persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 10, 1999, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and speciality crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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 rule until 30 days after publication in the **Federal Register** because: (1) The 1999–2000 marketing year began on August 1, 1999, and the order requires that the rate of assessment for each marketing year apply to all assessable walnuts handled during such marketing year; (2) this action decreases the assessment rate for assessable walnuts beginning with the 1999–2000 marketing year; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 984.347 is revised to read as follows:

§ 984.347 Assessment rate.

On and after August 1, 1999, an assessment rate of $0.0118 per kernelweight pound is established for California merchantable walnuts.

Dated: October 12, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–27133 Filed 10–15–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 997, 998, and 999

[Docket Nos. FV99–997–2 IFR, FV99–998–1 IFR, and FV99–999–1 IFR]

Domestically Produced and Imported Peanuts; Change in the Maximum Percentage of Foreign Material Allowed Under Quality Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule changes the outgoing quality control requirements currently prescribed under Marketing Agreement No. 146 (Agreement). The Agreement regulates the handling of peanuts grown in 16 States and is administered locally by the Peanut Administrative Committee (Committee). This rule relaxes the allowance for foreign material to .20 percent from .10 percent in the three ''with splits'' edible grade categories to make them consistent with the other seven edible grade categories, as unanimously recommended by the Committee. The same change applies to peanuts handled by handlers who have not signed the Agreement, and to imported peanuts.

DATES: Effective October 21, 1999; comments received by December 17, 1999 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 to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, PO Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket numbers and 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, DC Marketing Field Office, or George Kelhart, Technical Advisor, both of the Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, PO Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation from Jay Guerber, at the same address as above, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 146 (Agreement) (7 CFR part 998), regulating the handling of peanuts grown in 16 States. The Agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (Act) (7 U.S.C. 601–674). Also, subparagraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c3) and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) provide that the Secretary of Agriculture shall require that all peanuts in the domestic and export markets fully comply with all quality requirements under the Agreement. This has been implemented through regulations governing peanuts handled by persons not subject to the Agreement (non-signers program) (7 CFR part 997) and regulations governing imports of peanuts (peanut import regulation) (7 CFR part 999). Thus, the Agreement and the non-signers regulations regulate the quality of domestically produced peanuts and the peanut import regulations regulate the quality of imported peanuts.

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

This rule has been reviewed under Executive Order 12988, 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.

The outgoing quality requirements under the Agreement were changed in August 1998, as unanimously recommended by the Peanut Administrative Committee (Committee). The Committee is responsible for local administration of Marketing Agreement No. 146's quality assurance program in the 16-State peanut production area. The four basic varieties of peanuts produced domestically are: Runners, which account for about 75 percent of total U.S. production; Virginias, which have the largest kernels; Spanish, which have smaller kernels but higher oil content; and Valencias, which are very sweet and are grown mostly in New Mexico. Each of the grades may be certified ''with splits'' (where the two halves have come apart) provided all applicable quality requirements are met. A Sound Split and Broken Kernels tolerance of 15 percent is allowed, of which not more than 3 percent will pass thru a prescribed screen.

At its April 30, 1997, meeting the Committee unanimously recommended that for the 1997 and subsequent crop years the outgoing quality regulation and the terms and conditions of indemnification be amended to provide that all lots of edible quality peanuts be eligible for indemnification. This recommendation was adopted. Prior to 1997 only edible quality peanuts meeting specifications applicable to indemnifiable grades were eligible for indemnification. Basically, this indemnification program insured that if a handler's milled peanuts had meet the Agreement's requirements when shipped but were later found to be out of compliance, the Committee would provide reimbursement to the handler for those peanuts if a valid claim was submitted.

This modification to § 998.200 (a) of the Agreement removed Table (2) INDEMNIFIABLE GRADES from the Agreement (63 FR 2846; January 16, 1998). The modification inadvertently eliminated the specifications applicable to all nine of the INDEMNIFIABLE GRADE CATEGORIES. The Committee's intent was to cause all edible grade categories of peanuts to be eligible for indemnification benefits, not to eliminate any grade specifications. The Committee therefore unanimously recommended incorporating the last three categories of Table 2—Runner with splits, Virginia with splits, and Spanish and Valencia with splits—into Table 1 which had been retained in § 998.200. That recommendation was finalized and published in the August 23, 1998, issue of the **Federal Register** (63 FR 41323).

However, at that time, the Committee inadvertently did not include a request for modification of the tolerance for foreign material in the three categories which were moved. The foreign material allowance in the three moved categories was .10 percent in the old Table 2. Therefore, these three moved categories where not consistent with the foreign material allowance of the other seven edible peanut categories already listed in the MAXIMUM LIMITATIONS table in § 998.200 of the Agreement. Retaining different allowances would only cause confusion in the industry. Therefore, in order to eliminate any confusion and correct the situation, the Committee unanimously recommended at its March 18, 1999, public meeting to request an increase in the allowance for the three ''with splits'' categories to .20 percent. This would make all 10 edible peanut categories consistent. This rule implements that recommendation.

The Agricultural Act of 1949 and the Federal Agriculture Improvement and Reform Act of 1996 provide that the Secretary of Agriculture shall require that all peanuts in the domestic and export markets fully comply with all quality requirements under the Agreement. Thus, this action applies to Agreement signer and non-signer handlers, and peanut importers for the remainder of the crop year ending June 30, 2000, and subsequent crop years.

