

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Parts 997 and 998**

[Docket Nos. FV98-997-1 IFR and FV98-998-1 IFR]

**Domestically Produced Peanuts;  
Decreased Assessment Rate**

**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 1998-99 and subsequent crop years from \$0.35 to \$0.33 per net ton of assessable peanuts. 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 1998-1999 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 August 4, 1998.

Comments received by October 2, 1998, 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 to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; Fax (202) 205-6632. Comments should reference the docket numbers 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:** Jim Wendland, Marketing Specialist, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington,

DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, also at the above address, telephone, and fax number.

**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", under Marketing Agreement No. 146 (7 CFR part 998), and under the Peanut Non-Signer Program (7 CFR part 997). The marketing agreement and non-signer program, and the regulations issued thereunder regulate 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 the same assessment rate. It is intended that the assessment rates issued herein will be applicable to all assessable peanuts beginning July 1, 1998, and continue in effect 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 and non-signer handlers for the 1998-99 and subsequent crop years from \$0.35 to \$0.33 per net ton of assessable peanuts.

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 Committee members include nine handlers and nine 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 1996-97 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 May 27, 1998, and unanimously recommended for 1998-99 a reduction in the administrative assessment rate from \$0.35 to \$0.33 per net ton of assessable peanuts, and administrative expenditures of \$495,000. In comparison, last year's budgeted administrative expenditures were \$525,000. The assessment rate of \$0.33 is \$0.02 less than the rate currently in effect.

Major expenditures recommended by the Committee for the 1998-99 crop year compared with those budgeted for 1997-98 (in parentheses) include: \$58,000 for executive salaries (\$55,000), \$43,500 for clerical salaries (\$50,000), \$129,000 for compliance officers salaries (\$125,000), \$19,000 for payroll taxes (\$18,000), \$70,000 for employee benefits, (\$65,000), \$40,000 for committee members travel (\$40,000), \$55,000 for compliance officers travel (\$60,000), \$13,000 for office rent (\$19,000), and \$10,400 for the audit fee (\$10,400).

The Committee discussed alternatives to this rule, including alternative expenditure levels but decided that each of the budgeted expenses was reasonable and appropriate. It also discussed the alternative of not decreasing the assessment rate but decided it needed to decrease the rate to reduce handlers' costs as much as possible. The Committee also discussed an even lower rate, but decided that an assessment rate of less than \$0.33 would not generate the income necessary to administer the program.

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 those peanuts described in § 998.31(c) and (d), are subject to the assessments. Assessments are due on the 15th of the month following the month in which the farmers stock peanuts are received or acquired by signatory handlers.

Peanut receipts and acquisitions for the year under the Agreement are estimated at 1,500,000 tons, which should provide \$495,000 in assessment income. Approximately 95 percent of the domestically produced peanut crop is handled by handlers who signed the Agreement. The remaining 5 percent is handled by non-signer handlers.

The Act provides for mandatory assessment of farmers 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 with signatory handlers also shall apply to non-signatory handlers, and (2) such assessment shall be paid to the Secretary. Thus, the assessment rate of \$0.33 per net ton of assessable peanuts also applies to non-signatory handlers of domestic peanuts.

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 for signatory handlers. 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 1998-99 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 commercial peanut producers in the 16-State production area. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of 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 to be collected from handlers for the 1998-99 and subsequent crop years from \$0.35 to \$0.33 per net ton. The rate is \$0.02 less than the 1997-98 rate.

The Committee discussed alternatives to this rule, including alternative expenditure levels but decided that each of the budgeted expenses was reasonable and appropriate. It 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 1998-99 is \$495,000, \$30,000 less than the amount budgeted for 1997-98. Based on an estimated 1,500,000 net tons of assessable peanuts, income derived from handler assessments during 1998-99 will be adequate to cover budgeted expenses.

Major expenditures recommended by the Committee for the 1998-99 crop year compared with those budgeted for 1997-98 (in parentheses) include: \$58,000 for executive salaries (\$55,000), \$43,500 for clerical salaries (\$50,000), \$129,000 for compliance officers salaries (\$125,000), \$19,000 for payroll taxes (\$18,000), \$70,000 for employee benefits, (\$65,000), \$40,000 for committee members travel (\$40,000), \$55,000 for compliance officers travel (\$60,000), \$13,000 for office rent (\$19,000), and \$10,400 for the audit fee (\$10,400).

