

## Farm Service Agency, USDA

## § 729.315

county committee determines that such seed peanuts:

- (1) Are unique strains of peanuts used for green peanuts.
- (2) Are not commercially available, and,
- (3) Are used exclusively to plant peanuts for harvest as green peanuts.

### § 729.312 Reduction or waiver of penalty.

(a) *Reduction or waiver of penalty.* The county committee may reduce or waive any penalty required to be assessed by this subpart in cases in which the county committee, with concurrence of the State committee, determines that the violations upon which the penalties were based were unintentional or without knowledge on the part of the parties concerned.

(b) *Time of reduction or waiver.* A penalty may be reduced or waived by an authorized official or committee either before or after it has been formally assessed. If the reduction or waiver is made before formal assessment, the notice of assessment shall state the amount of reduction or waiver and the basis upon which the reduction or waiver was made.

(c) *Reconsideration or appeal.* Any person against whom a penalty is assessed under this subpart may, through a request for reconsideration or through an appeal, as applicable, request that the penalty be reduced or waived.

### § 729.313 Failure to comply with program.

Any person who has failed to comply with the provisions in this part because such person was misinformed or relied on the advice of an authorized representative of the Secretary in rendering performance under this part, and such person believed in good faith that such misinformation or advice met the requirements of the program as set forth in these regulations, may file a request with the State committee for review of an adverse county committee ruling with respect to such failure to comply. After review of the case, the State committee shall submit the case to the Deputy Administrator with its recommendation. The Deputy Administrator may grant relief as deemed appropriate in such case. This

authority, however, does not extend to cases where such person knew or had sufficient reason to know that the action or advice of the representative of the Secretary upon which the person relied was improper or erroneous, or where the adverse action is based on changes made in the statutory authority of the program or changes in regulations issued for the program.

### § 729.314 Schemes and devices.

(a) Penalties shall be assessed in such manner as will correct for and nullify any action in which a person has knowingly, whether passively or actively:

- (1) Engaged in, acquiesced in, or adopted any scheme or device which tends to defeat the purpose of the regulations in this part,
- (2) Made any fraudulent representation, or
- (3) Misrepresented any fact affecting a program determination.

(b) Such penalties as are provided for in this part shall be in addition to all other remedies and sanctions provided for, or permitted, by law.

### § 729.315 Handling Segregation 3 peanuts.

(a) *Disposition of Segregation 3 peanuts.* Any producer who has a lot of farmers stock peanuts classified by the inspector as Segregation 3 peanuts shall retain such lot of peanuts for seed in accordance with paragraph (c) of this section or shall deliver such lot of peanuts:

(1) To the area association for a price support loan subject to such conditions as apply to eligibility for such loans including those in part 1446 of this title.

(2) As contract additional peanuts subject to provisions of part 1446 of this title;

(3) As quota peanuts, subject to the conditions set forth in this part to a handler who has signed the peanut marketing agreement provided the peanuts were produced for seed under an agreement with a State agency; or

(4) To a handler as quota peanuts if:  
(i) The peanuts were produced for seed under an agreement with a State agency.

(ii) The handler to whom the peanuts are sold has, for that purpose, signed a supervision supplement to a

§729.316

7 CFR Ch. VII (1-1-01 Edition)

warehousing contract with the area marketing association.

(b) *Failure to properly dispose of Segregation 3 peanuts*—(1) *Loss of price support.* If the producer does not, within the time allowed in this part for designation of the category for marketing such peanuts, dispose of Segregation 3 peanuts in the manner specified in this section, such producer shall be ineligible for continued quota price support for the remainder of the marketing year.

(2) *Liquidated damages.* Any peanut producer participating in the price support loan program shall be deemed to have agreed that:

(i) CCC will incur serious and substantial damage to its program to support the price of peanuts if Segregation 3 peanuts are disposed of other than in the manner prescribed by this subpart or by the CCC;

(ii) The amount of such damages will be difficult, it not impossible, to ascertain;

(iii) With respect to any lot of peanuts which is pledged as collateral for a quota price support loan but which is ineligible for such loan, or any lot of peanuts which is pledged as collateral for a quota price support loan by a producer after the producer has disposed of any lot of Segregation 3 peanuts in any manner other than in the manner prescribed in this section, liquidated damages shall be due to CCC, not as a penalty, based on the difference between the quota loan rate and the additional loan rate (on a per pound basis) per net pound of such peanuts,

(iv) Such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such action by the producer; and,

(v) This remedy shall be in addition to any other remedy or sanction available against the producer, including penalties under this part.

(c) *Retention of Segregation 3 peanuts for seed.* If the producer elects to retain a lot of Segregation 3 peanuts for seed, the buying point operator shall give a copy of the FSA-1007 to the producer as a record showing the quantity and quality factors of the peanuts. The producer:

(1) Shall designate such peanuts as quota peanuts.

(2) Shall have the net weight of such peanuts determined and deducted from the farm marketing card.

(3) Shall advise the inspector that the peanuts are being retained for seed.

(4) Must store such peanuts separate from other peanuts on the farm.

(5) Shall notify the county executive director when such peanuts are used and otherwise account for the disposition of such peanuts.

(6) Shall not sell such peanuts to a handler for seed; however, the peanuts may be sold to another producer for seed.

(7) May, if it is later determined that such peanuts are unfit for seed use and after receiving prior approval from the county office, sell such peanuts as quota peanuts for crushing without benefit of price support.

§729.316 Marketing assessments.

(a) Subject to adjustments in accordance with §729.317, a nonrefundable marketing assessment shall, in the amount provided for in this section, be due on each pound of farmers stock peanuts marketed or considered marketed by a producer, including marketings by pledging peanuts as collateral for a price support loan. The per pound assessment as a percentage of the applicable national average quota or additional peanut loan rate, shall be an amount equal to:

(1) 1.15 percent for the 1996 crop; and

(2) 1.2 percent for the 1997 through 2002 crops.

(b) *Collections and payment of marketing assessments.* The first purchaser of peanuts shall:

(1) Collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by:

(i) In the case of the 1996 crop, a per pound amount equal to .6 percent of the national average loan rate; and

(ii) In the case of each of the 1997 through 2002 crops, a per pound amount equal to .65 percent of the applicable national average loan rate.

(2) In addition to the amount collected under paragraph (1) of this section, pay a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent