

the Committee. However, the majority of Committee members expressed the need for the industry to work together to promote California dates and help reduce current inventories.

The 1995-96 budget of \$774,218 is \$203,218 more than the previous year. Included in the budgeted expenditures is an operating budget of \$160,000, \$24,865 more than last year, with a 26.25 percent surplus account allocation, for a net operating budget of \$118,000, or \$18,000 more than last year. Also included is \$656,218 allocated for market promotion, \$206,218 more than last year.

Budget items for 1995-96 which have increased compared to those budgeted for 1994-95 (in parentheses) are: Executive Director's salary, \$66,000 (\$57,500), Marketing Assistant's Salary, \$24,000 (\$18,500), health and welfare benefits, \$10,500 (\$8,500), payroll taxes, \$8,000 (\$5,814), rent, \$7,500 (\$7,000), professional services-accounting, \$3,000 (\$2,000), contingency, \$5,200 (\$221), consumer public relations, \$151,500 (\$60,000), consumer media, \$336,218 (\$265,000), industrial promotion, \$115,000 (\$30,000), and \$13,000 for a secretary/receptionist for which no funding was recommended last year. Items which have decreased compared to the amount budgeted for 1994-95 (in parentheses) are: Copier lease and maintenance, \$2,100 (\$2,400), retail trade promotion, \$35,000 (\$45,000), and (\$4,000) for equipment for marketing efforts, for which no funding was recommended this year. All other items are budgeted at last year's amounts.

The assessment rate of \$2.25 per hundredweight is \$0.75 more than last season. This rate, when applied to anticipated date shipments of 36,000,000 pounds (360,000 hundredweight), will yield \$810,000 in assessable income. This, along with \$1,000 in interest income, will result in \$36,782 in excess income which will be allocated to the Committee's reserve. Funds in the reserve as of September 30, 1996, which the Committee estimates will be \$235,782, should be within the maximum amount permitted by the order. Funds held by the Committee at the end of the crop year, including the reserve, which are in excess of the crop year's expenses may be used to defray expenses for four months and thereafter the Committee shall refund or credit the excess funds to the handlers.

A proposed rule was published in the Federal Register on August 7, 1995 (60 FR 40116). That rule provided that interested persons could file written comments through September 6, 1995. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 crop year begins on October 1, 1995. The marketing order requires that the rate of assessment for the crop year apply to all assessable dates handled during the crop year. In addition, handlers are aware of this rule which was recommended by the Committee at a public meeting and published in the Federal Register as a proposed rule. Written comments were invited, and none was received.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new §987.338 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§987.338 Expenses and assessment rate.

Expenses of \$774,218 by the California Date Administrative Committee are authorized, and an assessment rate of \$2.25 per hundredweight of assessable dates is established for the crop year ending September 30, 1996. Unexpended funds

may be carried over as a reserve within the limitations specified in §987.72 (c) and (d).

Dated: September 22, 1995.
Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.
[FR Doc. 95-24047 Filed 9-27-95; 8:45 am]
BILLING CODE 3410-02-P

7 CFR Part 997

[Docket No. FV95-997-2IFR]

Amendment of Provisions Regulating Domestically Produced Peanuts Handled by Persons Not Subject to the Peanut Marketing Agreement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule amends for 1995 and subsequent crop years several certification and identification requirements established for peanuts handled by persons not signatory to Peanut Marketing Agreement No. 146 (Agreement). This rule provides for a chemical analysis exemption for superior grade shelled peanuts and establishes a maximum grade tolerance for reconditioning failing peanuts by blanching. Finally, this rule adds addresses and updates contact numbers of chemical analysis laboratories. The changes concerning peanuts for human consumption are consistent with industry operating practices and help bring the non-signatory handling requirements into conformity with requirements specified in the Agreement. The rule should reduce the regulatory burden and handling costs on non-signatory peanut handlers.

DATES: Effective September 28, 1995. Comments received by October 30, 1995, will be considered prior to issuance of any 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 2523-S, Washington, D.C., 20090-6456, or 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: Richard Lower, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O.

Box 96456, room 2523-S, Washington, D.C. 20090-6456, telephone (202) 720-2020, facsimile (202) 720-5698.

