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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 996

[Docket No. FV03-996-2 IFR]

Change in Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes peanut quality and handling standards for domestic and imported peanuts marketed in the United States. These changes are based on comments received from the Peanut Standards Board (Board) and other industry sources. The standards and the Board were established by the Department of Agriculture (USDA), pursuant to section 1308 of the Farm Security and Rural Investment Act of 2002. This rule changes screen sizes specified in the outgoing quality standards to allow smaller peanut kernels of all varieties to be used in edible markets; specifies in the text of the regulations that financially interested persons may appeal quality inspection results and that "holders of the title" to any lot of peanuts may appeal aflatoxin test results; allows peanut lots which meet minimum damage and minor defect standards prior to blanching, but fail for some other reason, to be exempt from damage and minor defect standards upon re-inspection after blanching; and increases to 10 percent the quantity of sound whole kernels that may be contained in lots of splits for specified peanut varieties. These changes are intended to maximize handling efficiency and to provide the producers, handlers, and importers with flexibility

to meet current and new market demands, while maintaining peanut quality and wholesomeness for consumers.

DATES: Effective August 8, 2003; comments received by September 8, 2003 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, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or E-mail: moab.docketclerk@usda.gov. All 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, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT: Jim Wendland or Kenneth G. Johnson, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 4700 River Road, suite 2A04, Unit 155, Riverdale, Maryland 20737; telephone (301) 734-5243, Fax: (301) 734-5275 or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250-0237; telephone (202) 720-2491, Fax: (202) 720-8938; or E-mail: james.wendland@usda.gov, kenneth.johnson@usda.gov or george.kelhart@usda.gov.

Small businesses may request information on complying with this rule by contacting Jay Guerber, at the same address as above, or E-mail: jay.guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under section 1308 of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171), 7 U.S.C. 7958, hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this interim final rule in conformance with Executive Order 12866 and has determined it to be non-significant.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. 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.

Background

Section 1308 of the Act requires that USDA take several actions with regard to peanuts marketed in the United States: ensure mandatory inspection on all peanuts marketed in the United States; establish the Board comprised of industry representatives to advise USDA; and develop peanut quality and handling standards; and to modify those quality and handling standards when needed. An interim final rule was published in the **Federal Register** (67 FR 57129) on September 9, 2002, terminating the previous peanut programs and establishing standards in Part 996 to insure the continued inspection of 2002 crop year peanuts and subsequent crop year peanuts, 2001 crop year peanuts not yet inspected, and 2001 crop year failing peanuts that had not yet met disposition standards. The initial Board was selected and announced on December 5, 2002. A final rule finalizing the interim final rule was published in the **Federal Register** (68 FR 1145) on January 9, 2003, to continue requiring all domestic and imported peanuts marketed in the United States to be handled consistent with the handling standards and officially inspected against the quality standards of the new program. The provisions of this new program continue in force and effect until modified, suspended, or terminated.

Pursuant to the Act, USDA has consulted with Board members in the review of the handling and quality standards for the 2003 and subsequent crop years. USDA conducted a meeting with Board members on April 30, 2003. The changes were raised and supported by Board members. In addition to the meeting, USDA received written comments from Board members and others on recommended changes to the peanut handling and quality standards.

This rulemaking action: (1) Changes screen sizes specified in the outgoing