

§ 729.305

(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 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

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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 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.