SUPPLEMENTARY INFORMATION: This interim final rule is issued pursuant to requirements of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. This action is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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

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 45 handlers of peanuts who have not signed the Agreement and, thus, are subject to the regulations contained herein. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000. It is estimated that most of the non-signatory handlers are small entities. Most of the 47,000 peanut producers who might potentially do business with these handlers are also small entities. Small agricultural producers have been defined as those having annual receipts of less than \$500,000.

In 1994, the reported U.S. production, mostly covered under the Agreement, was approximately 4.25 billion pounds of peanuts, a 25 percent increase from the short 1993 crop. The preliminary 1994 peanut crop value is \$1.23 billion, up 19 percent from the 1993 crop value.

After aflatoxin was found in peanuts in the mid-1960's, the domestic peanut industry has sought to minimize aflatoxin contamination in peanuts and peanut products. Under authority of the Act, Peanut Marketing Agreement No. 146 and the Peanut Administrative Committee (Committee) were established by the Secretary in 1965. The Agreement was signed by a majority

of domestic peanut handlers (signatory handlers).

Public Law 101-220, enacted December 12, 1989, amended section 608b of the Act to require that all handlers who have not signed the Agreement (non-signatory handlers) be subject to quality, handling, and inspection requirements to the same extent and manner as are required under the Agreement. Regulations to implement Pub. L. 101-220 were issued and made effective on December 4, 1990 (55 FR 49983). It is estimated that 5 percent of the domestic peanut crop is marketed by non-signatory handlers and the remainder of the crop is handled by signatory handlers.

The objective of the Agreement and the non-signatory handling regulations (7 CFR part 997) is to ensure that only wholesome peanuts enter edible market channels. Under both regulations, farmers stock peanuts with visible *Aspergillus flavus* mold (the principle source of aflatoxin) are required to be diverted to non-edible uses. Both regulations also provide that shelled peanuts meeting minimum outgoing quality requirements must be chemically analyzed for aflatoxin contamination.

Under the non-signatory provisions, no peanuts may be sold or otherwise disposed of for human consumption if the peanuts fail to meet the quality requirements of the Agreement. The non-signatory handler regulations have been amended several times thereafter and are published in 7 CFR part 997. All amendments have been made to ensure that the non-signatory handling requirements are the same as modifications made to the signatory handling requirements under the Agreement. Violation of non-signatory regulations may result in a penalty in the form of an assessment by the Secretary equal to 140 percent of the support price for quota peanuts. The support price for quota peanuts is determined under section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) for the crop year during which the violation occurs.

Because aflatoxin appears most frequently in damaged, stressed, underdeveloped, and malformed peanut kernels, peanut lots with fewer poor quality kernels are less likely to be contaminated. Under § 998.200(a) of the Agreement, minimum quality requirements for shelled peanuts are found in the "Other Edible Quality" table of the Agreement. All shelled peanuts destined for edible consumption must meet these minimum requirements. Peanuts meeting this

minimum grade must also be chemically tested for contamination.

The Agreement also has a higher level of quality requirements titled "Indemnifiable Grades." Peanuts meeting the indemnifiable grades do not have to be chemically analyzed for aflatoxin.

The minimum quality requirements specified in the "Other Edible Quality" table of the Agreement are also specified in the non-signatory handler regulations in the table titled "Minimum Grade Requirements—Peanut for Human Consumption" (hereinafter referred to as Table 1) in § 997.30(a).

To be consistent with the Agreement, the Department is establishing in this interim final rule, a second table titled "Superior Quality Exemption—Peanuts for Human Consumption" (hereinafter referred to as Table 2) in the outgoing quality requirements in § 997.30(a). The quality requirements in Table 2 are the same as those established in the Indemnifiable Grades table of the Agreement. Non-signatory handler peanuts meeting the Superior Quality Exemption grades are not required to be chemically tested for aflatoxin. However, buyers often require chemical analysis as an assurance of minimum aflatoxin contamination.

The Superior Quality Exemption tolerances in these regulations are (in percentage of kernels): Unshelled and damaged kernels (1.25); combined unshelled, damaged kernels and kernels with minor defects (2.00); sound split and broken kernels (3.00 for most varieties); sound whole kernels that pass specified screens (3.00 for most varieties); combined sound split and broken kernels (4.00 for all varieties); foreign material (.10 for some varieties and .20 for other varieties), and moisture (9.00).

