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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 729

RIN 0560-AF48

#### 1999-Crop Peanuts National Poundage Quota

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this final rule is to codify the establishment of the national poundage quota for peanuts at 1,180,000 short tons (st).

**EFFECTIVE DATE:** December 14, 1998.

**FOR FURTHER INFORMATION CONTACT:** Kenneth M. Robison, USDA, Farm Service Agency, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250-0514, telephone 202-720-9255. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Robison.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

This final rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by OMB.

**Federal Assistance Program**

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

**Executive Order 12988**

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

**Paperwork Reduction Act**

This amendment does not contain information collections that require clearance by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35.

**Regulatory Flexibility Act**

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the Farm Service Agency (FSA) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of this determination.

**Unfunded Federal Mandates**

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**Background**

The determination made in this notice follows a proposed rule published on November 25, 1998, in the **Federal Register** (63 FR 65133). That notice proposed a marketing year (MY) 1999 national poundage quota level between 1,175,000 and 1,225,000 st. There were 16 comments received. Comments were submitted by 11 producer groups, two manufacturers' groups, one sheller group, one consumer group, and one manufacturer. The comments received and the determination made are discussed below.

*A. Determination of the Quota*

Peanut producers voting in a mail referendum held December 1 through 4, 1997, approved poundage quotas for the 1998 through 2002 MY by an affirmative vote of 94.8 percent. Therefore, as provided for in the Agriculture Adjustment Act of 1938 (1938 Act), the Secretary is required to administer a peanut program in which marketings are governed through the use of federally-granted quota and in which price support is offered.

Section 358-1(a)(1) of the 1938 Act, as amended in 1996 by the Agricultural Market Transition Act, requires that the national poundage quota for peanuts for each of the 1996 through 2002 MYs be established by the Secretary at a level

that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each MY to domestic edible use (excluding seed use) and related uses. Under the 1996 amendments to the 1938 Act, seed use remains a quota use but, unlike in the past, the seed aspect of the quota is accounted for by the granting of a temporary seed quota to all producers. As a result, seed is no longer part of the basic quota calculation codified in this determination.

The MY for 1999-crop peanuts begins on August 1, 1999, and ends July 31, 2000.

The national poundage quota for the 1999 crop, which will be marketed in MY 1999, was established at 1,180,000 st, based on the following data:

**ESTIMATED DOMESTIC EDIBLE AND RELATED USES FOR 1999-CROP PEANUTS**

Item	Farmer stock equivalent (short tons)
Regular domestic food use	984,000
Related uses: .....	
Crushing residual .....	128,500
Shrinkage and other losses .....	44,000
Unused quota .....	23,500
<b>Total .....</b>	<b>1,180,000</b>

The estimate of MY 1999 domestic food use of peanuts was developed in two steps. First, normal commercial use was estimated based upon figures from the USDA Interagency Commodity Estimates Committee (ICEC) adjusted to take out peanut imports, peanut butter imports, and peanut butter exports (which normally consist of additional peanuts only). Then, farm sales and other direct marketings to consumers were added based upon differences between production data and Federal-State Inspection Service inspection data. Insofar as related uses are concerned, an added allowance is made for the normal crushing residual that cannot effectively be used for food. That amount is traditionally expected to be about 12 percent, on a farmer stock basis, of the total domestic production. An allowance for shrinkage and other losses is made to account for reduced kernel and other kernel losses during storage using the customary factor of 4 percent of domestic food use. Finally, the

unused quota allowance applies to those instances where the farmer cannot fulfill a quota either because of underplanting or because the farmer is unable to produce enough Segregation 1 peanuts to fulfill the quota. Because of the changes in the law as enacted in 1996, which have been outlined in previous notices, a greater incentive now exists than in the past to fully market the quota. It is expected that, after discounting for quality problems, more than 98.1 percent of the quota will be marketed.

With respect to comments on these issues, the 11 producer groups and the sheller group expressed concern about USDA's projected growth in demand, projected stocks levels, the buy back program, and the export/import situation. The producer groups and the sheller group proposed setting the quota at the lower end of the proposed range. The manufacturer groups, the consumer group, and the manufacturer all expressed concern about adequate supplies. They proposed setting the quota above the minimum and one proposed setting it at the upper end of the proposed range. As indicated, however, the quota amount is controlled by a statutory formula which led to the announced amount for the reasons given above.

#### List of Subjects in 7 CFR Part 729

Peanuts, Penalties, Poundage quotas, Reporting and record keeping requirements.

