as implemented by Information Security Oversight Office Directive No. 1 (32 CFR part 2001).

§ 1312.33 Responsibility.

All requests for the mandatory declassification review of classified information in OMB files should be addressed to the Associate Director (or Assistant Director) for Administration, who will acknowledge receipt of the request. When a request does not reasonably describe the information sought, the requester shall be notified that unless additional information is provided, or the scope of the request is narrowed, no further action will be taken. All requests will receive a response within 180 days of receipt of the request.

§ 1312.34 Information in the custody of OMB.

Information contained in OMB files and under the exclusive declassification jurisdiction of the office will be reviewed by the office of primary interest to determine whether, under the declassification provisions of the Order, the requested information may be declassified. If so, the information will be made available to the requestor unless withholding is otherwise warranted under applicable law. If the information may not be released, in whole or in part, the requestor shall be given a brief statement as to the reasons for denial, a notice of the right to appeal the determination to the Deputy Director, OMB, and a notice that such an appeal must be filed within 60 days in order to be considered.

§ 1312.35 Information classified by another agency.

When a request is received for information that was classified by another agency, the Associate Director (or Assistant Director) for Administration will forward the request, along with any other related materials, to the appropriate agency for review and determination as to release. Recommendations as to release or denial may be made if appropriate. The requester will be notified of the referral, unless the receiving agency objects on the grounds that its association with the information requires protection.

§ 1312.36 Appeal procedure.

Appeals received as a result of a denial, see § 1312.34, will be routed to the Deputy Director who will take action as necessary to determine whether any part of the information may be declassified. If so, he will notify the requester of his determination and make that information available that is declassified and otherwise releasable. If continued classification is required, the requestor shall be notified by the Deputy Director of the reasons thereafter. Determinations on appeals will normally be made within 60 working days following receipt. If additional time is needed, the requestor will be notified and this reason given for the extension. The agency's decision can be appealed to the Interagency Security Classification Appeals Panel.

§ 1312.37 Fees.

There will normally be no fees charged for the mandatory review of classified material for declassification under this section.

[FR Doc. 97–12247 Filed 5–8–97; 8:45 am]
BILLING CODE 3110–01–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 718 and 729

RIN 0560–AE82

Amendments to the Peanut Poundage Quota Regulations

AGENCY: Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts, with certain modifications, the interim rule published in the **Federal Register** on July 16, 1996 (61 FR 36997), which set forth regulations for Federal farm peanut poundage quotas. These regulations implement the provisions of the Agricultural Market Transition Act of 1996 (1996 Act) for the 1996 through 2002 crops of peanuts. The amendments adopted in this final rule principally involve the following issues: eliminating the national poundage quota floor; eliminating the undermarketing carryover provisions; establishing temporary seed quota allocations; establishing the ineligibility of certain farms for quota allocation; authorizing the intercounty transfer of farm poundage quotas in all States, subject to certain limitations in some States; eliminating the special allocations of increased quotas for certain Texas counties; establishing new provisions for ''considered produced'' credit with respect to a farm whose quota has been transferred; and other minor clarifying and technical changes.

These regulations are required by the Agricultural Adjustment Act of 1938, as amended (1938 Act). The modifications made in this final rule to 7 CFR part 729 have been made after consideration of public comments.

In addition, this rule makes a technical change concerning the application of special sanctions in connection with certain drug-related offenses.

EFFECTIVE DATE: This final rule is effective May 9, 1997.

FOR FURTHER INFORMATION CONTACT: David Kincannon, Farm Service Agency, United States Department of Agriculture, STOP 0514, 1400 Independence Avenue, SW, Washington, D.C. 20250–2415 or call (202) 720–7914.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be Economically Significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

The 1996 Act makes at least six important changes to the peanut program. These changes include the following: (1) elimination of the minimum quota floor, (2) elimination of undermarketings, (3) provisions for unlimited and limited transfer of peanut quota by sale or lease within State in all States, (4) forfeiture of quota for certain nonproducers, (5) no-net-cost to treasury provisions, and (6) lowering the quota price support level.

The final rule contains no changes from the interim rule published in the **Federal Register** on July 16, 1996 that have any discernible budget or economic impact. Differences in this cost benefit assessment and the one prepared for the interim rule reflect new data and projections.

The economic impacts of the peanut program provisions of the 1996 Act include expected reductions in producers' revenue by $1.25 billion from 1996 to 2002, while taxpayers are expected to benefit by avoiding costs of $0.5 billion compared with the FY 1997 baseline. First buyers benefit from lower prices, part of which will be passed on to consumers.

