

## Farm Service Agency, USDA

## § 714.44

instructions and forms as are necessary for carrying out the regulations in the part.

### § 714.38 Who may claim refund.

Claim for refund may be made by:

(a) Any person who was entitled to share in the price or consideration received by the producer with respect to the marketing of a commodity from which a deduction was made for the penalty and bore the burden of such deduction in whole or in part.

(b) Any person who was entitled to share in the commodity or the proceeds thereof, paid the penalty thereon in whole or in part and has not been reimbursed therefor.

(c) Any person who was entitled to share in the commodity or the proceeds thereof and bore the burden of the penalty because he has reimbursed the person who paid such penalty.

(d) Any person who, as buyer, paid the penalty in whole or in part in connection with the purchase of a commodity, was not required to collect or pay such penalty, did not deduct the amount of such penalty from the price paid the producer, and has not been reimbursed therefor.

(e) Any person who paid the penalty in whole or in part as a surety on a bond given to secure the payment of penalties and has not been reimbursed therefor.

(f) Any person who paid the whole or any part of the sum paid as a penalty with respect to a commodity included in a transaction which in fact was not a marketing of such commodity and has not been reimbursed therefor.

### § 714.39 Manner of filing.

Claim for refund shall be filed in the county office on a form prescribed by the Deputy Administrator. If more than one person is entitled to file a claim, a joint claim may be filed by all such persons. If a separate claim is filed by a person who is a party to a joint claim, such separate claim shall not be approved until the interest of each person involved in the joint claim has been determined.

### § 714.40 Time of filing.

Claim shall be filed within 2 years after the date payment was made to

the Secretary. The date payment was made shall be deemed to be the date such payment was deposited in the general fund of the Treasury as shown on the certificate of deposit on which such payment was scheduled.

### § 714.41 Statement of claim.

The claim shall show fully the facts constituting the basis of the claim; the name and address of and the amount claimed by every person who bore or bears any part or all of the burden of such penalty; and the reasons why such penalty is claimed to have been erroneously, illegally, or wrongfully collected. It shall be the responsibility of the county committee to determine that any person who executes a claim as agent or fiduciary is properly authorized to act in such capacity. There should be attached to the claim all pertinent documents with respect to the claim or duly authenticated copies thereof.

### § 714.42 Designation of trustee.

Where there is more than one claimant and all the claimants desire to appoint a trustee to receive and disburse any payment to be made to them with respect to the claim, they shall be permitted to appoint a trustee. The person designated as trustee shall execute the declaration of trust.

### § 714.43 Recommendation by county committee.

Immediately upon receipt of a claim, the date of receipt shall be recorded on the face thereof. The county committee shall determine, on the basis of all available information, if the data and representations on the claim are correct. The county committee shall recommend approval or disapproval of the claim, and attach a statement to the claim, signed by a member of the committee, giving the reasons for their action. After the recommendation of approval or disapproval is made by the county committee, the claim shall be promptly sent to the State committee.

### § 714.44 Recommendation by State committee.

A representative of the State committee shall review each claim referred by the county committee. If a claim is

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sent initially to the State committee, it shall be referred to the appropriate county committee for recommendation as provided in § 714.43 prior to action being taken by the State committee. Any necessary investigation shall be made. The State committee shall recommend approval or disapproval of the claim, attaching a statement giving the reasons for their action, which shall be signed by a representative of the State committee. After recommending approval or disapproval, the claim shall be promptly sent to the Deputy Administrator.

### **§ 714.45 Approval by Deputy Administrator.**

The Deputy Administrator shall review each claim forwarded to him by the State committee to determine whether, (a) the penalty was erroneously, illegally, or wrongfully collected, (b) the claimant bore the burden of the payment of the penalty, (c) the claim was timely filed, and (d) under the applicable law and regulations the claimant is entitled to a refund. If a claim is filed initially with the Deputy Administrator, he shall obtain the recommendations of the county committee and the State committee if he deems such action necessary in arriving at a proper determination of the claim. The claimant shall be advised in writing of the action taken by the Deputy Administrator. If disapproved, the claimant shall be notified with an explanation of the reasons for such disapproval.

### **§ 714.46 Certification for payment.**

An officer or employee of the Department of Agriculture authorized to certify public vouchers for payment shall, for and on behalf of the Secretary of Agriculture, certify to the Secretary of the Treasury of the United States for payment all claims for refund which have been approved.

## **PART 718—PROVISIONS APPLICABLE TO MULTIPLE PROGRAMS**

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AUTHORITY: 7 U.S.C. 1311 *et seq.*, 1501 *et seq.*, 1921 *et seq.*, 7201 *et seq.*, 15 U.S.C. 714b.