have been promulgated through the Washington State Department of Agriculture (State) for intrastate shipments of fresh peaches. Thus, the committee determined that continued funding through the Federal order was an unnecessary expense.

On January 5, 1993, the Department issued an order published in the **Federal Register** [58 FR 220, January 5, 1993] suspending all of the provisions of Marketing Order No. 921 effective March 31, 1993. The action also directed that a referendum be conducted during the period November 13 through December 10, 1993, to determine if affected producers favored continuation of the order. The referendum order provided that the Secretary would consider terminating the order if less than two-thirds of the number of producers voting, and producers of less than two-thirds of the volume of peaches represented in the referendum, favored continuance.

Of the 260 ballots mailed to producers of record, 21 valid votes were cast, representing approximately 8 percent of producers. The results of the referendum indicate that only 14 percent of the growers who voted, representing 1.5 percent of the volume voted, favored continuance of the order. Thus, the vote failed to meet the approval criteria by both number and volume.

Given the level of producer participation, as well as the demonstrated lack of producer support for the order, these results are a reliable indicator of industry sentiment, and clearly demonstrate that a significant portion of the producers do not favor continuation of the order.

Therefore, based on the foregoing considerations, pursuant to section 608c(16)(A) of the Act and section 9231.64 of the order, it is found that Marketing Order No. 921, covering peaches grown in designated counties in Washington, does not tend to effectuate the declared policy of the Act and is hereby terminated.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress was so notified on March 1, 1994.

List of Subjects in 7 CFR Part 921

Marketing agreements, Peaches, Reporting and recordkeeping requirements.

PART 921—[REMOVED]

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 601–674, 7 CFR Part 921 is removed.

Dated: July 10, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–17281 Filed 7–13–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 998

[Docket No. FV95–998–2IFR]

Amendment of Requirements Established Under Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts for 1995 and Subsequent Crop Years

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule amends for the 1995 peanut crop and subsequent crop years several provisions of the incoming, outgoing, and indemnification regulations established under Marketing Agreement No. 146. The changes are intended to recognize industry operating practices and reduce the burden on handlers without compromising the agreement's objective. The objective of the agreement is to ensure that only wholesome peanuts enter edible market channels. This rule was unanimously recommended by the Peanut Administrative Committee (Committee), the administrative agency for this wholesomeness assurance program.

DATES: Effective July 14, 1995. Comments received by August 14, 1995 will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administrative Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, D.C. 20090–6456; FAX: (202) 720–5698. Comments should reference the docket number, the date, and page number of this issue of the **Federal Register**. Comments received will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (941) 299–4770, or FAX: (941) 299–5169; or Jim Wendland, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 720–2170, or FAX: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 146 (7 CFR part 998) regulating the quality of domestically produced peanuts, hereinafter referred to as the agreement. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, 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.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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 about 75 handlers of peanuts subject to regulation under the agreement, and about 47,000 peanut producers in the 16 States covered under the program. Small agricultural service firms 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 have been defined as those having annual receipts of less than $500,000. Some of the handlers signatory to the agreement are small entities, and a majority of the producers may be classified as small entities.

In 1994, the reported U.S. production, mostly covered under the agreement, was approximately 4.25 billion pounds of peanuts, a 25 percent increase from the short 1993 crop. The preliminary 1994 peanut crop value is $1.23 billion, up 19 percent from the 1993 crop value.

The objective of the agreement, in place since 1965, is to ensure that only wholesome peanuts enter edible market

channels. About 70 percent of U.S. shellers (handlers), handling approximately 95 percent of the crop, have voluntarily signed the agreement. Under the agreement, farmers' stock peanuts with visible *Aspergillus flavus* mold (the principal source of aflatoxin) are required to be diverted to non-edible uses. Each lot of milled peanuts must be sampled and the samples chemically analyzed for aflatoxin contamination. Signatory handlers who comply with these requirements may be eligible for indemnification of losses for individual lots of their peanuts which test positive to aflatoxin. Indemnification and administrative costs are paid by assessments levied on handlers signatory to the agreement.

The Committee, which is composed of producers and handlers of peanuts, meets to review the rules and regulations effective on a continuous basis for peanuts regulated under the agreement. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews Committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

The Committee met on March 22 and 23, 1995, and unanimously recommended several changes to incoming, outgoing, and indemnification regulations for 1995 and subsequent crop peanuts.

The Committee recommended amending *§ 998.100 Incoming quality regulation* by revising paragraph (c) to provide that commercially acquired lots be designated as Segregation 2 peanuts (rather than Segregation 1) by the Federal or Federal-State Inspection Service (Inspection Service) when exceeding .50 percent freeze damage and/or 14.49 percent loose shelled kernels (LSK's) when the Inspection Service is notified that a contract between the producer and the handler specifies these more restrictive tolerances.