Quota lease and capitalized values of quotas are expected to decline. Quota holders could absorb a loss of about $40 million annually because of reduced leasing rates due to the lower peanut price support. Capitalized value of quotas could decline $200 to $300 million, thus reducing land values and the tax base of rural communities. With increased transferability of quotas under the 1996 Act, the sale and rental market for quotas becomes a State rather than a county market. Values are reduced in more efficient production areas and increased in less efficient areas.

Under no peanut program, producer prices would decline resulting in gains to first buyers of peanuts of $150 to $160 million annually, compared with 1996 provisions. Over the 7-year life of the program, the capitalized gain to first buyers would total about $800 million, assuming a 10 percent capitalization rate. For additional information or to request a copy of the cost benefit assessment, contact: Verner N. Grise at (202) 720–5291.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this final rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. Before any legal action is brought regarding determinations made under the provisions of 7 CFR part 729, the administrative appeal provisions set forth at 7 CFR parts 11 and 780 must be exhausted.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the Farm Service Agency (FSA) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The regulations set forth in this final rule require a new information collection instrument, form FSA–377, Register of Tentative Out of County Peanut Poundage Quota Transfers. The new form necessary to conduct the peanut poundage quota program has been developed, and a notice and request for comments for revising a currently approved information collection was issued in the **Federal Register** on December 24, 1996 (61 FR 67767), and provided for a 60-day comment period. Because the information collection is needed before the regular submission for approval of the information can be submitted to OMB, FSA has submitted to OMB an addendum to the information collection requirements, as set forth in 5 CFR 1320.18 for OMB Control Number 0560–0006, and has requested that OMB authorize emergency processing of the information collection submission.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Small Business Regulatory Enforcement Fairness Act of 1996

To the extent that this rule can be or is considered to be major under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), it has been determined that, pursuant to section 808 of SBREFA, that it is impracticable, unnecessary, and contrary to the public interest to delay the effective date of this rule. That finding has been made on the basis that such a delay would make it impossible to make the changes in this rule effective in time for producers with a substantial interest in production to plant peanuts in a timely fashion with a proper understanding of the rules for quota distribution and for forfeitures. Those matters could have a substantial impact on individual decisions. Different provisions, if needed, can be implemented for subsequent crop years. Accordingly, this rule is effective upon publication in the **Federal Register**.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are: Commodity Loans and Purchases—10.051.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

National Appeals Division Rules of Procedure

The procedures set out in 7 CFR parts 11 and 780 apply to appeals of adverse decisions made under the regulations adopted in this notice.

Background

Title I of the 1996 Act amended the 1938 Act and the Agricultural Act of 1949, as amended, to provide, for the 1996 through 2002 crops, for a revised peanut poundage quota and peanut price support program.

The statutory provisions for the peanut poundage quota program contained in the 1996 Act were described in the supplementary information section of the interim rule.

Summary of Comments

A total of 42 comments was received in response to the interim rule published in the **Federal Register** on July 16, 1996. The comment period expired on August 15, 1996. The following is a summary, by section, of the comments received:

Section 729.103—Definition of Preliminary Quota

The interim rule defined ''preliminary quota'' to be that farm's quota for the previous year unless the quota is subject to a reduction. There are several statutory provisions calling for reductions for individual farm quota, one being a provision relating to residency and the location of the quota, which is addressed elsewhere in the rule. One comment objected to the references to reductions but since that reference relates to statutory provisions, it has been determined that no modification should be made.

Section 729.204—Temporary Seed Quota Allocation

The 1996 Act allowed for providing a quota in an amount equal to the seed which producers would plant to grow the peanuts and the interim rule provided for a national per acre seeding allowance with small variations made to account for peanut type. A total of six comments addressed this issue. One respondent requested that a temporary seed quota allocation be allowed for peanut acreage of ''volunteer'' peanuts—that is, peanuts which grow wild and are outside the area of the farm's planned cultivation of the crop. The statute and interim rule are clear that the temporary seed quota allocation is to account for seed peanuts actually planted on the farm. Therefore, no modification of the interim rule was made to accommodate this suggestion.

There were five comments about the use of a national seeding rate and the method of determining the amount of seed allocation. Most respondents supported the use of a national seeding rate for determining the amount of seed allocation because it would be less burdensome than other options. One respondent suggested that temporary seed allocations be verified by receipts for seed purchased or records of quota peanuts retained on the farm. No

modification in the regulation is needed to accommodate this suggestion at this time. FSA will monitor seed quota allocations through spot checks to determine whether further action is warranted.

