165. The average week for handler with less than five previous seasons of shipments shall be calculated by adding the total volume of shipments for the seasons they did ship red seedless grapefruit, divided by the number of seasons, divided further by 33. New handlers with no record of shipments could ship size 48 and 56 red seedless grapefruit as a percentage of total shipments equal to the percentage applied to other handlers' average week; once such handlers have recorded shipments, their average week shall be calculated as an average of total shipments for the weeks they have shipped red seedless grapefruit during the current season. When used in the regulation of red seedless grapefruit the term season means the weeks beginning the third Monday in September and ending the first Sunday in the following May. The term regulation period means the 11 weeks beginning the third Monday in September and ending the first Sunday in December of the current season.

(b) When a size limitation restricts the shipment of a portion of sizes 48 and 56 red seedless grapefruit during a particular week as provided in § 905.52, the committee shall compute the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by each handler by multiplying the handler's calculated average week shipments of such grapefruit by the percentage established by regulation for red seedless grapefruit for that week.

(c) The committee shall notify each handler of the quantity of size 48 and 56 red seedless grapefruit such handler may handle during a particular week.

(d) During any regulation week for which the Secretary has fixed the percentage of sizes 48 and 56 red seedless grapefruit, any person who has received an allotment may handle, in addition to their total allotment available, an amount of size 48 and 56 red seedless grapefruit up to 10 percent greater than their allotment. The quantity of the overshipment shall be deducted from the handler's allotment for the following week. Overshipments will not be allowed during week 11. If the handler fails to use his or her entire allotment, the undershipment is not carried forward to the following week.

(e) Any handler may transfer or loan any or all of their shipping allotment (excluding the overshipment allowance) of size 48 and 56 red seedless grapefruit to any other handler. Each handler party to such transfer or loan shall promptly notify the committee so the proper adjustment of records may be made. In each case, the committee shall confirm in writing all such transactions, prior to the following week, to the handlers involved. The committee may act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotments.

Dated: August 22, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–21960 Filed 8–27–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 998

[Docket No. FV96–998–3 PR]]

Domestically Produced Peanuts Handled by Persons Subject to Peanut Marketing Agreement No. 146; Changes in Terms and Conditions of Indemnification

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on modifying, for 1996 and subsequent crop peanuts, the indemnification program for signatory handlers under Peanut Marketing Agreement No. 146 (Agreement). The proposed rule would reduce indemnification payment coverage to certain costs involved with appeal and product claims. This would reduce the Peanut Administrative Committee's (Committee's) indemnification payments for losses incurred by signatory handlers in not being able to ship unwholesome peanuts for edible purposes from a ceiling of $7 million for each of the last two years, to about $2300,000. With the proposed reduction in indemnification claim payments, the Committee will have adequate funds in its indemnification reserve to cover costs. No handler assessments for indemnification would be necessary. This would reduce signatory handlers' costs, enabling them to be more competitive with non-signatory handlers, and importers. The changes were recommended by the Committee, the administrative agency which oversees the quality assurance program under the Agreement.

DATES: Comments must be received by September 12, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698. All comments should reference the docket number, 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.

FOR FURTHER INFORMATION CONTACT: 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; or 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) 229–4770, or Fax: (941) 299–5169. Small businesses may request information on compliance with this proposed regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 720–2491, or Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under Peanut Marketing Agreement No. 146 (7 CFR part 998). The program regulates the quality of domestically produced peanuts handled by Agreement signers. The 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 U.S. Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to apply to 1996 (beginning July 1, 1996) and subsequent crop year peanuts. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), 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. Marketing agreements and orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

About 32 signatory peanut handlers are subject to regulation under the

Agreement. There are about 47,000 peanut producers in the 16-State production area. Small agricultural service firms, which includes handlers, have been 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. Although approximately 25 percent of the signatory handlers may be classified as small entities, they are seed shellers who ship almost no peanuts to human consumption outlets. This proposal would have virtually no effect on them. A majority of the producers may be classified as small entities. Interested persons are invited to submit information on the regulatory impact of this proposed rule on small businesses.

Domestic peanut production in 1995 was 1.76 million tons, with a farm value of $1 billion.

The objective of the Agreement is to ensure that only high quality and wholesome peanuts enter human consumption markets in the United States. About 70 percent of domestic handlers, handling approximately 95 percent of the crop, have signed the Agreement.

Under the regulations, 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 tested and those certified ''positive'' as to aflatoxin must be diverted to non-edible uses. Handlers of such peanuts currently may be eligible to receive indemnification payments for losses incurred in not being able to ship the peanuts for edible uses. Costs to administer the Agreement and make indemnification payments are paid by assessments levied on signatory handlers.

