

otherwise disposed of. For the purpose of this regulation, “positive lot identification” of a lot of shelled or inshell peanuts is a means of relating the inspection certificate to the lot which has been inspected so that there can be no doubt that the peanuts are the same ones described on the inspection certificate. The crop year that is shown on the positive lot identification tags, or other means of positive lot identification shall accurately describe the crop year in which the peanuts in the lot were produced. Such procedure on bagged peanuts shall consist of attaching a lot numbered tag bearing the official stamp of the Federal or Federal-State Inspection Service to each filled bag in the lot. The tag shall be sewed (machine sewed if shelled peanuts) into the closure of the bag except that in plastic bags the tag shall be inserted prior to sealing so that the official stamp is visible. Any peanuts moved in bulk or bulk bins shall have their lot identity maintained by sealing the conveyance and if in other containers by other means acceptable to the Federal or Federal-State Inspection Service. All lots of shelled or cleaned inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures, except those lots which have been reconstituted and/or commingled at the request of the receiver. All such reconstituted and/or commingled lots will no longer be considered positive lot identified and, therefore, no longer be eligible for appeal inspection. Handler shall keep and maintain records of the quantities involved in each reconstituting and/or commingling procedure, whether in single or multiple lots, and such records shall be available to the Division on request.

(e) *Reinspection.* Whenever the Division has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Division may reject the then effective inspection certificate and may require the owner of the peanuts to have a reinspection to establish whether or not such peanuts may be disposed of for human consumption.

(f) *Transfer between plants.* Handlers may transfer peanuts to any handler or to domestic commercial storage with-

out having such peanuts positive lot identified and certified as meeting quality requirements. Prior to any subsequent disposition to human consumption outlets, such peanuts shall meet all quality requirements applicable for such disposition.

(g) *Residuals from seed peanuts.* Handlers who receive and custom shell for seed purposes farmers’ stock peanuts (which have not been inspected and certified as meeting the requirements §997.20), shall hold and mill peanuts acquired as residuals from such operations separate and apart from peanuts acquired as Segregation 1 farmers’ stock. Likewise, any such residuals received or acquired from a handler, a handler as defined in 7 CFR 998.8 or non-handler shall be held and milled separate and apart in the same manner. Residuals that meet requirements of §997.30(a) may be disposed of by sale to human consumption outlets, to another handler or a handler as defined in 7 CFR 998.8 and any portion in positive identified lots not meeting such requirements shall be handled and disposed of pursuant to the provisions of §997.40 as hereinafter set forth.

[55 FR 49983, Dec. 4, 1990; 55 FR 51798, Dec. 17, 1990, as amended at 56 FR 55990, Oct. 31, 1991; 58 FR 34864, June 30, 1993; 60 FR 50086, 50087, Sept. 28, 1995]

**§997.40 Reconditioning and disposition of peanuts failing quality requirements.**

(a) *Further processing of shelled peanuts failing quality requirements.* (1) Handlers may remill, move to a custom remiller, or sell to or contract with another handler, or handler as defined in 7 CFR 998.8, for remilling or further handling, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements of §997.30(a). Transactions made in this manner shall be reported to the Department by both the buyer and seller on Form FV-117-4 provided by the Department. If, after further handling, such peanuts meeting the requirements of §997.30(a) may be disposed of for human consumption. Such peanuts which still do not meet quality requirements of §997.30(a) may be blanched as provided in paragraph (a)(2) of this section or disposed of and such disposition

reported as provided in paragraph (b) of this section.

(2) Handlers may blanch, or cause to have blanched, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for human consumption specified in §997.30(a) because of excessive damage, minor defects, moisture, or foreign material or are positive to aflatoxin. Handlers may sell such peanuts to another handler, or to a handler as defined in 7 CFR 998.8, for blanching or further handling. To be eligible for disposal into human consumption outlets, such peanuts after blanching, must meet the specifications for unshelled peanuts, damaged kernels, minor defects, moisture and foreign material as listed in §997.30(a) and be accompanied by a negative aflatoxin certificate. If such peanuts do not meet the requirements of §997.30(a) they shall be disposed of and such disposition reported as provided in paragraph (b) of this section.

(3) The title of peanuts moved for custom remilling or blanching shall be retained by the handler until the peanuts have been remilled or blanched and certified by the Federal or Federal-State Inspection Service as meeting the requirements for disposition to human consumption outlets specified in §997.30(a). Movement of peanuts which fail to meet the quality requirements specified in §997.30 for remilling and/or blanching shall be reported on Form FV-117-4 "Report of Movement to Blancher or Remiller—For Blanching or Custom Remilling"—Peanuts Failing Edible Quality Requirements".

