

**PART 985—MARKETING ORDER
REGULATING THE HANDLING OF
SPEARMINT OIL PRODUCED IN THE
FAR WEST**

1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 985.215 is amended by revising paragraph (b) to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§985.215 Salable quantities and allotment percentages 1996-97 marketing year.

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(b) Class 3 (Native) oil—a salable quantity of 1,213,692 pounds and an allotment percentage of 61 percent.

Dated: January 3, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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7 CFR Parts 997, 998, and 999

[Docket Nos. FV96-997-1 FR; FV96-998-4 FR and FV96-999-3 FR]

Peanuts Marketed in the United States; Changes in Handling and Disposition Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule relaxes, for 1996 and subsequent crop peanuts, several provisions regulating the handling and disposition of domestically and foreign-produced peanuts marketed in the United States. The rule eliminates several requirements covering the disposition of inedible peanuts. At the same time, it provides safeguard measures including amendments to the aflatoxin provisions to prevent inedible peanuts from entering human consumption outlets. The rule increases opportunities for reconditioning failing peanut lots and reduces inspection and handling costs to handlers and importers. The changes were recommended by the Peanut Administrative Committee (Committee), the administrative agency which oversees the quality assurance program under Peanut Marketing Agreement No. 146 (7 CFR Part 998, Agreement). By law, the same or similar regulations issued under the Agreement also must be issued under Part 997 regulating non-signatory peanut handlers, and Part 999.600 regulating peanut importers. This rule includes changes recommended by the Department to

help ensure effective safeguard measures. The changes should enable the industry to be more competitive in the changing international peanut market.

EFFECTIVE DATES: 1. Sections 997.20, 997.30, 997.40, 997.50, 997.51, 997.52, 997.53, 997.54, 998.100, and 998.200 are effective January 13, 1997. Section 999.600 is effective January 14, 1997.

FOR FURTHER INFORMATION CONTACT: Jim Wendland, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, D.C. 20090-6456; telephone: (202) 720-2170, or 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, D.C., 20090-6456; telephone: (202) 720-2491, fax: (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Peanut Marketing Agreement No. 146 (7 CFR Part 998); the non-signatory handler peanut regulation (7 CFR Part 997); and the peanut import regulation published in the June 19, 1996, issue of the Federal Register (61 FR 31306, 7 CFR Part 999.600). These programs regulate the quality of domestically produced peanuts handled by Agreement signers and non-signers as well as imported peanuts. The first two Parts are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." Part 999 is effective under section 108B(f)(2) of the Agricultural Act of 1949, as amended (7 U.S.C. 1445c-3).

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This final 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.

Domestic peanut production in 1995 was 1.76 million tons, with a farm value of slightly over \$1 billion.

The objective of the two domestic programs and the import regulation is to ensure that only high quality and wholesome peanuts enter human consumption markets in the United

States. About 70 percent of domestic handlers, handling approximately 95 percent of the crop, have signed the Agreement. The remaining 30 percent are non-signatory handlers handling the remaining 5 percent of domestic production. The 1995 duty-free import quota was equal to approximately 2 percent of 1995 domestic production.

Under the three regulations, farmers stock peanuts with visible *Aspergillus flavus* mold (the principal source of aflatoxin) are required to be diverted to inedible uses. Each lot of milled peanuts must be sampled and the samples chemically analyzed for aflatoxin content. Costs to administer the Agreement and to reimburse the Department for oversight of the non-signatory program are paid by an assessment levied on handlers in the respective programs.

The Committee, which is composed of producers and handlers of peanuts, meets at least annually to review the Agreement's rules and regulations, which are effective on a continuous basis from one year to the next. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department assesses Committee recommendations, as well as information from other sources, prior to making any recommended changes to the regulations under the Agreement.

Public Law 101-220 amended section 608b of the Act in 1989 to require that all peanuts handled by persons who have not entered into the Agreement (non-signers) be subject to the same quality and inspection requirements to the same extent and manner as are required under the Agreement. The non-signatory handler regulations have been amended several times thereafter and are published in 7 CFR part 997.

Similarly, recent amendments to the Agricultural Act of 1949 require that all foreign produced peanuts in the domestic market fully comply with all quality standards under the Agreement. Section 999.600—Specialty Crops; Import Regulations was added to 7 CFR part 999 on June 19, 1996 (61 FR 31306), to establish minimum quality, identification, certification and safeguard requirements for foreign-produced farmers stock, shelled and cleaned-inshell peanuts presented for importation into the United States.

Thus, the changes to the Agreement's regulations, as established in this final rule, also are established for the peanut non-signer and import regulations.

According to the Committee, the domestic peanut industry is undergoing a period of great change. The Committee bases its view, in part, on findings in a

May, 1996 study entitled "United States Peanut Industry Revitalization Project" developed by the National Peanut Council and the Department's Agricultural Research Service.

According to the study, the U.S. peanut industry has been in a period of dramatic economic decline since 1991 because of: (1) Decreasing consumption of peanuts and peanut products; (2) accompanying decreases in U.S. peanut production and increases in production costs; and (3) increasing imports of peanuts and peanut products.

The study shows that peanut consumption has declined. Between 1991 and 1994, per capita peanut consumption steadily declined a total of 11 percent. Peanuts used in primary products declined 12 percent, and peanuts used in peanut butter (the largest product usage) declined 20 percent.

Among other things, the study shows that harvested acreage of peanuts in the U.S. declined 25 percent between 1991 and 1995. Production has fluctuated downward, with 1995 production 30 percent below that of 1991. Farm value of peanut production has dropped 29 percent (from \$1.4 billion to slightly over \$1 billion) in the same period.

The study points to recent increases in the duty-free import quota for raw peanuts. The volume of imported peanuts has, indeed, increased due to recent relaxations of the duty-free quota enacted through the legislation to implement the North American Free Trade Agreement (NAFTA) and the Uruguay Round Agreements under the General Agreement on Tariffs and Trade (GATT). Prior to 1994, the volume of imported peanuts was limited, in most cases, to 1.71 million pounds annually. However, the Schedule of the United States annexed to NAFTA, implemented on January 1, 1994, provided duty-free entry for up to approximately 7.43 million pounds of qualifying peanuts from Mexico. The duty-free access for Mexican peanuts increased to approximately 7.88 million pounds in 1996 and is scheduled to be approximately 8.1 million pounds in 1997. In calendar year 2008, access for Mexican peanuts will be unlimited. In addition, the United States Schedule to the Uruguay Round Agreements under GATT increased the peanut import quota to 76.8 million pounds in 1996 from all countries except Mexico, with additional annual increases of approximately 10 million pounds to reach a ceiling of 125 million pounds by the year 2000 for all imported peanuts.

The study shows that imports of peanut butter from 1991 to 1996 increased 116 percent. More

significantly, the study reports that imported peanut butter's share of U.S. peanut butter consumption increased 12 fold between 1988 and 1993.

The study also makes projections for the near future. Farmer production costs and revenue are projected to be equal by the year 2000, as are handler costs and revenue. Total imports of shelled peanuts and paste are expected to increase 50 percent by the year 2000 and the U.S. position in the world market is expected to drop 7 percent between 1995 and 1996.

In addition, the modifications in the Federal government's peanut quota and price support program under the Federal Agriculture Improvement and Reform Act of 1996 will result in the domestic industry undergoing changes over the next few years. The study shows that the quota poundage was reduced over 20 percent between 1991 and 1995, and the support price dropped from \$670 per ton in 1995 to \$610 in 1996.

The Committee contended that all of these factors combined show that the domestic peanut industry is in decline and that the outlook is not expected to change without some positive intervention by the industry.

In mid-1994, the Committee appointed a subcommittee to evaluate the present program and to recommend changes. The Agreement's handling regulations were evaluated with the intent of streamlining procedures and making them consistent with current industry economies and technological developments.

Different recommendations were developed for streamlining both incoming and outgoing handling procedures. The recommendations focused on handlers' freedom to prepare and dispose of peanut lots according to economic incentives of the marketplace. For instance, restrictions that prevent certain lots failing quality requirements from being blanched or remilled would be removed so that more peanuts could be reconditioned to meet human consumption requirements. Also, provisions throughout the Agreement regulations require that certain lots be kept separate and apart from other, similar peanut lots. For the most part, these provisions tend to limit handlers' flexibility to move and recondition peanuts. The subcommittee contended that such provisions may work against optimum utilization of equipment and facilities and prevent handlers from making the most economic use of their peanut inventories. Further, peanut processing machinery has been improved through technological advances to the point that virtually any

lot of peanuts, regardless of original (incoming) quality, can now be shelled, remilled and/or blanched (processed) to meet outgoing quality requirements of the Agreement and the non-signer program. It was the opinion of the subcommittee that handlers should have the option of deciding whether it is more economically advantageous to recondition a lot or send it to an inedible peanut outlet.

Subcommittee members also recommended that many of the requirements controlling disposition of inedible peanuts be removed because those requirements should be placed on buyers rather than handlers. The subcommittee contended that peanuts either pass or fail quality and aflatoxin requirements, and the requirements limiting disposition based on aflatoxin content (restricted and unrestricted dispositions) should be removed.

The subcommittee contended further that these changes, primarily relaxations, could be made without limiting the effectiveness of the Agreement's quality assurance program. As long as all peanut lots intended for human consumption continue to be sampled and tested against current outgoing requirements, the industry's high quality standards would be maintained.

These recommendations represented a fundamental change in the Agreement's handling regulations. The full Committee met three times from March to May 1996, to review all of the recommendations. At a May 23, 1996, meeting the Committee recommended the changes to the Agreement's incoming and outgoing regulations for 1996 and subsequent crop peanuts. After review and modifications to some of the recommendations, the Department added an additional safeguard procedure for imported peanuts and published the recommendations in the Federal Register (61 FR 51811) on October 4, 1996. Because of extent of the recommended changes, the three peanut regulations were published in their entirety. A three-week comment period was provided for interested parties to submit comments. Twelve comments were received by the end of the comment period, October 24, 1996.

Seven comments were received from signatory handlers, two from growers cooperatives, and one on behalf of the Committee. All of the comments support the changes which effect the domestic signer and non-signer programs. Two comments were received from importers opposing the proposed additional reporting requirement on importers.

The Department requested comments on whether implementation of the proposed changes after the beginning of the crop year would have an unequal effect on one or more of the production areas or unequally affect small or large handlers. Nine commenters responded that the proposed changes should be implemented as soon as possible and should be in effect for the entire 1996 crop year. No comments were received opposing implementation of the changes for the 1996 crop year.

Further, seven commenters stated that the proposed changes would not have an adverse affect on small peanut handlers. No comments were received from persons claiming to be or to represent small businesses.

The comment submitted on behalf of the Committee recommended revising the proposed regulatory text covering the requirement that all peanuts be chemically tested for aflatoxin prior to disposition for human consumption. The comment does not change the meaning or intention of the proposal. This comment is addressed below.

One commenter suggested that the handling regulations be further changed by eliminating the Segregation categories specified in the incoming regulations. Such a relaxation could increase the volume of cheaper peanuts available for processing for edible consumption. The idea was considered and ultimately rejected by the Committee at meetings prior to the May meeting because no agreement could be reached on provisions to ensure appropriate compensation for producers. After considering the comment and deliberations taken by the Committee at the previous meetings, the Department has determined that the comment should not be included in this rulemaking action.

Two commenters correctly pointed out that the support price of the Department's Farm Service Agency (FSA) peanut quota program is not scheduled to be reduced below the current \$610 per ton, as indicated in the proposed rule. This statement is corrected.

One comment was received from a peanut producers association which addressed several issues relating to FSA's quota program. The comments did not have relevance to the proposed handling changes in this rulemaking.