The Committee, which is composed of producers and handlers of peanuts, meets at least annually to review the Agreement's rules and regulations, which are effective on a continuous basis from one year to the next. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews Committee recommendations and justifications, as well as information from other sources, to determine whether modification of the Agreement regulations would tend to effectuate the declared policy of the Act.

The Committee believes that the domestic peanut industry is undergoing a period of great change. The Committee endorses the findings in a recent study entitled ''United States Peanut Industry Revitalization Project'' developed by the National Peanut Council and the Department's Agricultural Research Service. According to the study, since 1991, the U.S. peanut industry has been in a period of dramatic economic decline because of (1) decreasing consumption of peanuts and peanut products, (2) decreasing U.S. peanut production and increasing production costs, and (3) increasing imports of peanuts and peanut products.

The study shows that peanut per capita consumption has steadily declined; between 1991 and 1994, a total of 11 percent. Harvested acres of peanuts in the U.S. have declined 25 percent between 1991 and 1995. Production has fluctuated downward, with 1995 production 30 percent below that of 1991. Farm value of peanut production has dropped 29 percent in the same period. Farmer production costs and revenue are projected to be equal by the year 2000, as are handler costs and revenue, which would leave no profit.

All of these factors combine to show that the domestic peanut industry is in decline and that the outlook is not expected to improve without affirmative actions taken by the industry. The Committee has been meeting for the past two years to develop major improvements and cut costs to its program and to the signatory handlers by streamlining handling procedures and making them consistent with current industry economies and technological developments.

Over the last several years, the Committee has been reducing the indemnification benefits. This reduction has made indemnification of failing peanuts a less viable economic option and has put more responsibility on each handler to decide whether it is economical to recondition a failing lot. Peanut processing machinery has improved through technological advances to the point that virtually any lot of peanuts, regardless of original (incoming) quality, can now be shelled, remilled and/or blanched (processed) to meet outgoing quality requirements established under the Agreement. The Committee concluded that handlers should bear more responsibility for reconditioning their own peanuts and in shipping quality peanuts to their customers, and that Committee and handler indemnification costs should be reduced.

The Committee met on May 23, 1996, and recommended a substantial reduction in indemnification coverage to reduce costs. Signatory handlers have indicated they would rather have the Committee eliminate the indemnification assessment currently collected from them than continue the current indemnification coverage. The Committee's indemnification payments for handler losses would decline from a record high net loss of $21.6 million for crop year 1990, and ceilings of $9 million for crop years 1991–1993 and $7 million for each of the last two years, to approximately $300,000. This would reduce signatory handlers' costs, enabling them to be more competitive with non-signatory peanut handlers, and importers.

The Committee currently pays claims based on the initial sampling of any peanut lot failing to meet aflatoxin requirements for human consumption before the peanuts are shipped from the handler's plant to the buyer, product and appeals claims. Payments are made for blanching fees and/or remilling fees, freight charges for moving the peanuts from one production area to another for marketing, and for losses for the rejected peanuts.

Under the modified program, on an ''appeal claim'' the Committee would pay only for freight costs from the handler's plant to the manufacturer and return from manufacturer to the destination requested by the handler (handler's plant, blancher, or remiller). ''Appeal claims'' involve lots of peanuts, which had been certified as meeting all quality requirements, prior to shipment, and then rejected by the buyer on the basis of appeal aflatoxin test results. The deadline for filing ''appeal'' indemnification claims with the Committee would remain November 1 following the end of the crop year. The Committee recommended that ''product claims'' continue to be handled as they have been in the past. That is, claims may be filed by any handler sustaining a loss as a result of a buyer withholding from human consumption a portion or all of the product made from a lot of peanuts which has been determined to be unwholesome due to aflatoxin. The Committee would indemnify the amount of the raw peanuts in the product at $0.35 per pound. The product is destroyed under the supervision of USDA's Processed Products Branch inspectors and the Committee pays these charges. The deadline for filing ''product claims'' remains November 1 of the second year following the year in which the peanuts were produced.

An estimated $2.0 to $2.5 million indemnification reserve (after all 1995 crop claims are paid) should be available to cover claims under the proposed program. With annual costs under the proposed program estimated

at $200,000 to $300,000, there is enough money in reserves to cover claims for about 10 crop years. Thus, handlers would not be required to pay indemnification assessments during that period. Indemnification assessments during the 1994 and 1995 crop years totalled approximately $3.4 million and $1.3 million (to date), respectively.

If the Committee had recommended maintaining the current coverage at the $7,000,000 ceiling, an indemnification assessment rate of about $4.00 per ton on the 1996 crop would have been necessary to finance the program. All signatory handlers, both large and small, would benefit from the substantially lower costs associated with the elimination of annual indemnification assessment obligations. This would enable handlers to be more competitive with non-signatory handlers and importers. Handlers who believe they may be adversely impacted by aflatoxin can obtain private insurance coverage against such losses.