(4) The residual peanuts resulting from remilling shall be bagged and red-tagged and disposed of to domestic crushing by the remiller or returned to the handler for disposition as restricted as provided in paragraph (b)(3) of this section. The residual peanuts, excluding skins and hearts, resulting from blanching, shall be bagged and red tagged and returned to the handler for disposition as provided in paragraph (b)(3) of this section; or in the alternative, if such residuals are positive lot identified by a Federal or Federal-State Inspection Service, they may be disposed of by the blancher to domestic crushing or exported to countries other than Canada or Mexico, provided they

meet fragmented requirements and are marked "Non-edible quality".

(b) *Disposition of shelled peanuts failing quality requirements for human consumption.* (1) Handlers may dispose of positive lot identified shelled peanuts (which originated from Segregation 1 peanuts) which fail to meet the requirements for human consumption specified in §997.30(a) and positive identified lots of loose shelled kernels, fall through and pickouts which have been certified "negative" as to aflatoxin content as unrestricted:

(i) To domestic crushing or to other handlers, or a handler as defined in 7 CFR 998.8, for crushing or fragmenting and exportation (such disposition shall be reported on Form FV-117-5 "Handlers Report of Dispositions of Non-Edible Quality Shelled Peanuts to Crusher or Fragmenter or Dyeing Processor");

(ii) To export to countries other than Canada or Mexico, provided they meet fragmented requirements (such disposition shall be reported on Form FV-117-6 "Handler's Report of Export of Unrestricted Non-Edible Quality Fragmented Peanuts");

(iii) To domestic animal feed use as provided in paragraph (b)(2) of this section or to other handlers, or a handler as defined in 7 CFR 998.8, for such disposition. Fall through that has been sampled and determined negative as to aflatoxin content may be disposed of for use as wildlife feed or rodent bait use in containers labeled as such (such disposition shall be reported on Form FV-117-7 "Handlers Report of Disposition of Non-Edible Quality Peanuts for Wild-Life Feed or Rodent Bait").

(2) Shelled peanuts which fail to meet requirements for disposition to human consumption outlets may be disposed of for use as domestic animal feed: *Provided*, That each lot of peanuts so disposed of is:

(i) Treated with an appropriate coloring or dyeing solution with a minimum of 80 percent of the peanuts showing evidence of the dye or coloring agent;

(ii) Handled and shipped under positive lot identification procedures (except for bulk loads, red tags shall be used and such tags marked, "For Animal Feed—Not for Human Consumption");

(iii) Covered by a valid "negative" aflatoxin certificate; and

(iv) That the handler's bill of lading and invoice covering the shipment of each such lot include the following statement: "The peanuts covered by this bill of lading (or invoice) are for animal feed only and are not to be used for human consumption." Handlers shall report such disposition on Form FV-117-8 "Handler's Disposition Report of Dyed Non-Edible Quality Peanuts to Animal Feed Use (Unrestricted Peanuts Only)".

(3) Positive lot identified shelled peanuts failing to meet the quality requirements for human consumption specified in §997.30(a) due to testing positive for aflatoxin pursuant to §997.30(c) may be disposed of for "restricted" domestic crushing and reported on Form FV-117-5 "Handlers Report of Dispositions of Non-Edible Quality Shelled Peanuts to Crusher or Fragmenter or Dyeing Processor". Such peanuts may also be exported, as "restricted", to countries other than Canada or Mexico. Prior to exportation, the shelled peanuts shall be certified by the Federal or Federal-State Inspection Service as meeting the requirements specified for "fragmented" peanuts. The "in-land" bill of lading and invoice covering the export of "restricted" peanuts must include the following statement: "The peanuts covered by this bill of lading (or invoice) are limited to crushing only and may contain aflatoxin. Exportation of such restricted peanuts shall be reported on Form FV-117-9 "Handler's Report of Export of Restricted Non-Edible Quality Fragmented Peanuts".

(4)(i) Handlers who have acquired Segregation 2 and 3 farmers' stock peanuts pursuant to §997.20(f) may commingle such peanuts or keep them separate and apart. The Segregation 3 farmers' stock peanuts or commingled Segregation 2 and 3 farmers' stock peanuts may be disposed of to:

(A) Other handlers, or a handler as defined in 7 CFR 998.8, for shelling, fragmenting, or crushing, as "restricted"; or

(B) Crushers for crushing as "restricted". Handlers may shell such peanuts, and further disposition of the

shelled peanuts shall be as provided in paragraph (b)(3) of this section.

