

# Rules and Regulations

Federal Register

Vol. 63, No. 51

Tuesday, March 17, 1998

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 999

[Docket No. FV97-999-1 FIR]

#### Specialty Crops; Import Regulations; Extension of Reporting Period for Peanuts Imported Under 1997 Import Quotas

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which removed the 23-day reporting requirement and established a new date for importers to report disposition of peanuts imported under 1997 peanut import quotas. This rule also finalizes the establishment of a 120-day reporting period for any peanuts imported in excess of the 1997 import quotas. The 23-day report period established in the import regulation is impractical given the volume of peanuts imported under January 1 and April 1 peanut import quotas. These changes are for the 1997 peanut quota periods only. This rule is deemed necessary by the Agricultural Marketing Service (AMS) to provide peanut importers with sufficient time to meet the quality and reporting requirements of the peanut import regulation.

**EFFECTIVE DATE:** April 16, 1998.

**FOR FURTHER INFORMATION CONTACT:** Tom Tichenor, Senior Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; tel: (202) 720-6862; fax (202) 720-5698. Small business may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order

Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This rule amends the peanut import regulation published in the June 19, 1996, issue of the **Federal Register** (61 FR 31306, 7 CFR Part 999.600), which regulates the quality of imported peanuts. An amendment to the regulation was issued December 31, 1996 (62 FR 1249, January 9, 1997). The import regulation is effective under subparagraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3), as amended November 28, 1990, and August 10, 1993, and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271). Those statutes provide that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR Part 998) (Agreement), issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

This rule has been determined not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the regulations, disposition of imported peanuts must be reported to AMS within an established time period. This rule changes that time period and is intended to apply to Mexican peanuts imported from January 1, 1997, to December 31, 1997, and to Argentine and "other country" peanuts imported from April 1, 1997, to March 31, 1998. 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.

This rule amends, for the 1997 peanut quota year, a provision in § 999.600 of the regulations governing imported peanuts (7 CFR part 999—Specialty Crops; Import Regulations). Section 999.600 establishes minimum quality, identification, certification, and safeguard requirements for foreign

produced farmers stock, shelled and cleaned-inshell peanuts presented for importation into the United States. The quality requirements are the same as those specified in § 998.100 Incoming quality regulation and § 998.200 Outgoing quality regulation of the Agreement.

The import regulation was finalized June 19, 1996 (61 FR 31306). At that time, three duty-free peanut quotas for 1996 had been filled and no peanuts were entered under duty for the remainder of 1996. Therefore, the peanut import regulation had its first practical application with the opening of the Mexican peanut quota on January 1, 1997.

Under the safeguard procedures, importers are required to report to AMS disposition of all imported peanuts. Paragraph (f)(3) of the regulations sets a 23-day period for filing certificates of inspection and aflatoxin testing. Sixty day extensions are possible, but requests for these must be filed within the 23-day reporting period. The reporting period and procedures for extension were established with the expectation that three duty-free quotas would fill gradually during the quota year. However, this did not occur. The Mexican quota of 8.1 million pounds closed approximately 4 weeks after the January 1, 1997 opening. The Argentine quota of 73.5 million pounds and the "other country" quota of 13.3 million pounds filled immediately at 12:00 noon on opening day, April 1, 1997. Importers' applications to enter peanuts under the Argentine and "other country" quotas greatly exceeded the quota volumes for these countries. After pro-rata distribution of those quotas (based on the total peanut volume in each importer's entry applications), the Customs Service set April 15 as the entry date for approximately 86.8 million pounds of peanuts under the two quotas.

Because of the large volume of peanuts simultaneously released on April 15, 1997, importers have been unable to meet the 23-day reporting deadline for many of their imported lots. Obstacles to expedient certification of such large volumes of imported peanuts included: (1) Logistics of moving containers out of some congested port areas and into storage; (2) arranging for sampling and inspection, and receiving certifications;

and (3) arranging for and transporting failing lots to facilities for reconditioning and recertification.

Therefore, this rule finalizes establishment of the new reporting date of November 1, 1997, for reporting disposition of all peanuts entered under the 1997 import quotas. It also provides for an extension of the reporting period beyond November 1. Requests for extensions must be made in writing and include the Customs Service entry number, container and lot information for the unreported peanut lot(s), and the reason for delay in meeting the November 1 reporting date. AMS will evaluate each request on a case-by-case basis.

Peanuts may continue to be imported into the United States after the import quotas are closed (with payment of tariff charges). Therefore, this rule also provides that disposition of any peanuts imported after the 1997 import quotas close must be reported within 120 days after the peanuts are entered by the Customs Service.