Three commenters addressed the Department's proposed additional import requirement covering foreign-produced peanuts which are admitted into the U.S. and stored in warehouses for more than 30 days prior to the opening of the duty-free import quota. Two importers opposed the requirement

and one commenter representing a domestic growers cooperative agreed with the additional requirement. The requirement and the Department's decision not to accept the opposing comments are discussed below.

Of the nine comments received which addressed the effective date of the regulations, all indicated that the rule should be implemented as soon as possible. Several commenters stated that the entire industry is expecting the changes to be made effective for the entire 1996 crop year. However, handling actions already taken should not be subject to such requirements. Thus, the actions taken in this final rule are not intended to cover the entire 1996 crop year. Four commenters stated that additional delays in implementation will adversely affect the industry.

This final rule changes, for 1996 and subsequent crop years, several provisions regulating the handling of domestic and foreign-produced peanuts and relaxes disposition requirements of such peanuts to inedible peanut outlets. The rule increases the volume of peanuts that can be handled and used for human consumption without decreasing the quality requirements for such disposition. Restrictions are removed on handler acquisition for human consumption use of certain farmers stock lots failing incoming inspection because of excess loose shelled kernels and fall-through peanuts. Positive lot identification (P.L.I.) requirements for seed peanuts are removed. Shelled peanut lots meeting Indemnifiable Grade or Superior Grade requirements may be sent to human consumption outlets prior to the handler receiving aflatoxin certification of the lot. Restrictions are removed on remilling and blanching of peanut lots exceeding certain damage and foreign material content levels. The maximum allowable aflatoxin content of peanut lots disposed to inedible peanut outlets, such as animal feed or wildlife seed, or are exported, is raised from 25 ppb to 300 ppb. Previous provisions on "restricted" and "unrestricted" dispositions, "fragmented" peanuts, and peanut meal are removed. Peanut lots testing above 300 ppb aflatoxin content, which are not reconditioned, may only be crushed for oil. Safeguard measures are established requiring aflatoxin certifications for inedible lots exceeding 15 ppb aflatoxin content. Finally, the volume and storage location of foreign-produced peanuts arriving in the U.S., which are inspected and stored in Customs bonded warehouses for more than one month prior to filing for consumption entry, must be filed with AMS.

Because this rulemaking involves substantial changes to the text of the three peanut regulations, the explanation of the changes to each program is repeated in this final rule. Comments received are included in the discussion of each change in regulation. The Department also makes a few changes to correct inadvertent omissions and redundancies in the regulatory text of the three programs.

Incoming Regulations

Loose shelled kernels: The Committee recommended amending § 998.100 Incoming quality regulation by removing paragraph (d) *Loose shelled kernels* which regulates the acquisition of loose shelled kernels (LSKs) and other defective kernels. The regulations should focus more on outgoing quality and less on the shelling and milling processes necessary to meet the outgoing, human consumption requirements. New, high technology milling and blanching equipment enables handlers to recondition failing peanut lots that could not have been reconditioned when the regulations were promulgated. It is no longer necessary to impose restrictions that hinder efficiency of handling operations and result in the loss of potentially good quality peanuts. Therefore, this final rule removes paragraph (d)(1) from the incoming regulations. In doing so, restrictions are removed on acquiring farmers stock peanuts with more than 14.49 percent LSKs and 5 percent fall-through from specified screen sizes.

For the non-signer regulation, paragraph (d) *Loose shelled kernels* in § 997.20 corresponds to paragraph (d) of the Agreement's § 998.100 and is removed for the reasons cited above and to be consistent with corresponding changes to the Agreement. For the import regulation, paragraph (b)(1)(iv) *Loose shelled kernels* of § 999.600 also is removed for the reasons cited above.

The Committee recommended removing paragraph (d)(2) of § 998.100 which requires that handlers submit to the Committee diagrams of their handling facilities and procedures. This provision is no longer considered necessary for the Committee's oversight of the signatory handlers and is removed.

The non-signer regulation and the import regulation do not have paragraphs corresponding to paragraph (d)(2) of § 998.100.

Seed peanuts: The Committee recommended removing the requirement in old § 998.100, paragraph (e) *Seed peanuts* that required handlers who receive or acquire seed residuals to hold and mill such peanuts separate and

apart from other edible quality peanuts. As long as the peanuts sent to human consumption outlets must ultimately meet outgoing requirements, including certification as negative to aflatoxin, it is not necessary to hold those peanuts separate and apart from other lots also destined for edible consumption. Therefore, this final rule amends paragraph (e) of § 998.100 by removing the requirement that handlers hold and mill seed residuals separate and apart from other edible quality peanuts.

The Department makes a correction to paragraph (d)(2) as published on page 51824 of the proposed rule. The second sentence is not correctly worded and should refer to seed peanuts which "have" visible *Aspergillus flavus* mold. The words "are free from" are removed from the second sentence as published in the proposed rule. The sentence has been revised accordingly in this final rule.

For the non-signer regulation, paragraph (e) *Seed peanuts* in § 997.20 contains different wording but the same meaning and intent as the Agreement regulation's seed provisions. The changes made to paragraph (e) of the Agreement regulation concerning holding and milling seed peanuts separate and apart from other peanuts also are made to § 997.20 paragraph (e) of the non-signer regulation for the reasons cited above and to be consistent with corresponding changes to the Agreement.

For the import regulation, paragraph (b)(2) *Seed peanuts* in § 999.600, also is changed accordingly. Further, old paragraph (b)(2) provided that Segregation 2 and 3 peanuts may be shelled for seed purposes, but must be dyed or chemically treated to indicate the peanuts are unfit for human or animal consumption. That requirement was provided in paragraphs (i)(1) and (2) of § 998.200—which are removed in this final rule (discussed below). Thus, this rule finalizes changes to import regulation paragraph (b)(2) by removing the requirement that Segregation 2 and 3 seed peanuts must be dyed or chemically treated. Finally, the second sentence of the import regulation paragraph (b)(2), which covered reporting disposition to the Secretary, is removed because the information is adequately covered in the last two sentences of the same paragraph.

Oilstock: In old paragraph (f) of § 998.100, the Committee recommended removing the prohibition on exporting inedible quality peanuts to Canada or Mexico and removing references to "fragmented" peanuts. The Committee members expressed the point that other countries ship inedible and

unfragmented peanuts to Canada, Mexico, and other international markets, so domestic handlers should not deny themselves access to the same international markets. Further, removing the term "fragmented" from paragraph (f) of § 998.100 allows the term "peanuts" to refer to peanuts in any form, including fragmented kernels, which may be acquired by handlers for crushing or export. Therefore, this final rule removes from old paragraph (f), the prohibition on exporting inedible quality peanuts to Canada and Mexico, and references to fragmented peanuts and the term "shelled" is also removed, where appropriate, for the same reason. Old paragraph (f) also is redesignated as paragraph (e).

For the non-signer regulation, the prohibition on exports to Canada and Mexico and the requirement of fragmentation is removed to make paragraph (f) of § 997.20 consistent with the changes to the regulations under the Agreement.

In § 999.600 of the import regulation, paragraph (b)(3) *Oilstock and exportation* does not restrict exports and so no corresponding change is needed.

Finally, in § 998.100, the Committee recommended removing paragraph (j) which covers disposition of shelled peanuts for use as animal feed. This paragraph contained restrictions which are not necessary to safeguard the quality of peanuts for human consumption. Appropriate safeguard measures are provided in replacement provisions discussed below. Therefore, this final rule removes paragraph (j) from the Agreement regulations.

In this final rule, corresponding paragraph (h) in § 997.20 of the non-signer regulation is removed for the reason cited above. Paragraph (i) of § 997.29 is retained because it applies to producer/handlers handling peanuts of their own production. Such farm-stored peanuts must meet the requirements of the non-signer regulation. Paragraph (i) is redesignated as paragraph (g) in § 997.20.

The import regulation does not have a paragraph corresponding specifically to the Agreement regulation's paragraph (j) on animal feed. The topic is addressed in paragraph (e) of the outgoing regulations, the removal of which is discussed below.

Outgoing Regulations

Paragraph (a) of § 998.200 Outgoing quality regulation provides that peanut lots meeting the indemnifiable grade requirements in Table 2 do not have to be tested and certified as negative as to aflatoxin. The Committee recommended modifying this requirement to provide

that all lots (including indemnifiable grade lots) intended for human consumption be chemically tested and certified "negative" as to aflatoxin content. The change makes the Agreement regulations consistent with current industry practice. Most, if not all, buyers require that all peanuts for human consumption be certified negative as to aflatoxin. This change has a twofold purpose—it codifies a practice which is common in the industry, and ensures that the regulations effectuate the objectives of the Agreement. This final rule modifies paragraph (a) accordingly.

Currently, peanut lots meeting the grade requirements of Table 1, Other Edible Quality, must be certified negative to aflatoxin prior to shipment to the buyer. This requirement is not changed. Further, under previous industry practice, indemnifiable grade peanut lots were chemically tested and certified while the lot was in transit to the buyer. This practice is continued under the final rule and the actual transfer of lot ownership should not normally occur until certification has been received by the handler. A shorter turn-around time for chemical analysis is now possible with current testing practices and equipment, overnight and express mail services, and fax transmissions of test results.

The comment filed on behalf of the Committee correctly points out that proposed paragraph (a)(2) in § 998.200, which is between the two tables on page 51826, could be interpreted to mean that all shelled peanut lots must meet indemnifiable grade requirements. The Department agrees that this is not the intent of the Committee's recommendation. The commenter suggested that paragraph (a)(2) in the proposed rule be re-arranged to read as follows: "Prior to disposition to human consumption outlets, peanuts which have been certified as meeting the requirements for indemnifiable grades must also be certified "negative" as to aflatoxin. Maximum limitations for indemnifiable grades are as follows:" This final rule makes the commenter's recommended change to paragraph (a)(2) of § 998.200 of the Agreement regulations and also to paragraph (a)(1)(ii) of § 997.30 of the non-signer regulations. The corresponding paragraph in the import regulation does not need to be changed.

The Department also corrects the title of Table 1 in § 998.200 of the Agreement regulations. The word "Non" was inadvertently left out of the title, which should read: Table 1—"Other Edible Quality" (Non-Indemnifiable) Grades—Whole Kernels and Splits. This error

appears twice in the proposed rule because Table 1 begins on page 51825 and is continued on page 51826. The titles of the corresponding tables in the non-signer or import regulation do not refer to "indemnifiable" peanuts and do not have to be corrected.

The Committee recommended changing the title of paragraph (c) of § 998.200 to read *Sampling and testing shelled peanuts*. The new title includes the peanut sampling process which comprises a significant part of paragraph (c). As a conforming change, the beginning of the first sentence of revised paragraph (c) is changed to add the words "Prior to shipment, * * *". In addition, this final rule designates the old introductory paragraph (c) as paragraph (c)(1) because a paragraph (c)(2) is cited in the Code of Federal Regulations. New paragraph (c)(1) is otherwise unchanged.

A conforming change is made to the title of corresponding paragraph (c) of § 997.30 of the non-signer regulation. No conforming change is necessary in the import regulation. A conforming change also is made to non-signer paragraph (c)(2) to specify that handlers shall cause samples to be ground by the Federal or Federal-State Inspection Service (inspection service) prior to shipment.

Paragraph (c)(4) of § 998.200 specifies the maximum allowable aflatoxin content for edible peanut lots as 15 parts per billion (ppb). Such lots are certified as "negative" to aflatoxin. Consistent with current industry practice, the aflatoxin certificates for such lots are not required to specify the numerical aflatoxin count of the lot. This requirement is not changed in this final rule.

