

specified in paragraph (c)(2) of this section.

(d) *Variances in reports and record-keeping and deadlines.* The Director may grant variances from the report, recordkeeping, and deadlines required by this section or subpart but only in writing and only to the extent that it is determined that such variances are justified, taking into account the overall purposes of this subpart and the desire to avoid undue interference with commerce.

(e) *Burden of proof.* The burden of proof on all issues arising under this subpart regarding compliance with the provisions of this subpart shall be on the domestic manufacturer of cigarettes.

**§ 723.507 False reports; failure to file reports; examination of records; and records for events occurring prior to the publication of the final rule.**

(a) *False reports, failure to file report.* In addition to any other sanction or remedy or presumption that may apply, a person shall be subject to all other remedies provided for by law including, but not limited to, those that apply under section 320C of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1314i), and 18 U.S.C. 1001 for any:

(1) False or inaccurate report, certification, or statement, or

(2) Failure to provide required information.

(b) *Examination of records.* The Director, the Office of Inspector General, or any authorized representative of the United States may examine such records, books, computer files, or any other material to determine the correctness of any report or information provided to the Director or to obtain relevant information. Reasonable costs incurred with respect to any such audit may be charged to the domestic manufacturer which is the subject of the audit or examination.

(c) *Records for events occurring prior to the publication of the final rule.* No person shall be penalized or otherwise adversely affected for a failure to comply with any recordkeeping requirements in this rule as concerns records that would have been required to be generated prior to the publication of the

final rule implementing the program provided for in this subpart. However, all persons shall be required to maintain and submit on request, all records generated prior to the publication of the final rule which are relevant to the provisions of this subpart and shall be required, to the full extent possible, for all uses of tobacco relevant to this subpart. Nothing in this paragraph shall be justification for the destruction of records or information, or for refusing a request for relevant information.

**§ 723.508 Reconsideration and appeal.**

A domestic manufacturer of cigarettes may request that the Director reconsider any adverse determination with respect to such manufacturer under this subpart. A request for reconsideration shall be made within 15 calendar days after the date of the notification of failure to comply except that the manufacturer for cause may request that the time for such filing be extended. The Director may grant such requests and may set conditions for such extensions. Unless otherwise specified by the Director, an extension of the time for reconsideration, or the pendency of reconsideration or appeal, shall not toll the time for payment of any amount due, nor toll the accrual of interest. If the domestic manufacturer is dissatisfied with the reconsideration determination rendered, such manufacturer may appeal the determination to the Director, National Appeals Division in accordance with part 780 of this title.

**§ 723.509 Limitation of subpart to 1994 production.**

Notwithstanding any other provision of this subpart, the requirements and provisions of this subpart shall not apply to cigarettes produced after December 31, 1994.

[60 FR 61194, Nov. 29, 1995]

**PART 729—PEANUTS**

**Subpart A—General Provisions**

Sec.

729.101 Paperwork Reduction Act assigned number.

729.102 Applicability.

729.103 Definitions.