One respondent from Texas suggested that the seeding rate for Virginia-type peanuts in that area should be 115 pounds per acre rather than 110 pounds per acre as provided for in the interim rule, and one respondent from the southeast marketing area suggested the seeding rate for Runner-type peanuts should be 100 pounds per acre rather than 90 pounds per acre as provided for in the interim rule. The seeding rates were based on statistical surveys and the best data available at this time. For that reason, no adjustment has been made in the seed allocation formula provided for in the interim rule. However, FSA will continue to monitor seeding rates and review any studies or data which might indicate a need for seeding rate adjustments.

Section 729.205—Farms Ineligible for Farm Poundage Quota

Provisions of the 1996 Act disallowed quotas for farms that were, as of the end of the 1996 marketing year (August 1, 1997) or thereafter, owned or controlled by: (1) A municipality, airport authority, school, college, refuge or other public entity (other than a university used for research purposes); or (2) a person who is not a producer and resides in another State. To implement the nonresidency provision, the interim rule provided that in the case of corporations and partnerships the forfeiture would not apply if a person (or persons) with a 20-percent interest in the entity had their primary residence in the State where the quota was allocated.

Also, a 3-year grace period was allowed in the interim rule for involuntary acquisitions by foreclosure or otherwise. Further, for situations where the ineligible party held the farm prior to August 1, 1997, the rule provided that the quota would be forfeited as of that date unless there was a sale or transfer of the quota by that date and to that end the interim rule allowed for the parties to complete the paperwork by October 1, 1997. The rule effectively allowed the sale of the future right to the quota to be effective for this purpose rather than simply limit the sale exemption to sales or transfers of existing, operational quotas. For farm acquisitions after August 1, 1997, the rule provided, in accord with the statute, that if an ineligible party bought the farm, the quota would not be forfeited but no quota would be established for the farm involved until the ineligibility was corrected or the quota was sold.

There were 17 comments opposed to the ineligibility of nonresident, nonproducers and of certain public entities for quota allocation. The respondents, representing nonresident, nonproducer quota holders and several resident quota holders opposed this provision on the grounds it unfairly discriminated based on State of residency. Several suggested that the provision is unconstitutional. Aside from losing quota, several expressed concern that the provision adversely impacted the value of their farm as an inheritance because their heirs were residents of another State. Most respondents stated that not living in the State in which the quota was allocated was due to conditions beyond their control, such as family situations, health or other reasons and that the State in which a quota holder resided should have no bearing on a national quota program. One respondent stated that the quota held by public entities provided a source of peanut quotas for younger farmers who were just starting to farm.

The ineligibility provisions are statutory and must be enforced. However, the rules have been amended to provide for corporations and other specially chartered entities such as estates and limited partnerships to be considered residents of the place where they are incorporated or created as well as residents of any State where individuals with at least a cumulative 20-percent interest in the entity reside. The incorporation and creation rule replaces the ''primary place of business'' test that was included in the interim rule and which could have allowed for the maintenance of quotas by entities with no real tie to the State except for the quota itself. Also, with respect to defining who is a ''producer'' of peanuts for purposes of these rules, the final rule provides, as a good faith test, that the would-be producer must have at least a 15-percent interest in the quota peanut crop. A lower amount would suggest that the ''risk'' was incidental to other arrangements. Also, after further review of the statute, the final rule eliminates provisions which would allow for avoidance of the forfeiture by the sale, by October 1, 1997, of the future right to the quota. It has been determined (and the rule has been amended accordingly) that August 1, 1997, should be read as an absolute deadline in that it appears correct to presume that Congress did not contemplate sales of a quota to differ from the historical method of allowing sales only to be made of an existing, established quota—not future rights to a quota. Presumably, if Congress has intended or expected otherwise, there would have been some indication of that intent. On further review, none appears. In special cases of reliance on the previous rule, the Deputy Administrator may consider the granting of relief but it is not expected that there will be cases in which such relief is justified. Otherwise, to avoid forfeiture of the quota, the owner of an ineligible farm with a 1997 peanut quota allocation must: (1) Sell the quota prior to August 1, 1997; (2) beginning with the 1997 crop, produce or share in the production of the quota peanuts on the farm; or (3) consistent with this rule and prior to August 1, 1997, establish residency in the State in which the quota is allocated.