Previous paragraph (c)(4) of § 998.200 also specified a "negative" content for inedible peanut lots as 25 ppb or less. Under the regulation, failing lots with aflatoxin content in excess of 15 ppb but 25 ppb or less were considered "unrestricted," which means the peanuts could be used in certain non-human consumption peanut outlets such as animal feed, wildlife feed, etc. "Unrestricted" uses could provide more of a financial return for handlers while not posing a food safety threat to consumers. Peanut lots with aflatoxin content of more than 25 ppb were certified as "restricted" and could only be crushed for oil or exported. Aflatoxin certificates from USDA and Committee-approved private laboratories specified unrestricted lots as "negative" and usually did not include the numerical count of the lot's aflatoxin content. Restricted lot certificates cited the

numerical aflatoxin count of the failing lot.

The Committee recommended revising paragraph (h) and removing paragraphs (j) and (l) of § 998.200 to remove, among other things, procedures relevant to "unrestricted" and "restricted" lots of peanuts. Under the proposal, restrictions on the disposition of failing peanut lots would be relaxed under the proposed rule. Failing lots of peanuts composed of LSKs, fall through and pickouts from initial shelling operations would be limited to crushing or export unless certified as to aflatoxin content. If so certified, the lots could be disposed to other non-edible uses. Other failing lots and residuals from blanching and remilling also could be sold to any buyer provided that the lot is PLI, certified as to aflatoxin content, and in specified containers. Therefore, under the proposal, there is no reason to retain the phrase in paragraph (c)(4) of § 998.200 that specifies 25 ppb or less as "negative" to aflatoxin for inedible peanuts. Continued reference to 25 ppb relative to inedible peanuts would only cause confusion in the revised regulations. The Department accepts these recommendations of the Committee and revises, in this final rule, the paragraphs as stated.

Replacement paragraphs (f), (g), and (h) of the new § 998.200 (discussed below) require that failing lots disposed to inedible outlets other than crushing or export be "certified as to aflatoxin content"—which means entering a numerical count rather than a general statement covering a ppb spread from 16 to 26 ppb. Therefore, this final rule establishes that, for peanut lots testing more than 15 ppb, the aflatoxin certificate must show the lot's numerical aflatoxin count.

This final rule establishes that aflatoxin laboratories specify the numerical aflatoxin content on certificates issued on inedible peanut lots testing more than 15 ppb. Also, aflatoxin certificates on lots which fail grade requirements but are tested at 15 ppb or less should be certified as "negative to aflatoxin" for inedible peanuts. The certificates for such lots may specify the ppb aflatoxin content of the lots.

This final rule makes corresponding changes to paragraph (a)(2) of § 997.30 of the non-signer regulations and paragraph (f)(3) of § 999.600 of the import regulation.

The Department believes these certification guidelines will assist handlers in marketing inedible quality peanuts.

Paragraph (d) *Identification* of § 998.200 is amended in this final rule

by adding a clause in the first sentence establishing the maximum lot size as 200,000 pounds. Two hundred thousand pounds of peanuts is the largest lot size which the inspection service has determined can be efficiently and accurately sampled. The maximum limit specification is removed from other paragraphs in the Agreement's regulatory language and is added to paragraph (d) for consistency and clarity. The 200,000 pound maximum lot size applies to all sampling situations.

The Department makes a correction to the regulatory text of paragraph (d) of § 998.200. Text regarding P.L.I. was inadvertently left out of the second to last sentence at the end of paragraph (d). The corrected text does not change the meaning or regulatory nature of the paragraph.

In the non-signer regulation, § 997.50 Inspection, chemical analysis, certification and identification applies to identification, among other topics. While the maximum lot size of 200,000 pounds is specified elsewhere in the regulations, the 200,000 pound maximum lot size is added to § 997.50. In the import regulation, paragraph (d)(3)(ii) in § 999.600 specifies the 200,000 pound maximum lot size and is not changed.

Paragraph (f) *Interplant transfer* of § 998.200 was revised last year and provides that peanut lots may be transferred to any handler or storage without P.L.I. and certification, and that, upon disposition for human consumption such transferred peanuts must meet edible requirements. This paragraph is consistent with the Committee's intention to remove provisions which restrict movement and increase costs of handling peanuts. As long as any lot of peanuts intended for human consumption are required to be sampled and meet outgoing quality requirements and are P.L.I., any additional requirements on the transfer of peanuts between a handler's plants, that do not affect outgoing quality, are irrelevant. Therefore, paragraph (f) is not changed in this final rule. Handlers are required to keep records of all such transfers.

Corresponding paragraph (f) of § 997.30 of the non-signer regulation covers the transfer of non-signer peanuts between plants. This paragraph is removed (as discussed below). The import regulation does not have corresponding requirements on the transfer of imported peanuts between plants, and, therefore, no conforming change is necessary.

Disposition of Failing Quality, Inedible Peanuts

The Committee recommended streamlining § 998.200 Outgoing regulation by removing 16 paragraphs covering disposition requirements and procedures concerning inedible (failing quality) peanuts used for research projects, wildlife feed, rodent bait, chemically treated seed, fragmented export, meal from crushing, and animal feed. The paragraphs removed from § 998.200 are:

- (1) Paragraph (g)(1) which defined LSKs, fall through, and pickouts and inedible quality peanuts;
- (2) Paragraph (g)(2) which required that inedible peanuts be kept separate and apart from edible quality peanuts;
- (3) Paragraph (g)(3) which provided for: (a) disposition of inedible peanuts to research projects, wildlife feed, rodent bait, chemical treatment for seed, and export to countries other than Canada and Mexico; (b) designations of restricted and unrestricted failing lots; and (c) limits on disposition of meal from crushing;
- (4) Paragraph (g)(4) which specified further requirements on the transfer of inedible peanuts;
- (5) Paragraph (h)(1) which specified further requirements on identifying and reporting the transfer of inedible peanuts;
- (6) Paragraph (h)(3) which specified further requirements regarding the disposition of failing quality Segregation 1 peanuts to specified outlets;
- (7) Paragraph (i)(1) which specified disposition of seed peanuts and seed residuals;
- (8) Paragraph (i)(2) which required chemical treatment of seed peanuts;
- (9) Paragraph (j)(1) which specified requirements on commingling and disposition of Segregation 2 and 3 peanuts;
- (10) Paragraph (j)(2) which specified further requirements on commingling and disposition of Segregation 2 and 3 peanuts;
- (11) Paragraph (k)(1) which regulated exportation of Segregation 1 peanuts;
- (12) Paragraph (k)(2) which specified further requirements on the disposition of Segregation 1 peanuts to inedible outlets;
- (13) Paragraph (l)(1) which specified categories of unrestricted shelled peanuts for disposition to crushing or export;
- (14) Paragraph (l)(2) which specified categories of restricted shelled peanuts for disposition to crushing or export;
- (15) Paragraph (m)(1) which specified requirements for the disposition of shelled peanuts for domestic animal feed; and

(16) Paragraph (m)(2) which specified coloring or dyeing and other requirements for inedible peanuts disposed to domestic animal feed.

This final rule removes paragraphs (j) and (k) which specified disposition requirements for farmers stock peanuts. The Committee believed that these two paragraphs are no longer needed because paragraph (f) *Oilstock* of § 998.100 *Incoming quality regulation* provides that handlers may acquire Segregation 2 and 3 peanuts for crushing or export and that the Area Association supervise such dispositions. Handlers may also acquire for crushing or export peanuts originating from Segregation 1 farmers stock which are milled and fail human consumption quality and are P.L.I.

Under the previous Agreement regulations, paragraph (j)(3) of § 998.200 provided handlers with an exemption from assessments for acquisitions of Segregation 2 and 3 peanuts used for crushing or export. Paragraph (j)(3) was added to the regulatory language last year (60 FR 36208, July 14, 1995) to clarify Agreement provisions §§ 998.31 and .48. The Department clarifies in this final rule that the assessment exemption applies to Segregation 2 and 3 peanuts acquired only for crushing, whether domestic or export. The exemption paragraph is redesignated as paragraph (i) in § 998.100 of the incoming regulation, and is revised to remove the references to the removed paragraphs (j)(1) and (j)(2) in § 998.200.

This final rule also relaxes restrictions on blanching and remilling certain inedible lots. The Committee recommended relaxing restrictions in paragraphs (h)(2) and (h)(4) which prohibited blanching or remilling peanut lots exceeding defect levels of 10 percent total unshelled peanuts and damaged kernels, 10 percent foreign material, and, for remilling, 10 percent fall through. The restrictions on the amount of damage and foreign material in out-of-grade lots are removed so that handlers have more opportunity to recondition failing lots. This change increases handler flexibility, reduces inspection and handling costs, and enables more peanuts to be reconditioned and shipped for human consumption. The restriction on 10 percent fall-through for remilling peanuts remains in effect.

The corresponding paragraphs of the non-signer and import regulations (§ 997.40(a) and § 999.600(f) respectively) do not contain similar limitations on blanching and remilling of defective lots and do not need to be changed.

The Committee indicated that the regulations were too restrictive and limited handlers' ability to recondition potentially edible peanuts. Further, as long as peanuts are required to meet the outgoing requirements, including negative aflatoxin certification, it should not matter from which categories the peanuts originated. The Committee recommended removal of many restrictions and the addition of appropriate safeguards. The Committee believed these safeguard requirements would help ensure that inedible peanuts do not end up in human consumption outlets.

The provisions covering peanut disposition are replaced by two new paragraphs and revisions are made in two existing paragraphs. New paragraphs (f) (1), (2) and (3) of the outgoing regulation modify § 998.32 of the Agreement and specify disposition requirements for edible and non-edible peanut lots. New paragraph (g) provides for disposition of inedible milled peanuts ("sheller oilstock residuals"). New paragraph (h)(1) covers the blanching of inedible peanuts (revised from current paragraph (h)(2)). New paragraph (h)(2) covers the remilling of inedible peanuts (revised from current paragraph (h)(4)).

The Committee believed that safeguard measures in the regulations should be maintained because peanut lots sent to human consumption outlets still need to meet the quality requirements of paragraph (a) and be certified negative to aflatoxin. Peanuts which cannot be reconditioned (or which a handler chooses not to recondition) to meet outgoing quality requirements would continue to be required to be P.L.I., red tagged, and maintained in appropriate containers. If disposed of to inedible peanut outlets other than domestic or export crushing, failing peanuts would be required to be certified as to aflatoxin content and that certification would accompany the lot to the inedible peanut outlet. In addition, new paragraph (f)(2) also requires that the shipping papers state that the inedible peanuts are not to be used for human consumption. All inedible dispositions would continue to be reported to the Committee.

In new paragraph (f)(3) of § 998.200, failing quality peanuts not sent to inedible outlets such as livestock feed, wild animal feed, rodent bait, etc., must be either crushed or exported as prescribed in new paragraph (g) or blanched or remilled pursuant to new paragraphs (h) (1) and (2), respectively. Segregation 2 and 3 farmers stock peanuts may be milled for seed.

New paragraph (g) of § 998.200 provides that peanuts and portions of peanuts which result from milling operations be identified as "sheller oilstock residuals." Such peanuts include loose shelled kernels, fall through, and pick-outs as defined in that paragraph and whole lots of failing peanuts that a handler may choose to crush or export for crushing. Under new paragraph (g), sheller oilstock residuals which are certified as to aflatoxin content may be disposed of "domestically," which means that the peanuts may be used for livestock feed, wild animal feed, rodent bait, or other non-human consumption uses, pursuant to paragraph (f)(2), or crushed for oil. Such peanuts also may be exported. Seller oilstock residuals not certified as to aflatoxin content must be crushed or exported as specified in new paragraph (g). Further, shipping papers accompanying such crushed or exported lots must specify that disposition limitation. All sheller oilstock residuals moved under paragraph (g) of § 998.200 must be reported to the Committee—which is consistent with current reporting requirements. Corresponding reporting requirements to report disposition of inedible peanut lots to the AMS are established for non-signatory handlers in paragraph (c) of § 997.40 and for importers in paragraph (e)(4) of § 999.600.

