production on the quota farm was not possible due to conditions beyond the producer's control.

The issue generated 292 comments. A number of suggestions were made. First, some suggested that in all cases leased quotas should be considered produced. Some argued that leasing is necessary to combine quotas into marketable quantities. Some of these commenters, however, would limit such protection to quotas transferred to farms with the same operator.

Some argued that reductions for non-production should not be made for the 1986 crop since planting may have already occurred.

Others suggested that it would be unfair to reduce quotas that were leased under circumstances which, for the 1983-85 crop years, did not produce a quota reduction. This suggestion was made in particular with respect to leases made because of soil diseases or conditions affecting the crop on the quota farm.

Other commenters argued that they had purchased quotas which, if the proposed rule were adopted, would be unfairly eliminated. In addition, other commenters argued that actual producers of peanuts would suffer unless they were given the opportunity to purchase quotas previously leased. This was suggested to be a particular problem in fringe areas where the small quantity of quota that would remain after reductions would not be large enough to leave enough quota available for purchase.

The proposed rule, as regards this issue, has been modified. First, to avoid problems arising from the difficulty of predicting their 1986 quotas prior to planting, all 1986 quotas up to the farm's 1986 basic poundage quota will be considered produced for the 1986 crop.

Second, in order to avoid due hardship to actual producers of peanuts, for the 1986 crop only, the farm poundage quota shall not be reduced on a farm if the quota would be subject to reduction solely because the quota was leased and produced on another farm by a different operator during the base period. In addition, a farm to which a 1986 quota has been transferred by sale will be given considered produced credit for 1985 to the extent of the amount of quota transferred. Also, provision is made in the rule to provide that if a farm which had a farm quota for 1985 is sold such that, beginning with the 1986 crop, there is a new quotaholder, the new quotaholder will be given considered produced credit in the same manner as if there had been a sale of the quota itself. This should provide an equitable application of the quota reduction provisions of the 1986 amendments.

Comments suggesting that there should be a blanket exemption for transfers, past and future, were rejected. Such a blanket exemption would be contrary to the statute. While it may be that in some instances a quota on a farm does not amount to the marketable quantity, a farm with a small quota can be combined with other farms. In any event, the fact that a producer may not find it profitable to produce a particular quota on the quota farm is not a condition beyond the producer's control but a management decision.

Pursuant to the "fair and equitable" provisions of the peanut quota reduction section of the 1938 Act, the final rule will effectively eliminate quota reductions for nonproduction in many instances for the 1986 crop. While the modification of the rule regarding reductions will be adverse to some farmers—those who would have benefited from the reallocation, the adverse effect will be minimal given the size of the shares involved. By comparison, the effect on other producers, if no modification were made, would be profound.

In addition, pursuant to Section 1314 of the 1985 Act, a special provision for considered produced credit is included in the rule for farms to which the Farmers Home Administration has or had control or title for the 1983 and subsequent crop years.

2. *Other issues.*

Some commenters suggested that the "fall" transfer restrictions were too restrictive. The proposed rule requires that the full quota be planted before a fall lease will be allowed. That requirement is provided for by statute.

Two comments suggested that quotas temporarily released be reallocated to farms in the same county. The rule permits distributions on that basis. The actual method will be determined once the quantity to be allocated is known.

One comment opposed the provision in the proposed rule for reallocating to nonquota farms at least 25 percent of those quotas reallocated due to reductions for nonproduction or due to permanent releases. That minimum is set by statute.

Other commenters recommended that, due to the lateness of the final rule and the fact that producers have made land preparation involving other commodities, the proposed changes not be implemented for 1986. Legislative provisions prohibit this.

One commenter suggested that the treatment of "foundation seed" for quota purposes be addressed in the rule. The proposed rule did not cover this subject. That issue is germane to matters which will be addressed in subsequent regulations.

Conclusion

Having given careful consideration and review to all comments, it has been determined that the provisions of the proposed rule should be adopted except for:

(1) Minor clarifications;

(2) The change in the quota reduction provisions of the regulations, as previously noted; and

(3) The following changes:

(a) The list of States contained in § 729.346 has been deleted. That section provided that transfers by sale or lease could be made from one county in the State to another county if the poundage quota allocated to a State for the preceding year was less than 10,000 tons. The State poundage quota for a State for the preceding year could change from one year to another. The change in § 729.346 avoids unnecessary amendments to the regulations.

(b) Section 729.348 has been amended to provide, for the 1986 crop only, that the final date for "spring transfers" will be a date announced by the Deputy Administrator, rather than June 15. This change is needed to allow additional time for spring transfers for the 1986 crop.

List of Subjects in 7 CFR Part 729

Poundage quotas, Peanuts.

Final Rule

Accordingly, 7 CFR Part 729 is amended by adding a new subpart as follows:

PART 729—PEANUTS

Subpart—Poundage Quota and Marketing Regulations for the 1986 Through 1990 Crop of Peanuts

General

Sec.
729.311 Basis and purpose.
729.312 Extent of calculations and rule of fractions.
729.313 Definitions.
729.314 Types of peanuts.
729.315 Supervisory authority of State committee and Deputy Administrator.
729.316–729.319 [Reserved].

State Poundage Quotas, Farm Poundage Quotas, Notice to Farm Operator and Appeals

729.320 Instructions and forms.
729.321 Determination of State poundage quota.
729.322 Reserves for corrections.
729.323 Determination of preliminary farm poundage quota.

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