feed. Price levels for sales of edible almonds to normal market outlets vary significantly from year to year depending on available supplies and market conditions and can range from $1.00–$3.00 per pound. If inedible almonds were allowed to be sold in normal market channels, consumer and buyer satisfaction would likely decrease because poor quality almonds were being made available. Buyers would likely purchase fewer almonds and demand for almonds would thus decline, which would in turn decrease returns to growers and handlers, both large and small.

Thus, this rule will add flexibility to the rules and regulations and help ensure that the integrity of the order's quality control provisions is maintained. As previously mentioned, the Board estimates that for the past 3 years, about 3.05 percent of the almonds received by handlers from growers were inedible. The Board's recommended 10 percent disposition obligation for lots where an inedible weight was not determined exceeds historical averages. This rule also provides handlers an opportunity to maintain compliance with order requirements.

An alternative to this change would be to not incorporate these options into the order's administrative rules and regulations. Thus, in cases where an inedible disposition obligation was inadvertently not obtained, such handlers would be considered to be out of compliance with order requirements and subject to penalties under the Act. However, the Board determined that it would be in the industry's best interest to provide alternative methods of determining inedible disposition obligations. This will allow handlers additional options in the rules and regulations to remain in compliance with order requirements and the integrity of the order's incoming quality control program will still be maintained.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large almond handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0071. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the May 9, 1997, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Quality Control Committee met on April 23, 1997, and discussed this inedible disposition obligation issue in detail. That meeting was also a public meeting and both large and small entities were able to participate and express their views. Finally, interested persons were invited to submit information on the regulatory and information impacts of this action on small businesses.

An interim final rule concerning this action was issued by the Department on July 8, 1997, and published in the Federal Register on July 14, 1997 (62 FR 37485). Copies of the rule were mailed or sent via facsimile to all almond handlers. Finally, a copy of the rule was made available through the Internet by the Office of the Federal Register. No comments were received in response to the interim final rule.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that finalizing this interim final rule, without change, as published in the **Federal Register** (62 FR 37485, July 14, 1997), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR 981 which was published at 62 FR 37485 on July 14, 1997, is adopted as a final rule without change.

Dated: September 19, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–25412 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 999

[Docket No. FV97–999–1 IFR]

Specialty Crops; Import Regulations; Extension of Reporting Period for Peanuts Imported Under 1997 Import Quotas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule removes the 23-day reporting requirement and establishes a new date for importers to report disposition of peanuts imported under 1997 peanut import quotas. This rule also establishes a 120-day reporting period for any peanuts imported after the 1997 import quotas are filled. The 23-day reporting period established in the import regulation is impractical given the volume of peanuts imported under January 1 and April 1 peanut import quotas. This is an administrative change for the 1997 peanut quota periods only. This rule is deemed necessary by the Agricultural Marketing Service (AMS) to provide peanut importers with sufficient time to meet the quality and reporting requirements of the peanut import regulation.

DATES: Effective Setpember 29, 1997. Comments received by October 27, 1997 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. 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 made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor, Senior Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; tel: (202) 720–6862; 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 interim final rule amends the peanut import regulation published in the June 19, 1996, issue of the **Federal Register** (61 FR 31306, 7 CFR part 999.600), which regulates the quality of imported peanuts. An amendment to the regulation was issued December 31, 1996 (62 FR 1249, January 9, 1997). The import regulation is effective under subparagraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3), as amended November 28, 1990, and August 10, 1993, and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271). Those statutes provide that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR part 998) (Agreement), issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the regulations, disposition of imported peanuts must be reported to AMS within an established time period. This rule changes that time period and is intended to apply to Mexican peanuts imported from January 1, 1997, to December 31, 1997, and to Argentine and ''other country'' peanuts imported from April 1, 1997, to March 31, 1998. 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 interim final rule amends, for the 1997 peanut quota year, a provision in § 999.600 of the regulations governing imported peanuts (7 CFR part 999—Specialty Crops; Import Regulations). Section 999.600 establishes minimum quality, identification, certification, and safeguard requirements for foreign produced farmers stock, shelled and cleaned-inshell peanuts presented for importation into the United States. The quality requirements are the same as those specified in § 998.100 Incoming quality regulation and § 998.200 Outgoing quality regulation of the Agreement.

