State quota available for reallocation.

(3) *Application of factor.* The current year's basic quota for each eligible farm determined according to paragraph (e)(1) of the section shall be determined by multiplying such farm's production history by the applicable factor determined in accordance with paragraph (e)(2) of this section. If a current year's basic quota otherwise has been determined for the farm in accordance with this section, the basic quota determined in accordance with this paragraph shall be added to any basic quota otherwise determined for such farm in accordance with this section.

(f) *Reallocation in Texas of quota reduced for nonproduction and permanently released quota*—(1) *Special provisions for certain Texas Counties.* Notwithstanding the provisions in paragraphs (b) and (e) of this section, all of the quota reduced for nonproduction on all Texas farms, except that portion reallocated to nonquota farms in accordance with paragraph (e) of this section, shall be reallocated to farms having 1990-crop basic quotas in any Texas county in which the production of additional peanuts in 1989 exceeded the total of 1989-crop basic quotas on all farms in such county. The production of additional peanuts in 1989 exceeded the total of 1989-crop basic quotas on all farms in each of the following Texas counties: Andrews, Bailey, Briscoe, Childress, Collingsworth, Dickens, Donley, Gaines, Hale, Hall, Hardeman, Haskell, Hidalgo, Hockley, Knox, Lamb, Terry, Wheeler, Wilbarger, and Yoakum counties.

(2) *Allocation to counties.* Any quota to be allocated to eligible Texas counties in accordance with paragraph (f)(1) of this section shall be apportioned to the eligible counties on the basis of the total production of additional peanuts in the respective counties for the 1988 crop. Accordingly, based on the production of additional peanuts in 1988, such quota shall be apportioned to eligible counties according to the following factors: Andrews—0.005342, Bailey—0.003007, Briscoe—0.016039, Childress—0.008190, Collingsworth—0.184498, Dickens—0.000000, Donley—0.03 1981, Gaines—0.413627, Hale—0.000647, Hall—0.063101, Hardeman—0.010278, Haskell—0.137459, Hidalgo—0.026700, Hockley—

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0.000679, Knox—0.002818, Lamb—0.026475, Terry—0.009885, Wheeler—0.003102, Wilbarger—0.000000, and Yoakum—0.056172.

(3) *Exception to allocation to counties.* In that Gaines county is the only county listed in paragraph (f)(1) of this section for which the total of farm basic quotas exceeded 20,000,000 pounds for the 1989 crop of peanuts and the total of farm basic quotas in Gaines County for the 1989 crop was 22,853,615 pounds, if the cumulative increase in the basic quota for Gaines County, granted under any special rules for Texas under this section and its predecessor for the 1991 and subsequent crops exceeds 22,853,615 pounds, the amount in excess of 22,853,615 pounds shall, in accordance with the provisions of the authorizing legislation, be apportioned to the remainder of the counties listed in paragraph (f)(1) of this section on the basis of the total production of additional peanuts in the respective counties for the 1988 crop.

(4) *Determining factor for reallocation of quota*—(i) To receive a share of any quota allocated to eligible Texas counties under paragraph (f)(2) of this section, a farm must have had a basic quota greater than zero for the 1990 crop of peanuts. If a farm that had a basic quota greater than zero in 1990 is reconstituted subsequent to 1990:

(A) By division, the resulting farms will be considered to have had a basic quota greater than zero in 1990 for purposes of determining eligibility to receive a share of any quota allocated to eligible Texas counties under paragraph (f)(2) of this section.

(B) By combination, the resulting farm will not be considered to have had a basic quota greater than zero in 1990 for purposes of determining eligibility to receive a share of any quota allocated to eligible Texas counties under paragraph (f)(2) of this section unless, prior to the combination, each farm that is involved in the combination was considered to have had a basic quota greater than zero in 1990 for purposes of determining eligibility to receive an increased quota under paragraph (f)(2) of this section.

(ii) A farm allocation factor shall be determined for each eligible farm as follows:

(A) Using data from the year preceding the year for which the reallocation is being made, determine a factor by dividing the quantity of contract additional peanuts delivered to handlers from the farm by the total remaining peanuts marketed from the farm.

(B) Total all factors determined in accordance with paragraph (f)(4)(ii)(A) of this section.

(C) Except as may be determined by the Deputy Administrator to avoid schemes and devices in contravention of the purposes of this part to avoid inequities, the farm allocation factor shall be determined by dividing the factor determined in accordance with paragraph (f)(4)(ii)(A) of this section by the total determined in accordance with paragraph (f)(4)(ii)(B) of this section.

(5) *Increase in basic quota.* The basic quota otherwise determined for a farm in accordance with the provisions of this section shall be increased by an amount determined by multiplying any quota allocated to the county in accordance with paragraph (f)(2) of this section by the farm allocation factor determined in accordance with paragraph (f)(4)(ii)(C) of this section.

(6) *Quotas for eligible nonquota farms.* Quotas for eligible nonquota farms in any Texas county shall be determined in the same manner as provided for other States in paragraph (e) of this section.

(7) *Allocation of increase in State poundage quota.* Any increase in the State poundage quota for Texas, shall be reallocated to eligible farms in any Texas county, including the counties in paragraph (f)(1) of this section, in accordance with paragraph (b) of this section.

[56 FR 16211, Apr. 19, 1991, as amended at 56 FR 38328, Aug. 13, 1991; 57 FR 27144, June 18, 1992. Redesignated and amended at 61 FR 36999, 37000, July 16, 1996]

§ 729.207 **Tenants sharing in increased quota.**

(a) *General.* If the poundage quota allocated to a State is greater than the poundage quota allocated to such State for the preceding year, an eligible tenant who leased a part or all of a farm in any county in such State for the