

## Agricultural Marketing Service, USDA

## § 996.50

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

handler or importer shall cause the following statement to be shown: “The peanuts covered by this bill of lading (or invoice, etc.) are not to be used for human consumption.”

(b) Sheller oil stock residuals shall be positive lot identified using red tags, or other methods acceptable to the Inspection Service, and may be disposed of domestically or to the export market in bulk or bags or other suitable containers. Disposition to crushing may be to approved crushers.

(1) If such peanuts are not tested and certified as to aflatoxin content, pursuant to paragraph (a) of this section, the handler or importer shall cause the following statement to be shown on the shipping papers: “The peanuts covered by this bill of lading (or invoice, etc.) are limited to crushing only and may contain aflatoxin.”

(2) If the peanuts are certified as 301 ppb or more aflatoxin content, disposition shall be limited to crushing or export.

(c) *Remilling.* Handlers and importers may remill, or cause to have remilled, lots of shelled or cleaned-inshell peanuts failing to meet the applicable outgoing quality standards in the table in § 996.31(a). If, after remilling, such peanut lot meets the applicable quality standards in § 996.31, the lot may be moved for human consumption under positive lot identification procedures and accompanied by applicable grade and aflatoxin certificates.

(d) *Blanching.* Handlers and importers may blanch, or cause to have blanched, shelled peanuts failing to meet the outgoing quality standards specified in the table in § 996.31(a). If after blanching, such peanut lot meets the quality standards in § 996.31(a), the lot may be moved for human consumption under positive lot identification procedures and accompanied by applicable grade and aflatoxin certificates. Peanut lots certified as meeting the fall through standard or the damaged kernels and minor defects standard as specified in § 996.31(a), prior to blanching shall be exempt from fall through, damaged kernels and minor defects standards after blanching.

(e) *Roasting.* Handlers or importers may roast or cause to be roasted shelled peanuts which meet the grade

standards the table in § 996.31(a) but are positive to aflatoxin. Lots of peanuts moved under this provision must be accompanied by a valid grade certificate showing that the lot met grade requirements of § 996.31(a) prior to roasting and a valid aflatoxin certificate. If, after roasting, such peanut lot is certified negative as to aflatoxin and the positive lot identity has been maintained during the roasting process, the lot may be moved for human consumption.

(f) Lots of shelled peanuts moved for remilling, blanching or roasting shall be positive lot identified and accompanied by valid grade inspection certificate. *Except* That, a handler’s shelled peanuts may be moved without PLI and grade inspection to the handler’s blanching facility that blanches only the handler’s peanuts. The title of such peanuts shall be retained by the handler or importer until the peanuts have been certified by the Inspection Service as meeting the outgoing quality standards specified in the table in § 996.31(a). Remilling, blanching, and roasting under the provisions of this paragraph shall be performed only by those remillers and blanchers approved by USDA. Such approved entities must agree to comply with the handling standards in this part and to report dispositions of all failing peanuts and residual peanuts to USDA.

(g) Residual peanuts resulting from remilling, blanching, or roasting of peanuts shall be red tagged, or identified by other means acceptable to the Inspection Service, and returned directly to the handler for further disposition or, in the alternative, such residual peanuts shall be positive lot identified by the Inspection Service and shall be disposed of to handlers who are crushers, or to approved crushers. Handlers who are crushers and crushers approved by USDA must agree to comply with the terms and conditions of this part.

(h) *Re-inspection.* Whenever USDA has reason to believe that domestic or imported peanuts may have been damaged or deteriorated while in storage, USDA may reject the then effective inspection certificate and may require the owner of the peanuts to have a re-inspection to establish whether or not

such peanuts may be disposed of for human consumption.

(i) The cost of transportation, sampling, inspection, certification, chemical analysis, and identification, as well as remilling and blanching, and further inspection of remilled and blanched lots, and disposition of failing peanuts, shall be borne by the applicant. Whenever peanuts are presented for inspection, the handler or importer shall furnish any labor and pay any costs incurred in moving, opening containers, and shipping samples as may be necessary for proper sampling and inspection. The Inspection Service shall bill the applicant or other responsible entity separately for applicable fees covering sampling and inspection, delivering aflatoxin samples to laboratories, positive lot identification measures, and other certifications as may be necessary to certify edible quality or non-edible disposition. The USDA and USDA-approved laboratories shall bill the applicant or other responsible entity separately for applicable fees for aflatoxin assays.

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

**§ 996.60 Safeguard procedures for imported peanuts.**

(a) Prior to, or upon, arrival of a foreign-produced peanut lot at a port-of-entry, the importer, or customs broker acting on behalf of the importer, shall mail or send by facsimile transmission (fax) a copy of the Customs Service entry documentation for the peanut lot or lots to the Inspection Service office that will perform sampling of the peanut shipment. More than one lot may be entered on one entry document. The documentation shall include: the Customs Service entry number; the container number(s) or other identification of the lot(s); the volume of the peanuts in each lot being entered, the inland shipment destination where the lot will be made available for inspection; and a contact name or telephone number at the destination. The inspection office shall sign, stamp, and return the entry document to the importer. The importer shall cause a copy of the relevant entry documentation to accompany each peanut lot and be pre-

sented to the Inspection Service at the time of inspection.

(b) Importers shall report to AMS the entry number, container number, and inspection certificate of those peanuts which are sampled and inspected but which are subsequently exported as excess of the peanut import quota. Peanuts for which an import application is filed with the Customs Service, and which are not sampled and inspected, but which are subsequently exported as excess of quota, shall not be reported to USDA.

(c) *Early arrival and storage.* Peanut lots sampled and inspected upon arrival in the United States, but placed in storage for more than one month prior to beginning of the quota year for which the peanuts will be entered, must be reported to USDA at the time of inspection. The importer shall file copies of the Customs Service documentation showing the volume of peanuts placed in storage and location, including any identifying number of the storage warehouse. Such peanuts should be stored in clean, dry warehouses and under cold storage conditions consistent with industry standards. USDA may require re-inspection of the lot at the time the lot is declared for entry with the Customs Service.

(d) *Additional standards.* (1) Nothing contained in this section shall preclude any importer from milling or reconditioning, prior to importation, any shipment of peanuts for the purpose of making such lot eligible for importation into the United States. However, all peanuts entered for human consumption use must be certified as meeting the quality standards specified in § 996.31(a) prior to such disposition. Failure to fully comply with quality and handling standards as required under this section, will result enforcement action by USDA.

(2) Imported peanut lots sampled and inspected at the port-of-entry, or at other locations, shall meet the quality standards of this part in effect on the date of inspection.

(3) A foreign-produced peanut lot entered for consumption or for warehouse may be transferred or sold to another person: *Provided*, That the original importer shall be the importer of record