Discussion

The import regulation was finalized June 19, 1996 (61 FR 31306). At that time, three duty-free peanut quotas for 1996 had been filled and no peanuts were entered under duty for the remainder of 1996. Therefore, the peanut import regulation had its first practical application with the opening of the Mexican peanut quota on January 1, 1997.

Under the safeguard procedures, importers are required to report to AMS disposition of all imported peanuts. Paragraph (f)(3) of the regulations sets a 23 day period for filing certificates of inspection and aflatoxin testing. Sixty day extensions are possible, but requests for these must be filed within the 23-day reporting period. The reporting period and procedures for extension were established with the expectation that three duty-free quotas would fill gradually during the quota year. However, this did not occur. The Mexican quota of 8.1 million pounds closed approximately 5 weeks after the January 1, 1997 opening. The Argentine quota of 73.5 million pounds and the ''other country'' quota of 13.3 million pounds filled immediately at 12:00 noon on opening day, April 1, 1997. Importers' applications to enter peanuts under the Argentine and ''other country'' quotas greatly exceeded the quota volumes for these countries. After pro-rata distribution of those quotas (based on the total peanut volume in each importer's entry applications), the Customs Service set April 15 as the entry date for approximately 86.8 million pounds of peanuts under the two quotas.

Because of the large volume of peanuts simultaneously released on April 15, 1997, importers have been unable to meet the 23-day reporting deadline for many of their imported lots. Obstacles to expedient certification of such large volumes of imported peanuts included: (1) Logistics of moving containers out of some congested port areas and into storage; (2) arranging for sampling and inspection, and receiving certifications; and (3) arranging for and transporting failing lots to facilities for reconditioning and recertification.

Therefore, this rule establishes a new reporting date of November 1, 1997, for reporting disposition of all peanuts entered under the 1997 import quotas. It also provides for an extension of the reporting period beyond November 1. Requests for extensions must be made in writing and include the Customs Service entry number, container and lot information for the unreported peanut lot(s), and the reason for delay in meeting the November 1 reporting date. AMS will evaluate each request on a case-by-case basis.

Peanuts may continue to be imported into the United States after the import quotas are closed (with payment of tariff charges). Therefore, this rule also provides that disposition of any peanuts imported after the 1997 import quotas close must be reported within 120 days after the peanuts are entered by the Customs Service.

As a compliance measure, paragraph (f)(4) provided that the Secretary would ask the Customs Service to demand redelivery of peanut lots not reported as meeting the requirements of the import regulation. Because this rule extends the reporting period beyond the Customs Service 30-day redelivery demand period, the first three sentences in paragraph (f)(4) are not applicable for peanuts entered under the three 1997 import quotas. Those sentences are therefore removed in this rulemaking. The remainder of paragraph (4) regarding failure to comply with the import regulation and falsification of reports is retained.

To help ensure a practicable and workable peanut import regulation, the procedures in the regulation will be reviewed after the 1997 entries have been closed out. Thus, paragraphs (f)(3) and (f)(4) may be further amended, if necessary, prior to opening of the 1998 peanut import quotas.

These changes do not affect the stamp-and-fax procedure established in paragraph (f)(1) of the safeguard provisions. That procedure ensures notification of the Federal or Federal-State Inspection Service of applications to import peanuts. This rule also does not change the safeguard requirement that all imported lots must be reported. Pursuant to paragraph (f)(1), all imported peanuts must be reported to AMS—including those peanut lots that meet import requirements. Paragraph (f)(2) provides that the quality and aflatoxin certifications and other documentation must be sent by regular mail to: Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456, ''Attention: Report of Imported Peanuts.'' Overnight or express mail reports may be sent to Marketing Order Administration Branch, F&V, AMS, USDA , 14th and Independence Avenue, S.W., Room 2525–S, Washington, D.C. 20250, ''Attention: Report of Imported Peanuts.''