The interim rule provided that schools, colleges and other public entities were ineligible for quota allocation beginning with the 1998 crop. Upon further review of the 1996 Act, the agency has determined that the intent of Congress was to allow public universities to hold the historic research quotas, provided such quotas would continue to be used for experimental and research purposes. Accordingly, § 729.205(a)(1) has been amended.

Section 729.214—Transfer of Quota by Sale, Lease, Owner, or Operator

Until the 1996 Act, quotas could not be transferred across county lines except in States with a small total quota. However, the 1996 Act allows such transfers in all States up to certain percentages of each county's quota and all counties with quotas under a certain amount can have unlimited transfers. Because the demand for transfers could exceed the limits in some counties, the interim rule allowed for lotteries (the need for which could decrease as the allowable percentage increases). The interim rule also noted that the 1996 Act appeared to grant considered produced credit for any out-of-county transfers, if the quota was produced or considered produced on the receiving farm. This, the rule noted, appeared to be different from the rule which the statute seemed to establish for within-county transfers which appeared to be to allow considered produced credit only once every three years. The importance of considered produced credit is that it can help the transferring farm avoid a loss of quotas under the provisions of the 1938 Act which provide for reducing quotas for nonproduction.

A total of 25 respondents commented on several provisions of the interim rule applicable to quota transfers. There were 19 respondents who requested that within-county transfers be treated the same as out-of-county transfers with

respect to protecting the quota on the transferring farm if the quota is produced or considered produced on the receiving farm. One respondent, a regional peanut growers' association, supported the interim regulation's treatment of out-of-county transfers.

On further review of this issue, it has been determined that the interim rule should be amended. The provisions of the 1938 Act which provide for leasing are those in section 358–1. Section 358–1(a)(1)(D) provides that for leases under section 358–1 the transferring farm will receive credit so long as the quota is produced or considered produced on the receiving farm. It was noted, however, with the interim rule, that the provisions of section 358–1(b)(4) continue to provide that where a farm poundage quota was leased to another owner or operator of a farm within the same county, the transferring farm can receive considered produced credit for one year in any 3-year base period. On further review, this appears to be an additional allowance, not a limitation, since the 358–1(b)(4) credit is not tied to actual production or planting on the receiving farm and since there is no actual exclusion of within-county transfers provided for with respect to the allowance in 358b. Nor is there an inherent conflict given the special conditions of 358b. Further, the provisions in section 358–1(b)(3) for removing quotas that are not produced provide that such reductions shall be made on such fair and equitable basis as the Secretary determines to be appropriate. It does not appear equitable or logical to apply a more difficult standard to within-county transfers in light of the 1996 amendments, nor does there appear to be reason to believe at this time that such was Congress' intention.

Accordingly, the regulations have been revised as to within-country transfers. They will receive the same considered produced credit that is available for out-of-county transfers and, in addition, if they have not otherwise received considered produced credit on a spring lease in a 3-year base period, they can receive credit for a transfer for one year of the 3-year base period for a transfer even if the quota was not produced or considered produced on the receiving farm.

There were seven comments which addressed the method of administering the provisions of the 1996 Act with respect to out-of-county sale and lease limitation. One respondent opposed the lottery in favor of prorating the amount eligible for out-of-county transfer among all applicants requesting such transfers. Another respondent favored a first-come, first-granted method for approving such transfers. Five respondents were concerned that, in certain counties, the register of producers requesting to transfer quotas out of county was being filled with producers who had no intention of effecting such transfers, thereby decreasing the likelihood that bona fide requests for out-of-county transfers would be selected in a lottery. Also, in some cases, producers selected by the lottery were unable to secure an agreement for an out-of-county transfer, thereby leaving the maximum transfer percentage unrealized. Suggestions for decreasing the potential for such a possibility included the following: (1) Permitting only those having a valid agreement for sale or lease to be registered for the lottery, (2) allowing alternate selections to transfer if the original lottery picks chose not to transfer out of county, (3) counting only the sales or leases actually transferred out of county toward fulfilling the transfer percentages, and (4) otherwise limiting the lottery to persons who will actually transfer out of county.

In addition, three respondents stated the view that the intent of the law to transfer quotas to those actually producing the quota was being circumvented with the lottery system by the selection of those who made temporary, out-of-county transfers, thereby displacing those who wished to effect permanent transfers. Each of these respondents suggested giving permanent out-of-county transfers priority over temporary transfers.