Currently, § 998.100 (b) defines Segregation 1 peanuts as farmers' stock peanuts with not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*. Section 998.100 (c) defines Segregation 2 peanuts as farmers' stock peanuts with more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

The recommendation is not being adopted by the Department. The current standards are rules of general applicability which apply to all peanuts without regard to any contractual agreements between individuals. Buyers and sellers are free to agree to a variety of contractual terms. However, such agreements should not have the effect of determining whether peanuts are Segregation 1 or 2 as those terms are defined in the regulations.

Currently, § 998.100 (i) *Shelled peanuts* reads ''Handlers may acquire from other handlers, for remilling and subsequent disposition to human consumption outlets, shelled peanuts (which originated from ''Segregation 1 peanuts'') that fail to meet the requirements specified for human consumption in paragraph (a) of the Outgoing Quality Regulation (§ 998.200). Any lot of such peanuts must be accompanied by a valid inspection certificate for the grade factors and must be positive lot identified . . . Peanuts acquired pursuant to this paragraph shall be held and milled separate and apart from other receipts or acquisitions of the receiving handler, and further disposition shall be regulated by paragraph (h)(1) of the Outgoing Quality Regulation (§ 998.200)''.

This rule revises paragraph (i) of § 998.100 to allow movement of shelled peanuts, which originated from Segregation 1 peanuts, without inspection and positive lot identification (PLI), from one handler to another and does not require the receiving handler to hold and mill such peanuts separate from other receipts and acquisitions. The high degree of control currently in place for such transactions is no longer needed because the peanut industry has changed from small locally owned plants to large corporations. The Committee believes that relaxing the requirements will enable handlers to reduce processing and storage costs and increase movement of peanuts without jeopardizing the objective of the agreement.

Section 998.200 Outgoing quality regulation is being amended by revising paragraphs (f) and (h)(1) to allow handlers to transfer peanuts to any handler or to domestic commercial storage without PLI and certification of meeting quality requirements when it leaves the first facility. Currently, § 998.200 (f) *Inter-plant transfer* reads ''Any handler may transfer peanuts from one plant owned by him to another of his plants or to commercial storage, without having such peanuts positive lot identified and certified as meeting quality requirements, but such transfer shall be only to points within the same production area and ownership shall have been retained by the handler. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts''. Currently, § 998.200 (h) *Peanuts failing quality requirements* reads ''(1) Handlers may sell to or contract with other handlers, for further handling, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of this section. Lots of peanuts disposed of in this manner must be accompanied by a valid grade inspection certificate, and must be positive lot identified. Transactions made in this manner shall be reported to the Committee by both the seller and the buyer on a form provided by the Committee. Any such peanuts acquired by handlers pursuant to paragraph (i) of the Incoming Quality Regulation (§ 998.100) shall be held and milled separate and apart from other receipts or acquisitions of the receiving handler and further disposition shall be regulated by the requirements specified heretofore or pursuant to paragraph (h)(3) hereinafter''.

This high degree of control is no longer needed. As stated earlier, the peanut industry has changed dramatically from many small locally owned and operated plants to large or multinational corporations with operations located throughout the different production areas in the United States. Relaxing the regulation will allow freer movement of peanuts, more efficient use of facilities, and reduced numbers of inspections, resulting in lower costs and a more competitive industry, without compromising the program's objective.

Under paragraph (h) of § 998.200, peanuts failing quality requirements for disposition to human consumption outlets can be sent to blanchers for reconditioning, to domestic crushers, or exported (when peanuts meet fragmented requirements). In § 998.200 paragraph (h)(2) reads ''Handlers may blanch or cause to have blanched positive lot identified shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements of paragraph (a) of this section because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin: *Provided,* That such lots of peanuts contain not in excess of 8 percent damage and minor defects combined or

2 percent foreign material. Prior to movement of such peanuts to a blancher, handlers shall report to the Committee, on a form furnished by the Committee, and receive authorization from the Committee for movement and blanching of each such lot. Lots of peanuts which are moved under these provisions must be accompanied by a valid grade inspection certificate and the title shall be retained by the handler until the peanuts are blanched and certified by an inspector of the Federal or Federal-State Inspection Service as meeting the requirements for disposal into human consumption outlets. To be eligible for disposal into human consumption outlets, such peanuts after blanching, must meet specifications for unshelled peanuts, damaged kernels, minor defects, moisture, and foreign material as listed in paragraph (a) of this section and be accompanied by an aflatoxin certificate determined to be negative by the Committee * * *''