Regulatory Flexibility Analysis

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

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. AMS records for 1997 show that approximately ten importers of peanuts were large handlers of domestically grown peanuts and six were importers of general food commodities, some of whom may be small entities. Small agricultural service firms, which include importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5 million. Although small business entities may be engaged in the importation of peanuts, the majority of the importers are large business entities.

This rule extends for the 1997 quota periods only the time period for importers to meet import requirements for each lot of imported peanuts and file reports on the disposition of those peanuts. The reporting requirements are an integral part of the safeguard procedures specified in the import regulation, which is required by statute. The requirements are applied uniformly to small as well as large importers.

The previous reporting time period was 23 days. The new reporting time period ends on November 1, 1997. This change represents an increase, depending on date of entry of a peanut lot, of up to 280 days for Mexican peanut imports (entered on January 1) and 175 days for Argentine and ''other country'' peanuts (all of which were entered on April 15). The rule also extends the reporting period for all other peanut entries during the 1997 quota year from 23 days to 120 days. The additional time to meet requirements should enable importers to more efficiently manage movement and disposition of their imported peanuts.

It is not possible to estimate cost savings that might result from any increased efficiency of operations because of this action. Extension requests, when properly requested, already have been granted by AMS. The rule will benefit importers of large quantities of peanuts by relieving the time pressure to have multiple lots certified, and many lots reconditioned, within a very short time period. The rule also will benefit small importers who do not have peanut handling resources and must contract with remillers and blanchers to recondition failing peanut lots. Records indicate that some importers, including small importers, are outside the domestic peanut production area, and must transport failing lots long distances for reconditioning.

Alternative reporting time periods were considered by AMS. For the purposes of clarity, AMS believes that a single date, applicable to all 1997 entries under the quota is less confusing than 60 or 90 days from the release date of a peanut lot by the Customs Service. Sixty days are considered too short, as some peanut lots entered on April 15 are being inspected for the first time more than two months later. Also, necessary reconditioning efforts, with appropriate sampling and re-inspections after each attempt may take longer than 60 days. Extensions may be requested for individual lots not certified by the end of their applicable reporting period.

Experience shows that few, if any, peanuts will be imported after the quotas are filled. However, any such imports would be handled in a more routine manner and normal pace than when the great volumes are released simultaneously on quota opening days. Thus, the 120-day requirement for any peanuts imported after the quotas are filled is deemed reasonable by AMS.

For these reasons, AMS has determined that this action will be beneficial to all importers, both large and small.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) as amended in 1995, the information requirements contained in this rule was approved by the Office of Management and Budget (OMB) on September 3, 1996, and assigned OMB number 0581–0176. This rule does not establish new reporting or recordkeeping requirements. The current annual reporting burden for importers is estimated at 12 hours. Those affected by this rule have already reported entries and requested extensions of deadlines for reporting peanuts entered under the 1997 import quotas. Further, because no additional 1997 peanut imports are expected, there should be no need to file additional reports other than the final report of all entries, which is included in the approved 12 hour reporting burden.

Paragraph (f)(3) of the rule is revised for the 1997 import periods only. All certificates and other documents reporting the disposition of passing, as well as failing and reconditioned, peanut lots must be reported to AMS by November 1, 1997. This reporting date applies to only AMS' peanut import regulation and does not supersede other reporting dates for those peanuts that may be established by the Customs Service or other agencies. For peanuts imported after the quotas are filled, this rule extends the reporting period from 23 to 120 days, thus, reducing or eliminating the burden of requesting an extension of the reporting period.

Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses. This rule also invites comments on an extension in the time period for reporting dispositions of imported peanuts. Written comments timely received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is 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 rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes the reporting requirements of the import regulation; (2) some importers of 1997 import quota peanuts have already been authorized 60-day extensions of the reporting period; and (3) this rule provides a 30-day comment period and all written comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 999

Dates, Food grades and standards, Hazelnuts, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR Part 999 is amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 is revised to read as follows:

Authority: 7 U.S.C. 601–674, 7 U.S.C. 1445c–3, and 7 U.S.C. 7271.

2. In § 999.600, paragraphs (f)(3) and (f)(4) are revised to read as follows:

§ 999.600 Regulation governing imports of peanuts.

