

§729.316

7 CFR Ch. VII (1-1-01 Edition)

warehousing contract with the area marketing association.

(b) *Failure to properly dispose of Segregation 3 peanuts*—(1) *Loss of price support.* If the producer does not, within the time allowed in this part for designation of the category for marketing such peanuts, dispose of Segregation 3 peanuts in the manner specified in this section, such producer shall be ineligible for continued quota price support for the remainder of the marketing year.

(2) *Liquidated damages.* Any peanut producer participating in the price support loan program shall be deemed to have agreed that:

(i) CCC will incur serious and substantial damage to its program to support the price of peanuts if Segregation 3 peanuts are disposed of other than in the manner prescribed by this subpart or by the CCC;

(ii) The amount of such damages will be difficult, it not impossible, to ascertain;

(iii) With respect to any lot of peanuts which is pledged as collateral for a quota price support loan but which is ineligible for such loan, or any lot of peanuts which is pledged as collateral for a quota price support loan by a producer after the producer has disposed of any lot of Segregation 3 peanuts in any manner other than in the manner prescribed in this section, liquidated damages shall be due to CCC, not as a penalty, based on the difference between the quota loan rate and the additional loan rate (on a per pound basis) per net pound of such peanuts,

(iv) Such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer because of such action by the producer; and,

(v) This remedy shall be in addition to any other remedy or sanction available against the producer, including penalties under this part.

(c) *Retention of Segregation 3 peanuts for seed.* If the producer elects to retain a lot of Segregation 3 peanuts for seed, the buying point operator shall give a copy of the FSA-1007 to the producer as a record showing the quantity and quality factors of the peanuts. The producer:

(1) Shall designate such peanuts as quota peanuts.

(2) Shall have the net weight of such peanuts determined and deducted from the farm marketing card.

(3) Shall advise the inspector that the peanuts are being retained for seed.

(4) Must store such peanuts separate from other peanuts on the farm.

(5) Shall notify the county executive director when such peanuts are used and otherwise account for the disposition of such peanuts.

(6) Shall not sell such peanuts to a handler for seed; however, the peanuts may be sold to another producer for seed.

(7) May, if it is later determined that such peanuts are unfit for seed use and after receiving prior approval from the county office, sell such peanuts as quota peanuts for crushing without benefit of price support.

§729.316 Marketing assessments.

(a) Subject to adjustments in accordance with §729.317, a nonrefundable marketing assessment shall, in the amount provided for in this section, be due on each pound of farmers stock peanuts marketed or considered marketed by a producer, including marketings by pledging peanuts as collateral for a price support loan. The per pound assessment as a percentage of the applicable national average quota or additional peanut loan rate, shall be an amount equal to:

(1) 1.15 percent for the 1996 crop; and

(2) 1.2 percent for the 1997 through 2002 crops.

(b) *Collections and payment of marketing assessments.* The first purchaser of peanuts shall:

(1) Collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by:

(i) In the case of the 1996 crop, a per pound amount equal to .6 percent of the national average loan rate; and

(ii) In the case of each of the 1997 through 2002 crops, a per pound amount equal to .65 percent of the applicable national average loan rate.

(2) In addition to the amount collected under paragraph (1) of this section, pay a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by .55 percent

of the applicable national average loan rate.

(c) *Private marketings.* For all peanuts retained on the farm for seed or other uses or marketed by such producer to any person outside the United States or marketed in private marketings through a retail or wholesale outlet to any person who is not required to register as a handler in accordance with part 1446 of this title, the producer shall pay a marketing assessment equal to the full amount determined by multiplying the per pound amount provided in paragraph (a) of this section by the gross weight of the peanuts if they are uninspected farmers stock peanuts or, if inspected, the net weight of such peanuts. If such peanuts are shelled before they are marketed, the quantity marketed shall be converted to a farmers stock equivalent as consistent with this part, for purposes of determining the amount of assessment that is due.

(d) *Loan collateral peanuts.* With respect to peanuts that are pledged as collateral for a price support loan through an approved warehouse, an assessment shall be:

(1) Determined and paid by multiplying the net weight of such peanuts by the applicable per pound amount provided in paragraph (b)(1) of this section for private sales and deducting the total from the loan value of such peanuts before other deductions may be made for any other reason; and

(2) Further determined and paid by multiplying the net weight of such peanuts, when sold from the price support inventory, by the applicable per pound amount provided in paragraph (b)(2) of this section for private sales and collecting that amount from the person who acquires such peanuts from the applicable association or from the CCC.

(e) *Remittance of marketing assessments.* With respect to marketing assessments as provided in:

(1) Paragraph (b) of this section, such assessments shall be remitted in a manner prescribed by the Deputy Administrator. To avoid a penalty, as prescribed in this section, the marketing assessments due with respect to any lot of peanuts acquired directly from a producer must be remitted during the 15 days that follow the week in which

the data from the applicable Form FSA-1007 is due to be transmitted to FSA in accordance with the provisions in part 1446 of this title. For purposes of this section a week shall be the 168 hour period that begins at 12:01 a.m. local time on any Sunday and the post-mark on the envelope in which such marketing assessment is remitted may be the basis for determining whether the marketing assessment was remitted timely;

(2) Paragraph (c) of this section, such assessments shall be remitted, within 10 days after the date such peanuts are marketed, and shall be remitted to the county FSA office that serves the county in which the farm is administratively located. Peanuts that are retained on the farm for seed or other use, shall be considered marketed at the time the certification of marketings is filed or due to be filed at the county FSA office, whichever is earlier;

(3) Paragraph (d)(1) of this section, such assessments shall be credited by the association to the appropriate account of the CCC and in accordance with instructions issued by the Executive Vice President, CCC; and

(4) Paragraph (d)(2) of this section, such assessment shall be paid at the time and in the manner prescribed in the applicable:

(i) Sales announcements for sales of farmers stock peanuts by CCC;

(ii) Sales announcement or other similar document issued by the association for association sales of loan stocks of farmers stock peanuts; and

(iii) Storage contract for farmers stock peanuts purchased by a handler when peanuts are purchased by such handler in accordance with the "immediate buyback" provisions set forth in §1446.309.

(f) *Penalties.* If any person fails to collect, pay or timely remit the assessment required by this section, the person shall be liable in addition to principal and interest, for a penalty determined by multiplying the quantity of peanuts involved by 10 percent of the per pound national average quota support rate for the applicable crop year.

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