

will not be established until the spring of 1995.

The Committee meets in February or March each year and recommends to the Secretary a per ton, administrative assessment of Segregation 1, farmers stock peanuts received or acquired by signatory handlers for the upcoming crop year. The crop year covers the 12-month period from July 1 to June 30.

Therefore, pursuant to Public Law 103-66 and subsequent to the receipt of such a recommendation in 1995, the Department will initiate rulemaking procedures to assess non-signatory handlers. The assessment will be based on: (1) Tonnage reported on incoming inspection certificates of each handler's Segregation 1 farmers stock peanuts received or acquired for the handler's account and (2) tonnage reported on FV-117 "Weekly Report of Uninspected Farmers Stock Seed Peanuts Received for Custom Seed Shelling." If an administrative assessment rate of \$.60 per ton were established, a handler who received or acquired 50,000 tons of Segregation 1 farmers stock peanuts and 50,000 tons of uninspected farmers stock peanuts for seed would pay an assessment of \$60.

The assessment will be applied to peanuts intended for human consumption and peanuts intended for non-human consumption outlets such as seed, oilstock and animal feed. The assessment will be applied to peanuts received or acquired for a handler's account, including the handler's own production. Assessment will not be applied on Segregation 1 peanut lots received or acquired by a handler from other handlers or from the Commodity Credit Corporation (CCC) program received for non-edible use, or lots received on behalf of an area association pursuant to warehousing services [§ 997.20(a)].

The assessment will be applied, pro rata, on non-signatory handlers who perform handling functions defined in § 997.14. Handling is defined as engaging in the receiving or acquiring, cleaning and shelling, cleaning inshell, or crushing of peanuts and in the shipment (except as a common or contract carrier of peanuts owned by another) or sale of cleaned inshell or shelled peanuts or other activity causing peanuts to enter the current of commerce. Handling does not include the sale or delivery of peanuts by a producer to a handler or to an intermediary person engaged in delivering peanuts to handlers and the sale or delivery of peanuts by such intermediary to a handler.

Section 997.15 defines a non-signatory handler as any person who

handles peanuts, in a capacity other than that of a custom cleaner or dryer, and assembler, a warehouse person or other intermediary between the producer and the non-signatory handler.

Speculators, brokers, or other entities who take possession of Segregation 1 farmers stock peanuts, submit such peanuts for incoming inspection, and subsequently enter such peanuts into the channels of commerce will pay assessments on such peanuts. Entities who receive or acquire farmers stock peanuts for the purpose of custom seed shelling will be assessed on the basis of Form FV-117 "Weekly Report of Uninspected Farmers Stock Seed Peanuts Received for Custom Seed Shelling." Form FV-117 is currently required from such entities. Producer/handlers who store peanuts of their own production (farm-stored peanuts) will, at some point prior to further handling, obtain incoming inspection on such peanuts and, at that time, pay the pro-rata administrative assessment on such peanuts.

Only one administrative assessment will be applied to any lot of farmers stock peanuts. Non-signatory and signatory handlers will not pay an administrative assessment on a lot which they purchase from speculators, brokers or other such entities who have already paid an administrative assessment on the lot.

A crop year's original assessment could be increased by the Secretary based on a similar increase applied by the Secretary on signatory handlers. Such an increase will be applied on all peanuts first handled by non-signatory handlers during the crop year in which the increased assessment occurred.

Peanuts will be assessed based on the rate applicable to the crop year in which the lot is presented for incoming inspection.

Also pursuant to Pub. L. 103-66, this rule will establish that non-signatory handlers pay their administrative assessment to the Secretary. The Secretary will bill non-signatory handlers on a periodic basis determined by the Secretary. The non-signatory handler will be responsible for remitting payment by the date specified. Payment in the form of a personal check, cashier's check or money order will be remitted to the Department. Audits of each handler's account may be conducted by the Department to reconcile incoming, farmers stock volume received or acquired and assessments paid.

Violation of the non-signer 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 7 U.S.C. 1445c-3 for the crop year during which the violation occurs.

The interim final rule on these issues was published in the **Federal Register** on August 3, 1994 [59 FR 39419]. That rule invited interested persons to submit written comments through September 2, 1994. One comment supporting the collection of assessments from non-signer peanut handlers was received.

The establishment of an administrative assessment rate may impose some additional costs on non-signatory handlers. However, the costs will be in the form of uniform assessments on all handlers who are not signatory to the Agreement.

In accordance with the Paperwork Reduction Act of 1988 [44 U.S.C. Chapter 35], the 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 available information, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 997

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

Accordingly, the interim final rule amending 7 CFR part 997 which was published at 59 FR 39419 on August 3, 1994, is adopted as a final rule with the following change:

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.

§ 997.100 [Removed]

2. In part 997, § 997.100 and the center heading preceding it are removed.

Dated: January 27, 1995.

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