Paragraph (h)(4) of § 998.200 reads ''Handlers may contract with Committee approved remillers for remilling shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of the Outgoing Quality Regulation: *Provided,* That such lot of peanuts contain not in excess of 8 percent damage and minor defects combined or 10 percent fall through or 2 percent foreign material. Prior to movement of such peanuts under these provisions to a Committee approved remiller, handlers shall report to the Committee, on a form furnished by the Committee, and receive authorization from the Committee for movement and remilling of each such lot. Lots of peanuts moved under these provisions must be accompanied by a valid grade inspection certificate and must be positive lot identified and the title of such peanuts shall be retained by the handler until the peanuts have been remilled and certified by the Federal or Federal-State Inspection Service as meeting the requirements for disposition to human consumption outlets specified in paragraph (a), and be accompanied by an aflatoxin certificate determined to be negative by the Committee. Remilling under these provisions may include composite remilling of more than one such lot of peanuts owned by the same handler. However, such peanuts owned by one handler shall be held and remilled separate and apart from all other peanuts* * *''

Paragraph (h)(2) of § 998.200 is being relaxed to allow individual handlers to move failing peanuts containing not in excess of 10 percent total unshelled peanuts and damaged kernels or 10 percent foreign material to Committee approved blanchers, rather than reworking (blanching) at their own facilities. Also, paragraph (h)(4) of § 998.200 is being similarly relaxed to allow individual handlers to move failing peanuts to Committee approved remillers for remilling shelled peanuts containing not in excess of 10 percent total unshelled peanuts and damaged kernels or 10 percent fall through or 10 percent foreign material.

However, before such peanuts go to human consumption outlets, the peanuts have to be certified as meeting human consumption outlet requirements (must meet minimum requirements specified in ''OTHER EDIBLE QUALITY'' (NON-INDEMNIFIABLE) GRADES—WHOLE KERNELS AND SPLITS table of § 998.200 (a) and must also be certified ''negative'' (not more than 15 parts per billion) as to aflatoxin).

The rule recognizes the current generally more efficient, higher technology processing capabilities of blanchers' and remillers' facilities and practices compared with the typical handler's facility and is intended to provide handlers more reconditioning flexibility. This rule will tend to reduce limitations on handlers by allowing them to use blanchers' and remillers' generally more efficient grading and milling facilities to rework such peanuts, improve handlers' competitive position, especially with regards to imported peanuts, by better utilizing peanut supplies and existing facilities and increase peanut movement to higher value markets.

This action also revises paragraph (j) of § 998.200 to exempt certain peanuts, including those of a lower quality than Segregation 1 for domestic crushing, from being assessed to lower the handlers' costs for these lower value peanuts, as authorized by *§§ 998.48 Assessments* and *998.31 Incoming regulation* of the agreement.

The Committee also recommended that this exemption apply to Segregation 1 peanuts for crushing. However, the recommendation was not adopted by the Department because the agreement provides no authority for such an exemption and it would require an amendment to the agreement through formal rulemaking procedures to add such authority. Segregation 1 peanuts are sometimes commingled with Segregation 2 or 3 peanuts. In such cases, the Segregation 1 peanuts take on the identity of the lower quality Segregation 2 or 3 peanuts, because it dilutes the quality of higher quality Segregation 1 peanuts. In those cases, the quantity of former Segregation 1 peanuts which were commingled will be exempt from program assessments.

Further, this action amends *§ 998.300 Terms and conditions of indemnification* by establishing reduced indemnification values specified in paragraphs (h), (i), and (x); and revising paragraph (z) by specifying a reduced ceiling and/or number of claims to ''trigger'' payments. The indemnification value of rejects and entire lots is reduced to 35 cents per pound from the current 45 cents. This action will reduce the problem encountered by the Committee and the Department on 1993 crop indemnification claims when the indemnification payment ceiling and number of claims was significantly exceeded and the Department was asked for and approved the authority for the Committee to spend up to $500,000 from the indemnification reserve fund to pay the excess claims. This action is expected to reduce by $2 million the cost to the Committee for indemnification payments, and reduce the possibility of handlers making indemnification, rather than the edible market, the primary market for peanuts when regular market prices are low. When the market is weak some handlers may send their peanuts directly to indemnification rather than incur the cost of reworking the peanuts to improve the quality of the lots enough to sell them in the edible market.

The unchanged portions of the incoming, outgoing, and indemnification regulations currently in effect for 1994 crop peanuts are left in effect, as is, for 1995 and subsequent crop years.

In accordance with the Paperwork Reduction Act of 1988 (44 U.S.C. Chapter 35), 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. 0581–0067.

Based on the above, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities.