To allow more flexibility for handling changing circumstances, the rule would allow a method other than a lottery to be used. However, for the immediate crop year, it is expected and planned that a lottery will be used. Some of the distribution problems should be solved by the increasing transfer percentage allowed for in the statute. With respect to permanent transfers, the regulations currently permit priority for transfer by sale and it is anticipated that, beginning with the 1997 crop of peanuts, such priority will be applied.

The agency does not plan to use a *pro rata* distribution method as that would unnecessarily divide up the marketable quota and would complicate the making of a pre-lottery lease agreement. First-come, first-served would in this instance induce a new element of uncertainty and stress with little or no real gain over the current lottery system and would place some farms at a disadvantage to other farms on grounds wholly unrelated to the transfer of the quota. As to failed transfers, the agency plans, effective with the immediate crop year, to provide a method whereby a transferor who fails to complete the transfer is replaced in a timely manner by a substitute transferor.

Three respondents supported the interim rule with respect to prohibiting the transfer to and from the same farm during the same transfer period. One respondent suggested allowing a permanent transfer to the farm and a temporary transfer from the farm for the same period. Another suggested ''easing'' the regulation that prohibits a quota that is permanently transferred to the farm from being permanently transferred from the farm for three years.

It appears on further review of the regulations that the rules do not, as such, forbid a farmer who has recently been the recipient of a permanent quota transfer from then making, in the same year, a temporary transfer, by spring lease, to another farm. Rather, such farms can make those transfers under the same conditions as would apply if the farm which is the transferring farm in the temporary transfer had held the quota for a long period of time prior to that transfer. However, the regulations have been modified to further clarify that a farm cannot, as far as ''spring leases'' are concerned, receive a quota by a temporary transfer and then transfer that quota to another farm by a temporary transfer in the same lease period. That is, the interim rule is amended to make clear that such ''subleasing'' of quotas is not permitted.

The provisions of the regulations restricting permanent transfer to and from a farm are not changed by this rule. However, the rule is amended to clarify the limitations on permanent transfers to and from the same farm during the same year. Further, upon review of the regulations applicable to disposal of a tenant's share of any increased quota, it was determined that applying permanent transfer limitations to such tenant's shares would adversely impact the tenant's ability to sell the quota allocation. Accordingly, the rule is amended to permit the sale of a tenant's share of increased quota without subjecting either the transferring farm or the receiving farm to any of the transfer limitations in part 729.

Section 729.216—National Poundage Quota

One respondent also complained that the Department of Agriculture (USDA) had not allowed for sufficient comment on the particular quota set for 1996 following the enactment of the 1996 Act. The rule does not restrict the time for comment and it is USDA's intent to allow for such comment as is practicable within the time constraints

set by Congress for announcing the quota.

Other Changes and Corrections

1. Definitions

The definition of ''farmers stock peanuts'' is revised to specify that dug peanuts which are not marketed but which are disposed of under supervision of a representative of FSA will not be considered as farmers stock peanuts. This modification is intended to arrive at a more equitable determination of what constitutes actual production for purposes of determinations to be made under the program regulations.

Also, the definition of ''peanuts'' has been revised to track more closely with the peanut regulations in 7 CFR part 1446. This should avoid any possible confusion in the application of terms and rules.

2. Administration

To assist producers who inadvertently fail to meet the final deadline for transferring quotas, this final rule amends the regulations to allow the Deputy Administrator to delegate authority to set guidelines for waivers by the State FSA committees. This action will expedite producer requests for late-filed transfers and help assure that available peanuts may be marketed as quota peanuts.

3. Temporary Seed Quota (TSQ)

Upon review of the interim rule with respect to TSQ allocation and experience gained from the 1996 crop, FSA has determined that a sanction is needed in instances where the TSQ allocation was based on an erroneous acreage certification. Accordingly, when the certified acreage on which the TSQ allocation is made is greater than the acreage determined by FSA to have been planted to peanuts by more than the smaller of 2 percent of the certified acreage or 5 acres, a penalty will be calculated on this difference. When this tolerance is exceeded, the penalty will be determined by multiplying the difference between the certified and determined peanut acreage times the applicable per acre seeding rate used in the calculation of the TSQ times 140 percent of the applicable per pound quota support rate for the crop year involved. The authority for this penalty is found in section 358e of the 1938 Act which allows for penalties for over marketings of quota peanuts. Since such penalties flow from normal regulations applicable to the poundage quota system for peanuts, there does not appear to be a need for new rulemaking on this issue. In addition, in the event of an erroneous certification within the tolerance allowed by the rule, the agency may make corrections in the quota for the farm for the following year and may still assess a penalty in any instances in which such overreporting is chronic or otherwise found to have been a scheme or device to defeat the purposes of the program.