As a compliance measure, paragraph (f)(4) provided that the Secretary would ask the Customs Service to demand redelivery of peanut lots not reported as meeting the requirements of the import regulation. Because this rule extends the reporting period beyond the Customs Service 30-day redelivery demand period, the first three sentences in paragraph (f)(4) are not applicable for peanuts entered under the three 1997 import quotas. Those sentences are therefore removed in this rulemaking. The remainder of paragraph (4) regarding failure to comply with the import regulation and falsification of reports is retained.

These changes do not affect the stamp-and-fax procedure established in paragraph (f)(1) of the safeguard provisions. That procedure ensures notification of the Federal or Federal-State Inspection Service of applications to import peanuts. This rule also does not change the safeguard requirement that all imported lots must be reported. Pursuant to paragraph (f)(1), all imported peanuts must be reported to AMS—including those peanut lots that meet import requirements. Paragraph (f)(2) provides that the quality and aflatoxin certifications and other documentation must be sent by regular mail to: Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, D.C. 20090-6456, "Attention: Report of Imported Peanuts." Overnight or express mail reports may be sent to Marketing Order Administration Branch, F&V, AMS, USDA, 14th and Independence Avenue,

S.W. Room 2525-S, Washington, D.C. 20250, "Attention: Report of Imported Peanuts."

Pursuant to 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. Accordingly, AMS has prepared this final regulatory flexibility analysis relevant to this rulemaking.

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. AMS records for 1997 show that approximately ten importers of peanuts were large handlers of domestically grown peanuts and six were importers of general food commodities, some of whom may be small entities. Small agricultural service firms, which include importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5 million. Although small business entities may be engaged in the importation of peanuts, the majority of the importers are large business entities.

This rule extends for the 1997 quota periods only the time period for importers to meet import requirements for each lot of imported peanuts and file reports on the disposition of those peanuts. The reporting requirements are an integral part of the safeguard procedures specified in the import regulation, which is required by statute. The requirements are applied uniformly to small as well as large importers.

The previous reporting time period was 23 days. The new reporting time period ended on November 1, 1997. This change represents an increase, depending on date of entry of a peanut lot, of up to 280 days for Mexican peanut imports (entered on January 1) and 175 days for Argentine and "other country" peanuts (all of which were entered on April 15). The rule also extends the reporting period for all other peanut entries during the 1997 quota year from 23 days to 120 days. The additional time to meet requirements enabled importers to more efficiently manage movement and disposition of their imported peanuts.

It is not possible to estimate cost savings that might result from any increased efficiency of operations because of this action. Extension requests, when properly requested, already have been granted by AMS. The rule will benefit importers of large quantities of peanuts by relieving the time pressure to have multiple lots certified, and many lots reconditioned,

within a very short time period. The rule also will benefit small importers who do not have peanut handling resources and must contract with remillers and blanchers to recondition failing peanut lots. Records indicate that some importers, including small importers, are outside the domestic peanut production area, and must transport failing lots long distances for reconditioning.

Alternative reporting time periods were considered by AMS. For the purposes of clarity, AMS believes that a single date, applicable to all 1997 entries under the quota is less confusing than 60 or 90 days from the release date of a peanut lot by the Customs Service. Sixty days are considered too short, as some peanut lots entered on April 15 are being inspected for the first time more than two months later. Also, necessary reconditioning efforts, with appropriate sampling and re-inspections after each attempt may take longer than 60 days. Extensions may be requested for individual lots not certified by the end of their applicable reporting period.

AMS is not aware of any peanuts imported after the 1997 quotas were filled. However, any such imports would have been handled in a more routine manner and normal pace than when the great volumes were released simultaneously on quota opening days. Thus, the 120-day requirement for any peanuts imported after the quotas are filled is deemed reasonable by AMS.

For these reasons, AMS has determined that this action will be beneficial to all importers, both large and small.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) as amended in 1995, the information collection requirement contained in this rule was approved by the Office of Management and Budget (OMB) on September 3, 1996, and assigned OMB number 0581-0176. This rule does not establish new reporting or recordkeeping requirements. The current annual reporting burden for importers is estimated at 12 hours. Those affected by this rule have already reported entries and requested extensions of deadlines for reporting peanuts entered under the 1997 import quotas. Further, because no additional 1997 peanut imports are expected, there should be no need to file additional reports other than the final report of all entries, which is included in the approved 12 hour reporting burden.

Paragraph (f)(3) of the rule is revised for the 1997 import periods only. All certificates and other documents reporting the disposition of passing, as well as failing and reconditioned,

peanut lots must be reported to AMS by November 1, 1997. This reporting date applies to only AMS' peanut import regulation and does not supersede other reporting dates for those peanuts that may be established by the Customs Service or other agencies. For peanuts imported after the quotas are filled, this rule extends the reporting period from 23 to 120 days, thus, reducing or eliminating the burden of requesting an extension of the reporting period.