This final rule removes nearly all restrictions on handlers selling peanuts to inedible peanut outlets. To help ensure the peanut lots with excessively high aflatoxin content are not used in inedible outlets where aflatoxin contamination could be transferred to human consumption products, the Department establishes in this final rule that no peanut lot exceeding 300 ppb aflatoxin content may be disposed to an inedible peanut outlet, other than crushing or export. The 300 ppb content ceiling is the maximum aflatoxin content recommended by the Food and Drug Administration (FDA) for peanuts used for finishing (i.e. feedlot) beef cattle. To make this change, an additional paragraph (2) specifying the restriction is added to paragraph (g) covering sheller oilstock residuals. The same provision is added to the non-signer regulation as paragraph (c)(2) of § 997.40 and the import regulation as paragraph (e)(2)(ii) of § 999.600. This requirement will help ensure peanut lots which are excessively high in aflatoxin are not disposed to inedible outlets such as livestock feed where the aflatoxin can be transferred in the food chain to other food products intended for human consumption.

Thus, this final rule raises the aflatoxin content limit to 300 ppb from the current 25 ppb for failing peanut lots which can be disposed of to any inedible outlet.

Under this final rule, handlers are allowed to recondition failing peanut lots, and have more incentive to do so. Handlers have the option of crushing a lot for oil or reconditioning the lot. Lots above 300 ppb aflatoxin content which are not economically beneficial to recondition must be crushed or exported. Only lots testing 300 ppb or less should be disposed of for use as animal feed. With current technologies, reconditioning should be possible for most all failing peanut lots. Whole and residual lots exceeding 300 ppb aflatoxin content may be commingled until sufficient volume is accumulated for crushing disposition.

According to the FDA, residuals from the reconditioning of lots exceeding 300 ppb and the meal from crushed lots exceeding 300 ppb should not be used as animal feed. The recommended maximum aflatoxin content for domestic animal feed, provided below, is summarized from FDA's Compliance Policy Guides (Sec. 683.100). The section is entitled "Action Levels for Aflatoxin in Animal Feed" and was last revised March 28, 1994. The action levels provided below apply to peanut products, peanuts, peanut meal, peanut hulls, peanut skins and ground peanut hay. The FDA guide provides the following action levels for animal feeds:

- Peanut products intended for finishing (i.e., feedlot) beef cattle: Action level 300 ppb.
- Peanut products intended for finishing swine of 100 pounds or greater: Action level 200 ppb.
- Peanut products intended for breeding beef cattle, breeding swine, or mature poultry: Action level 100 ppb.
- Peanut products and feed ingredients intended for immature animals: Action level 20 ppb.
- Peanut products and other feed ingredients intended for dairy animals, for animal species or uses not specified above, or when the intended use is not known: Action level 20 ppb.

In the previous Agreement regulations, inedible peanut lots certified at 26 or more ppb could not be sent to inedible peanut outlets where the peanuts would not be subject to heating in the preparation for inedible use or sent to outlets which allow the aflatoxin to be passed to another food product entering human consumption channels. This is a food safety measure

which helps prevent aflatoxin-contaminated peanut lots from being used in certain inedible outlets—such as dairy cattle feed where the aflatoxin could be passed to human consumption in the milk.

This final rule continues to require that handlers dispose of inedible peanuts based on aflatoxin content. However, the action level restricting inedible disposition is relaxed significantly and the restrictions limiting disposition to different inedible peanut outlets are removed, except that lots containing aflatoxin in excess of 300 ppb are required to be crushed for oil.

This final rule retains, as proposed, the phrase "which originated from Segregation 1 peanuts" in paragraphs (h)(1) and (h)(2) of § 998.200. This phrase was not included in the text for the revised blanching and remilling paragraphs recommended by the Committee and no explanation was provided by the Committee as to the benefit of removing this important safeguard provision. The phrase, at the very least, serves as a reminder that only Segregation 1 peanuts may be shelled and sent to edible consumption outlets. The phrase is included in corresponding paragraphs (d) and (e) of § 997.400 and the introductory paragraph (e) of § 999.600.

Also, the Committee recommended that the titles of the revised blanching (h)(1) and remilling (h)(2) paragraphs include reference to Committee-approved blanchers and remillers. However, the references are not necessary for the meaning of the paragraphs and are not included in this final rule.

In non-signer § 997.30 Outgoing regulation, paragraphs (f) *Transfer between plants* and (g) *Residuals from seed peanuts* correspond to the same topics covered in the Agreement's outgoing regulation, and are removed in this final rule. The subject matter in the two paragraphs is replaced with revised § 997.40 Reconditioning and disposition of peanuts failing quality requirements. Paragraphs (a)(1) and (2) of old § 997.40, covering remilling and blanching of inedible shelled peanuts are revised and the order is reversed to conform with revised blanching and remilling paragraphs in § 998.200. The new non-signer blanching and remilling paragraphs are designated as paragraphs (d) and (e), respectively. These new paragraphs are not identical to the Agreement's blanching and remilling paragraphs because non-signers are not required to receive approval prior to moving a failing shelled lot to a blancher or remiller (as are signatory

handlers under the Agreement regulations). Also, the non-signer regulations do not limit remilling and blanching to Committee-approved remillers, blanchers or exporters. Therefore, those requirements are not included in revised non-signer paragraphs (d) blanching and (e) remilling finalized in this rule.

The provisions of the previous non-signer paragraph (a)(3) of § 997.40 covering the ownership of peanuts moved for custom blanching or remilling, and the certification and reporting of such peanuts, are included in new § 997.40 blanching and remilling paragraphs (d) and (e). Likewise, previous paragraph (a)(4) provisions on the bagging, red tagging and disposition of blanched and remilled peanuts are included in the revised paragraphs (d) and (e) of § 997.40. These changes make the non-signer blanching and remilling paragraphs conform with the Agreement regulation's revised blanching and remilling paragraphs.

Four paragraphs in old § 997.40(b) *Disposition of shelled peanuts failing quality requirements for human consumption* cover the various disposition procedures and outlets for failing quality, inedible peanuts. These requirements are the same as, but are organized and worded differently from corresponding paragraphs (g) through (m) in § 998.200 of the Agreement regulations. The provisions removed from old paragraph (b) of § 997.40 are:

(1) Paragraph (b)(1) which regulated the disposition of shelled peanuts to unrestricted crushing, fragmenting or dyeing, export, animal feed, wildlife feed, and rodent bait;

(2) Paragraph (b)(2) which specified further requirements for disposition to animal feed (coloring or dyeing, P.L.I., valid aflatoxin certification, and reporting);

(3) Paragraph (b)(3) which regulated the disposition of shelled peanuts to restricted crushing, and export;

(4) Paragraph (b)(4) which regulated the disposition of Segregation 2 and 3 farmers stock peanuts to restricted and unrestricted meal, crushing and export; and

(5) Paragraph (b)(5) which specified reporting requirements for LSKs, fall through, and pickouts.

These paragraphs are removed for the same reasons cited above and to correspond to changes to the Agreement's outgoing regulation. This final rule removes all references to "restricted" and "unrestricted" failing imported peanuts and limitations on the disposition of restricted and unrestricted lots.

Old paragraph (b)(6) of § 997.40 is retained because it exempts from assessments, Segregation 2 and 3 farmers stock peanuts acquired by non-signatory handlers for crushing or export. The corresponding paragraph in the Agreement is retained and redesignated in this final rule. Therefore, such Segregation 2 and 3 peanuts acquired by non-signatory handlers also continues to be exempt from assessments. Old paragraph (b)(6) is revised and redesignated as paragraph (b) under § 997.51 Assessments and the existing text in § 997.51 is redesignated as paragraph (a).

There is no authority to assess imported peanuts.

Several changes are made to § 999.600 of the import regulation regarding disposition of inedible peanuts. Old paragraph (c)(3) (reconditioned peanuts) is redesignated as the new introductory paragraph of paragraph (e). Further, the provisions in old paragraphs (e) and (f) (disposition and reconditioning of failing peanuts, respectively) are revised and combined in new paragraph (e). Also, paragraphs (g) and (h) (safeguard procedures and additional requirements, respectively) are redesignated as paragraphs (f) and (g), respectively.

The introductory paragraph of new paragraph (e) of § 999.600 provides an overview for reconditioning imported peanut lots. New paragraphs (e)(1), (e)(2), and (e)(3) of the import regulation correspond to new paragraphs (f), (g), and (h) of the Agreement regulations. New paragraph (e)(1) covers failing lots disposed of to inedible uses such as animal feed, wildlife feed, seed peanuts and meal—specified in previous paragraphs (e) and (f). Disposition to these inedible outlets must be positive lot identified with red tags, bagged, and the bill of lading must state that the peanuts cannot be used for human consumption.

New paragraph (e)(2) of the import regulation covers disposition of failing quality peanuts ("sheller oilstock residuals") to crushing or export. Peanuts covered under the new paragraph (e)(3) are primarily loose shelled kernels, fall through and pickouts from milling operations, but may also include any other failing lot that an importer chooses to crush or export.

New paragraph (e)(4) specifies that identification, certification, and movement of inedible peanuts covered under paragraph (e) must be reported to AMS pursuant to safeguard procedures in paragraphs (f)(2) and (f)(3) of § 999.600. This does not represent additional reporting or recordkeeping

requirements of inedible dispositions for importers. The requirements correspond to reporting requirements in the revised Agreement regulations for signatory handlers who are required to report dispositions and maintain records of all inedible peanut transactions.

Finally, a new paragraph (i) is added at the end of § 998.200 of the Agreement regulations. The new paragraph specifies that certain records are required to be maintained pursuant to § 998.43 of the Agreement. The records pertain to peanuts which are not certified for human consumption. In addition to maintaining certain records, the Agreement provides that all records are made available to Committee staff and to representatives of the Secretary, as is necessary to document compliance with Agreement regulations.

The additional provision does not represent an increase in the number of forms handlers and importers complete, report, or maintain under the three programs.

No corresponding changes in reporting and recordkeeping requirements are necessary in the non-signer and import regulations. However, in § 997.52 Reports of acquisition and shipments and elsewhere in the non-signer regulation, references regarding specific Fruit and Vegetable Division form numbers are replaced with the generic statement "forms provided by the Division." This will enable the Department to revise the forms and reduce the number of forms without the additional rulemaking expense of changing the non-signer peanut regulation each time a form is revised or deleted. All such changes still must be submitted for approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

The unchanged portions of incoming and outgoing regulations of all three peanut programs, in effect for 1995 and subsequent crop peanuts, remain in effect for 1996 and subsequent crop peanuts.

Additional Change to § 999.600 Import Regulation

Early Entry and Bonded Storage Pending New Quota

Experience shows that some importers ship peanuts to the U.S. several months prior to filing a consumption entry for the peanuts. Such peanuts are sampled and inspected when off-loaded at the port and then stored in Customs Service bonded warehouses until the opening of the next year's duty-free quota.

Depending on how quickly one year's quota fills, storage could be as long as 10 or 11 months. For instance, new crop peanuts from Argentina may be harvested as early as May or June but arrive in the U.S. too late to be included in the duty-free quota that opened a month or two earlier on April 1. The peanuts are then placed in bonded storage awaiting the next quota year the following April 1. Further, if the quota is filled before all peanuts in storage can be entered for one year, it is possible that some peanuts would have to be stored for another full year, and the total storage time could approach 2 years.

Because of the possibility of deterioration while in storage, the Department needs to know which peanut shipments are held in bonded storage for an extended period of time, so that the wholesomeness of such peanuts can be verified, if necessary, when the peanuts are removed from storage and entered for consumption. The Department proposed adding an additional safeguard measure, new paragraph (f)(6) *Early arrival and storage*, to the import regulation. This provision requires that importers report peanut shipments which are sampled, inspected, and held in bonded storage in excess of a stated period of time.

AMS sought comments on this new requirement, including comments as to whether one month is an appropriate maximum storage period that does not have to be reported. Two comments opposed the new requirement and one comment concurred with the new requirement.