The requirement in § 729.214(f)(2)(iii)(A) that 90 percent of the transferring farm's quota must be planted in order for a fall transfer to be approved is amended by this rule to clarify that the TSQ allocation is not included as part of the farm's effective quota with respect to the 90-percent calculation.

4. Technical Corrections

Section 729.214 contains a reference in paragraph (b)(5)(ii) that was not changed in the interim rule to reflect that the referenced paragraph was redesignated from ''(e)'' to ''(f).'' Also, in paragraph (l) the phrase ''all out-of-county transfers'' was inadvertently included with owner-to-owner and operator-to-operator transfers. The adjustment to production history in this paragraph is applicable only to owner-to-owner and operator-to-operator transfers and, although there were other changes in the interim rule to bring owner and operator transfers under the provisions of the new out-of-county transfer provisions, there was never an intention to adjust the produced credit for out-of-county transfers not involving owner-to-owner and operator-to-operator transfers.

Accordingly, this final rule amends § 729.214(b)(5)(ii) to reflect the correct reference and § 729.214(l) to remove the reference to ''all out-of-county transfers.''

Modification of Part 718

This rule also makes a correction to provisions of 7 CFR 718.11 as promulgated in a rule published in the **Federal Register** on July 18, 1996 (61 FR 37544). That section provides for certain sanctions to apply in the event that a person is involved in certain drug-related offenses and is based on a statutory provision which, by its terms, specifies that the sanctions shall apply to benefits related to commodity production. Section 718.11(b), as promulgated, only applied that limitation literally to (b)(1) of that section whereas the limitation, to matters of commodity production, was intended to apply to (b)(1) through (b)(3). This rule makes that correction and revises the provisions of that section to comport more closely with the language of the statutory provision.

List of Subjects

7 CFR Part 718

Acreage allotments, Authority delegations, Crop insurance requirement, Drug traffic control, Price support programs.

7 CFR Part 729

Peanuts, Penalties, Poundage quotas, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR part 718 is amended and the interim rule for 7 CFR part 729, published in the **Federal Register** on July 16, 1996 (61 FR 36997), is adopted as final with changes as set forth below.

PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS

1. The authority citation for 7 CFR part 718 is amended to read as follows:

Authority: 7 U.S.C. 1373, 1374, 7201 *et seq.*; 15 U.S.C. 714b and 714c; and 21 U.S.C. 889.

2. Section 718.11 is amended by revising paragraph (b) to read as follows:

§ 718.11 Denial of Benefits.

* * * * *

(b) Any person convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance, as defined in 21 CFR part 1308, shall be ineligible for, with respect to any commodity produced during the same year and the next succeeding four years:

(1) Any price support loan available in accordance with parts 1446 and 1464 of this title;

(2) Any price support or payment made under the Commodity Credit Corporation Charter Act;

(3) A farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act;

(4) Crop Insurance under the Federal Crop Insurance Act;

(5) A loan made, insured or guaranteed under the Consolidated farm and Rural Development Act or any other provision of law formerly administered by the Farmers Home Administration; or

(6) Any payment made under any Act.

* * * * *

PART 729—PEANUTS

3. The authority citation for 7 CFR part 729 continues to read as follows:

Authority: 7 U.S.C. 1301, 1357 *et seq.*, 1372, 1373, 1375, and 7271.

4. In § 729.103(b), the definition of ''considered produced credit'' is amended by redesignating paragraphs (ii) through (v) as paragraphs (iii) through (vi) respectively, and adding a new paragraph (b)(ii), and the definitions of ''farmers stock peanuts'' and ''peanuts'' are revised to read as follows:

§ 729.103 Definitions.

* * * * *

(b) *Terms.*

* * * * *

*Considered produced credit.** * *

(ii) A peanut poundage quota that was leased and transferred by a transfer agreement that was filed before August 1 of the current year to the extent the quota was produced or considered produced on the receiving farm; provided further, that to the extent that for any base period a farm receives credit under this paragraph, such farm may not receive credit under paragraph (iii) of this definition.

