

Board will continue to conduct a mail vote prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. Any mail votes will be discussed and reconfirmed at a public meeting. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 1996-97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, 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) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996-97 marketing year begins on July 1, 1996, and the marketing order requires that the rate of assessment for each marketing year apply to all assessable hazelnuts handled during such marketing year; (3) handlers are aware of this action which was unanimously recommended by the Board in a mail vote and is similar to the assessment rate action issued last year; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

### **PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON**

1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. A new subpart—Assessment Rates and a new § 982.340 are added to read as follows:

#### **Subpart—Assessment Rates**

##### **§ 982.340 Assessment rate.**

On and after July 1, 1996, an assessment rate of \$0.007 per pound of assessable hazelnuts is established for Oregon and Washington hazelnuts.

Dated: June 7, 1996.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

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### **7 CFR Parts 997 and 998**

[Docket No. FV96-998-1IFR]

#### **Increased Assessment Rate for Domestically Produced Peanuts Handled By Persons Not Subject to Peanut Marketing Agreement No. 146 and for Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule increases the administrative assessment rate under Marketing Agreement 146 (agreement) for the 1995-96 crop year. Authorization of the increase in the administrative assessment rate enables the Peanut Administrative Committee (Committee) to collect sufficient funds to pay expenses for the remainder of the year. Funds to administer this program are derived from assessments on handlers who have signed the agreement. Public Law 103-66 requires the Department of Agriculture (Department) to impose an administrative assessment on farmers stock peanuts received or acquired by handlers who are not signatory (non-signatory handlers) to the agreement. Therefore, this same increase in the assessment rate under the agreement will apply to all non-signatory handlers. **DATES:** Effective July 1, 1995, through June 30, 1996. Comments received by July 15, 1996, 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 in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, FAX 202-720-5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

#### **FOR FURTHER INFORMATION CONTACT:**

Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, FAX 202-720-5698, or William G. Pimental, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883-2276, telephone 941-299-4770, FAX 941-299-5169.

**SUPPLEMENTARY INFORMATION:** This rule is issued pursuant to the requirements of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and as further amended December 12, 1989, hereinafter referred to as the "Act"; Pub. L. 101-220, section 4(1), (2), 103 Stat. 1878, December 12, 1989; Pub. L. 103-66, section 8b(b)(1), 107 Stat. 312, August 10, 1993; and under Marketing Agreement 146 (7 CFR part 998) regulating the quality of domestically produced peanuts.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. The Department established a 1995-96 crop year assessment rate applicable to non-signatory and signatory handlers effective July 1, 1995, through June 30, 1996. This rule increases the administrative assessment rates for the crop year which began July 1, 1995. Farmers' stock peanuts received or acquired by non-signatory handlers and farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than from those described in §§ 998.31 (c) and (d), are subject to the assessments. 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 requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule 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 approximately 45 handlers of peanuts who have not signed the agreement and, thus, will be subject to the regulations specified herein. Also, there are approximately 47,000 producers of peanuts in the 16 States covered under the agreement and approximately 76 handlers subject to regulation under the agreement. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. A majority of the producers and the non-signatory handlers may be classified as small entities, and some of the handlers covered under the agreement are small entities.

Under the agreement, the assessment rate for a particular crop year applies to all assessable tonnage handled from the beginning of such year (i.e., July 1). Funds to administer the peanut agreement program are paid to the Committee and are derived from signatory handler assessments. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The members of the Committee are handlers and producers of peanuts. They are familiar with the Committee's needs and with the costs for goods, services, and personnel for program operations and, thus, are in a position to formulate appropriate budgets. The budgets are formulated and discussed at industry-wide meetings. Thus, all directly affected persons have an opportunity to provide input in recommending the budget and assessment rate. The handlers of peanuts who are directly affected have signed the marketing agreement authorizing the expenses that may be incurred and the imposition of assessments.

The assessment rate recommended by the Committee for the 1995-96 crop year was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. It applies to all assessable peanuts received or acquired by handlers from July 1, 1995. Farmers' stock peanuts received or acquired by non-signatory handlers and farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than from those described in §§ 998.31 (c) and (d), are subject to assessments. Because that rate is

applied to actual receipts and acquisitions, it must be established at a rate which will produce sufficient income to pay the Committee's expenses. Approximately 95 percent of the domestically produced peanut crop is marketed by handlers who are signatory to the agreement.

Pub. L. 101-220 amended section 608b of the Act to require that all peanuts handled by persons who have not entered into the agreement (non-signers) be subject to quality and inspection requirements to the same extent and manner as are required under the Agreement. Approximately 5 percent of the U.S. peanut crop is marketed by non-signer handlers.

Pub. L. 103-66 (107 Stat. 312) provides for mandatory assessment of farmer's stock peanuts acquired by non-signatory peanut handlers. Under this law, paragraph (b) of section 1001, of the Agricultural Reconciliation Act of 1993, specified that: (1) Any assessment (except indemnification assessments) imposed under the Agreement on signatory handlers also shall apply to non-signatory handlers, and (2) such assessment shall be paid to the Secretary.