Amendments to handling requirements: The Committee meets in February or March each year and recommends to the Secretary such rules and regulations as may be necessary to keep the Agreement consistent with current industry practice. The Committee met on March 22 and 23, 1995, and unanimously recommended four relaxations in the Agreement handling requirements which the Department accepted. The changes were published in the July 14, 1995, issue of the Federal Register as an interim final rule (60 FR 36205). This interim final rule establishes the same relaxations, as appropriate, for the non-signatory handling regulations.

The first amendment relaxes Positive Lot Identification (PLI) and quality certification requirements specified in paragraph (g) of § 997.20 *Shelled*

peanuts by allowing movement of failing quality shelled peanuts, which originated from Segregation 1 peanuts, from one handler to another handler without requiring re-inspection and PLI certification by the receiving handler. Currently, paragraph (g) provides that handlers may acquire from other handlers for remilling, Segregation 1 shelled peanuts that fail to meet the requirements for human consumption. The peanuts must be accompanied by a valid inspection certificate and be positive lot identified. Further, the peanuts must be held and milled separate and apart from other receipts or acquisitions of the receiving handler and the transaction must be reported to the Division by both handlers.

Under the relaxed handling procedure, receiving handlers are not required to hold and remill such peanuts separate from other receipts and acquisitions of the handlers and the received peanuts do not have to be reinspected. Any peanuts so transferred and handled must still meet all the applicable edible quality requirements before being disposed of for human consumption.

Therefore, paragraph (g) of § 997.20 is revised by removing the second sentence requiring inspection certification and positive lot identification and changing the last sentence to remove reference to received peanuts being held and milled separate and apart from other peanuts.

The second amendment relaxes ownership requirements of paragraph (f) of § 997.30 *Outgoing regulations* by allowing handlers to transfer peanuts to another handler or to domestic commercial storage facilities. Currently, paragraph (f) applies to transfer of peanuts from one plant to another of a handler's plants or to commercial storage without having the peanuts PLI and certified as meeting quality requirements—provided that ownership is retained by the handler and that the transfer is only to points within the same production area.

The amendment extends the provisions of paragraph (f) to allow the transfer of peanuts from one handler's facility to another handler's facility for further handling. The relaxation allows handlers to make the most efficient use of other handling facilities without having to pay additional costs entailed in obtaining PLI and quality certification of the peanuts. Any peanuts so transferred are still subject to all applicable edible quality requirements before being disposed of for human consumption. Thus, paragraph (f) of § 997.30 is revised to include transfer of peanuts between

facilities of different handlers without quality certification and PLI at the time of transfer.

Similarly, the third amendment revises some PLI and certification requirements of paragraphs (a)(1), (a)(2) and (a)(3) of § 997.40 *Reconditioning and disposition of peanuts failing quality requirements*. Paragraph (a)(1) currently provides that a handler of failing quality, Segregation 1 shelled peanuts may remill, move under PLI to a custom remiller, sell to another handler, or blanch such peanuts. Paragraph (a)(2) provides that such peanuts moved to blanching, or sold to another handler for blanching, must be moved under PLI. Paragraph (a)(3) requires peanut lots in such transactions to be accompanied by a valid grade certificate and moved under PLI. Peanuts so handled should be kept separate and apart from other peanuts at the remilling, blanching or receiving handler facility.

Under the relaxed handling procedure, the peanuts do not have to be moved under PLI to the remiller, blancher, or receiving handler. Further, to be consistent with the changes in the Agreement regulations, peanuts so moved no longer have to be kept separate and apart from other peanuts at the remilling, blanching or receiving handler facility. Thus, paragraphs (a)(1), (a)(2), and (a)(3) are revised by removing references to PLI and movement accompanied by valid certification. Additionally, provisions are added in the appropriate provisions to provide that the transferred peanuts do not have to be kept separate and apart at the receiving remilling, blanching, or handling facility.

The Committee members, in proposing the changes in the Agreement provisions, believed that the more restrictive level of regulatory control for each peanut lot is no longer needed. The changes in this rule are based on the fact that current shelling, processing, remilling and blanching technologies are generally more efficient than in the past. The rule makes it more economical for handlers to use blanchers' and remillers' facilities which are generally operated more efficiently. These facilities are now located throughout the different production areas which also encourages their use.