* * * * *

(f) * * *

(3) Certificates and other documentation showing disposition of peanuts imported under 1997 import quotas, consistent with the requirements

of this section, must be filed by November 1, 1997. Disposition of peanuts imported in excess of the 1997 peanut import quotas must be filed within 120 days of the peanuts' entry by the Customs Service. Extension of these reporting periods must be granted by the AMS on a case by case basis upon a showing that such extension would be justified. Requests for extension must be submitted in writing to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, Attn: Peanut Imports or faxing the request to (202) 720–5698. An extension request must include the Customs Service entry number, relevant grade and aflatoxin certificates (if any) issued on the outstanding peanuts, and the reasons for delay in obtaining final disposition of the peanuts.

(4) Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

* * * * *

Dated: September 19, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–25411 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

1997 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction to final rule.

SUMMARY: This document corrects the final rule published September 2, 1997 (62 FR 46412) which amended the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program.

EFFECTIVE DATE: October 2, 1997.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, (202) 720-2259.

SUPPLEMENTARY INFORMATION:

Background

The Agricultural Marketing Service (AMS) amended the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. This action is required by this regulation on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton. As a result of changes in the 1997 Harmonized Tariff Schedule (HTS), numbering changes in the import assessment table are amended. Eleven HTS numbers were to be eliminated from the assessment table because negligible assessments have been collected on these numbers and their elimination would contribute to reducing the overall burden to importers.

Need for Correction

In rule FR Doc. 97–23218 published on September 2, 1997 (62 FR 46412), make the following correction. On page 46415, in the third column, immediately following the HTS number 5212216090 remove the entries for HTS numbers 5309214010, 5309214090, 5309294010, 5311004020, 5407810010, 5407810030, 5407912020, 5408312020, 5408329020, 5408349020, and 5408349095.

Dated: September 18, 1997.

Norma McDill,

Acting Director, Cotton Division.

[FR Doc. 97–25278 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 3

[Docket No. 95–078–4]

RIN 0579–AA74

Humane Treatment of Dogs; Tethering; Clarification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; clarification.

SUMMARY: On August 13, 1997, we published in the **Federal Register** (62 FR 43272–43275, Docket No. 95–078–2) a final rule that removed the option for facilities regulated under the Animal Welfare Act to use tethering as a means of primary enclosure. We also added a provision to the regulations to permit regulated facilities to temporarily tether a dog if they obtain approval from the Animal and Plant Health Inspection Service. The purpose of this notice is to clarify what kinds of facilities are regulated under the Animal Welfare Act and, subsequently, what kinds of facilities must comply with the final rule on tethering.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Staff Animal Health Technician, Animal Care, APHIS, suite 6D02, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–4972, or e-mail: snsmith@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1997, we published in the **Federal Register** (62 FR 43272–43275, Docket No. 95–078–2) a final rule that amended the regulations by removing the option for facilities regulated under the Animal Welfare Act to use tethering as a means of primary enclosure. We also added a provision to the regulations to state that regulated facilities may temporarily tether a dog if they obtain approval from the Animal and Plant Health Inspection Service (APHIS).

This rulemaking was based on our experience in enforcing the Animal Welfare Act, which has shown that tethering can be an inhumane practice when used as a means of primary enclosure in facilities regulated under the Animal Welfare Act. Typically, this inappropriate use of tethering involves dogs that are permanently tethered without opportunity for regular exercise. This was the basis for our position that tethering is inhumane. However, we recognize that under other circumstances (intermittent use, dogs are vigorously exercised, pets are on running tethers, dogs have close oversight, etc.) the use of tethering may be entirely appropriate and humane. We did not intend to imply that tethering of dogs under all circumstances is inhumane, nor that tethering under any circumstances must be prohibited.

Since publication of the final rule, we have been made aware that some members of the public are confused as to who must comply with this final rule. We have received numerous inquiries from various kinds of dog owners who tether their dogs. These dog owners are concerned that, pursuant to the final rule, they will no longer be able to tether their dogs. We are publishing this notice in order to make it clear who must comply with the final rule, and