

Farm Service Agency, USDA

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at the producer's risk leave the peanut marketing card in the custody of the handler during the period between marketing lots of peanuts to the same handler; however, the marketing card shall not be left in the possession of the handler after the producer has completed marketings for the season.

§ 729.303 Designation of category for marketing peanuts.

Any marketings of peanuts which are not inspected by the Federal-State Inspection Service prior to marketing shall be deemed to be a marketing of quota peanuts. If a lot of peanuts is inspected by the Federal-State Inspection Service, the producer shall designate to the handler whether the lot of peanuts is to be marketed as quota loan, quota commercial, loan additional, or contract additional peanuts as defined in part 1446 of this title. The designation must be made within the time allowed by the handler but not later than the close of inspection of the third workday (excluding Saturday, Sunday, or legal holiday) after the peanuts are inspected and graded. In the absence of a designation, any Segregation 1 peanuts shall be marketed and deemed to be marketed in the following order of priority:

(a) As quota loan or quota commercial peanuts, at the option of the buying point operator, to the extent of the unused poundage quota on the peanut marketing card which is used to identify the peanuts for marketing;

(b) As contract additional peanuts to the extent of the unused contract poundage balance on the peanut marketing card which is used to identify the peanuts for marketing if the peanuts are being marketed through the contracting handler; or

(c) As loan additional peanuts.

§ 729.304 Marketing card entries.

(a) Immediately after each lot of peanuts is marketed the buyer, or the buyer's representative, shall make the following entries on the marketing card from the FSA-1007:

- (1) The FSA-1007 serial number which identifies the lot of peanuts;
- (2) The net pounds marketed;
- (3) The unused poundage quota balance remaining after the marketing;

(4) The unused contract additional poundage balance remaining after the marketing;

(5) The handler's number, or for loan peanuts, the association number;

(6) The buying point number;

(7) The type of peanuts marketed; and

(8) Any penalties or claims collected.

(b) If noninspected peanuts are purchased at a buying point, the buyer, or the buyer's representative, shall make the following entries on the paper marketing card from the FSA-1030, Report of Purchase of Noninspected Peanuts;

(1) The date of marketing;

(2) The pounds purchased;

(3) The unused poundage quota balance remaining after the marketing;

(4) The unused contract additional poundage balance remaining after the marketing;

(5) The handler's number;

(6) The type of peanuts marketed; and

(7) Any penalties or claims collected.

§ 729.305 Peanuts on which penalties are due and refund of excess penalty collected.

(a) In addition to other remedies as may apply, a penalty is due from the person involved in a violation of this part and shall be assessed against such person at the basic penalty rate on:

(1) The quantity of peanuts which is marketed or considered to be marketed from a farm for domestic edible use in excess of the effective farm poundage quota for the farm.

(2) All peanuts produced on a farm for which the producer:

(i) Failed to report the peanut acreage as provided in accordance with part 718 of this chapter; or

(ii) Is responsible, if entry on the farm to authorized representatives of the Secretary for the purpose of determining the acreage of peanuts on the farm is refused or denied.

(3) The quantity of peanuts falsely identified, as determined by the county committee with the concurrence of the State committee. The quantity of peanuts subject to penalty under this provision shall be the quantity of peanuts determined by the county committee to have been falsely identified. Acts

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considered to be false identification shall include the following:

(i) Identifying or permitting the identification of peanuts at time of marketing as having been produced on a farm other than the farm of actual production;

(ii) Marketing or permitting the marketing of peanuts to a registered handler without identifying the peanuts with a peanut marketing card issued for the farm on which such peanuts were produced;

(iii) Permitting the use of the peanut marketing card for the farm to record a marketing of peanuts when, in fact, peanuts were not marketed from the farm; or

(iv) Marketing peanuts that have been commingled with those of another farm.

(4) All peanuts, the disposition of which the producer has failed to account for to the satisfaction of the county committee. The quantity of peanuts subject to penalty under this provision shall be the amount of peanuts determined by the county committee to have been marketed or considered marketed from the farm in excess of the quantity for which the producer has satisfactorily accounted.

(5) All additional peanuts marketed as contract additional peanuts in excess of the pounds contracted between the producer and handler as provided in part 1446 of this title.

(6) The quantity of farmers stock peanuts the county committee determines was necessary to plant the reported acreage for the crop year if the producer fails or refuses to file an accurate seed peanut report of seed purchases; and

(7) All peanuts marketed in violation of this subpart for reasons not otherwise enumerated in paragraph (a) of this section.

(b) If the reported acreage of peanuts on a farm differs from the determined acreage by more than the tolerance provided in part 718 of this chapter, a penalty at the converted rate shall be due from all producers on the farm on all peanuts marketed from the farm. In addition, in the case of a false certification, the sanctions provided for in § 729.204(e) shall apply except to the extent that it may be determined by the

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Deputy Administrator that a second assessment would be unduly redundant.

(c) Any penalty collected in excess of the correct amount as determined pursuant to this section may be refunded upon a finding by the county committee that an excess amount was collected.

[56 FR 16211, Apr. 19, 1991, as amended at 65 FR 8247, Feb. 18, 2000]

§ 729.306 Farms with one acre or less of peanuts.

All peanuts produced on a farm on which the acreage of peanuts is one acre or less may be marketed for domestic edible use without incurring a marketing penalty if the producer who shares in the peanuts produced on any such farm does not share in the peanuts produced on any other farm.

§ 729.307 Assessment of penalties; joint and several liability.

Any person against whom a penalty is assessed in accordance with this subpart, shall be notified of the penalty assessment in writing by the appropriate county committee. Such notice shall state the amount of the penalty and the basis upon which the penalty is being assessed. The notice shall also state that the person against whom the penalty is being assessed may request reconsideration of the assessment of the penalty in accordance with part 780 of this chapter. If more than one person is liable for a penalty, the liability of all persons involved shall be joint and several liability.

§ 729.308 Lien for penalty.

(a) *Lien on peanuts.* Until the amount of any penalty provided by this part is paid, a lien on the crop of peanuts with respect to which such penalty is incurred, and on any subsequent crops of peanuts subject to poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

(b) *Lien precedence.* The lien on the peanuts takes precedence over all claims and attaches at the time the debt is entered on a county claim record in the county FSA office for the county in which the subsequent crop is grown.