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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### 7 CFR Part 729

RIN 0560-AE45

#### 1996-Crop Peanuts Amended National Poundage Quota

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

**ACTION:** Final rule.

**SUMMARY:** This document affirms the announcement by the Secretary of Agriculture on April 17, 1996, of the basic national peanut quota for the 1996 crop of 1,100,000 short tons. The April 17 announcement was issued after new legislation and amended an earlier announcement of the quota. The new legislation eliminated the floor on the national quota and separated seed use from the establishment of the basic quota. This document amends the regulations which were published on July 16, 1996.

**EFFECTIVE DATE:** April 17, 1996.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Robison, Farm Service Agency (FSA), United States Department of Agriculture (USDA), STOP 0514, P.O. Box 2415, Washington, DC, 20013-2415, telephone 202-720-9255.

**SUPPLEMENTARY INFORMATION:**

Executive Order 12866

This final rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

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 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

#### Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because 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 matter of this rule.

#### Paperwork Reduction Act

Information collection requirements pertaining to poundage quotas and marketing of peanuts have previously been approved by the Office of Management and Budget (OMB) and assigned OMB number 0560-0006 under the provisions of the Paperwork Reduction Act of 1995.

The amendments to 7 CFR part 729 set forth in this final rule do not change the information collection requirements previously approved.

On December 6, 1995, the Secretary announced a preliminary national quota for the 1996 crop of peanuts under existing provisions of the Agricultural Adjustment Act of 1938 (1938 Act). The Secretary also announced that a referendum would be held on December 11-14 to determine, as provided for in the 1938 Act, whether a quota would be in effect for the 1996 crop. Ninety-seven percent of the voting producers voted for the quota, thereby approving a quota. The Secretary, thereafter, announced the quota level under existing provisions of the 1938 Act. That announcement was amended on April 17, 1996, based on provisions in the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act). Effective with the 1996 crop, the 1996 amendments eliminated the quota floor and separated seed use from other quota uses. Section 358-1(a) (1) of the 1938 Act, as now amended, requires that the Secretary set a basic national quota for peanuts for the 1996 through 2002 marketing years (MY's) 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) and related uses. As to seed, section 358-1(b)(2)(B) provides that a temporary allocation of

quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years and that the temporary seed quota allocation shall be equal to the pounds of seed peanuts planted on the farm as may be adjusted and determined under regulations prescribed by the Secretary. Regulations implementing the quota amendments to the 1938 Act were published in the Federal Register on July 16, 1996 (61 FR 36997). Because of the onset of the production year it was necessary to make the amended quota effective immediately. Further, under section 162 of the 1996 Act, provision was made by Congress for immediate implementation of 1996 commodity program amendments without advance notice and comment. The December announcement proposed a quota of 1,215,000 tons which included an estimate of about 100,000 for expected seed use. In the April 17 notice, the basic 358-1 (a) quota amount (which excludes the 358-1 (b) "seed" quota) was set by the Secretary at 1,100,000 tons, based on the following data:

The national poundage quota for the MY for the 1996 crop was established at 1,100,000 tons, based on the following data:

#### ESTIMATED DOMESTIC EDIBLE, AND RELATED USES FOR 1996-CROP PEANUTS

Item	Farmer stock equivalent (short tons)
Domestic Edible Use:	
Domestic food use .....	903,000
On-farm and local sales .....	9,000
Related Uses:	
Crushing residual .....	123,000
Shrinkage and other losses .....	36,000
Segregation 2 and 3 loan:	
Transfers to quota loan .....	5,000
Underproduction .....	24,000
<b>Total .....</b>	<b>1,100,000</b>

Estimates of domestic production for domestic food use peanuts are developed in two steps. First, the farmer stock equivalent of peanuts for edible food use is projected by USDA's Interagency Commodity Estimates Committee (ICEC). Secondly, the ICEC food use estimate is reduced by the amount of peanut butter exports, edible

peanut imports, and peanut butter imports. This is because the ICEC food use estimate is an aggregate which includes peanut product exports and is derived from total supply that includes imports of peanuts and peanut butter. Peanut product exports are in most instances made from, or otherwise credited under Section 358(e)(1) of the 1938 Act as being made from, additional peanuts.

