

**§ 996.40**

**7 CFR Ch. IX (1–1–12 Edition)**

determined by the Inspection Service to contain:

(1) Not more than 1.00 percent kernels with mold unless a sample of such peanuts, drawn by an inspector of the Inspection Service, is analyzed chemically by a USDA laboratory or a USDA-approved laboratory and certified “negative” as to aflatoxin;

(2) Not more than 2.00 percent peanuts with damaged kernels;

(3) Not more than 10.00 percent moisture; or

(4) Not more than 0.50 percent foreign material.

[67 FR 57140, Sept. 9, 2002; 67 FR 63503, Oct. 11, 2002, as amended at 68 FR 46924, Aug. 7, 2003; 68 FR 53490, Sept. 11, 2003]

**§ 996.40 Handling standards.**

(a) *Identification:* Each lot of shelled or cleaned inshell peanuts intended for human consumption shall be identified by positive lot identification prior to being shipped or otherwise disposed of. Positive lot identification (PLI) methods are tailored to the size and containerization of the lot, by warehouse storage or space requirements, or, by necessary further movement of the lot prior to certification. Positive lot identification is established by the Inspection Service and includes the following methods of identification. For domestic lots and repackaged import lots, PLI includes PLI stickers, tags or seals applied to each individual package or container in such a manner that is acceptable to the Inspection Service and maintains the identity of the lot. For imported lots, PLI tape may be used to wrap bags or boxes on pallets, PLI stickers may be used to cover the shrink-wrap overlap, doors may be sealed to isolate the lot, bags or boxes may be stenciled with a lot number, or any other means that is acceptable to the Inspection Service. The crop year or quota year shown on the positive lot identification tags shall be the year in which the peanuts in the lot were produced domestically or imported into the U.S., as appropriate. All lots of shelled and cleaned-inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures, except those lots which are reconstituted and/or commingled at the request of the buyer: *Provided*, That the

reconstituted or commingled lots were previously positive lot identified and certified as meeting the outgoing standards of § 996.31.

(b) *Sampling and testing shelled peanuts for outgoing inspection:* Prior to shipment, the following sampling and inspection procedures shall be conducted on each lot of shelled peanuts intended for human consumption. The lot size of shelled or cleaned-inshell peanuts presented for outgoing inspection in bags or bulk shall not exceed 200,000 pounds.

(1) Each handler or importer shall cause appropriate samples, based on a sampling plan approved by the Inspection Service, of each lot of shelled peanuts intended for human consumption to be drawn by the Inspection Service. The gross amount of peanuts drawn shall be large enough to provide for a grade analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin chemical analysis. The three 48-pound samples shall be designated by the Inspection Service as “Sample 1,” “Sample 2,” and “Sample 3” and each sample shall be placed in a suitable container and positive lot identified by means acceptable to the Inspection Service. Sample 1 may be prepared for immediate testing or Sample 1, Sample 2, and Sample 3 may be returned to the handler or importer for testing at a later date. Imported peanuts shall be labeled “Sample 1IMP,” “Sample 2IMP,” and “Sample 3IMP” and handled accordingly.

(2) Before shipment of a lot of shelled peanuts to a buyer, the handler or importer shall cause Sample 1 to be ground by the Inspection Service, a USDA laboratory or a USDA-approved laboratory, in a “subsampling mill.” The resultant ground subsample from Sample 1 shall be of a size specified by the Inspection Service and shall be designated as “Subsample 1-AB” and at the handler’s, importer’s or buyer’s option, a second subsample may also be extracted from Sample 1. It shall be designated as “Subsample 1-CD.” Subsample 1-CD may be sent as requested by the handler or buyer, for aflatoxin assay, to a USDA laboratory or USDA-approved laboratory that can provide analyses results on such samples in 36 hours. The cost of sampling and testing

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Subsample 1-CD shall be for the account of the applicant. Subsample 1-AB shall be analyzed only in a USDA laboratory or USDA-approved laboratory. Both Subsamples 1-AB and 1-CD shall be accompanied by a notice of sampling or grade certificate, signed by the inspector, containing, at least, identifying information as to the handler or importer, the buyer, if known, and the positive lot identification of the shelled peanuts.

(3) The samples designated as Sample 2 and Sample 3 shall be held as aflatoxin check-samples by the Inspection Service or the handler or importer and shall not be included in the shipment to the buyer until the analyses results from Sample 1 are known.

(4) Upon call from the laboratory, the handler or importer shall cause Sample 2 to be ground by the Inspection Service, USDA or USDA-approved laboratory in a "subsampling mill." The resultant ground subsample from Sample 2 shall be of a size specified by the Inspection Service and it shall be designated as "Subsample 2-AB." Upon call from the laboratory, the handler shall cause Sample 3 to be ground by the Inspection Service, USDA or USDA-approved laboratory in a "subsampling mill." The resultant ground subsample from Sample 3 shall be of a size specified by Inspection Service and shall be designated as "Subsample 3-AB." "Subsamples 2-AB and 3-AB" shall be analyzed only in a USDA laboratory or a USDA-approved laboratory and each shall be accompanied by a notice of sampling. The results of each assay shall be reported by the laboratory to the handler and to USDA.

(5) Handlers and importers may make arrangements for required inspection and certification by contacting the Inspection Service office closest to where the peanuts will be made available for sampling. For questions regarding inspection services, a list of Federal or Federal-State Inspection Service offices, or for further assistance, handlers and importers may contact: Fresh Products Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Room 2049-S, (STOP 0240), Washington, DC, 20250-0240; Telephone: (202) 720-5870; Fax: (202) 720-0393.

(6) Handlers and importers may make arrangements for required chemical analysis for aflatoxin content at the nearest USDA or USDA-approved laboratory. For further information concerning chemical analysis and a list of laboratories authorized to conduct such analysis contact: Dr. Robert Epstein, Deputy Administrator, Science and Technology Programs, AMS, USDA, 1400 Independence Avenue, SW. STOP 0270, Washington, DC 20250-0270; Telephone (202) 720-5231; Fax (202) 720-6496.

(c) *Appeal inspections.* Any "holder of the title" to any lot of peanuts may request an appeal inspection if it is believed that the original aflatoxin test results were in error. Appeal inspections would be conducted in accordance with Federal or Federal-State inspection procedures for milled peanuts. The aflatoxin appeal sample would be drawn by Federal or Federal-State Inspection Service officials and the appeal analysis would be conducted by USDA or USDA-approved laboratories. Any financially interested person may request an appeal inspection if it is believed that the original quality inspection is in error. Quality appeals would be conducted by Federal or Federal-State Inspection Service inspectors in accordance with the Federal or Federal-State inspection procedures for milled peanuts. The person requesting the appeal inspection would pay the cost of such appeals. The appeal inspection results shall be issued to the person requesting the appeal inspection and a copy shall be mailed to USDA or its agent.

[67 FR 57140, Sept. 9, 2002, as amended at 68 FR 1157, Jan. 9, 2003; 68 FR 46924, Aug. 7, 2003]

### **§ 996.50 Reconditioning failing quality peanuts.**

(a) Lots of peanuts which have not been certified as meeting the requirements for disposition to human consumption outlets may be disposed for non-human consumption uses: *Provided*, That each such lots are positive lot identified using red tags, or other methods acceptable to the Inspection Service, and certified as to aflatoxin content (actual numerical count). However, on the shipping papers covering the disposition of each such lot, the