The 1995-96 Committee budget was published in the Federal Register as an interim final rule on May 17, 1995, (60 FR 26348), and finalized on July 18, 1995 (60 FR 36635). The non-signatory handler assessment rate was published in the Federal Register as an interim final rule on August 21, 1995 (60 FR 43353), and finalized on November 24, 1995 (60 FR 57907). The administrative expenses and assessment rate for the 1995-96 crop year were based on an estimated assessable tonnage of 1,525,000. The Committee now projects that total tonnage will only be about 1,300,000. In order to have sufficient revenue to cover budgeted expenses of \$1,067,500, the Committee met on March 19, 1996, and unanimously recommended that the 1995-96 crop year administrative assessment be increased from \$0.70 to \$0.83 per net ton of assessable farmers' stock peanuts.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers signatory to the agreement. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing agreement. This administrative assessment is required by law to be applied uniformly to all non-signatory handlers and will be of benefit to all. Therefore, the AMS has determined that this rule will not have

a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, 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) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) Pub. L. 103-66 requires the Department to impose an administrative assessment on peanuts received or acquired for the account of non-signatory handlers; (3) the 1995-96 crop year began on July 1, 1995, and the marketing agreement and Pub. L. 103-66 require that the rate of assessment for the crop year apply to all peanuts handled during the crop year; (4) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other budget actions issued in past years; and (5) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects

##### 7 CFR Part 997

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

##### 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 997 and 998 are amended as follows:

1. The authority citation for 7 CFR parts 997 and 998 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Note: These sections will not appear in the Code of Federal Regulations.

**PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO THE PEANUT MARKETING AGREEMENT**

**§ 997.100 [Amended]**

2. Section 997.100 is amended by removing “\$0.70” and adding in its place “\$0.83.”

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

**§ 998.408 [Amended]**

3. In § 998.408, paragraph (c) is amended by removing “\$1.70” and adding in its place “\$1.83” and by removing “\$0.70” and adding in its place “\$0.83.”

Dated: June 7, 1996.

Robert C. Keeney,  
 Director, Fruit and Vegetable Division.  
 [FR Doc. 96-14987 Filed 6-12-96; 8:45 am]  
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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 27**

[Docket No. 96-ASW-1; Special Condition No. 27-ASW-3]

**Special Condition: Agusta Models A109D and A109E, High Intensity Radiated Fields**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final special condition; request for comments.

**SUMMARY:** This special condition is issued for the Agusta Model A109D and A109E helicopters. These helicopters will have a novel or unusual design feature associated with electronic systems that perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of the electronic systems that perform critical functions from the effects of external high intensity radiated fields (HIRF). This special condition contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the applicable airworthiness standards.

**DATES:** The effective date of this special condition is June 13, 1996. Comments

must be received on or before August 12, 1996.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attn: Rules Docket No. 96-ASW-1, Fort Worth, Texas 76193-0007, or delivered in duplicate to the Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Fort Worth, Texas. Comments must be marked Docket No. 96-ASW-1. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 9 a.m. and 3 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Carroll Wright, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193-0111; telephone (817) 222-5120.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delay delivery of the affected helicopter. These notice and comment procedures are also considered unnecessary since the public has been previously provided with a substantial number of opportunities to comment on substantially identical special conditions, and their comments have been fully considered. Therefore, good cause exists for making this special condition effective upon issuance.

**Comments Invited**

Although this final special condition was not subject to notice and opportunity for prior public comment, comments are invited on this final special condition. Interested persons are invited to comment on this final special condition by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered. This special condition may be changed in light of comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date of comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this final rule must submit with those comments a self-addressed, stamped postcard on

which the following statement is made: “Comments to Docket No. 96-ASW-3.” The postcard will be date and time stamped and returned to the commenter.

**Background**

Agusta S.p.A., Cascina Costa, Italy, applied for an amendment to U.S. Type Certificate H7EU through the Registro Aeronautico Italiano (RAI) September 23, 1992, updated July 26, 1993, to include Model A109D and A109E helicopters based on previously certified A109C and A109K2 helicopters. The A109D and A109E helicopters differ from the previously certificated model helicopters because they contain the following:

- a. Allison 250-C22(A109D) or Pratt & Whitney PW206C(A109E) FADEC controlled engines.
- b. A main landing gear that is held in position by two crossbeams that are covered by pods and is retractable into the bottom of the helicopter.
- c. A new main rotor titanium hub, composite tension links, electromeric bearings, with dampers derived from the Model A129 helicopter.
- d. Updated fuselage and fuel systems; and
- e. A new cockpit layout with flat panel displays (IDS) for powerplant data monitoring.

**Type Certification Basis**

The certification basis established for the Agusta Model A109D and A109E helicopters includes: 14 Code of Federal Regulations (CFR) § 21.29 and 14 CFR part 27 effective February 1, 1965, including Amendments 27-1 through 27-8, except as more specifically required by the following paragraph amendment levels:

Paragraph	Amendment
27.2	28
27.21	21
27.45	21
27.71	21
27.79	21
27.141	21
27.143	21
27.175	21
27.177	21
27.401	27
27.610	21
27.901	23
27.903	23
27.927	23
27.954	23
27.1091	23
27.1093(b)	23
27.1189	23
27.1305	23
27.1309	21
27.1321	13