Both comments opposing the added provision stated that similar requirements concerning reporting are not required under Agreement regulations for domestically produced peanuts placed in storage, and therefore should not be required of imported peanuts. Domestic peanut handlers maintain records of all peanuts placed in storage and make those records available to Committee employees (fieldmen) who routinely visit handler offices to review records and inspect facilities. The Department, not the Committee, is responsible for monitoring the storage of imported peanuts. It is not practical for the Department to make such routine on-site inspections of all importers' records and facilities to monitor arrival on new shipments. Therefore, the Department believes that such notification of shipments after arrival and inspection is, at this time, the least burdensome and most practical way for the Department to meet its safeguard obligation.

AMS is working with the Customs Service to obtain a weekly data base of information on shipments of fresh agricultural commodities, including peanuts, imported into the U.S. The data received will include shipments of commodities submitted for warehouse entries. When those procedures are complete, and when AMS has assurance that all incoming shipments are included in the weekly computerized report, AMS will remove this requirement on importers.

The rule proposed that entry data, as well as grade and aflatoxin certificates for the stored peanut lot, be filed with AMS. One commenter stated that this is logistically cumbersome and requires additional paperwork for importers. After review of the information needed, AMS agrees that the only information necessary for AMS awareness is a copy of the Customs Service documentation identifying the location and identification of the storage warehouse, the quantity of peanuts entered for storage, and the date of storage entry. This information is shown on Customs Form 7501 and is sufficient for notification of lots placed in bonded storage. Therefore, it is not necessary, as stated in the proposed rule, that importers file copies of the grade and aflatoxin certificates for peanut lots admitted for bonded warehouse storage. This final rule is changed to reflect this change.

The wording of two comments indicated a possible misunderstanding of the focus of this requirement. It is added to the import regulation to apply to peanut lots that arrive in the U.S. and are placed in storage prior to the filing of a Customs Service consumption entry when the next quota period opens. It does not apply to peanut lots which the Customs Service has already entered for consumption or peanut lots which have met all import requirements and are placed in storage pending shipment to buyers.

The Department indicated in the proposed rule, and establishes in this final rule, that the grade and aflatoxin certificates issued on such peanuts upon arrival continue to be valid for the following quota year. This is consistent with Agreement regulation which does not place any time limits on the applicability of grade and aflatoxin inspection certificates or the storage of domestically produced peanuts.

One commenter suggested that as long as the Customs Service knows the location of the bonded warehouses where peanuts are stored, the importer should not have to report storage to AMS. Storage data is not currently available from the Customs Service.

The commenter suggested also that as long as the Customs Service knows the condition of the bonded warehouses where peanuts are stored, the importer should not have to certify as to the storage conditions when later filing for consumption entry. It is true that the Customs Service inspects and certifies the structural integrity and security of bonded warehouses. However, the Customs Service does not monitor such things as whether cold storage equipment is available and maintained, or whether the peanuts are protected from rodent or insect infestation or rain damage from leaks in the roof. Therefore, for compliance purposes, it is necessary that the importer certify to the Customs Service that the peanuts have been stored consistent with industry standards.

The commenter suggested that AMS should inspect the warehouses. AMS will inspect such warehouses when necessary. However, inspection does not guarantee that peanuts subsequently placed in the warehouses will be maintained in conditions consistent with industry standards. Knowledge of which warehouses contain imported peanuts will allow AMS to spot check warehouses which are used and monitor weather conditions in the area so that potentially adverse situations are known to AMS.

Finally, one commenter stated that the reinspection requirement should not be included in the import regulations. However, to meet the Department's statutory mandate that all peanuts in the domestic market meet requirements applied to peanuts under the Agreement regulations, it is necessary that the Secretary have the authority to reinspect imported peanuts, particularly those that might be subject to deteriorating conditions while in storage. As stated above, the Secretary has the same reinspection authority over domestically produced peanuts under Agreement and non-signer regulations. The Department exercises this oversight only to ensure that wholesome peanuts enter human consumption channels.

The proposed rule asked for comments on the minimum length of the storage period which would require notification of AMS. One month was proposed. No comments were received suggesting other lengths of time. Therefore, this final rule establishes the minimum storage period requiring notification of AMS as any period exceeding one month. Peanuts produced in Mexico arriving in the U.S. and placed in storage prior to December 1—in anticipation of withdrawal and entry for consumption on or after the following January 1—must be reported

to AMS. Peanuts produced in Argentina or any other country, except Mexico, which arrive and are placed in storage prior to March 1 of any year—in anticipation of withdrawal and entry for consumption on or after the following April 1—must be reported to AMS. The reports may be sent via facsimile transmission or mailed pursuant to paragraphs (f) (2) and (3) of § 999.600 at the time of entry into a bonded warehouse for storage. The report should be a copy of Customs Form 7501 identifying the importer and showing the volume of peanuts being stored and the location of the storage warehouse.

As a safeguard measure, old paragraph (b)(4) of the import regulation provided that if the Secretary has reason to believe that imported peanuts have been damaged or deteriorated while in storage, the Secretary may reject the then effective inspection certificate and require reinspection of the peanuts. This paragraph is redesignated as safeguard paragraph (f)(5) *Reinspection*. This reinspection authority corresponds to paragraph (e) of § 998.200 of the Agreement regulations.

To avoid deterioration, peanuts should be stored in clean, dry, odor free, warehouses and under sanitation and cold storage conditions consistent with industry standards. While Agreement regulations do not specify cold storage conditions, the following points should be used as a cold storage guide:

- Temperatures should range from 34 to 41 degrees Fahrenheit with a relative humidity of 55 to 70 percent.
- Daily or weekly recording charts of temperature and humidity should be maintained.
- Interior air circulation should be adequate to maintain uniform temperatures.
- Pans under refrigeration equipment should prevent condensation from dripping onto the peanuts.
- Peanuts should be gradually removed from cold storage over 2 to 3 days.

This and other information on sanitation, facilities, management practices, and dry storage is taken from *Good Management Practices for Shelled Goods Cold Storage and Shelled Goods Dry Storage* distributed by the National Peanut Council. Copies are available for a nominal price to non-members by calling (703)–838–9500.

Imported peanut lots certified as meeting human consumption requirements and subsequently stored under such conditions and in appropriate warehouses, may be entered for consumption when the next quota year begins—without further reporting to AMS.

One commenter stated that importers should not have to certify to the Customs Service that stored peanuts have been stored consistent with industry standards for the entire length of the storage period. However, the Department believes that such certification is necessary for compliance purposes.

Paragraph (b)(4) of the import regulation provides authority for the Secretary to require a reinspection of an imported peanut lot. If the documentation provided to AMS, or if any evidence subsequently received by AMS, indicates that appropriate storage standards have not been met or maintained and that the peanuts may have been damaged or deteriorated while in storage, the Secretary will demand reinspection of the lot prior to the importer's filing for consumption entry of the lot.

Paragraph (b)(4) of § 999.600 is moved from incoming quality regulation to paragraph (f)(5) and entitled *Reinspection*. Experience indicates that reinspections are more likely to be needed when shelled peanuts are placed under bonded storage several months prior to the beginning of the next quota year, as discussed above. As a safeguard provision, the paragraph applies to farmers stock, shelled, and inshell imported peanuts. The intent and requirements of the paragraph remain unchanged.

The new requirements as applied to imports are effective five days after publication of this rule in the Federal Register, should any peanuts be imported under duty prior to the opening of the next duty-free quota periods. The reporting requirement is not made retroactive for shipments which have already arrived and been placed in storage. Peanut shipments from countries other than Mexico arriving five days after publication and before March 1, 1977, should be reported to AMS under the new requirement. Importers may voluntarily notify AMS of shipments which have been entered into warehouses since closure of the 1996 duty-free quotas and currently are in storage pending the 1997 quota year.

Some paragraphs of the three peanut regulations are not changed in this final rule. However, for a better understanding of all changes, the three regulations are published in their entirety in this final rule, including paragraphs which are not changed.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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.

About 80 signatory and non-signatory peanut handlers are subject to regulation under the two domestic programs. There are about 47,000 peanut producers in the 16-state production area. Small agricultural service firms, which include handlers and importers, have been 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 have been defined as those having annual receipts of less than \$500,000. Approximately 25 percent of the signatory handlers, most all of the non-signers, and virtually all of the producers may be classified as small entities. The import requirements have not been in place long enough to determine the number of peanut importers or the percentage which qualify as small businesses. However, it can be assumed that some importers are small entities.

This final rule removes or relaxes several provisions regulating the handling and disposition of domestic and foreign-produced peanuts. Overall, the changes are intended to increase the amount of peanuts that can be prepared for and meet the requirements for human consumption. Such peanuts almost always bring the highest prices in the marketplace. Thus, the value of farmers stock peanuts that can be prepared for human consumption is higher than the value of those that must be disposed of to inedible outlets. Producers receive increased returns for farmers stock peanuts that can be prepared for human consumption. Handlers and importers also receive increased returns from shelled and inshell peanuts that are prepared for and meet human consumption requirements. Peanut lots that fail human consumption requirements, and that a handler or importer decides not to try to recondition, must be disposed of as inedible peanuts to different inedible peanut outlets. Such inedible disposition brings varying prices for the handler or importer, almost always less than prices for human consumption quality peanuts. The changes finalized in this rulemaking should increase the value of certain failing peanut lots, and thus, increase returns for both producers and handlers.

- Restrictions are removed on acquisitions of certain farmers stock lots failing incoming inspection because of excess loose shelled

kernels and fall-through peanuts. This relaxation enables more farmers stock peanuts to be processed into product that meets requirements for human consumption. Producers receive higher prices for such farmers stock peanut lots and handlers are able to shell and recondition those lots into shelled peanuts which meet human consumption requirements.

- Restrictions on remilling and blanching for human consumption use are removed on shelled peanut lots exceeding certain damage and foreign material content levels. This change enables handlers to recondition more lots of failing peanuts for disposition to human consumption outlets.
- This rule also removes requirements that handlers and importers maintain PLI, and report and keep disposition records on “restricted” and “unrestricted” inedible peanut lots. This should reduce some inspection and reporting and recordkeeping costs.
- The maximum allowable aflatoxin content of domestically- produced and imported shelled peanut lots which could be used as animal feed, wildlife seed, and rodent bait is raised from 25 ppb to 300 ppb. Depending on several market factors, such as inedible peanut use can bring higher prices than crushing the peanuts. This change provides more opportunity for handlers and importers to increase the value, and thus, the returns, of the peanuts they handle or import.
- Positive lot identification (PLI) requirements for seed peanuts are removed. This will save handlers and importers inspection costs and enable better use of storage space.
- Shelled peanut lots meeting Indemnifiable Grade or Superior Grade requirements may be sent to human consumption outlets prior to the handler or importer receiving aflatoxin certification of the lot. This is a clarification of requirements to make the domestic requirements consistent with current industry practice. Handler and importer inspection costs should not be increased because of this provision.

The changes to handling requirements in this final rule will enable more peanuts to be prepared for human consumption, save some inspection and storage costs, enable handlers and importers to more efficiently manage their peanut inventories, and make better use of inedible peanut lots, thus, increasing returns to both producers, handlers and importers. The changes are made without jeopardizing safeguard

provisions in the current domestic and import regulations because all peanuts intended for human consumption still must be certified for such use. Finally, these changes are intended to benefit peanut handlers, peanut importers, and consumers by ensuring that all peanuts in domestic U.S. human consumption markets are wholesome.

The proposed rule requested comments on the effect of the rule on small businesses and no comments were received stating that the changes would adversely affect small entities in the peanut industry.

This final rule does not increase the reporting and recordkeeping burden on domestic peanut handlers and peanut importers regulated under the three programs, and should result in an overall reduction in reporting and recordkeeping burden. To verify the reduced burden, another OMB reporting and recordkeeping burden analysis will be conducted after the regulations and the sharing of computerized import data between Customs Service and AMS have been implemented.