Therefore, the AMS has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this proposed rule on small businesses.

To implement the reduced indemnification coverage, substantive changes to *§ 998.300 Terms and conditions of indemnification* are necessary. As a consequence, § 998.300 has been completely revised and reorganized, and is set forth below in its entirety. Handler application and Committee payment procedures for appeal and product claims remain the same.

The proposed changes to the signer indemnification program should be in effect as close to the beginning of the crop year as possible. The crop year began July 1, 1996. This leaves a very short time period in which to receive industry comments and evaluate the recommendations prior to issuing a final rule. Thus, a 15-day (rather than a 30-day) comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made in this matter.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), any information collection requirements that may be contained in this proposal have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0067. This proposal would likely result in less reports having to be filed, particularly because there would likely be less indemnification claims filed under the reduced program coverage.

The Committee also recommended numerous relaxations to the Agreement's incoming and outgoing quality regulations for 1996 and subsequent crop peanuts, which are being proposed in a separate rulemaking action.

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 proposed to be amended as follows:

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

Authority: 7 U.S.C. 601–674.

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

2. Section 998.300 is revised to read as follows:

§ 998.300 Terms and conditions of indemnification for 1996 and subsequent crop peanuts.

(a) For the purpose of paying indemnities on a uniform basis pursuant to § 998.36 of the peanut marketing agreement, each handler shall promptly notify or arrange for the buyer to notify the Manager, Peanut Administrative Committee, of any lot of cleaned inshell or shelled peanuts, milled into one of the categories listed in paragraph (a) of the *Outgoing quality regulation* (7 CFR 998.200) or paragraph (j) of this section, on which the buyer, including the user division of a handler, has withheld usage due to a finding as to aflatoxin content as shown by the results of further chemical assay, after shipment.

(b) To be eligible for indemnification, such a lot of peanuts shall have been inspected and certified as meeting the quality requirements for Indemnifiable Grades as specified in paragraph (a) of the *Outgoing quality regulation* (7 CFR 998.200), shall have met all other applicable regulations issued pursuant thereto, including the pretesting requirements in paragraphs (a) and (c) of the *Outgoing quality regulation* and the lot identification shall have been maintained. If the Committee concludes, based on further assays, that the lot is so high in aflatoxin that it should be handled pursuant to this section and such is concurred in by the Agricultural Marketing Service, the lot shall be accepted for indemnification.

(c) The indemnification payment shall be transportation expenses (excluding demurrage, loading and unloading charges, custom fees, border re-entry fees, etc.) from the handler's plant or storage to the point within the Continental United States or Canada where the rejection occurred and from such point to a delivery point specified by the Committee if the lot is found by the Committee to be unwholesome as to aflatoxin after such lot had been certified negative as to aflatoxin prior to being shipped or otherwise disposed of for human consumption by the handler pursuant to requirements of the *Outgoing quality regulation* (7 CFR 998.200).

(d) Claims for indemnification may be filed by any handler sustaining a loss as a result of a buyer withholding from human consumption a portion or all of the product made from a lot of peanuts which has been determined to be unwholesome due to aflatoxin. The Committee shall pay such claims as it determines to be valid, to the extent of the equivalent indemnification value applicable to the peanuts used in the product so withheld. On products manufactured from edible quality grades of peanuts, such claims may be filed with the committee no later than November 1 of the second year following the year in which the peanuts were produced.

(e) Notice of claims for indemnification on peanuts of the current crop year shall be received by the Committee (by mail or legible facsimile) no later than the close of the business day on November 1, following the end of the crop year. For the purpose of this paragraph, ''notice'' shall be defined as the covering (executed and signed) Form PAC–5, accompanied by a copy of the applicable valid grade inspection certificate and the lab certificate showing the aflatoxin assay results which caused the request for rejection.

(f) Each handler shall include, directly or by reference, in the handler's sales contract, the following provisions:

(1) Buyer shall give the Peanut Administrative Committee (Committee) office notice of any request made to the Federal or Federal-State Inspection Service for an ''appeal'' inspection for aflatoxin. Results of the ''appeal'' inspection will be reported by the Federal or Federal-State Inspection Service or other designated lab to Committee management. If the Committee management determines that the test results of the ''appeal'' sample show the lot to be high in aflatoxin, Committee management shall inform the buyer and handler of the results. In

this case, the buyer may apply to reject the lot and return it to the handler by filing a rejection letter with Committee management. Upon a determination of the Committee, confirmed by the Agricultural Marketing Service, authorizing rejection, such peanuts, and title thereto, if passed to the buyer, shall be returned to the seller. Buyer must return the rejected lot to the seller within 45 days of the date on which Committee management informs buyer of the ''appeal'' sample test results, otherwise the buyer agrees that he/she forfeits the right to reject the lot and return it to the seller.