Written comments, timely received, in response to this action, will be considered before finalization of this rule.

After consideration of all relevant matter presented, the information and recommendations submitted by the Committee, and other information, it is found that the changes set forth below 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 relaxes requirements currently in effect for peanut handlers, who voluntarily signed the agreement; (2) this action should be in effect as soon as possible, because the 1995 crop year begins July 1, 1995, and handlers need to know the regulations applicable to the handling of the 1995 crop; and (3) this action provides a 30-day comment period, and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 998 is amended as follows:

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

1. The authority citation for 7 CFR part 998 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 998.100 is amended by revising the section heading and paragraph (i) to read as follows:

§ 998.100 Incoming quality regulation for 1995 and subsequent crop peanuts.

* * * * *

(i) *Shelled peanuts.* Handlers may acquire from other handlers, for remilling and subsequent disposition to human consumption outlets, shelled peanuts which originated from ''Segregation 1 peanuts.'' Transactions made in this manner shall be reported to the Committee by both the buyer and the seller on a form provided by the Committee. Further disposition of any such peanuts acquired pursuant to this paragraph shall be regulated by paragraph (h)(1) of § 998.200 Outgoing quality regulation.

* * * * *

3. Section 998.200 is amended by revising paragraphs (f), (h)(1), the first sentence in paragraph (h)(2), the first sentence in paragraph (h)(4), and adding a new paragraph (j)(3) to read as follows:

§ 998.200 Outgoing quality regulation for 1995 and subsequent crop peanuts.

* * * * *

(f) *Transfer between plants.* Except as otherwise provided in § 998.32 of the agreement, handlers may transfer peanuts to any handler or to domestic commercial storage without having such peanuts positive lot identified and certified as meeting quality requirements. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts.

* * * * *

(h) *Peanuts failing quality requirements.* (1) Handlers may sell to or contract with other handlers, for further handling, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of this section. Transactions made in this manner shall be reported to the Committee by both buyer and seller on a form provided by the Committee. Further disposition of any such peanuts acquired by handlers pursuant to paragraph (i) of § 998.100. Incoming quality regulation shall be regulated by the requirements specified heretofore or pursuant to paragraph (h)(3) hereinafter.

(2) Handlers may blanch or cause to have blanched shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements of paragraph (a) of this section because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin: *Provided*, That such lots of peanuts contain not in excess of 10 percent total unshelled peanuts and damaged kernels or 10 percent foreign material. * * *

* * * * *

(4) Handlers may contract with Committee approved remillers for remilling shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of § 998.200 Outgoing quality regulation: *Provided*, That such lots of peanuts contain not in excess of 10 percent total unshelled peanuts and damaged kernels or 10 percent fall through or 10 percent foreign material. * * *

* * * * *

(j) *Segregation 2 and 3 farmers' stock disposition.*

* * * * *

(3) Peanuts handled pursuant to the provisions of paragraphs (j) (1) and (2) of this section are exempt from § 998.48 Assessments.

* * * * *

4. Section 998.300, is amended by revising the per pound indemnification value ''45 cents'' to read ''35 cents'' everywhere it appears in paragraphs (h), (j), and (x); and the number ''$9,000,000'' to read ''$7,000,000'', ''800'' to read ''461'', ''1300'' to read ''616'', ''2500'' to read ''853'', and ''6,000'' to read ''3,412'' everywhere they appear in paragraph (z) and adding a new paragraph (z)(6) to read as follows:

§ 998.300 Terms and conditions of indemnification for 1995 and subsequent crop peanuts.

* * * * *

(z) * * *

(6) Notwithstanding the limits on numbers of claims filed with the Committee by December 31 of the current crop year as specified in paragraphs (z) (2), (3), and (4) of this section; at the time of the Annual Program Meeting of the Committee and at any subsequent Committee meeting or meetings, the Committee shall evaluate claims and projections of claims' expenses occurring during the current crop year. If such projections indicate that the prescribed limit ($7,000,000 on 1995 crop) will not be exceeded, the Committee shall authorize immediate payment of claims as prescribed in paragraph (z) (2) or (3) of this paragraph.

Dated: July 11, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–17383 Filed 7–13–95; 8:45 am]

BILLING CODE 3410–02–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Late Premium Payments and Employer Liability Underpayments and Overpayments; Interest Rate for Determining Variable Rate Premium; Amendments to Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This document notifies the public of the interest rate applicable to late premium payments and employer liability underpayments and overpayments for the calendar quarter beginning July 1, 1995. This interest rate is established quarterly by the Internal Revenue Service. This document also sets forth the interest rates for valuing unfunded vested benefits for premium purposes for plan years beginning in May 1995 through July 1995. These