Therefore, the AMS determines that this final rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), information collection requirements in this final rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Nos. 0581-0067 (for signatory handlers), 0581-0163 (for non-signatory handlers), and 0581-0176 (for importers).

Because these changes could not be implemented before the beginning of the 1996 domestic crop year, comments were requested on whether final implementation of the changes after the beginning of the crop year would have an unequal effect on one or more of the three production areas. No commenters claimed implementation after the start of the year would unequally affect the three production areas. Seven of the commenters stated that the regulations should be in place as soon as possible for the 1996-97 domestic marketing season. Several of the comments suggested that unnecessary delays in implementation would hurt the industry.

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 postpone the effective date of this rule until 30 days after publication in the Federal Register because: (1) The changes should be in effect as soon as possible to cover as much of the

remaining crop year as possible; (2) the rule relaxes requirements currently in place with the exception of one requirement which codifies current industry practice; (3) the domestic industry has been aware of the issues and proposed changes since May when the Committee recommended the changes; (4) all known handlers and other affected members of the domestic industry, as well as all known importers, were sent copies of the proposed rule and they and all other interested persons were given a 20-day opportunity to file comments on the recommended changes; and (5) comments addressing the effective date were unanimous in recommending immediate implementation and several commented that further delays in implementation would be harmful to the industry. Thus, the Department sets the effective date of this final rule as three days after publication in the Federal Register for domestically produced peanuts and five days after publication in the Federal Register for imported peanuts.

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, Filberts, Food grades and standards, 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:

PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO THE PEANUT MARKETING AGREEMENT

1. The authority citation for 7 CFR part 997 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Under the center heading “Quality Regulations,” §§ 997.20, 997.30, 997.40 and 997.50 are revised to read as follows:

Quality Regulations

§ 997.20 Incoming regulation.

(a) No handler shall receive or acquire peanuts intended for human

consumption, either from a producer or other person, unless such peanuts are inspected pursuant to § 997.50 and are determined to be Segregation 1 peanuts at time of receipt from the producer or, if received from another person, had not been mixed with peanuts of a lower quality than Segregation 1 and meet the following additional requirements specified in this section: *Provided*, That a handler may—

(1) Acquire shelled peanuts from the Commodity Credit Corporation (CCC) or cleaned inshell or shelled peanuts from other handlers, a handler as defined in 7 CFR 998.8, or from buyers who have purchased such peanuts from handlers or from the CCC, if the lot has been certified as meeting the requirements of § 997.30(a) and the identity is maintained; and/or

(2) Perform services for an area association pursuant to a peanut receiving and warehouse contract.

(b) *Moisture and foreign material.* (1) *Moisture.* Except as provided under paragraph (d) of § 997.20, no handler shall receive or acquire peanuts containing more than 10.49 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storing or milling. For farmers stock peanuts, moisture determinations shall be rounded to the nearest whole number. Moisture determinations on shelled peanuts shall be carried to the hundredths place.

(2) *Foreign material.* No handler shall receive or acquire farmers stock peanuts containing more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be received or acquired if they are held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term *sand-screen* means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(c) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(d) *Seed peanuts.* Peanuts which are not Segregation 1 peanuts and therefore cannot be acquired for human consumption may be acquired, shelled and delivered for seed purposes. Peanuts intended for seed use, produced under the auspices of a State agency which regulates or controls the production of seed peanuts, which do not meet Segregation 1 requirements shall be stored and shelled separate from peanuts intended for human consumption. However, Segregation 2 seed peanuts, produced under the auspices of the State agency, which contain up to 3.00 percent damaged kernels and are free from visible *Aspergillus flavus* may be stored and shelled with Segregation 1 peanuts which are also produced under the auspices of the State agency. A handler whose operations include custom seed shelling may receive, custom shell, and deliver for seed purposes farmers stock peanuts, and such peanuts shall be exempt from the requirements of this section and, therefore, shall not be required to be inspected and certified as meeting these requirements, and the handler shall report to the Division the weight of each lot of farmers stock peanuts received on such basis on a form provided by the Department. However, handlers who acquire seed peanut residuals from their custom shelling of uninspected (farmers stock) seed peanuts or from another person may mill such residuals with other receipts or acquisitions of the handler, and such peanuts which meet the requirements specified in § 997.30(a) may be disposed of by sale to human consumption outlets.

(e) *Oilstock.* Handlers may acquire for disposition to domestic crushing or export farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. Handlers may act as accumulators and acquire, for other handlers; a handler as defined in 7 CFR 998.8 or from other persons, Segregation 2 or 3 farmers stock peanuts. Handlers may also acquire shelled peanuts originating from Segregation 2 or 3 farmers stock or the

entire mill production of peanuts from Segregation 1 farmers stock or lots of shelled peanuts originating from Segregation 1 peanuts and which have been positive lot identified as specified in § 997.30(d), which failed to meet the requirements for human consumption pursuant to § 997.30(a): *Provided*, That all such acquisitions are held separate from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts. Handlers may commingle the Segregation 2 and 3 peanuts or keep them separate and apart. Handlers who acquire farmers stock peanuts of a lower quality than Segregation 1 or cleaned inshell peanuts which fail to meet the requirements for human consumption shall report such acquisitions to the Division as prescribed on a form prescribed by the Division. Handlers who acquire grades or sizes of shelled peanuts which fail to meet the requirements for human consumption for disposition to domestic crushing and subsequent export to countries shall report such disposition on a form provided by the Division.

(f) *Shelled peanuts.* Handlers may acquire shelled peanuts (which originated from "Segregation 1 peanuts") from other handlers or a handler as defined in 7 CFR 998.8, for remilling and subsequent disposition to human consumption outlets. Further disposition of such peanuts shall be regulated by § 997.40.

(g) No producer may handle, process, prepare for sale, or otherwise alter peanuts of his own production from the condition of farmers stock, for disposition in human consumption outlets unless such peanuts are first inspected and certified pursuant to § 997.50 and meet the applicable requirements of this section.

§ 997.30 Outgoing Regulation.

(a) *Shelled peanuts.* (1)(i) No handler shall ship or otherwise dispose of shelled peanuts for human consumption unless such peanuts are positive lot identified, certified "negative" as to aflatoxin and certified as meeting the requirements in Table 1:

TABLE 1.—MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole Kernels and Splits]

Maximum limitations

Excluding lots of "splits"

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total		
Runner	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 19/64 x 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (except No. 2).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 15/64 x 1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia.	1.50	2.50	3.00%; 19/64 inch; round screen.	3.00%; 15/64 x 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
No. 2 Virginia	1.50	3.00	6.00%; 17/64 inch; round screen.	6.00%; 15/64 x 1 inch; slot screen.	6.00%; both screens.	.20	9.00

Lots of "splits"

Runner (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64 x 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (not less than 90% splits).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64 x 1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia (not more than 4% sound whole kernels)..	1.50	2.50	3.00%; 19/64 inch; round screen.	3.00%; 13/64 x 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00

(ii) Prior to disposition to human consumption outlets, peanuts which have been certified as meeting the requirements for Indemnifiable Grades must also be certified "negative" as to aflatoxin. Maximum limitations for Indemnifiable Grades are as follows:

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole Kernels and Splits]

Maximum limitations

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Runner U.S. No. 1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 19/64 x 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia U.S. No.1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 x 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia U.S. No.1 and better..	1.25	2.00	3.00%; 19/64 inch, round screen.	2.00%; 15/64 x 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Runner U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 17/64 inch, round screen.	3.00%; 14/64 x 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Virginia U.S. Splits (not less than 90% splits and not more than 3.00% sound whole kernels and portions passing through 20/64 inch round screen).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 14/64 x 1 inch, slot screen.	4.00%; both screens.	.20	9.00

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION—Continued
 [Whole Kernels and Splits]
 Maximum limitations

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Spanish and Valencia U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 1 ⁹ / ₆₄ inch, round screen.	3.00%; 1 ³ / ₆₄ × ³ / ₄ inch, slot screen.	4.00%; both screens.	.20	9.00
Runner with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 1 ⁷ / ₆₄ inch, round screen.	3.00%; 1 ⁶ / ₆₄ × ³ / ₄ inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 1 ⁷ / ₆₄ inch, round screen.	3.00%; 1 ⁵ / ₆₄ ×1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 1 ⁶ / ₆₄ inch, round screen.	2.00%; 1 ⁵ / ₆₄ × ³ / ₄ inch, slot screen.	4.00%; both screens.	.10	9.00

(2) The term "fall through", as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Prior to shipment, appropriate samples for pretesting shall be drawn in accordance with paragraph (c) of this section from each lot of Superior Quality peanuts. For the current crop year, "negative" aflatoxin content means 15 parts per billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements.

(b) *Cleaned inshell peanuts.* No handler shall ship, sell, or otherwise dispose of cleaned inshell peanuts for human consumption:

(1) With more than 1.00 percent kernels with mold present unless a sample of such peanuts, drawn by an inspector of the Federal or Federal-State Inspection Service, was analyzed chemically by a U.S. Department of Agriculture laboratory (hereinafter referred to as "USDA laboratory") or a laboratory listed in paragraph (c) of this section and found to be wholesome relative to aflatoxin;

(2) With more than 2.00 percent peanuts with damaged kernels;

(3) With more than 10.00 percent moisture; or

(4) With more than 0.50 percent foreign material.

(c) *Sampling and testing shelled peanuts.* (1) Each handler shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by an inspector of the Federal or Federal-State 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 assay. The three 48-pound samples shall be designated by the Federal or Federal-State Inspection Service as "Sample #1N", "Sample #2N", and "Sample #3N" and each sample shall be placed in a suitable container and "positive lot identified" by means acceptable to the Inspection Service. Sample #1N may be prepared for immediate testing or Sample #1N, Sample #2N, and Sample #3N may be returned to the handler for testing at a later date.

(2) The handler shall cause Sample #1 to be ground by the Federal or Federal-State Inspection Service, a USDA laboratory or a laboratory listed herein, in a "subsampling mill" approved by the Division. The resultant ground subsample from Sample #1N shall be of a size specified by the Division and shall be designated as "Subsample 1—ABN" and at the handler's or buyer's option, a second subsample may also be extracted from Sample #1N. It shall be designated as "Subsample 1—CDN". Subsample 1—CDN may be sent as requested by the handler or buyer, for aflatoxin assay, to a USDA laboratory or other laboratory that can provide analyses results on such samples in 36 hours. The cost of sampling and testing Subsample 1—CDN shall be for the account of the requester. Subsample 1—ABN shall be analyzed only in a USDA laboratory or a laboratory listed herein. Both Subsamples 1—ABN and 1—CDN shall be accompanied by a notice of sampling signed by the inspector containing, at least, identifying information as to the handler (shipper),

the buyer (receiver), if known, and the positive lot identification of the shelled peanuts. A copy of such notice covering each lot shall be sent to the Division.

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

(4) Upon call from the laboratory, handler shall cause Sample #2N to be ground by the Inspection Service in a "subsampling mill." The resultant ground subsample from Sample #2N shall be of a size specified by the Division and it shall be designated as "Subsample #2—ABN." Upon call from the laboratory, the handler shall cause Sample #3N to be ground by the Inspection Service in a "subsampling mill." The resultant ground subsample from Sample #3N shall be of a size specified by the Division and shall be designated as "Subsample #3—ABN". "Subsamples 2—ABN and 3—ABN" shall be analyzed only in a USDA laboratory or a laboratory listed herein and each shall be accompanied by a notice of sampling. A copy of each such notice shall be sent to the Division. The results of each assay shall be reported by the laboratory to the handler and to the Division. All costs involved in the sampling and testing of peanuts required by this regulation shall be for the account of the applicant.