The rule is intended to provide handlers more reconditioning flexibility by eliminating some certification requirements and PLI of peanuts and reducing costs incurred during movement to different locations and facilities. The rule should improve handlers' competitive positions. Relaxing the regulations will allow freer

movement of peanuts and more efficient use of facilities. The relaxation of PLI and certification requirements will reduce the number of inspections and result in lower costs to the entire industry. Fewer inspections are not expected to compromise the industry's quality control and lot identification objectives.

This interim final rule also adds and updates addresses and telephone and facsimile numbers, where applicable, of approved aflatoxin testing laboratories. The laboratories perform chemical analyses required by the non-signatory handling regulations. This information is provided in paragraph (c)(5)(i) of § 997.30 *Outgoing regulation*. Nine of the laboratories are approved by the USDA/AMS Science Division and eight are approved by the Committee. Non-signatory handlers may send peanut samples to any laboratory on the list, per instructions specified in paragraph (c) of the outgoing regulation. This rule also updates information in paragraph (c)(5)(ii) identifying the contact point of the USDA Science Division headquarter's office.

In accordance with the Paperwork Reduction Act of 1988 (44 U.S.C. Chapter 35), 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. 0581-0163.

Based on the above, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities. Written comments, timely received, in response to this action, will be considered before any finalization of this rule.

After consideration of all relevant matter presented and other information, it is found that the changes set forth below 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 rule relaxes several handling restrictions on peanut handlers not subject to the Agreement; (2) the 1995 peanut harvest is expected to begin soon and handlers should be aware of handling regulations prior to harvesting activities; (3) this rule brings the quality requirements under part 997 into conformity with those under the

Agreement, as required by the Act; and (4) this action provides a 30-day comment period and any comments received will be considered prior to issuance of any final rule.

List of Subjects in 7 CFR Part 997

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

For the reasons set forth in the preamble, 7 CFR part 997 is amended as follows:

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

1. The authority citation for 7 CFR part 997 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Paragraph (g) of § 997.20 is revised to read as follows:

§ 997.20 Incoming regulation.

* * * * *

(g) *Shelled peanuts.* Handlers may acquire from other handlers or a handler as defined in 7 CFR 998.8, for remilling and subsequent disposition to human consumption outlets, shelled peanuts (which originated from “Segregation 1 peanuts”) that fail to meet the requirements specified for human consumption in § 997.30(a). Transactions made in this manner shall be reported to the Division on Form FV-117-3 “Report of Disposition to and Acquisition from Another Handler—Shelled Peanuts Failing Edible Quality Requirements for Remilling and Further Handling” by both the handler selling such peanuts and the handler acquiring such peanuts. Further disposition of such peanuts shall be regulated by § 997.40.

* * * * *

3. Section 997.30(a)(1) is amended by redesignating paragraph (a)(1) as paragraph (a)(1)(i), revising introductory text preceding the table, designating the table as “Table 1” and adding a new paragraph (a)(1)(ii) to read as follows:

§ 997.30 Outgoing regulation.

(a) *Shelled peanuts.* (1)(i) No handler shall ship, sell, or otherwise dispose of shelled peanuts for human consumption unless such peanuts are Positive Lot Identified and certified as meeting the requirements specified in Table 1 in this section. * * *

(ii) Peanuts meeting the specifications in paragraph (a)(1)(i) of this section must also be certified “negative” as to aflatoxin, prior to shipment, unless such peanuts are certified as meeting the superior quality requirements in Table 2, and, as such, are exempt from aflatoxin certification requirements.

TABLE 2.—SUPERIOR QUALITY EXEMPTION—PEANUTS FOR HUMAN CONSUMPTION
[Whole kernels and splits]

Maximum limitations							
Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Runner U.S. No.1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64x3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia U.S. No.1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64x1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia U.S. No.1 and better.	1.25	2.00	3.00%; 16/64 inch, round screen.	2.00%; 15/64x3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Runner U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 17/64 inch, round screen.	3.00%; 14/64x3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Virginia U.S. Splits (not less than 90% splits and not more than 3.00% sound whole kernels and portions passing through 20/64 inch round screen).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 14/64x1 inch, slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 16/64 inch, round screen.	3.00%; 13/64x3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Runner with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64x3/4 inch, slot screen.	4.00%; both screens.	.10	9.00

TABLE 2.—SUPERIOR QUALITY EXEMPTION—PEANUTS FOR HUMAN CONSUMPTION—Continued
[Whole kernels and splits]

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Maximum limitations			Foreign materials (percent)	Moisture (percent)
			Fall through				
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Virginia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64×1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 19/64 inch, round screen.	2.00%; 15/64×3/4 inch, slot screen.	4.00%; both screens.	.10	9.00

* * * * *

§ 997.30 [Amended]

3. Section 997.30(a)(2) is amended by removing the first sentence.

4. Section 997.30(c)(5) and (f) are revised to read as follows:

§ 997.30 Outgoing regulation.

