

representing 86 percent of the total number of peanut farms in the U.S (12,221). Since the Agricultural Census does not use \$750,000 in sales as a category, \$500,000 in sales is the closest approximation. Assuming that most of the sales from those farms are attributable to peanuts, the percentage of small peanut farms in 1997 (less than \$750,000 in sales) was likely a few percentage points higher than 86 percent, and may have shifted a few percentage points since then. Thus, the proportion of small peanut farms is likely to be between 80 and 90 percent.

Two-year average peanut production for the 2000 and 2001 crop years was 3.711 billion pounds, harvested from 1.363 million acres, yielding 2,723 pounds per acre. The average value of production for the two-year period was \$948.777 million, as reported on the National Agricultural Statistics Service (NASS) Web site as of August 2002 (<http://www.nass.usda.gov:81/idepd/report.htm>). The average grower price over the two-year period was \$0.26 per pound, and the average value per harvested acre was \$707. Dividing the two-year average value of production (\$948.177 million) by the estimated 12,221 farms yields an estimated revenue per farm of approximately \$77,600.

The Agricultural Census presents farm sizes in ranges of acres, and median farm size in 1997 was between 50 and 99 acres. The median is the midpoint ranging from the largest to the smallest. Median farm size in terms of annual sales revenue was between \$100,000 and \$250,000. Several producers may own a single farm jointly, or, conversely, a producer may own several farms. In the peanut industry, there is, on average, more than one producer per farm. Dividing the two-year average value of production of \$948.777 million by an estimated 23,000 commercial producers (2002 Agricultural Statistics, USDA, Table 11-10) results in an estimate of average revenue per producer of approximately \$41,251.

Oilmill operators, blanchers, and private chemical laboratories are subject to this rule to the extent that they must comply with reconditioning provisions under § 996.50 and reporting and recordkeeping requirements under § 996.71. There are several such entities in the peanut industry and these requirements are applied uniformly to these entities, whether large or small. In addition, there are currently 10 State inspection programs (FSIS) that will perform inspection under this new program.

Importers of peanuts cover a broad range of business entities, including fresh and processed food handlers and commodity brokers who buy agricultural products on behalf of others. Under the 2001 import quota, approximately 38 business entities imported approximately 126 million pounds of low duty peanuts (sometimes called "duty free" quota peanuts). That import quota period ended December 31, 2001, for Mexico, and March 31, 2002, for Argentina, Israel, and other countries. Some large, corporate handlers are also importers of peanuts. AMS is not aware of any peanut producers who imported peanuts during any of the recent quota years. The majority of peanut importers have annual receipts under \$5,000,000. Customs brokers may provide import services to importers who are regulated under, and accountable, to this rule. They must assure that entry requirements under § 996.60 and reporting and recordkeeping requirements under § 996.71 are met. These requirements are not applied disproportionately to small Customs brokers.

In view of the foregoing, it can be concluded that the majority of peanut producers, handlers, and importers may be classified as small entities. In addition, it may be assumed that many oilmill operators and blanchers also are small entities.

The quality and handling requirements of the prior peanut quality programs have been in effect for more than 36 years and for imported peanuts for more than six years. Handlers and importers have been the segment of the industry directly regulated under the three peanut programs, and they are in general agreement that the industry has changed greatly since the establishment of the Agreement in 1965.

With only a few exceptions, the quality and handling standards in this peanut program are the same as, or similar to, the requirements previously in effect for domestically produced and imported peanuts. The few exceptions are relaxations in requirements that will benefit handlers and importers. These requirements were subject to regulatory flexibility analysis and were found to not disproportionately affect small entities.

The Act requires that all peanuts marketed in the United States be officially inspected and graded by Federal or Federal-State inspectors. The Act further requires that USDA make identifying and combating the presence of all quality concerns a priority in the development of quality and handling standards and in the inspection of all

peanuts in the domestic market. Finally, USDA is to " * * provide adequate safeguards against all quality concerns related to peanuts." The new peanut program is to be established in consultation with the Board.

This program establishes under part 996 the minimum quality and handling standards that were in effect on May 13, 2002, the date the Act became effective, with relaxations recommended by interim Board members and peanut growers and handlers. Peanuts may not be entered into human consumption channels unless the peanuts are inspected and meet minimum quality standards for size, damage, defects, foreign material and moisture, and not exceed maximum aflatoxin content specified in this rule. Handling standards include the same positive lot identification, sampling and inspection procedures, and prohibitions on commingling certified and non-edible peanuts as were in effect under the three previous programs. Peanuts failing to meet the quality standards of this part, or which are not handled consistent with the handling standards of this part, may not be used for human consumption in the United States.

All USDA required sampling, quality certification, and lot identification is conducted by the Inspection Service. Chemical analysis is conducted by USDA or USDA-approved laboratories. Private laboratories must, among other things, agree to send copies of all aflatoxin analyses conducted by the laboratory to USDA. Foreign produced peanuts stored in bonded warehouses are subject to Customs Service audits. Handlers and importers must reimburse the Inspection Service and USDA laboratories and approved private laboratories, for services provided and costs incurred in the sampling, grade inspection and chemical analysis of peanuts. Incoming inspections range from \$4.00 to \$6.25 per ton of farmers stock peanuts. Sampling and outgoing grade inspections vary with the Federal and each Federal-State Inspection Service and range from \$1.50 to \$3.00 a ton. Chemical analysis for aflatoxin averages \$40.00 per analysis. These costs to handlers and importers also were incurred under the previous three programs. Thus, there is no net increase in financial burden attributable to these aspects of the new program.

This action imposes on handlers and importers a minor reporting requirement in addition to that imposed under the previous peanut programs (reporting acquisitions of Segregation 2 and 3 farmers stock peanuts). However, importers and non-signatory handlers under the previous programs have a