(5) Information on making arrangements for the required inspection and certification can be obtained by contacting the Fresh

Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, P.O. Box 96456, room 2049-S, Washington, DC, 20090-6456, telephone (202) 690-0604 or facsimile (202)720-0393.

(i) Laboratories at the following locations are approved to perform the chemical analyses required pursuant to this part. The sampling plan and procedures may be obtained from the Science and Technology Division.

Science and Technology Division, AMS, USDA, P.O. Box 279, 301 West Pearl St., Aulander, NC 27805, Tel: (919) 345-1661 Ext. 156, Fax: (919) 345-1991

Science and Technology Division, AMS, USDA, 1211 Schley Ave., Albany, GA 31707, Tel: (912) 430-8490/8491, Fax: (912) 430-8534

Science and Technology Division, AMS, USDA, P.O. Box 488, Ashburn, GA 31714, Tel: (912) 567-3703

Science and Technology Division, AMS, USDA, 610 North Main St., Blakely, GA 31723, Tel: (912) 723-4570, Fax: (912) 723-3294

Science and Technology Division, AMS, USDA, 1557 Reeves St., Dothan, AL 36303, Tel: (334) 794-5070, Fax: (334) 671-7984

Science and Technology Division, AMS, USDA, 107 South Fourth St., Madill, OK 73446, Tel: (405) 795-5615, Fax: (405) 795-3645

Science and Technology Division, AMS, USDA, P.O. Box 272, 715 N. Main Street, Dawson, GA 31742, Tel: (912) 995-7257, Fax: (912) 995-3268

Science and Technology Division, AMS, USDA, P.O. Box 1130, 308 Culloden St., Suffolk, VA 23434, Tel: (804) 925-2286, Fax: (804) 925-2285

ABC Research, 3437 SW 24th Avenue, Gainesville, FL 32607-4502, Tel: (904) 372-0436, Fax: (904) 378-6483

J. Leek Associates, Inc., P.O. Box 50395, 1200 Wyandotte (31705), Albany, GA 31703-0395, Tel: (912) 889-8293, Fax: (912) 888-1166

J. Leek Associates, Inc., P.O. Box 368, 675 East Pine, Colquitt, GA 31737, Tel: (912) 758-3722, Fax: (912) 758-2538

J. Leek Associates, Inc., P.O. Box 6, 502 West Navarro St., DeLeon, TX 76444, Tel: (817) 893-3653, Fax: (817) 893-3640

Pert Laboratories, P.O. Box 267, Peanut Drive, Edenton, NC 27932, Tel: (919) 482-4456, Fax: (919) 482-5370

Pert Laboratory South, P.O. Box 149, Hwy 82 East, Seabrook Drive, Sylvester, GA 31791, Tel: (912) 776-7676, Fax: (912) 776-1137

Professional Service Industries, Inc., 3 Burwood Lane, San Antonio, TX

78216, Tel: (210) 349-5242, Fax: (210) 342-9401

Southern Cotton Oil Company, 600 E. Nelson Street, P.O. Box 180, Quanah, TX 79252, Tel: (817) 663-5323, Fax: (817) 663-5091

Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, TX 78154-1257, Tel: (210) 651-5799, Fax: (210) 651-9271.

(ii) Handlers should contact the nearest laboratory from the list in paragraph (c)(5)(i) of this section to arrange to have samples chemically analyzed for aflatoxin content, or for further information concerning the chemical analyses required pursuant to this part handlers may contact: The Science and Technology Division, Agricultural Marketing Service, USDA, P.O. Box 96456, room 3507-S, Washington, D.C., 20090-6456, telephone (202) 720-5231, facsimile (202) 720-6496.

(d) *Identification.* Each lot of shelled or cleaned inshell peanuts, in lot sizes not exceeding 200,000 pounds, shall be identified by positive lot identification procedures prior to being shipped or 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.

§ 997.40 Reconditioning and disposition of peanuts failing quality requirements.

(a) Lots of peanuts which have not been certified as meeting the requirements for disposition to human consumption outlets, may be disposed of for non-human consumption uses which are not regulated or limited by the provisions specified in this section: *Provided*, That each such lot is positive lot identified, using red tags, and certified as to aflatoxin content (actual numerical count). However, on the shipping papers covering the disposition of each such lot of inedible quality peanuts, the handler 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) Except for inedible quality peanuts disposed of under the provisions of paragraph (f)(2) of this section and peanuts derived from the milling for seed of Segregation 2 and 3 farmers stock peanuts, peanuts which have not been certified as meeting the standards set forth in paragraphs (a) or (b) of § 997.30 shall be disposed of as prescribed hereinafter in this section.

(c) *Sheller Oil Stock Residuals—For Crushing or Export.* Peanuts, or portions of peanuts which are separated from edible quality peanuts by screening or sorting or other means during the milling process, may be segregated into categories or they may be commingled as sheller oil stock residuals. Such sheller oil stock residuals shall be identified pursuant to paragraph (d) of this section, but using a red tag, and such peanuts may be disposed of domestically or to the export market, in bulk or bags or other suitable containers. The movement of such peanuts shall be reported to the Division by the shipping handler and the crusher, as requested by the Division.

(1) If the peanuts have not been tested and certified as to aflatoxin content, as prescribed in paragraph (c) of this section, the handler 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.

(d) *Blanching peanuts failing quality requirements.* Handlers may blanch or cause to have blanched positive lot identified shelled peanuts, which originated from Segregation 1 peanuts, that fail to meet the requirements of paragraph (a) of this section because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin. Lots of peanuts which are moved under these provisions must be accompanied by a valid grade inspection certificate and the title shall be retained by the handler until the peanuts are blanched and certified by an inspector of the Federal or Federal-State Inspection Service as meeting the requirements for disposal into human consumption outlets. To be eligible for disposal into human consumption outlets, such peanuts after blanching, must meet specifications for unshelled peanuts, damaged kernels, minor defects, moisture, and foreign material as listed in paragraph (a) of this section and be accompanied by a negative aflatoxin certificate. The residual peanuts, excluding skins and hearts, resulting from blanching under these provisions, shall be bagged and red tagged and disposition shall be that such peanuts are returned to the handler for further disposition; or, in the alternative, such residuals shall be positive lot identified by the Federal or Federal-State Inspection Service, and shall be disposed of, by the blancher to crushers who agree to comply with the terms of paragraph (c) of this section.

(e) *Remilling peanuts failing quality requirements.* Handlers may remill or cause to have remilled shelled peanuts, which originated from Segregation 1 peanuts, that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of this section: *Provided*, That such lots of peanuts contain not in excess of 10 percent fall through. Lots of peanuts moved under these provisions must be accompanied by a valid grade inspection certificate and must be positive lot identified and the title of such peanuts shall be retained by the handler until the peanuts have been remilled and certified by the Federal or Federal-State Inspection Service as meeting the requirements for disposition to human consumption

outlets specified in paragraph (a) of this section, and be accompanied by a negative aflatoxin certificate. Remilling under these provisions may include composite remilling of more than one such lot of peanuts owned by the same handler. However, such peanuts owned by one handler shall be held and remilled separate and apart from all other peanuts. The residual peanuts resulting from remilling under these provisions, shall be bagged and red tagged and disposition shall be that such peanuts are returned to the handler for further disposition; or, in the alternative, such residuals shall be positive lot identified by the Federal or Federal-State Inspection Service, and shall be disposed of, by the remiller, to crushers who agree to comply with the terms of paragraph (c) of this section. § 997.50 Inspection, chemical analysis, certification and identification.

Each handler shall, at the handler's 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 such peanuts 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 stating 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 the handler on each lot of shelled peanuts or cleaned inshell peanuts.

3. Under the center heading "Assessments," section 997.51 is revised to read as follows:

Assessments

§ 997.51 Assessments.

(a) Each first handler shall pay to the Secretary, with respect to Segregation 1 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.

(b) Segregation 2 and Segregation 3 farmers stock peanuts disposed to crushing or exported are exempt from assessments under this section.

4. Under the center heading "Reports, Books and Records," §§ 997.52, 997.53 and 997.54 are revised to read as follows:

Reports, Books and Records

§ 997.52 Reports of acquisitions and shipments.

Each handler shall report acquisitions of Segregation 1 farmers stock peanuts on a form provided by the Division 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.

§ 997.53 Verification of reports.

For the purpose of checking and verifying reports filed by handlers or the operation of handlers under the provisions of this part, the Secretary, through its duly authorized agents, shall have access to any premises where peanuts may be held by any handler and at any time during reasonable business hours and shall be permitted to inspect any peanuts so held by such handler and any and all records of such handler with respect to the acquisition, movement, holding, processing or disposition of all peanuts which may be held or which may have been disposed

of by the handler. Each handler shall maintain such records of peanuts received, held, and disposed of by the handler, that will substantiate any required reports and will show performance under this part. Such records shall be retained for at least two years beyond the crop year of their applicability.

§ 997.54 Agents.

The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Government, or name any service, division or branch in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

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

1. The authority citation for 7 CFR part 998 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Under the center heading "Implementing Regulations," §§ 998.100 and 998.200 are revised to read as follows:

Implementing Regulations

§ 998.100 Incoming quality regulation for 1996 and subsequent crop peanuts.

The following modify § 998.5 of the peanut marketing agreement and modify or are in addition to the restrictions of section 31 on handler receipts or acquisitions of peanuts:

(a) *Modification of § 998.5, paragraphs (b), (c), and (d).* Paragraphs (b), (c), and (d) of § 998.5 of the peanut marketing agreement are modified for the purposes of this section as to farmers stock peanuts to read respectively as follows:

(b) *Segregation 1. Segregation 1 peanuts* means farmers stock peanuts with not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(c) *Segregation 2. Segregation 2 peanuts* means farmers stock peanuts with more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(d) *Segregation 3. Segregation 3 peanuts* means farmers stock peanuts with visible *Aspergillus flavus*.

(b) *Moisture and foreign material.—*

(1) *Moisture.* Except as provided under paragraph (d) of this section, no handler shall receive or acquire peanuts containing more than 10.49 percent moisture: *Provided*, That peanuts of a

higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storing or milling. On farmers stock, such moisture determinations shall be rounded to the nearest whole number; on shelled peanuts, the determinations shall be carried to the hundredths place and shall not be rounded to the nearest whole number.

(2) *Foreign material.* No handler shall receive or acquire farmers stock peanuts containing more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be received or acquired if they are held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term "sand-screen" means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(c) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(d) *Seed peanuts.* A handler may acquire and deliver for seed purposes farmers stock peanuts which meet the requirements of Segregation 1 peanuts. If the seed peanuts are produced under the auspices of a State agency which regulates or controls the production of seed peanuts, they may contain up to 3 percent damaged kernels and have visible *Aspergillus flavus*, and, in addition, the following moisture content, as applicable:

(1) Seed peanuts produced in the Southeastern and Virginia-Carolina areas, may contain up to 10.49 percent moisture except Virginia type peanuts which are not stacked at harvest time may contain up to 11.49 percent moisture; and

(2) Seed peanuts produced in the Southwestern area may contain up to 10.49 percent moisture.

Any seed peanuts produced under the auspices of a State agency which contain up to 3 percent damaged kernels and are free from visible *Aspergillus flavus*, may be stored and shelled with Segregation 1 seed peanuts which are also produced under the auspices of the State agency. Any seed peanuts with visible *Aspergillus flavus* shall be stored and shelled separate from other peanuts, and any residuals not used for seed shall not be used or disposed of for human consumption unless it is determined to be wholesome by chemical assay for aflatoxin. A handler whose operations include custom shelling may receive, custom shell, and deliver for seed purposes farmers stock peanuts, and such peanuts shall be

exempt from the Incoming Quality Regulation requirements, and, therefore, shall not be required to be inspected and certified as meeting the Incoming Quality Regulation requirements, and the handler shall report to the Committee, as requested, the weight of each lot of farmers stock peanuts received on such basis on a form furnished by the Committee. Handlers who acquire seed peanut residuals from their custom shelling of uninspected (farmers stock) seed peanuts or from another producer or sheller may mill such residuals with other receipts or acquisitions of the handler, and such residuals which meet the Outgoing Quality Regulation requirements, may be disposed of by sale to human consumption outlets.

