§ 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 postmark 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.

[61 FR 37565, July 18, 1996]

§ 729.317 Increased marketing assessments.

(a) *Applicability*. If area quota pool losses are not otherwise covered by the offsets prescribed by part 1446 of this title, and the transfer of marketing assessments collected in accordance with provisions of this part, the marketing assessment for quota peanut producers shall be:

(1) Increased by an amount needed by CCC to cover such losses; and

(2) Collected as determined by CCC on all quota peanuts marketed in the next marketing year in the area covered by the quota pool which had the loss.

(b) *Insufficient collections*. If the amount of such increased assessments collected on the marketing of quota peanuts in any year is less than the amount needed to cover the accumulated net pool losses for any crop, there shall be an increased assessment in subsequent years until the amount needed is collected.

(c) *Excess collections*. If the increased amount of assessments, as provided in this section, collected on the marketing of quota peanuts for any year is greater than the amount needed for the purpose for which the collection is made, the excess amount shall be retained to offset any losses which may occur in quota pools within that marketing area in subsequent years.

(d) *Collection procedures*. Unless otherwise specified by CCC, the collection procedures for the increased assessments shall be as provided for in § 729.316 and the assessment rates of § 729.316 shall be increased accordingly.

[61 FR 37566, July 18, 1996]

Subpart D—Recordkeeping and Reporting Requirements

§ 729.401 Peanuts marketed to persons who are not registered handlers.

(a) If peanuts are marketed to persons other than registered peanut handlers, the operator of the farm on which the peanuts were produced shall file a report of the marketings by executing Form FSA–1011, Report of Acreage and Marketing of Peanuts to Nonestablished Buyers. The FSA–1011 must be mailed or delivered to the county executive director of the county in which the farm is administratively located within 15 days after the marketing of peanuts from the farm has been completed. If peanuts are marketed by the producer in small lots directly to consumers, such as in the case of local street sales, a daily or weekly summary of the quantity marketed and the place of marketing may be reported in lieu of the name and address of each buyer.

(b) Failure to file an FSA–1011 as required or the filing of a report which the county committee finds to be incomplete or inaccurate shall constitute failure to account for the disposition of the peanuts on the farm and may result in the assessment of marketing penalties, as provided in this part.

(c) All peanuts marketed to persons other than registered handlers shall be considered as marketings of quota peanuts.