*Farm use and local sales* are estimated at 1 percent of ICEC's production estimate. This percentage reflects the average difference between USDA production estimates and inspection data. However, only about one half of the amount is included in the quota determination because of farmer held peanuts used for seed.

The *crushing residual* is the portion of farmer stock quota peanuts suitable only for the crushing market. The quota must be sufficient to provide for the shelling of both edible and crushing grades. Therefore, a crushing residual representing the farmer stock equivalent weight of crushing grade kernels shelled from quota peanuts is included under the "related uses" category. The crushing residual is estimated under the assumption that crushing peanuts will be approximately 12 percent, on a farmer stock basis, of total domestic food and seed production.

*Shrinkage and other losses* is an estimate of reduced kernel weight available for marketing as well as for kernel losses due to damage, fire, and spillage. These losses were estimated by multiplying a factor of 0.04 times domestic food use. The utilized factor is an FSA estimate equal to the minimum allowable shrinkage used in calculating a handler's obligation to export or crush additional peanuts as set forth in Section 358e(d)(2)(iv) of the 1938 Act. Excessive moisture and weight loss due to foreign material in delivered farmer stock peanuts were not considered since such factors are accounted for at buying points and do not impact quota marketing tonnage.

*Segregation 2 and 3 loan transfers to quota loan* represent transfers of Segregation 2 and 3 peanuts from additional price support loan pools to quota loan pools. Such transfers occur when quota peanut producers have insufficient Segregation 1 peanuts to fill their quotas yet have Segregation 2 and 3 peanuts in additional loan pools which would have been eligible to be pledged as collateral for price support at the quota loan rate, if it were not for quality problems. In such cases, for price support purposes only, these peanuts may be pledged as collateral for

price support loans at a discounted quota loan rate.

In addition, an allowance has been made for underproduction because the 1996 quota amendments also ended the ability of producers to carry forward undermarketings as a supplement to their current quotas. The allowance takes into account normal undermarketings. Also, it takes into account that the change in law should reduce the amount of undermarketings by eliminating the compensatory quota increase formerly available to individual producers.

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

Poundage quotas, Peanuts, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 729 is amended 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; 7 U.S.C. 1445c-3.

#### **§ 729.216 [Amended]**

2. Section 729.216(a) is amended by adding after the words "and related uses" the words: "as may be set out in paragraph (c) of this section."

3. Section 729.216 is amended further by adding paragraph (c) to read as follows:

#### **§ 729.216 National poundage quota.**

\* \* \* \* \*

(c) *Quota determination for individual marketing years.* The basic national poundage quota for peanuts for marketing year 1996, exclusive of the temporary quota allocation for seed use provided for in section 358-1 (b) of the Act, is 1,100,000 short tons.

Signed at Washington, DC, on November 15, 1996.

Bruce R. Weber,

*Acting Administrator, Farm Service Agency.*

[FR Doc. 96-30087 Filed 11-27-96; 8:45 am]

BILLING CODE 3410-05-P

#### **Agricultural Marketing Service**

#### **7 CFR Part 966**

[Docket No. FV96-966-1 IFR]

#### **Tomatoes Grown in Florida; Assessment Rate**

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

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

**SUMMARY:** This interim final rule establishes an assessment rate for the

Florida Tomato Committee (Committee) under Marketing Order No. 966 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of tomatoes grown in Florida. Authorization to assess Florida tomato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

**DATES:** Effective on August 1, 1996. Comments received by December 30, 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 2525-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:** Doris Jamieson, Marketing Assistant, 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, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202-720-9918; FAX 202-720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone 202-720-2491; FAX 202-720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the "order." The order 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 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. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to