

Farm Service Agency, USDA

§ 729.213

(3) Converted in the current year from the production of peanuts in accordance with part 704 of this chapter or similar program as determined by the Deputy Administrator.

[56 FR 16211, Apr. 19, 1991. Redesignated and amended at 61 FR 36999, 37000, July 16, 1996]

§ 729.211 Determination of farm yields.

(a) *Farm yield*—(1) *Quota farm in previous year.* The farm yield for the current year for a farm that was a quota farm in the previous year shall be the same as the farm yield established for the farm in the previous year.

(2) *Nonquota farm.* If a farm was a nonquota farm in the year preceding the current year and such farm becomes a quota farm in the current year, a farm yield shall be determined by the county committee if a farm yield has not been established previously for such farm. Such farm yield shall be determined on a fair and reasonable basis by the county committee after considering the farm yields that have been established on other similar farms in the same locality.

(b) *Reconstituted farms.* For reconstituted farms, the farm yield for such farm shall be:

(1) *Combination of quota farms.* For combined quota farms, the weighted average of the farm yields for the tracts being combined.

(2) *Combinations of quota and nonquota farms.* For a combination of a quota and nonquota farm, the farm yield of the tract(s) with an established quota, even though a farm yield had been previously established for such nonquota tract(s).

(3) *Combination of nonquota farms.* For a combination of a nonquota farm, established by the county committee in the same manner as for farms under paragraph (a)(2) of this section, even though a farm yield had been previously established for the individual tracts.

(4) *Divisions.* For tracts resulting from the division of a farm, the same farm for each tract that results from the division as the farm yield for the parent farm, except that should one or more tracts within the divided farm have a previously established farm yield, the farm yield for such tract(s)

shall be that previously established for such tract(s).

[56 FR 16211, Apr. 19, 1991. Redesignated at 61 FR 36999, July 16, 1996]

§ 729.212 Approval of farm yield and farm poundage quota and notice to farm operator.

(a) *Approval.* Each farm yield, basic quota, and effective quota shall be determined under the supervision of, and approved by, the county committee of the county in which the farm is administratively located, subject to the concurrence of the State committee or a representative of the State committee.

(b) *Notice to farm operator.* (1) As soon as practicable after the basic quota or the effective quota is approved, an official notice of such quota shall be mailed to the farm operator.

(2) If the basic quota is reduced to zero for the current year, the county committee shall mail to the farm operator a notice of such determination.

(3) A revised notice of basic quota or effective quota shall be mailed to the farm operator as soon as possible after the county committee determines that an incorrect notice has been mailed, or the county committee takes an action which requires a revision of the previously determined quota.

(4) The notice to the operator shall constitute notice to all persons, including, but not limited to, any person who as operator, landlord, tenant, or sharecropper has an interest in the farm for which the quota is established.

(c) A failure to provide the notice provided for in paragraph (b) of this section shall not entitle any person to a quota to which they are otherwise entitled, unless otherwise provided in this part.

[56 FR 16211, Apr. 19, 1991. Redesignated at 61 FR 36999, July 16, 1996]

§ 729.213 Erroneous notice of effective farm poundage quota.

If the official notice of effective quota issued for a farm erroneously stated a quota larger than the correct effective quota, the quota shown on the erroneous notice shall serve as the

§ 729.214

7 CFR Ch. VII (1-1-02 Edition)

basis for marketing penalty computations for the farm for the current marketing year only if the county committee determines and the State Executive Director concurs that:

(a) *Extent of error.* The error was not so substantial as to place the operator on notice that such notice of quota was incorrect; and

(b) *Response to notice.* The operator, relying upon such notice and acting in good faith:

(1) Has made plans, or is engaged in activities, to produce the quota in the amount set forth on the erroneous notice (for example, land preparation; purchase of seed, fertilizer, and other production materials; or reducing the acreage of other crops); or

(2) Has planted the acreage of peanuts needed to produce the erroneous farm poundage quota.

[61 FR 37000, July 16, 1996]

§ 729.214 Transfer of quota by sale, lease, owner, or operator.

Peanut quota may be transferred between eligible farms, or between separately owned tracts within a farm, in accordance with the provisions of this section.

(a) *Basis of transfers.* A transfer of quota may be either permanent or temporary to the extent provided for in this section.

(1) *Permanent.* A permanent transfer shall be based on a part or all of the farm's basic quota. The maximum quota that may be permanently transferred from a farm in the current year is the farm's basic quota. A permanent transfer may be by:

(i) *Sale.* The sale of a farm's basic quota.

(ii) *Owner.* The owner transferring basic quota between two farms when such farms have identical ownership as determined by FSA under instructions of the Deputy Administrator.

(2) *Temporary.* A temporary transfer is for one year and shall be based on a part or all of the farm's effective quota. The maximum quota that may be temporarily transferred from a farm in the current year is the farm's effective quota. A temporary transfer, to the extent permitted by this section, may be by:

(i) *Lease.* The lease and transfer of a farm's effective quota.

(ii) *Owner.* The owner transferring effective quota to another farm owned or operated by such owner.

(iii) *Operator.* The operator transferring effective quota to another farm owned or operated by such operator.

(b) *Transfer agreement.* In order to transfer poundage quota in the current year between two eligible farms, the transfer agreement must be:

(1) *Form.* Recorded on Form FSA-375.

(2) *Where to file.* Filed in the county FSA office which serves the county in which the transferring farm is located for administrative purposes.

(3) *Signatures.* Agreed upon and signed by:

(i) *Sale or lease.* In the case of a sale or lease, the owner(s) and operator of the transferring farm and the owner(s) or operator of the receiving farm. However, if a lease is filed after July 31 by a farm operator who cash leased the farm the signature of the owner(s) of such farm is not required.

(ii) *Owner transfer.* In the case of an owner transfer, the owner of the transferring farm who also must be the owner or operator of the receiving farm.

(iii) *Operator transfer.* In the case of an operator transfer, the operator of the transferring farm who also must be the owner or operator of the receiving farm.

(iv) *Lienholder.* In all cases, any person who holds a mortgage or other lien against the transferring farm.

(4) *Witness.* Signed on Form FSA-375, by each person whose signature is required by paragraph (b)(3) of this section, in the presence of a State or county committee member or an FSA employee who shall sign Form FSA-375 as a witness. If such signatures cannot be witnessed in the county FSA office where the farm is administratively located, they may be witnessed in any State or county FSA office convenient to the owner or operator's residence. The requirement that signatures be witnessed for producers that are ill, infirm, reside in distant areas, or are in similar hardship situations or may be unduly inconvenienced may be waived provided the county FSA office mails