

§ 729.204 Temporary seed quota allocation.

(a) *Applicability.* The temporary allocation of quota pounds, as provided in this section shall be determined:

(1) For the marketing year only in which the crop is planted;

(2) For eligible producers for each of the 1996 through 2002 marketing years; and

(3) To exclude the production of green peanuts and peanuts produced under the one-acre exemption provided for in 7 CFR 729.306.

(b) *Quantity of allocation.* The temporary quota allocated to a producer shall be the farmers stock equivalent pounds of qualifying seed peanuts considered planted on the farm as determined by FSA by multiplying the acres determined planted to qualifying peanuts times the per-acre planting rates of:

(1) 95 pounds for Runner-type peanuts;

(2) 110 pounds for Virginia peanuts;

(3) 80 pounds for Spanish peanuts; and

(4) 80 pounds for Valencia peanuts.

(c) *Conversion factor.* For the purpose of determining the farmers stock basis for temporary seed quota allocations under this section, the amount of seed planted as determined in accord with paragraph (b) of this section shall be multiplied by a factor of 1.5.

(d) *Time of notification.* The notice of determination for temporary seed quota allocations shall be made by the Deputy Administrator as soon as practicable following the deadline for filing certifications of planted acres.

(e) *Penalty for erroneous certification.* If the certified acreage on which the temporary seed quota allocation is made is greater than the determined acreage, by more than the larger of 1 acre or 5 percent of the certified acreage not to exceed 10 acres, and the producer marketed the production for the acreage based upon an allocation of temporary seed quota on certified acres not determined, a penalty will be determined by multiplying the difference between the certified and determined acreage times the applicable per acre seeding rate times 140 percent of the per pound quota support rate for the applicable crop year. The penalty amount shall be calculated by multi-

plying the difference between the certified and determined peanut acreage by the applicable per acre seeding rate used in the calculation of the temporary seed quota by 140 percent of the applicable per pound quota support rate for the crop year involved. In addition, a commensurate penalty at the same rate may be assessed in cases within the tolerance allowed by the previous sentence in any instance in which the variance is determined to be due to a scheme or device to defeat the purposes of the program, or is repeated. Further, all errors may in all cases result in a commensurate diminution of the quota allowed the farm for the following year.

[61 FR 36999, July 16, 1996, as amended at 62 FR 25438, May 9, 1997; 65 FR 8247, Feb. 18, 2000]

§ 729.205 Farms ineligible for farm poundage quota.

(a) *Ineligible farms.* Except for quota allocated under the provisions of § 729.208 for experimental and research programs, effective beginning with the 1998 crop year, farm poundage quotas shall not be established for farms which are determined by FSA to be owned or controlled by:

(1) Municipalities, airport authorities, schools, colleges, refuges, and other public entities (other than a university used for research purposes).

(2) A person:

(i) Who is not a peanut producer; and

(ii) Whose primary domicile, as determined by FSA, in the case of any individual is in a State outside the State in which the quota is allocated or, in the case of an entity, does not qualify under this section to be considered to be a resident of the State in which the quota is allocated.

(b) *Determination of residency and related rules.* (1) For purposes of administering paragraph (a) of this section, an entity may be considered a resident of the State in which the quota is located if:

(i) It is determined that a person or persons with at least a cumulative 20-percent interest in any such entity are individuals whose primary residence is in the State in which the quota is allocated; or