Accordingly, this final rule amends 7 CFR part 729 as follows:

#### PART 729—PEANUTS

1. The authority citation for 7 CFR part 729 continues to read as follows:

**Authority:** 7 U.S.C. 1301, 1357 *et seq.*, 1372, 1373, 1375, and 7271.

2. Section 729.216 is amended by adding a new paragraph (c)(4) to read as follows:

#### § 729.216 National poundage quota.

\* \* \* \* \*

(c) \* \* \*

(4) The national poundage quota for quota peanuts for marketing year 1999 is 1,180,000 short tons.

Signed at Washington, DC, on March 20, 2000.

#### Parks Shackelford,

Acting Administrator, Farm Service Agency.  
[FR Doc. 00-7399 Filed 3-24-00; 8:45 am]

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#### NORTHEAST DAIRY COMPACT COMMISSION

#### 7 CFR Parts 1301, 1304, 1305, 1306, 1307 and 1308

#### Over-Order Price Regulation

**AGENCY:** Northeast Dairy Compact Commission.

**ACTION:** Final rule.

**SUMMARY:** The Northeast Dairy Compact Commission amends the over-order price regulation to make technical amendments to certain definitions and to change certain dates of required action. The amendments are necessary to conform the over-order price regulation to similar regulations recently reformed by the United States Department of Agriculture regarding milk marketed in the New England states. These amendments will ensure continuity of regulatory definitions and compliance dates in the New England milk market. The Commission also amends the definition of *producer* to specify every December since 1996 as a condition of qualification.

**EFFECTIVE DATE:** May 1, 2000.

**ADDRESSES:** Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, Vermont 05602.

**FOR FURTHER INFORMATION CONTACT:** Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229-1941, or by facsimile at (802) 229-2028.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

The Northeast Dairy Compact Commission ("Commission") was established under authority of the Northeast Interstate Dairy Compact ("Compact"). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut—Pub. L. 93-320; Maine—Pub. L. 89-437, as amended, Pub. L. 93-274; Massachusetts—Pub. L. 93-370; New Hampshire—Pub. L. 93-336; Rhode Island—Pub. L. 93-106; Vermont—Pub. L. 93-57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104-127 (FAIR Act), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact. Authorization of the Compact was extended until September 30, 2001 in the Consolidated Appropriations Act for Fiscal Year 2000, Pub. L. 106-113, 115 Stat. 1501, November 29, 1999.

Pursuant to its rulemaking authority under Article V, Section 11 of the Compact, the Commission concluded an informal rulemaking process and voted to adopt a compact over-order price regulation on May 30, 1997.<sup>1</sup> The Commission subsequently amended and extended the compact over-order price regulation.<sup>2</sup> In 1998 and 1999, the Commission further amended specific provisions of the over-order price regulation.<sup>3</sup> The current compact over-order price regulation is codified at 7 CFR Chapter XIII.

On November 29, 1999, the President signed into law the Consolidated Appropriations Act, 2000 (Pub. L. 106-113, 115 Stat. 1501.) That Act required the United States Secretary of Agriculture to immediately implement certain reforms to the federal milk order regulations. The required regulation was published in the **Federal Register** on December 17, 1999, implementing and amending the final rule that was initially published on September 1, 1999.<sup>4</sup>

On January 12, 2000, the Commission issued a notice of proposed rulemaking to consider amendments to the Compact Over-order Price Regulation that would bring the Commission's regulations into conformity with the reformed federal milk market order regulations and provide consistency and uniformity in definitions and compliance dates for regulated entities in the New England milk market and to amend the definition of *producer*.<sup>5</sup> The Commission held a public hearing to receive testimony on the proposed amendments on February 2, 2000 and additional comments and exhibits were accepted until 5:00 PM on February 16, 2000. The Commission held a deliberative meeting on March 1, 2000, pursuant to 7 CFR 1361.8, to consider the testimony and comments received and to deliberate and act on the proposed amendments. The Commission hereby amends the Over-order Price Regulation to make technical amendments to certain definitions and to change certain dates of required action and to amend the definition of *producer* to specify every December since 1996 as a condition of qualification.

<sup>1</sup> 62 FR 29626 (May 30, 1997).

<sup>2</sup> 62 FR 62810 (Nov. 25, 1997).

<sup>3</sup> See, e.g., 63 FR 10104 (Feb. 27, 1998); 63 FR 46385 (Sept. 1, 1998); 63 FR 65517 (Nov. 27, 1998); 64 FR 23532 (May 3, 1999); and 64 FR 34511 (June 28, 1999).

<sup>4</sup> 64 FR 70868 (Dec. 17, 1999); 64 FR 47898 (Sept. 1, 1999).

<sup>5</sup> 65 FR 1825 (Jan. 12, 2000).