

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Parts 997 and 998****[Docket No. FV97-998-3 IFR]****Amended Assessment Rate for Domestically Produced Peanuts Handled by Persons Not Subject to Marketing Agreement No. 146, and for Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule decreases the administrative assessment rate established for the Peanut Administrative Committee (Committee) under Marketing Agreement No. 146 (agreement) for the 1997-98 and subsequent crop years. The Committee is responsible for local administration of the agreement which regulates the handling of peanuts grown in 16 States. Authorization to assess peanut handlers who have signed the agreement enables the Committee to incur expenses that are reasonable and necessary to administer the program. The agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (Act). The Act also requires the Department of Agriculture (Department) to impose the same administrative assessment rate on assessable peanuts received or acquired by handlers who have not signed the agreement. The 1997-1998 crop year covers the period July 1 through June 30. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Effective September 18, 1997. Comments received by October 17, 1997, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; Fax (202) 720-5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** Tammie M. Bryant, Program Assistant, or Jim Wendland, Marketing Specialist,

Marketing Order Administration Branch, Fruit and Vegetable Division, DC Marketing Field Office, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-1755, Fax: (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued pursuant to the requirements of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereafter referred to as the "Act"; and under Marketing Agreement No. 146 (7 CFR part 998) regulating the quality of domestically produced peanuts.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Farmers' stock peanuts received or acquired by non-signatory handlers and farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than from those described in § 998.31 (c) and (d), are subject to assessments. It is intended that the assessment rates issued herein will be applicable to all assessable peanuts beginning July 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

This rule decreases the assessment rate established for the Committee for the 1997-98 and subsequent crop years from \$0.70 to \$0.35 per net ton.

The agreement provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. Funds to administer the agreement program are paid to the Committee and are derived from signatory handler assessments. The members of the Committee are handlers and producers of peanuts. They are familiar with the Committee's needs and with the costs for goods and services in their local areas and, thus, are in a position to formulate an appropriate budget and assessment rate. The

assessment rate is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input. The handlers of peanuts who are directly affected have voluntarily signed the agreement authorizing the expenses that may be incurred and the imposition of assessments.

For the 1997-98 and subsequent crop years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from crop year to crop year indefinitely unless modified, suspended, or terminated by the Secretary, upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on April 30, 1997, and unanimously recommended 1997-98 administrative expenditures of \$525,000, and an administrative assessment rate of \$0.35 per net ton of assessable farmers' stock peanuts received or acquired by handlers. The Committee also voted not to recommend an assessment rate for indemnification for handler losses due to aflatoxin contamination. Adequate funds are included in the Committee's indemnification reserve for such expenses during the 1997-98 crop year. In comparison, last year's budgeted administrative expenditures were \$1,025,500. Major expenditures recommended by the Committee for the 1997-98 crop year compared with those budgeted for 1996-97 (in parentheses) include: \$55,000 for executive salaries (\$112,450), \$50,000 for clerical salaries (\$131,500), \$125,000 for field representatives (3 compliance officers rather than 7 fieldmen) salaries (\$296,700), \$18,000 for payroll taxes (\$42,000), \$65,000 for employee benefits, (\$148,000), \$40,000 for committee members travel (\$40,000), \$5,000 for staff travel (\$5,000), \$60,000 for field representatives travel (\$110,000), \$9,800 for insurance and bonds (\$9,800), \$19,000 for office rent and parking (\$46,200), \$10,000 for office supplies and stationery (\$14,000), \$10,400 for postage and mailing (\$13,200), \$11,000 for telephone and telegraph (\$15,000), \$6,000 for repairs and maintenance agreements (\$6,000), \$10,400 for the audit fee (\$10,400), and \$15,800 for the contingency reserve (\$10,250).

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. Farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than

from those described in § 998.31 (c) and (d), are subject to the assessments. Farmers' stock peanuts received or acquired by non-signatory handlers by law are subject to the same assessment rate. Assessments are due on the 15th of the month following the month in which the farmers' stock peanuts are received or acquired. Peanut receipts and acquisitions for the year under the agreement are estimated at 1,500,000 tons, which should provide \$525,000 in assessment income. Approximately 95 percent of the domestically produced peanut crop is marketed by handlers who are signatory to the agreement. The remaining 5 percent of the U.S. peanut crop is marketed by non-signer handlers.

The Act provides for mandatory assessment of farmer's stock peanuts acquired by non-signatory peanut handlers. Section 608b of the Act specifies that: (1) Any assessment (except indemnification assessments) imposed under the agreement on signatory handlers also shall apply to non-signatory handlers, and (2) such assessment shall be paid to the Secretary.

The assessment rates established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although these assessment rates are effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1997-98 budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of

business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. There are approximately 80 peanut handlers who are subject to regulation under the agreement or the non-signer program and approximately 25,000 peanut producers in the 16-State production area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. Approximately 25 percent of the signatory handlers, virtually all of the non-signer handlers, and most of the producers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 1997-98 and subsequent crop years from \$0.70 to \$0.35 per net ton. The recommended assessment rate is \$0.35 less than the rate currently in effect.