* * * * *

Farmers stock peanuts. Picked or threshed peanuts produced in the United States which have not been changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the condition in which picked or threshed peanuts are customarily marketed by producers, plus any loose shelled kernels that are removed from farmers stock peanuts before such farmers stock peanuts are marketed.

* * * * *

Peanuts. All peanuts produced, excluding:

(i) Any peanuts which were not dug;

(ii) Any dug peanuts not picked or threshed which are disposed of under the direction and supervision of FSA personnel; and

(iii) Green peanuts.

* * * * *

5. Section 729.104 is amended in paragraph (d)(3) by adding a sentence at the end of the paragraph to read as follows:

§ 729.104 Administration.

* * * * *

(d) * * *

(3) * * * Such authority shall include, but not be limited to, the delegation of the authority to the State FSA committee to, acting in accordance with such instructions as the Deputy Administrator may issue, modify deadlines for the filing of transfer of peanut quotas.

6. Section 729.204 is amended by adding a new paragraph (e) at the end of the section to read as follows:

§ 729.204 Temporary seed quota allocation.

* * * * *

(e) *Penalty for erroneous certification.* If the certified acreage on which the temporary seed quota allocation is made is greater than the acreage determined by FSA to be planted to peanuts by more than the smaller of 2 percent of the certified acreage or 5 acres, the producer shall be assessed a penalty based on this difference. The penalty amount shall be calculated by multiplying 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.

7. Section 729.205 is amended:

a. In paragraph (a)(1) after the word ''entities'' by adding, the parenthetical phrase ''(other than a university used for research purposes)'',

b. By revising paragraph (a)(2)(ii), and

c. Redesignating paragraph (c) as paragraph (e), revising paragraph (b), revising the new redesignated paragraph (e), and adding paragraphs (c) and (d) to read as follows:

§ 729.205 Farms ineligible for farm poundage quota.

(a) Ineligible farms. * * *

(2) * * *

(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

(ii) As determined appropriate by the Deputy Administrator, the corporation or other entity, but not a general partnership or an entity not recognized as a separate and distinct legal entity from its members, has been created under the laws of the State in which the quota is allocated.

(2) For purposes of the provisions of (a)(2)(i) of this section, a person shall not be considered to be a producer of a crop of peanuts unless such person is at risk for at least 15 percent of the proceeds from the marketing of the production of the quota at issue.

(c) *Exemption for involuntary acquisition.* Paragraph (a)(2) of this section shall not apply to any involuntary acquisition of a farm by foreclosure, or otherwise, resulting directly from the conduct of a public business in the State in which the quota is allocated, or an acquisition resulting directly by reason of a death. The exemption for involuntary farm acquisitions allowed under the preceding sentence shall only apply to the establishment of quota in the three crop years immediately following the date of the involuntary acquisition of the quota farm.

(d) *Applicable crop year.* For purposes of applying the rules in paragraph (a) of this section as they regard production, the determination of whether paragraph (a)(2) of this section applies shall be made based on the crop last planted before the date on which the determination is to be made.

(e) *Allocating forfeited quota and sales of quotas subject to paragraph (a).* Except for the exemption for involuntary acquisition in § 729.205(c), beginning in 1997 any farm poundage quota held on or after August 1 of 1997 by an ineligible person as determined under paragraph (a) of this section shall be allocated from the quota farm to other farms in the same State in accordance with § 729.206 of this part; provided, however, that if the ineligibility arises solely because of a purchase of a farm after August 1, 1997, or involves a quota which is acquired because of the expiration of a CRP contract after August 1, 1997, the quota shall not be forfeited but may not be used to market peanuts until the ineligibility is determined by the county committee to have been removed or the quota is sold to an eligible farm. Such reallocations shall be made to the extent practicable but shall take into account those instances in which the regulations call for an ineligibility for quota allocation rather than forfeiture of the quota.

8. Section 729.214 is amended:

a. In paragraph (b)(5)(ii) by removing the words ''paragraph (e)'' and adding in its place the words ''paragraph (f)'';

b. In paragraph (d)(2)(iv) by adding the words ''or other method'' to follow the word ''lot'';

c. In paragraph (e)(1) by removing the words ''result in a transfer'' and adding the words ''result in a temporary transfer'' in its place;

d. In paragraph (f)(1)(iii)(A) by adding to the end of the sentence the words ''prior to adjustment for temporary seed quota allocated to the farm'';

e. In paragraph (l) by removing the words ''and all out-of-county transfers''; and

f. By revising paragraphs (f)(3) (i) and (m) to read as follows:

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

* * * * *

(f) *Other transfer provisions*—* * *

(3) *Permanent transfer of quota from a farm.* * * *

(i) *Permanent transfer of quota to the farm.* For the amount of quota purchased or otherwise permanently transferred to the farm in the current year and during the base period, as adjusted for any increase or decrease in such quota due to adjustment in the national quota during the base period, except that a transfer of a tenant's share of any peanut quota increase shall not be considered for purposes of determinations made under the provisions of this paragraph.