(2) Seller shall, prior to shipment of a lot of shelled peanuts covered by this sales contract, cause appropriate samples to be drawn by the Federal or Federal-State Inspection Service from such lot, shall cause the sample(s) to be sent to a USDA laboratory or if designated by the buyer, a laboratory listed on the most recent Committee list of approved laboratories to conduct such assay, for an aflatoxin assay and cause the laboratory, if other than the buyer's to send one copy of the results of the assay to the buyer. A portion of the costs of aflatoxin sampling and testing, as provided in § 998.200(c)(3), shall be for the account of the buyer and the buyer agrees to pay such costs.

(g) Any handler who fails to include such provisions in his/her sales contract shall be ineligible for indemnification payments with respect to any claim filed with the Committee on current crop year peanuts covered by the sales contract.

(h)(1) Any handler who fails to conform to the requirements of paragraph (g) of the *Incoming quality regulation* (7 CFR 998.200) shall be ineligible for any indemnification payments until such condition or conditions are corrected to the satisfaction of the Committee.

(2) Any handler who fails to comply with the requirements of paragraph (h)(1) or (h)(2) of the *Outgoing quality regulation* (7 CFR 998.200) shall be ineligible for any indemnification payments until such non-compliance is corrected to the satisfaction of the Committee.

(i) Any handler who fails to cause positive lot identification on any lot of peanuts to accurately reflect the crop year in which such peanuts were produced, pursuant to paragraph (d) of the *Outgoing quality regulation* (7 CFR 998.200), shall be ineligible for any indemnification payments until such non-compliance is corrected to the satisfaction of the Committee.

(j) Categories of cleaned inshell peanuts eligible for indemnification are as follows:

(1) Cleaned inshell peanuts [1]

(i) U.S. Jumbos

(ii) U.S. Fancy Handpicks

(iii) Valencia-Roasting Stock [2]

(k) The indemnification value for peanuts indemnified shall be 35 cents per pound.

Dated: August 22, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–21959 Filed 8–27–96; 8:45 am]

BILLING CODE 3410–02–M

[1] Eligible lots of cleaned inshell peanuts which are found, after shipment, to contain excessive aflatoxin, may be rejected to the handler. Transportation expenses (excluding demurrage, loading and unloading charges, custom fees, border reentry fees, etc.) from the handler's plant or storage to the point within the Continental United States or Canada where the rejection occurred and from such point to a delivery point specified by the Committee shall be the extent of the indemnification payment.

[2] Inshell peanuts with not more than 25 percent having shells damaged by discoloration, which are cracked or broken, or both.

Rural Utilities Service

7 CFR Part 1755

RUS Standard for Acceptance Tests and Measurements of Telecommunications Plant

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to amend its regulations on Telecommunications Standards and Specifications for Materials, Equipment and Construction, by rescinding RUS Bulletin 345–63, RUS Standard for Acceptance Tests and Measurements of Telephone Plant, PC–4, and codifying the revised RUS Standard for Acceptance Tests and Measurements of Telecommunications Plant in the Code of Federal Regulations. The revised standard: Updates the acceptance tests and measurements for copper conductor telecommunications plant; includes a section on acceptance tests and measurements for fiber optic cable plant; includes a section on acceptance tests and measurements for voiceband data transmission; and includes a shield or armor ground resistance test to determine outer jacket cable damage.

DATES: Comments concerning this proposed rule must be received by RUS or postmarked no later than October 28, 1996.

ADDRESSES: Comments should be mailed to Orren E. Cameron III, Director, Telecommunications Standards Division, Rural Utilities Service, room 2835, STOP 1598, South Building, U.S. Department of Agriculture, Washington, DC 20250–1598. RUS requests an original and three copies of all comments (7 CFR part 1700). All comments received will be made available for public inspection at room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250–1598, between 8:00 a.m. and 4:00 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Charlie I. Harper, Jr., Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Utilities Service, room 2844, STOP 1598, South Building, U.S. Department of Agriculture, Washington, DC 20250–1598, telephone number (202) 720–0667.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in section 3 of that Executive Order.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule involves standards and specifications, which may increase the direct short-term costs to RUS borrowers. However, the long-term direct economic costs are reduced through greater durability and lower maintenance cost over time.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in the proposed rule were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control number 0572–0059.

Send questions or comments regarding this burden or any aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Support and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, Washington, DC 20250–1522, FAX: (202) 720–4120.