* * * * *

(c) * * *

(5) Information on making arrangements for the required inspection and certification can be obtained by contacting the Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, P.O. Box 96456, room 2049-S, Washington, DC, 20250, telephone (202) 690-0604 or facsimile (202)720-0393.

(i) Laboratories at the following locations are approved to perform the chemical analyses required pursuant to this part. The sampling plan and procedures may be obtained from the Science Division.

USDA/AMS Science Division Aflatoxin Laboratories

USDA, AMS, Science Division, 1211 Schley Avenue, Albany, Georgia 31707, Tel: (912) 430-8490, Fax: (912) 430-8534

USDA, AMS, Science Division, c/o Golden Peanut Company, 200 W. Washington Street (Mail: P.O. Box 488), Ashburn, Georgia 31714, Tel: (912) 567-3703, Fax: (912) 567-2006

USDA, AMS, Science Division, c/o Golden Peanut Company, 301 W. Pearl Street (Mail: P.O. Box 279), Aulander, North Carolina 27805, Tel: (919) 345-1661, ext. 156, Fax: (919) 345-1991

USDA, AMS, Science Division, 610 North Main Street, Blakely, Georgia

31723, Tel: (912) 723-4570, Fax: (912) 723-3294

USDA, AMS, Science Division, c/o Golden Peanut Company, 42 North Ellis Street (Mail: P.O. Box 548), Camilla, Georgia 31730, Tel: (912) 336-0785, ext. 246, Fax: (912) 336-5776

USDA, AMS, Science Division, c/o Stevens Industries, Cargill, Inc., 715 North Main Street (Mail: P.O. Box 272), Dawson, Georgia 31742, Tel: (912) 995-7257, Fax: (912) 995-3268

USDA, AMS, Science Division, 107 S. Fourth Street, Madill, Oklahoma 73446, Tel: (405) 795-5615, Fax: (405) 795-3645

USDA, AMS, Science Division, 1411 Reeves Street (Mail: P.O. Box 1368), Dothan, Alabama 36302, Tel: (205) 792-5185, Fax: (205) 671-7984

USDA, AMS, Science Division, 308 Culloden Street (Mail: P.O. Box 1130), Suffolk, Virginia 23434, Tel: (804) 925-2286, Fax: (804) 925-2285

Aflatoxin Laboratories Approved by the Peanut Administrative Committee

Pert Laboratories, P.O. Box 267, Peanut Drive, Edenton, North Carolina 27932, Tel: (919) 482-4456, Fax: (919) 482-5370

J. Leek Associates, Inc., 1200 Wyandotte (Mail: P.O. Box 50395), Albany, Georgia 31705, Tel: (912) 889-8293, Fax: (912) 888-1166

J. Leek Associates, 675 E. Pine (Mail: P.O. Box 368), Colquitt, Georgia 31737, Tel: (912) 758-3722, Fax: (912) 758-2538

Pert Laboratory South, Highway 82 East Seabrook Drive (Mail: P.O. Box 149), Sylvester, Georgia 31791, Tel: (912) 776-7676, Fax: (912) 776-1137

ABC Research, 3437 SW 24th Avenue, Gainesville, Florida 32607-4502, Tel: (904) 372-0436, Fax: (904) 378-6483

J. Leek Associates, 502 West Navarro Street (Mail: P.O. Box 6), DeLeon, Texas 76444, Tel: (817) 893-3653, Fax: (817) 893-3640

Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, Texas 78154-1257, Tel: (210) 651-5799, Fax: (210) 651-9271
Professional Service Ind., Inc., 3 Burwood Lane, San Antonio, Texas 78216, Tel: (210) 349-5242, Fax: (210) 342-9401.