* * * * *

(m) *Considered produced credit.* Quota that is leased and transferred from a farm shall be considered produced on such farm to the extent of considered produced credit set forth in the definition of ''Considered produced credit'' in § 729.103 of this part.

Signed at Washington, D.C., on April 30, 1997.

Bruce R. Weber,

Acting, Administrator Farm Service Agency.

[FR Doc. 97–11788 Filed 5–8–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 94–106–6]

RIN 0579–AA71

Importation of Pork from Sonora, Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of animal products to allow, under certain conditions, the importation of fresh, chilled or frozen pork from the State of Sonora, Mexico. This change is warranted because it removes unnecessary restrictions on the importation of pork from Sonora, Mexico, into the United States.

EFFECTIVE DATE: July 8, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231, (301) 734–8590.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), has promulgated regulations regarding the importation of animals and animal products in order to guard against the introduction into the United States of animal diseases not currently present or prevalent in this country. These regulations are set forth in the Code of Federal Regulations (CFR), title 9, chapter I, subchapter D.

On April 18, 1996, we published in the **Federal Register** a proposed rule (61 FR 16978–17105, Docket No. 94–106–1) to revise the regulations in six different parts of 9 CFR to establish importation criteria for certain animals and animal products based on the level of disease risk in specified geographical regions. In proposing the amendments to the regulations, we stated that we considered the proposed regulatory changes to be consistent with and to meet the requirements of international trade agreements that had recently been entered into by the United States.

We solicited comments concerning our proposal for 90 days ending July 17, 1996. During the comment period, several commenters requested that we extend the period during which we would accept comments. In response to these requests, on July 11, 1996, we published in the **Federal Register** a notice that we would consider comments on the proposed rule for an additional 60 days ending September 16, 1996 (61 FR 36520, Docket No. 94–106–4). During the comment period, we conducted four public hearings at which we accepted oral and written comments from the public. These public hearings (announced in the **Federal Register** on May 6 and May 29, 1996, 61 FR 20190–20191 and 26849–26850, Docket Nos. 94–106–2 and 94–106–3, respectively) were held in Riverdale, MD; Atlanta, GA; Kansas City, MO; and Denver, CO.

We received 113 comments on the proposed rule on or before September 16, 1996. These comments came from representatives of State and foreign governments, international economic and political organizations, veterinary associations, State departments of agriculture, livestock industry associations and other agricultural organizations, importing and exporting associations, members of academia and the research community, brokerage firms, exhibitors, animal welfare organizations, and other members of the public.

Based on our review of the comments received on our proposed rule, it is clear that drafting a final rule in response to recommendations submitted by commenters will require close analysis of numerous and complex issues. However, it is also clear to us that there are a limited number of provisions within the proposal that we can make final at this time. Where these provisions involve trade, we believe that delaying their implementation is unwarranted and not in the best interests of trade relations with other countries. In this final rule we are establishing provisions based on the importation procedures set forth in our proposed rule, described below, to allow the importation, under certain conditions, of fresh, chilled or frozen pork from the State of Sonora, Mexico.

Under the regulations prior to the effective date of this final rule (9 CFR 94.9), the entire country of Mexico was considered to be a country in which hog cholera existed. As part of our proposed rule, we proposed to classify the State of Sonora, Mexico, as a region that presents only a slight risk of introducing hog cholera into the United States. In meeting the criteria for the proposed classification of a ''slight risk'' for hog cholera, Sonora also met all of the criteria currently used to designate countries free of hog cholera, as discussed below. However, due to additional factors, such as the disease status of surrounding regions, we determined that the region of Sonora posed more than a negligible risk of introducing hog cholera into the United States if mitigating measures were not applied to the importation of fresh, chilled or frozen pork from that region. These measures included the requirements that the pork come from swine that were raised and slaughtered in Sonora, and that an authorized official of Mexico certify as to the origin of the pork. Additionally, an authorized official of Mexico would need to certify that the pork had not been in contact