

§ 729.306

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.

(c) *List of peanut marketing penalty debts.* Each county FSA office shall maintain a list of peanut marketing penalties for which a claim has been established and recorded in such office. The list shall be made available for examination upon written request by any interested person.

§ 729.309 Persons to pay penalty or collect debts.

(a) *Marketings to handlers.* The buyer shall be liable for the full penalty due on marketings of excess quota peanuts that such handler buys or otherwise acquires from a producer. Also, the buyer shall be liable with the producer for the full penalty due on peanuts purchased from a producer as additional peanuts in excess of the amount contracted with the producer as contract additional peanuts in accordance with part 1446 of this title. The buyer may deduct the penalty from the price paid to the producer for the peanuts. If the net value of a lot of peanuts is less than the penalty due on such lot, or if the handler fails to collect the penalty due on any marketing of a lot of peanuts from a farm, the buyer and each of the producers on the farm shall be held jointly and severally liable for the amount of any unpaid penalty due on such lot of peanuts.

(b) *Other marketings.* The producer is liable for the penalty due on any marketings of excess quota peanuts to persons who are not established peanut buyers.

(c) *Penalty for error on marketing card.* The producer and the buyer are jointly and severally liable for any penalties which may be due if the buyer made an error or failed to properly record the pounds of peanuts marketed on the producer's marketing card and such error resulted in marketings in excess of the effective poundage quota or the pounds contracted as additional peanuts in accordance with part 1446 of this title.

(d) *Notice to affected parties.* All affected parties shall be deemed to be on notice that penalties are due when the marketings of peanuts for domestic edible use exceed the effective poundage quota indicated on the marketing card or the marketing of peanuts as contract additional peanuts exceeds the

amount contracted by the producer as additional peanuts in accordance with part 1446 of this title. In addition:

(1) *PPQ lien.* If a peanut poundage quota (PPQ) lien is recorded on a claim record maintained in a county FSA office in accordance with § 729.308 of this part or recorded on the peanut marketing card such recordation shall constitute notice to any peanut buyer that until the amount of the penalty involved plus accrued interest is paid, the United States has a lien on any peanuts, from any crop year that are subject to farm poundage quotas in which the person liable for payment of the penalty has an interest. Peanut poundage quota (PPQ) lien amounts shall be collected by the buyer and paid to the Farm Service Agency prior to making collection for any other liens or claims, except for a lien that was perfected before the PPQ lien became attached, as provided in § 729.308 of this part. Such buyer shall be liable for payment of such amount that was, or should have been, collected by the buyer.

(2) *U.S. claim.* If a U.S. claim, other than for a PPQ lien, is recorded on a marketing card, such recordation shall constitute notice to any peanut buyer that, to the extent of the indebtedness shown, and subject to prior liens, the net proceeds from any price support loan due the debtor must be withheld from the producer and paid to the Farm Service Agency. Such buyer shall be liable for payment of such amount that was, or should have been, withheld.

(3) *Converted penalty rate.* If a converted penalty rate is entered on the marketing card by the county FSA office, the buyer shall collect penalty at such converted penalty rate on each pound of peanuts acquired from the producers of the peanuts. Any penalty that is collected must be paid to the Farm Service Agency. Such buyer shall be liable for payment of such amount that was, or should have been, collected by the buyer.

§ 729.310 Payment of penalty or other debt.

(a) *Method of payment.* A draft, money order, or check made payable to the Farm Service Agency may be used to