

## §729.310

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 pay any penalty, other indebtedness collected in accordance with this subpart, or interest thereon. All methods of payment shall be received subject to collection and payment at face value.

(b) *Due date.* The penalty becomes due on the date of marketing, or in the case of false identification or failure to account for the disposition of peanuts, the date the producer is notified of the false identification or the failure to account, as applicable.

(c) *Interest.* The person liable for payment or collection of the penalty shall be liable also for interest thereon at the rate of interest charged CCC for its borrowings by the United States Treasury on the date such penalty became due. If the rate charged CCC by the Treasury is increased, the interest due on the penalty may be, to the extent permitted by law, increased commensurately for the period of such in-

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crease. Interest shall accrue from the date the penalty was due if the penalty is not remitted within 30 days after the date the penalty was assessed. Nothing in paragraph (c) of this section, shall limit the liability of a person for pre-penalty interest where otherwise provided for in this part or otherwise provided for by law.

## §729.311 Peanuts on which penalties are not to be assessed.

Notwithstanding other provisions in this subpart:

(a) *Error in weight.* A penalty shall not be collected if such penalty results from an error in net weight of a lot of peanuts marketed, as reported on Form FSA-1007, Inspection Certificate and Sales Memorandum, and the error does not exceed one-tenth of one percent of the correct net weight of such lot of peanuts. However, notwithstanding the preceding sentence, in the case of fraud or conspiracy, a penalty shall be due for any error in the net weight, regardless of the size or amount of the error.

(b) *Peanuts grown on State prison farms.* A penalty shall not be collected on peanuts grown on State prison farms for consumption within such State prison system, and so consumed.

(c) *Peanuts grown for experimental or research purposes.* (1) A penalty shall not be collected on the marketing of any peanuts that are:

(i) Grown only for experimental or research purposes, which shall include seed determined by the Deputy Administrator to be breeder or foundation seed;

(ii) Grown on land owned or leased by a publicly-owned agricultural experiment station, which shall include a State-operated seed organization;

(iii) Produced at public expense by employees of entities described in paragraph (c)(1)(ii) of this section, or are produced by farmers for seed determined by the Deputy Administrator to be breeder or foundation seed peanuts for experimental or research purposes pursuant to an agreement with a publicly-owned agricultural experiment station, which shall include such State-operated seed organizations.

(2) The exemption from penalty, as provided in paragraph (c)(1) of this section shall not apply unless:

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(i) Such peanuts are used for purposes other than for:

(A) Food or feed, or

(B) Seed to produce peanuts for food.

(ii) The director of the applicable publicly-owned agricultural experiment station, including State-operated seed organizations, furnishes to the State FSA Executive Director:

(A) A list, by county, showing for each farm on which such peanuts are grown for experimental or research purposes, the name and address of the entity that supplies information; the name of the owner, and operator, if different from the owner, of the farm on which such peanuts are grown; and the acreage of peanuts grown for such experimental or research purposes;

(B) A signed statement that such acreage of peanuts will be grown for experimental and research purposes including breeder and foundation seed; such production of peanuts is necessary for the State-operated program conducted for such purposes by the entity; and such peanuts will be produced under the direction of representatives of such entity; and

(C) Such additional reports, if any, as the Deputy Administrator may require.

(d) *Unique strains used to plant green peanut acreage.* Seed peanuts used to plant peanuts for use as green peanuts shall not be subject to penalty if the 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.