An interim final rule concerning this action was issued by the Department on September 19, 1997, and published in the **Federal Register** on September 25, 1997. Copies were mailed by AMS to all known peanut importers, exporters, customs brokers and appropriate embassies. That rule provided for a 30-day comment period which ended October 27, 1997. Three comments were received.

One comment was received from the executive director of the Peanut Shellers Association of America, which stated that its members handle approximately 65 percent of the peanuts used in the United States. The Association supports the interim final rule extending the deadline for importers to report compliance with the peanut import regulation. The commenter also stated that some of the Association members request that AMS collect needed information from its inspection service and chemical laboratories. This request will be reviewed and considered for further rulemaking, if appropriate. It will be addressed in a subsequent proposed rulemaking for 1998 peanut imports.

A second comment was received from a major peanut importing company, which also is a handler of domestically produced peanuts. The commenter supports extension of the reporting period.

The final comment was received from a regional peanut growers cooperative. The commenter agreed that the single reporting date of November 1 is better than the original regulation's date of 30 days after entry of a peanut shipment. The comment, however, disagreed that extensions should be granted to those importers who were unable to meet the November 1 deadline. It was necessary to provide for such extensions in order to allow peanut importers sufficient time to meet the quality and reporting requirements for 1997 peanut imports. Also, because of the volume of certifications being filed simultaneously by approximately 30 importers, AMS needs time to review filed documents and complete reviews of each importers peanut entries.

Based on the comments received, no changes will be made to the interim final rule as published.

The action is a relaxation of the reporting time period which benefits peanut importers who are experiencing difficulty meeting the established reporting time period requirements.

After consideration of all relevant material presented, including the necessity by AMS to provide peanut importers sufficient time to meet the quality and reporting requirements of the peanut import regulation, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (62 FR 50241, September 25, 1997) will tend to effectuate the declared policy of the Act.

#### **List of Subjects in 7 CFR Part 999**

Dates, Food grades and standards, Hazelnuts, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR Part 999 is amended as follows:

#### **PART 999—SPECIALTY CROPS; IMPORT REGULATIONS**

Accordingly, the interim final rule amending 7 CFR Part 999.600 which was published at 62 FR 50241 on September 25, 1997, is adopted as a final rule without change.

Dated: March 9, 1998.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 98-6772 Filed 3-16-98; 8:45 am]

BILLING CODE 3410-02-P

#### **DEPARTMENT OF JUSTICE**

#### **Immigration and Naturalization Service**

**8 CFR Parts 103, 204, 208, 209, 244, 245, 264, 299, 316, 332, and 335**

[INS No. 1891-97]

RIN 1115-AF03

#### **Fingerprinting Applicants and Petitioners for Immigration Benefits; Establishing a Fee for Fingerprinting by the Service; Requiring Completion of Criminal Background Checks Before Final Adjudication of Naturalization Applications**

**AGENCY:** Immigration and Naturalization Service, Justice.

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

**SUMMARY:** This rule amends the Immigration and Naturalization Service

(Service) regulations relating to fingerprinting applicants and petitioners for benefits under the Immigration and Nationality Act (Act). This rule implements certain provisions of the Department of Justice Appropriations Act, 1988, which prohibit the Service from accepting fingerprint cards (Form FD-258) for the purpose of conducting criminal background checks on applicants and petitioners for immigration benefits prepared by any individual or entity other than the Service, a registered State or local law enforcement agency, a United States consular office at a United States embassy or consulate, or a United States military installation abroad. The rule also announces the termination of the Designated Fingerprinting Services (DFS) certification program. In addition, this rule establishes a \$25 service fee for fingerprinting by the Service, and requires Service receipt of a definitive response from the Federal Bureau of Investigation (FBI) before final adjudication of a naturalization application.

#### **DATES:**

*Effective date:* This interim rule is effective March 29, 1998.

*Comment date:* Written comments must be submitted on or before May 18, 1998.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please refer to INS No. 1891-97 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Ann Palmer or Thomas E. Cook, Office of Naturalization Operations, Immigration and Naturalization Service, 801 I Street, NW., Room 935, Washington, DC 20536, telephone (202) 305-0539.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

##### *1. What is the Designated Fingerprinting Services (DFS) Program?*

The Designated Fingerprinting Services (DFS) program allowed qualified individuals, businesses, and law enforcement agencies to apply to the Service for certification as a DFS entity to provide fingerprinting services to applicants and petitioners for immigration benefits. The primary purposes of the program were to facilitate the processing of applications