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. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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 36 peanut handlers and 15 importers who are subject to regulation under the Agreement, the non-signers program, or the peanut import regulation, and approximately 23,000 commercial peanut producers in the 16-State production area. Small agricultural service firms, which include handlers and importers, 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 are defined as those having annual receipts of less than $500,000. Approximately 25 percent of the signatory handlers, less than one-third of the importers, virtually all of the non-signer handlers, and most of the producers may be classified as small entities. In addition, based on the 1998 marketing year average price received by farmers of 25.5¢ per pound times approximately 3.96 billion pounds production results in the value of domestic production totaled about $1.01 billion. Dividing this by approximately 23,000 producers results in an average annual producer revenue of approximately $44,000. Regarding peanut importers, approximately 15 business entities imported peanuts during the 1998 import quota period beginning January 1, 1998, for Mexico, and April 1, 1998, for Argentina and ''other countries'' and both ending 12 months later. They appear to cover a broad range of business entities, including fresh and processed food handlers, and both large and small commodity brokers who buy agricultural products on behalf of others. The majority of peanut importers are believed to be large business entities with annual receipts of over $5,000,000. AMS is not aware of any peanut producers (farmers) who imported peanuts during that quota period. In view of the foregoing, it can be concluded that the majority of peanut handlers, and producers may be classified as small entities, but not the importers.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule changes the outgoing quality regulation by increasing the allowance for foreign material in the three edible categories of peanuts ''with splits'' to .20 percent from .10 percent, to make the allowance for all 10 edible grade categories consistent. The three edible categories are Runner with splits, Virginia with splits, and Spanish and Valencia with splits.

The Agricultural Act of 1949 and the Federal Agriculture Improvement and Reform Act of 1996 provide that the Secretary of Agriculture shall require that all peanuts in the domestic and export markets fully comply with all quality requirements under the Agreement. Thus, this action applies to Agreement signer and non-signer handlers, and peanut importers for the

remainder of the crop year ending June 30, 2000, and subsequent crop years.

The Committee discussed alternatives to this rule, including making no change, but unanimously concluded that such alternatives would not be in the best interests of the industry.

This action relaxes the outgoing quality regulations imposed on all domestic peanut handlers and importers. It is applied uniformly on all peanut handlers and importers, and should tend to reduce their costs slightly since less lots will likely have to be remilled to meet outgoing quality requirements. Also, this relaxation may slightly reduce any reporting and recordkeeping burden on regulated persons. As with all Federal marketing agreement and order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meetings were widely publicized throughout the peanut industry and all interested persons were invited to attend the meetings and participate in deliberations on all issues. Like all Committee meetings, the February 2, 1999, and March 18, 1999, meetings were public meetings and all entities, both large and small, were able to express views on this issue. The Committee itself consists of 18 members of whom 9 represent handlers and 9 represent producers. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

After consideration of all relevant material presented, including the information and recommendation 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.

This rule invites comments on a change to the outgoing quality control requirements currently prescribed under the Agreement, the Non-signers Program and the Import Regulation. Any comments received will be considered prior to finalization of this rule.

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 the foreign material allowance for the three ''with splits'' categories of peanuts; (2) harvesting of the 1999–2000 crop year domestic peanuts is already underway and the rule should cover as much of the remainder of the crop year ending June 30, 2000, as possible; (3) all peanuts in the domestic and export markets must fully comply with all quality requirements under the Agreement; (4) the changes need to be effective before the 2000 Mexican peanut import quota opens January 3, 2000, so that all peanut importers are treated equally during 2000, as required by international trade agreements; (5) many signatory handlers, importers, and others in the industry are aware of this action, which was unanimously recommended by the Committee at a public meeting and interested parties had an opportunity to provide input; and (6) this interim final rule provides a 60-day comment period, and all written 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.

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 parts 997, 998, and 999 are amended as follows:

1. The authority citation for 7 CFR parts 997, 998, and 999 continues to read as follows:

Authority: 7 U.S.C. 601–674, 7 U.S.C. 1445c–3, and 7 U.S.C. 7271.

PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO MARKETING AGREEMENT NO. 146

2. In § 997.30, the ''MAXIMUM LIMITATIONS'' table is amended in the first column ''Type and grade category'', for the entries ''Runner with splits * * *'', ''Virginia with splits * * *'', and ''Spanish and Valencia with splits'' * * *, in the seventh column ''Foreign materials (percent)'', by removing the number ''.10'' and adding ''.20'' in its place.

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

3. In § 998.200, the ''MAXIMUM LIMITATIONS'' table is amended in the first column, ''Type and grade category'', for the entries ''Runner with splits * * *'', ''Virginia with splits * * *'', and ''Spanish and Valencia with splits'' * * *, in the seventh column ''Foreign materials (percent)'', by removing the number ''.10'' and adding ''.20'' in its place.

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

4. In § 999.600, the ''MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION'' table is amended in the first column, ''Type and grade category'', for the entries ''Runner with splits * * *'', ''Virginia with splits * * *'', and ''Spanish and Valencia with splits'' * * *, in the seventh column ''Foreign materials'' by removing the number ''.10%'' and adding ''.20%'' in its place.

Dated: October 12, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–27134 Filed 10–15–99; 8:45 am]

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DEPARTMENT OF JUSTICE

8 CFR Part 3

[EOIR No. 122F; AG Order No. 2263–99]

RIN 1125–AA22

Executive Office for Immigration Review; Board of Immigration Appeals: Streamlining

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule establishes a streamlined appellate review procedure for the Board of Immigration Appeals. The final rule responds to an enormous and unprecedented increase in the caseload of the Board. The rule recognizes that in a significant number of appeals and motions filed with the Board, a single appellate adjudicator can reliably determine that the result reached by the adjudicator below is correct and should not be changed on appeal. In these cases, the rule authorizes a single permanent Board Member to review the record and affirm