(ii) Handlers should contact the nearest laboratory from the list in paragraph (c)(5)(i) of this section to arrange to have samples chemically analyzed for aflatoxin content, or for further information concerning the chemical analyses required pursuant to this part handlers may contact: The Science Division, Agricultural Marketing Service, USDA, P.O. Box 96456, room 3507-S, Washington, D.C., 20090-6456, telephone (202) 720-5231, facsimile (202) 720-6496.

* * * * *

(f) *Transfer between plants.* Handlers may transfer peanuts to any handler or to domestic commercial storage without having such peanuts positive lot identified and certified as meeting quality requirements. Prior to any subsequent disposition to human consumption outlets, such peanuts shall meet all quality requirements applicable for such disposition.

* * * * *

5. In § 997.40, paragraph (a)(1) and the first sentence in paragraph (a)(2) are revised, and the first sentence of paragraph (a)(3) is removed to read as follows:

§ 997.40 Reconditioning and disposition of peanuts failing quality requirements.

(a) *Further processing of shelled peanuts failing quality requirements—*

(1) Handlers may remill, move to a custom remiller, or sell to or contract with another handler, or handler as defined in 7 CFR 998.8, for remilling or further handling, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements of § 997.30(a).

Transactions made in this manner shall be reported to the Department by both the buyer and seller on Form FV-117-4 provided by the Department. If, after further handling, such peanuts meeting the requirements of § 997.30(a) may be disposed of for human consumption. Such peanuts which still do not meet quality requirements of § 997.30(a) may be blanched as provided in paragraph (a)(2) of this section or disposed of and such disposition reported as provided in paragraph (b) of this section.

(2) Handlers may blanch, or cause to have blanched, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for human consumption specified in § 997.30(a) because of excessive damage, minor defects, moisture, or foreign material or are positive to aflatoxin.

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Dated: September 15, 1995.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 95-23897 Filed 9-27-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 1138

[DA-95-20]

Milk in the New Mexico-West Texas Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This document continues the suspension of certain segments of the pool plant and producer milk definitions of the New Mexico-West Texas order for a two-year period. Associated Milk Producers, Inc., a cooperative association that represents a majority of the producers who supply milk to the market, requested continuation of the suspension. Continuation of the suspension is necessary to ensure that dairy farmers who have historically supplied the New Mexico-West Texas order will continue to have their milk priced under the order without incurring costly and inefficient movements of milk.

EFFECTIVE DATE: October 1, 1995, through September 31, 1997.

FOR FURTHER INFORMATION CONTACT:

Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9368.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued July 14, 1995; published July 20, 1995 (60 FR 37373).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule will tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

This suspension of rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect and will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the New Mexico-West Texas marketing area.

Notice of proposed rulemaking was published in the Federal Register on July 20, 1995 (60 FR 37373) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. One comment supporting the suspension was filed and no opposing views were received.

After consideration of all relevant material, including the proposal in the notice, the comment received and other available information, it is hereby found and determined that for the months of October 1, 1995, through September 30, 1997, the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1138.7, paragraph (a)(1), the words "including producer milk diverted from the plant,";
2. In § 1138.7, paragraph (c), the words "35 percent or more of the producer"; and
3. In § 1138.13(d), paragraphs (1), (2), and (5).

Statement of Consideration

This rule continues the suspension of segments of the pool plant and producer milk definitions under the New Mexico-West Texas order. The provisions that are suspended limit the pooling of diverted milk. This suspension will be effective from October 1995 through September 1997. The current suspension will expire September 30, 1995.

This rule continues the suspension of:

1. The requirement that milk diverted to a nonpool plant be considered a receipt at the distributing plant from which it was diverted;
2. The requirement that a cooperative must deliver at least 35 percent of its milk to pool distributing plants in order to pool a plant that the cooperative operates which is located in the marketing area and is neither a distributing plant nor a supply plant;
3. The requirement that a producer must deliver one day's production to a pool plant during the months of September through January to be eligible to be diverted to a nonpool plant;
4. The provision that limits a cooperative's diversions to nonpool plants to an amount equal to the milk it caused to be delivered to, and physically received at, pool plants during the month; and
5. The provision that excludes from the pool milk diverted from a pool plant to the extent that it would cause the plant to lose its status as a pool plant.

Continuation of the current suspension was requested by Associated