

CFR part 998.1–998.61) and the rules and regulations (7 CFR part 998.100–998.409) in effect under the Agreement on December 31, 2002, so that indemnification payments can be made on 2001 crop peanuts. This rule also finalizes termination of the companion regulations that apply to peanuts handled by persons not subject to the Agreement (7 CFR part 997) and to imported peanuts (7 CFR part 999.600) effective January 13, 2003.

The Peanut Marketing Agreement No. 146 (7 CFR part 998) has been in effect since 1965 under the authority of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (AMAA). The Agreement was administered by the Peanut Administrative Committee (PAC), which was comprised of peanut handlers and producers appointed by USDA. Minimum quality regulations were applied to handlers who signed the Agreement. The Agreement covered peanuts produced in the three regional production areas in the United States. The Agreement also included authority for indemnification payments to signatory handlers on peanuts involved in product and appeals claims due to aflatoxin content. Reporting and recordkeeping requirements also were prescribed. Handlers paid assessments to the PAC to cover program administrative and indemnification costs.

Consistent with the requirements of the AMAA, comparable quality requirements had been in effect for peanuts handled by persons not signatory to the Agreement (“non-signers”). The non-signer program (7 CFR part 997) was mandated in 1989 by Pub. L. 101–220, which amended the AMAA. The peanut import regulation had been authorized by section 108B(f)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c3), as amended in 1990 and 1993.

The non-signer regulations covered peanuts handled by persons not subject to the Agreement. The inspection and quality requirements were the same as those under the Agreement. Non-signer handlers had to pay the same administrative assessment rate as applied to signatory handlers under the Agreement.

The peanut import regulation required imported peanuts to meet the same quality and handling requirements as required under the Agreement. Imported peanuts were maintained under lot identification procedures and kept separate and apart from domestic peanuts until certified for human consumption use.

Under all three programs, failing peanuts could be reconditioned to meet edible requirements or disposed of in non-edible outlets. Safeguard provisions were included in the three programs to ensure that the Federal or Federal-State Inspection Service (Inspection Service) sampled, inspected, and certified the quality of all peanut lots intended for edible consumption, and that chemical analyses were performed by USDA laboratories or laboratories approved by USDA.

The Farm Security and Rural Investment Act of 2002 terminated the PAC effective July 1, 2002. That action, in turn, required termination of the Agreement and its implementing regulations. The Agreement and its implementing regulations are terminated effective January 1, 2003, by the interim final rule and indemnification payments for 2001 peanuts can be made through December 31, 2002. The companion regulations covering peanuts handled by persons not signatory to the Agreement and imported peanuts were terminated effective September 10, 2002. Assessments collected by the PAC under the Agreement and by USDA under the non-signer regulations ceased with 2001 crop peanuts.

New Peanut Program Authority

Section 1308 of the Act requires that USDA take several actions with regard to peanuts marketed in the United States, effective with 2002 crop peanuts.

Mandatory Inspection: Paragraph (a) requires that all peanuts marketed in the United States (including imported peanuts) be officially inspected and graded by Federal or Federal-State inspectors.

Termination of the Peanut Administrative Committee: Paragraph (b) terminated the PAC effective July 1, 2002. As noted above, because the PAC was charged with daily oversight of the Agreement’s regulatory program, termination of the PAC necessitated termination of the Agreement and its implementing regulations. That termination is effective January 1, 2003, and indemnification payments on 2001 crop peanuts can be made through December 31, 2002. The companion non-signer and peanut import regulations were based on regulations under the Agreement. Those regulations were terminated effective September 10, 2002.

Establishment of a Peanut Standards Board: Paragraph (c) provides for the establishment of a Peanut Standards Board (Board), and requires USDA to consult with the Board prior to establishing or changing quality and

handling standards for domestically produced and imported peanuts. The Board is not subject to the Federal Advisory Committee Act. A transition period is designated to allow time for USDA to implement nomination procedures and select a Board, as prescribed under the Act.

USDA received nominations and applications from interested persons to serve on the Board. A notice was published in the **Federal Register** on August 2, 2002 (67 FR 50409), and an application form was posted on the AMS website at: <http://www.ams.usda.gov/fv/peanut-farmbill.html>. Written nominations were received through September 3, 2002.

The Act also provides, in paragraph (g)(1) of section 1308, that during the transition period from the Agreement to the new program, USDA may designate persons serving as members of the PAC to serve as members of the Board, on an interim basis, for the purpose of carrying out the duties of the Board. USDA established the interim Board and consulted with it on three occasions to establish the quality and handling standards specified in this program.

Maintaining wholesome quality peanuts: Paragraph (d) directs USDA to make identifying and combating the presence of all quality concerns related to peanuts a priority in the development of quality and handling standards for peanuts and in the inspection of domestically produced and imported peanuts. The Act directs USDA to consult with appropriate Federal and State agencies to provide adequate safeguards against all quality concerns related to peanuts. USDA notified State government Inspection Service supervisors of the proposed text on the internet and met with supervisors on July 29 and August 15, 2002. USDA also has contacted officials in the United States Customs Service (Customs Service) and the Food and Drug Administration (FDA) with regard to this new program.

Imported peanuts: Paragraph (e) provides that imported peanuts shall be subject to the same quality and handling standards as apply to domestically produced peanuts.

Program Continuity

To maintain program continuity until the new peanut program could take effect, USDA continued the implementing regulations of the Agreement and the non-signer and import regulations as provided above. Assessments are not being collected and indemnification payments are not being made on 2002 crop peanuts.