

§ 1464.11

7 CFR Ch. XIV (1-1-05 Edition)

(6) Any person who fails to collect and timely remit any collections required by this section shall be subject to a late payment charge. Such late payment shall be calculated and assessed in accordance with part 1403 of this title.

(j) *Penalty for failure to collect and remit contributions or assessments.* (1) If any person fails to collect and remit any contributions or assessments according to the provisions of this section such person shall be liable, in addition to any amount of contributions or assessments and any late payment charges, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco for the immediately preceding year on the quantity of tobacco as to which failure occurs. Such a penalty only shall be assessed after the person has been notified of the pending assessment of the penalty and the person has been afforded an opportunity for a hearing with respect to the assessment of the penalty. However, such marketing penalty shall not be assessed if such contributions or assessment are collected and remitted not later than 15 days after the date required by this part.

(2) If a warehouse operator fails to collect and remit any contribution or assessment to an association within 15 days after the date provided in the loan contract between the warehouse operator and such association, the association shall provide to the FSA State committee for the state in which the warehouse operator's business is located a statement of the reason for the failure of the person to timely remit such collection, including the name and address of the warehouse involved, the pounds of tobacco purchased, the date of purchase, and the date the collection was required to be remitted. The association shall submit such facts within 25 days after the applicable due date regardless of whether such assessment or contribution has been remitted to the association.

(3) The FSA State committee shall be responsible for assessing any marketing penalty determined in accordance with paragraph (j)(1) of this section.

(4) The Deputy Administrator or the Deputy Administrator's designee may reduce the amount of any marketing penalty for which a person otherwise would be liable in accordance with the provisions of this section.

(5) The marketing penalty provided in this section is in addition to, and not exclusive of, any other remedies that may be available with respect to collection and remission of any contributions or assessments made in accordance with this section.

[47 FR 51556, Nov. 16, 1982, and 48 FR 21110, May 11, 1983, as amended at 49 FR 24374, June 13, 1984; 51 FR 32427, Sept. 12, 1986; 53 FR 43675, Oct. 28, 1988; 56 FR 21259, May 8, 1991; 57 FR 43584, Sept. 21, 1992; 67 FR 484, Jan. 4, 2002; 68 FR 65385, Nov. 20, 2003]

§ 1464.11 Nonrefundable marketing assessment.

Effective only for each of the 1991 through 1998 crops of tobacco for which price support is made available according to §1464.2 of this part, both the producer and purchaser of such tobacco shall each remit to the CCC a nonrefundable marketing assessment in an amount equal to .5 percent of the national price support level for each such kind and crop on each pound of tobacco marketed. The nonrefundable marketing assessment will be:

(a) Determined and announced by CCC at the time of announcing the national price support level for applicable kinds of tobacco or as soon thereafter as possible.

(b) Collected and remitted to CCC in accordance with §1464.10(i) of this part from producers and purchasers at the time of marketing.

(c) Collected by loan associations and remitted to CCC on all such tobacco pledged as loan collateral at the time such 1991 through 1998 crops of tobacco are sold from loan inventories.

(d) Subject to the same penalty for failure to be collected and remitted as provided for in §1464.10(j) of this part.

(e) Enforceable in the courts of the United States by the Secretary.

[56 FR 21259, May 8, 1991, as amended at 60 FR 19667, Apr. 20, 1995; 62 FR 3198, Jan. 22, 1997]