The Committee reviewed historical information and preliminary information pertaining to the 1998-99 crop year. The Department reported 1.463 million acres planted in peanuts for the 1998 crop. The Committee projected shipments for the 1998-99 crop year to be 1.5 million net tons. Based on 1997-98 crop figures, the approximately \$560,000 in total assessments collected by the Committee as a percentage of the \$932,000,000 total peanut crop value was only 0.0006

percent. With a decreased assessment rate, the relationship of total assessment cost as a percentage of total crop value is expected to be even smaller for the 1998-99 crop.

This action decreases the administrative assessment obligation imposed on all domestic peanut handlers, whether signers or non-signers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. 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 deliberations on all issues. Like all Committee meetings, the May 27, 1998, 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 1997-98 assessment rate for signer and non-signer handlers; (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 1998-99 crop year began on July 1, 1998, 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) signatory 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 60-day comment period, and all written 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:

#### **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 parts 997 and 998 continues to read as follows:

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

2. Section 997.101 is revised to read as follows:

##### **§ 997.101 Assessment rate.**

On and after July 1, 1998, an administrative assessment rate of \$0.33 per net ton of assessable farmers stock peanuts received or acquired by each non-signatory first handler is established for peanuts.

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

3. Section 998.409 is revised to read as follows:

##### **§ 998.409 Assessment rate.**

On and after July 1, 1998, an administrative assessment rate of \$0.33 per net ton of farmers stock peanuts received or acquired other than those described in § 998.31(c) and (d) is established for handlers signatory to the

Agreement. Assessments are due on the 15th of the month following the month in which the farmers stock peanuts are received or acquired.

Dated: July 28, 1998

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 98-20641 Filed 7-31-98; 8:45 am]

BILLING CODE 3410-02-P

#### **FARM CREDIT ADMINISTRATION**

##### **12 CFR Part 607**

RIN 3052-AB83

#### **Assessment and Apportionment of Administrative Expenses; Technical Change; Effective Date**

**AGENCY:** Farm Credit Administration.

**ACTION:** Notice of effective date.

**SUMMARY:** The Farm Credit Administration (FCA or Agency), through the FCA Board (Board), issued a direct final rule with opportunity for comment under part 607 on June 24, 1998 (63 FR 34267) that makes technical amendments to its assessment regulations in order to conform to the recently adopted FCA Board policy statement on its financial institution rating system. The opportunity for comment expired on July 24, 1998. The FCA received no comments and therefore, the final rule becomes effective without change. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is August 3, 1998.

**EFFECTIVE DATE:** The regulation amending 12 CFR part 607 published on June 24, 1998 (63 FR 34267) is effective August 3, 1998.

#### **FOR FURTHER INFORMATION CONTACT:**

Andrew D. Jacob, Senior Financial Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4498, TDD (703) 883-4444,

or

Wendy R. Laguarda, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

(12 U.S.C. 2252(a)(9) and (10)).

Dated: July 29, 1998.

**Floyd Fithian,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 98-20627 Filed 7-31-98; 8:45 am]

BILLING CODE 6705-01-P

#### **DEPARTMENT OF TRANSPORTATION**

##### **Federal Aviation Administration**

##### **14 CFR Part 39**

[Docket No. 98-NM-210-AD; Amendment 39-10689; AD 98-16-13]

RIN 2120-AA64

#### **Airworthiness Directives; Boeing Model 747 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This action requires a one-time inspection for missing fasteners of the splice fitting of the forward inner chord of the Body Station (BS) 2598 bulkhead; and corrective actions, if necessary. This amendment is prompted by a report that fasteners were missing from the splice fitting of the forward inner chord. The actions specified in this AD are intended to prevent accelerated fatigue cracking of the inner chords of the BS 2598 bulkhead, which could result in inability of the structure to carry horizontal stabilizer flight loads, and consequent reduced controllability of the airplane.

**DATES:** Effective August 18, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 18, 1998.

Comments for inclusion in the Rules Docket must be received on or before October 2, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-210-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of