(ii) Meal produced from the crushing of loose shelled kernels, fall through, and pickouts, which have not been certified negative as to aflatoxin content, and meal produced from the crushing of other "restricted" categories of peanuts shall be prepared for disposition in specifically identified lots not exceeding 200,000 pounds. Handlers or crushers, at their own expense, shall cause each such lot of meal to be sampled by an inspector of the Federal or Federal-State Inspection Service and tested for aflatoxin in a laboratory listed in §997.30(c)(5)(i) of this part. The numerical test result of the chemical assay shall be shown on a certificate covering each lot of meal produced from "restricted" peanuts, and a copy of the certificate shall accompany each shipment or disposition. However, meal produced from the crushing of loose shelled kernels, fall through, and pickouts, which have been certified negative as to aflatoxin content, and meal produced from the crushing of other categories of peanuts determined by this section to be eligible for "unrestricted" crushing, shall be exempt from aflatoxin testing requirements.

(iii) Handlers who have acquired Segregation 2 farmers' stock peanuts pursuant to §997.20(f) and held them separate and apart from Segregation 3 peanuts may commingle the Segregation 2 farmers' stock with Segregation 1 farmers' stock for disposition to domestic crushing or export as inedibles. The Segregation 2 farmers' stock peanuts or commingled Segregation 1 and 2 farmers' stock peanuts may be disposed of to other handlers, or a handler as defined in 7 CFR 998.8, for shelling, fragmenting, or crushing or to crushers. Handlers may shell the Segregation 2 or commingled Segregation 1 and 2 peanuts and dispose of the shelled peanuts:

(A) To another handler, or a handler as defined in 7 CFR 998.8, for fragmenting or crushing;

(B) To export as "unrestricted"; or

(C) To domestic crushing as "unrestricted". The meal produced from such peanuts may be disposed of without restriction. Prior to exportation, the shelled peanuts shall be certified

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by the Federal or Federal-State Inspection Service as meeting the requirements specified for fragmented peanuts.

(5) Unless otherwise specified, the disposition and reporting requirements applicable to peanuts failing quality requirements for human consumption specified in the preceding paragraph (b) of this section shall also apply to loose shelled kernels, fall through and pickouts.

(6) Peanuts handled pursuant to paragraphs (b)(4)(i) and (b)(4)(iii) of this section are exempt from §997.51 Assessments.

[55 FR 49983, Dec. 4, 1990, as amended at 56 FR 55990, Oct. 31, 1991; 60 FR 43355, Aug. 21, 1995; 60 FR 50087, Sept. 28, 1995]

**§997.50 Inspection, chemical analysis, certification and identification.**

Each handler shall, at his own expense, prior to or upon receiving and before shipping or disposing of peanuts, cause an inspection to be made of any such peanuts not covered by a valid inspection certificate, to determine whether they meet the applicable grade requirements effective pursuant to this part and shall comply with such identification requirements prescribed by this part or which the Secretary may prescribe. Each handler shall also cause appropriate samples to be drawn and chemically analyzed by a USDA laboratory or laboratory listed in §997.30 for wholesomeness as provided in §997.30 of this part. Such handler shall obtain grade and aflatoxin certificates that such peanuts meet the aforementioned applicable requirements and all such certificates shall be available for examination or use by the Division. Acceptable certificates shall be those issued by Federal or Federal-State inspectors authorized or licensed by the Secretary and USDA laboratories or those listed in §997.30 of this part. Each handler shall furnish, or cause the inspection service or the laboratory to furnish to the Division, a copy of the inspection certificate and a copy of the results of the chemical analyses issued to him on each lot of shelled peanuts or cleaned inshell peanuts.

**ASSESSMENTS**

**§997.51 Assessments.**

Each first handler shall pay to the Secretary, with respect to peanuts received or acquired by the handler, including the handler's own production, an administrative assessment as approved by the Secretary. The rate of assessment shall be the same as the administrative assessment approved by the Secretary and applied to signatory handlers under the Peanut Marketing Agreement No. 146. Such administrative assessment shall be applied during the crop year beginning July 1 and ending June 30 of the following year. Each handler's pro rata share shall be the rate of assessment fixed by the Secretary per net ton of farmers stock peanuts received or acquired, other than those peanuts described in §997.20(a)(1) and (2). During the crop year, the Secretary may increase the rate of assessment if such an increase is established under the Agreement.

[59 FR 39421, Aug. 3, 1994]

**REPORTS, BOOKS AND RECORDS**

**§997.52 Reports of acquisitions and shipments.**

Each handler shall report acquisitions of Segregation 1 farmers' stock peanuts on Form FV-117-10 "Handlers Monthly Report of Acquisitions" and file such other reports of acquisitions and shipments of peanuts, as prescribed in this part. Upon the request of the Division, each handler shall furnish such other reports and information as necessary to enable the Division to carry out the provisions of this part. All reports and records furnished or submitted by handlers to the Division which include data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler shall not be disclosed unless such disclosure is determined necessary by the Secretary to enforce the provisions of this part.

[55 FR 49983, Dec. 4, 1990, as amended at 56 FR 55991, Oct. 31, 1991]