The Committee discussed alternatives to this rule, including alternative expenditure levels. The Committee also discussed the alternative of not decreasing the assessment rate. However, it decided against this course of action. The peanut industry has been in a state of economic decline since 1991, with the Committee attempting to cut costs where possible. The Committee's budget for 1997-98 is \$525,000; this is \$500,500 less than the amount budgeted for 1996-97. Based on an estimated 1,500,000 net tons of assessable peanuts, income derived from handler assessments during 1997-98 will be adequate to cover budgeted expenses.

This action will reduce the assessment obligation imposed on handlers. While this rule will impose some costs on handlers, the costs are minimal and in the form of a uniform assessment on all handlers. Some of these costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the agreement. This administrative assessment is required by law to also be applied uniformly to all non-signatory handlers and should be of benefit to all. In addition, the Committee's meeting was widely publicized throughout the peanut industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 30, 1997, meeting was a public meeting and all entities, both large and small, were able to

express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action will not impose any additional reporting or recordkeeping requirements on either small or large peanut handlers. As with all Federal marketing agreement and order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action reduces the current assessment rate; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) the Act requires the Department to impose an administrative assessment on assessable peanuts received or acquired for the account of signatory and non-signatory handlers; (4) the 1997-98 crop year began on July 1, 1997, and the agreement and the Act require that the rate of assessment for each crop year apply to all assessable peanuts received or acquired during such crop year; (5) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (6) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects

##### 7 CFR Part 997

Food grades and standards, Peanuts, Reporting and recordkeeping requirements.

**7 CFR Part 998**

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 997 and 998 are amended as follows:

1. The authority citation for 7 CFR parts 997 and 998 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

**PART 997—PROVISIONS  
REGULATING THE QUALITY OF  
DOMESTICALLY PRODUCED  
PEANUTS HANDLED BY PERSONS  
NOT SUBJECT TO THE PEANUT  
MARKETING AGREEMENT**

**§ 997.101 [Amended]**

2. Section 997.101 is amended by removing “July 1, 1996,” and adding in its place “July 1, 1997,” and by removing “\$0.70” and adding in its place “\$0.35.”

**PART 998—MARKETING AGREEMENT  
REGULATING THE QUALITY OF  
DOMESTICALLY PRODUCED  
PEANUTS**

**§ 998.409 [Amended]**

3. Section 998.409 is amended by removing “July 1, 1996,” and adding in its place “July 1, 1997,” and by removing “\$0.70” and by adding in its place “\$0.35.”

Dated: September 12, 1997.

**Robert C. Keeney,**

*Director, Fruit and Vegetable Division.*

[FR Doc. 97–24689 Filed 9–16–97; 8:45 am]

BILLING CODE 3410–02–P

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection  
Service**

**9 CFR Part 78**

[Docket No. 97–009–2]

**Brucellosis in Cattle; State and Area  
Classifications; Tennessee**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Tennessee from Class A to Class Free. We have determined that Tennessee meets the standards for Class Free status. The interim rule was necessary

to relieve certain restrictions on the interstate movement of cattle from Tennessee.

**EFFECTIVE DATE:** The interim rule was effective on February 28, 1997.

**FOR FURTHER INFORMATION CONTACT:** Dr. R.T. Rollo, Jr., Staff Veterinarian, National Animal Health Programs, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–7709; or e-mail: rrollo@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

In an interim rule effective February 28, 1997, and published in the **Federal Register** on March 6, 1997 (62 FR 10192–10193, Docket No. 97–009–1), we amended the brucellosis regulations in 9 CFR part 78 by removing Tennessee from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a).

Comments on the interim rule were required to be received on or before May 5, 1997. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

**List of Subjects in 9 CFR Part 78**

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

**PART 78—BRUCELLOSIS**

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 62 FR 10192–10193 on March 6, 1997.

**Authority:** 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 11th day of September 1997.

**Terry L. Medley,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 97–24668 Filed 9–16–97; 8:45 am]

BILLING CODE 3410–34–P

**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection  
Service**

**9 CFR Part 94**

[Docket No. 97–021–2]

**Change in Disease Status of Northern  
Ireland and Norway Because of Exotic  
Newcastle Disease**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the regulations by removing Northern Ireland and Norway from the list of countries that are considered to be free of exotic Newcastle disease. We took this action based on reports we received from the Office International des Epizooties and the Governments of Northern Ireland and Norway that outbreaks of exotic Newcastle disease have occurred in Northern Ireland and Norway. This action restricts the importation of live birds, poultry, and poultry products into the United States from Northern Ireland and Norway.

**EFFECTIVE DATE:** The interim rule was effective on April 15, 1997.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Coughill, Staff Veterinarian, Animal Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–3399; or e-mail: jcoughill@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

In an interim rule effective April 15, 1997, and published in the **Federal Register** on April 18, 1997 (62 FR 19032–19033, Docket No. 97–021–1), we amended the regulations in 9 CFR part 94 by removing Northern Ireland and Norway from the list of countries in § 94.6(a)(2) that are considered to be free of exotic Newcastle disease.

Comments on the interim rule were required to be received on or before June 17, 1997. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the