(e) *Oilstock.* Handlers may acquire for disposition to domestic crushing or export farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. The provision of § 998.31 of the marketing agreement restricting acquisitions of such peanuts to handlers who are crushers is hereby modified pursuant to § 998.34, to authorize all handlers to act as accumulators and acquire, from other handlers or non-handlers, Segregation 2 or 3 farmers stock peanuts. Handlers may also acquire for crushing or export from other handlers peanuts originating from Segregation 2 or 3 farmers stock or the entire mill production of shelled peanuts from Segregation 1 farmers stock or lots of peanuts originating from Segregation 1 peanuts and which have been positive lot identified as specified in paragraph (d) of § 998.200, Outgoing quality regulation, which failed to meet the requirements for human consumption pursuant to paragraph (a) of § 998.200, Outgoing quality regulation: *Provided*, That all such acquisitions are held separate from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts. Handlers may commingle the Segregation 2 and 3 peanuts or keep them separate and apart. Handlers who acquire farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption shall report such acquisitions as prescribed by the Committee. To be eligible to receive or acquire Segregation 2 or 3 farmers stock peanuts and shelled peanuts originating therefrom, a handler shall pay to the Area Association a fee

for the purpose of covering cost of supervision of the disposition of such peanuts.

(f) *Segregation 2 and 3 control.* To assure the removal from edible outlets of any lot of peanuts determined by Federal or Federal-State Inspection Service to be Segregation 2 or Segregation 3, each handler shall inform each employee, country buyer, commission buyer, or like person through whom the handler receives peanuts of the need to receive and withhold all lots of Segregation 2 and Segregation 3 peanuts from milling for edible use. If any lot of Segregation 2 or Segregation 3 farmers stock peanuts is not withheld but returned to the producer, the handler shall cause the Inspection Service to forward immediately a copy of the inspection certificate on the lot to the designated office of the handler and a copy to the Committee which shall be used only for information purposes.

(g) *Farmers stock storage and handling facilities.* Handlers shall report to the Committee, on a form furnished by the Committee, all storage facilities or contract storage facilities which they will use to store acquisitions of current crop Segregation 1 farmers stock

peanuts, and all such storage facilities must be reported prior to storing of any such handler acquisitions. Handlers shall also report to the Committee the locations at which they will receive or acquire current crop farmers stock peanuts. All such storage facilities shall have reasonable and safe access to allow for inspection of the facility and its contents. All such storage facilities must be of sound construction, in good repair, and built and equipped so as to provide suitable storage and sufficient safeguards to prevent moisture condensation and provide adequate protection for farmers stock peanuts. All breaks or openings in the walls, floors, or roofs of the facilities shall have been repaired so as to keep out moisture. Elevator pits and wells must be kept dry and free of moisture at all times. Insect control procedures must be carried out in such a manner as to prevent undesirable moisture in the storage facilities. Any conditions in warehouses, elevators, pits, transportation equipment, including trucks and hopper cars, and other farmers stock handling equipment conducive to the growth or spread of *Aspergillus flavus* mold shall be corrected to the satisfaction of the

Committee. The Committee may make periodic inspections of farmers stock storage and handling facilities and farmers stock peanuts stored in such facilities to determine if handlers are adhering to these requirements.

(h) *Shelled peanuts.* Handlers may acquire shelled peanuts, which originated from "Segregation 1 peanuts," from other handlers, for remilling and subsequent disposition to human consumption outlets.

(i) Segregation 2 and Segregation 3 farmers stock peanuts held separate and apart or commingled, and disposed of to domestic or export crushing are exempt from assessments under this section.

§ 998.200 Outgoing quality regulation for 1996 and subsequent crop peanuts.

The following modify or in addition to the peanut marketing agreement restrictions of §998.32 on handler disposition of peanuts:

(a) *Shelled peanuts.* (1) No handler shall ship or otherwise dispose of shelled peanuts for human consumption unless such peanuts are positive lot identified, certified "negative" as to aflatoxin, and certified as meeting the requirements in the following "Other Edible Quality * * *" grades:

TABLE 1.—"OTHER EDIBLE QUALITY" (NON-INDEMNIFIABLE) GRADES—WHOLE KERNELS AND SPLITS
[Excluding lots of "splits"]

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total		
Runner	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 19/64×3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (except No. 2).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 15/64×1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia.	1.50	2.50	3.00%; 19/64 inch; round screen.	3.00%; 15/64×3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
No. 2 Virginia	1.50	3.00	6.00%; 17/64 inch; round screen.	6.00%; 15/64×1 inch; slot screen.	6.00%; both screens.	.20	9.00
Lots of "splits"							
Runner (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64×3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (not less than 90% splits).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64×1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 19/64 inch; round screen.	3.00%; 13/64×3/4 inch; slot screen.	4.00%; both screens.	.20	9.00

(2) Prior to disposition to human consumption outlets, peanuts which have been certified as meeting the requirements for Indemnifiable Grades must also be certified "negative" as to aflatoxin. Maximum limitations for Indemnifiable Grades are as follows:

TABLE 2.—INDEMNIFIABLE GRADES
[Maximum limitations]

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Runner U.S. No.1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 x 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia U.S. No.1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 x 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia U.S. No.1 and better..	1.25	2.00	3.00%; 16/64 inch, round screen.	2.00%; 15/64 x 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Runner U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 17/64 inch, round screen.	3.00%; 14/64 x 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Virginia U.S. Splits (not less than 90% splits and not more than 3.00% sound whole kernels and portions passing through 20/64 inch round screen).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 14/64 x 1 inch, slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 16/64 inch, round screen.	3.00%; 13/64 x 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Runner with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64 x 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 x 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 16/64 inch, round screen.	2.00%; 15/64 x 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00

(3) The term "fall through", as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens.

(b) *Cleaned inshell peanuts.* No handler shall ship or otherwise dispose of cleaned inshell peanuts for human consumption:

(1) With more than 1.00 percent kernels with mold present unless a sample of such peanuts, drawn by an inspector of the Federal or Federal-State Inspection Service, was analyzed chemically by laboratories approved by the Committee or by a U.S. Department of Agriculture laboratory (hereinafter referred to as "USDA laboratory") and found to be wholesome relative to aflatoxin;

(2) with more than 2.00 percent peanuts with damaged kernels;

(3) with more than 10.00 percent moisture; or

(4) with more than 0.50 percent foreign material. The lot size of such peanuts in bags or bulk shall not exceed 200,000 pounds.

(c) *Sampling and testing shelled peanuts.* (1) Prior to shipment, each handler shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by an inspector of the Federal or Federal-State 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 assay. The three 48-pound samples shall be designated by the Federal or Federal-State 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 and the Committee. Sample #1 may be

prepared for immediate testing or Sample #1, Sample #2, and Sample #3 may be returned to the handler for testing at a later date. However, before shipment of the lot to the buyer (receiver), the handler shall cause Sample #1 to be ground by the Federal or Federal-State Inspection Service or a USDA or designated laboratory in a "subsampling mill" approved by the Committee. The resultant ground subsample from Sample #1 shall be of a size specified by the Committee and be designated as "Subsample 1-AB" and at the handler'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 laboratory listed on the most recent Committee list of approved laboratories that can provide analyses results on

such samples in 36 hours. Subsample 1-AB shall be analyzed only in USDA or designated laboratories. Both Subsamples 1-AB and 1-CD shall be accompanied by a notice of sampling signed by the inspector containing, at least, identifying information as to the handler (shipper), the buyer (receiver), if known, and the positive lot identification of the shelled peanuts. A copy of such notice covering each lot shall be sent to the Committee office.

(2) The samples designated as Sample #2 and Sample #3 shall be held as aflatoxin check-samples by the Inspection Service or the handler and shall not be included in the shipment to the buyer until the analyses results from Sample #1 are known. Upon call from the USDA or designated laboratory or the Committee, the handler shall cause Sample #2 to be ground by the Inspection Service in a "subsampling mill." The resultant ground subsample from Sample #2 shall be of the size specified by the Committee and it shall be designated as "Subsample 2-AB." Upon call from the USDA or designated laboratory or the Committee, the handler shall cause Sample #3 to be ground by the Inspection Service in a "subsampling mill." The resultant ground subsample from Sample #3 shall be of the size specified by the Committee and it shall be designated as "Subsample 3-AB." Subsamples 2-AB and 3-AB shall be analyzed only in USDA or designated laboratories and each shall be accompanied by a notice of sampling. A copy of each such notice shall be sent to the Committee office and the cost of delivery of Subsamples 2-AB and 3-AB to the laboratory and the cost of assay on them shall be at the Committee's expense.

(3) All costs involved in sampling and testing Subsample 1-CD shall be for the account of the buyer of the lot and at the buyer's expense. However, if the handler elects to pay any portion of these cost the handler shall charge the buyer accordingly. Aflatoxin sampling and testing cost for the AB subsamples shall be included as a separate item in the handler's invoice to the buyer at the rate of \$0.0027 per pound or \$0.27 per hundredweight of the peanuts covered by the invoice. When any of the samples or subsamples have been lost, misplaced, or spoiled and replacement samples are needed, the entire cost of drawing the replacement samples shall be for the account of the handler. The results of each assay shall be reported to the buyer listed on the notice of sampling and, if the handler desires, to the handler. If a buyer is not listed on the notice of sampling, the results of the assay shall be reported to the handler,

who shall promptly cause notice to be given to the buyer of the contents thereof, and such handler shall not be required to furnish additional samples for assay.

(4) For the current crop year, "negative" aflatoxin content means 15 parts per billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements as determined by the Committee's sampling plan applicable to the respective grade categories.

(d) *Identification.* Each lot of shelled or cleaned inshell peanuts, in lot sizes not exceeding 200,000 pounds, shall be identified by positive lot identification procedures prior to being shipped or 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 and to the Committee. 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 indemnification or for appeal inspection. Handlers 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 Committee on request.

(e) *Reinspection.* Whenever the Committee has reason to believe that peanuts may have been damaged or deteriorated while in storage, the

Committee 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) *Further modification of § 998.32.*

(1) The provisions of § 998.32(a) restricting the disposition of peanuts which fail to meet the requirements specified heretofore in this section to the Commodity Credit Corporation or in such manner as may be prescribed by the Committee with the approval of the Secretary, is hereby modified to specify that only peanuts which have been certified as meeting the requirements specified in paragraphs (a) or (b) of this section, which have been sampled pursuant to paragraph (c) of this section, and which have been identified pursuant to paragraph (d) of this section are eligible for disposition to human consumption outlets.

(2) 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 which are not regulated or limited by the provisions specified hereinafter in this section: *Provided*, That each such lot is positive lot identified, using red tags, and certified as to aflatoxin content (actual numerical count). However, on the shipping papers covering the disposition of each such lot of inedible quality peanuts, the handler 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."

(3) Except for inedible quality peanuts disposed of under the provisions of paragraph (f)(2) of this section and peanuts derived from the milling for seed of Segregation 2 and 3 farmers stock peanuts, peanuts which have not been certified as meeting the standards set forth in paragraphs (a) or (b) of this section shall be disposed of as prescribed hereinafter in this section.

(g) *Sheller oil stock residuals—for crushing or export.* Peanuts and portions of peanuts which are separated from edible quality peanuts by screening or sorting or other means during the milling process, may be segregated into categories or commingled as sheller oil stock residuals. Such sheller oil stock residuals shall be identified pursuant to paragraph (d) of this section, but using a red tag, and such peanuts may be disposed of domestically or to the export market in bulk or bags or other suitable containers. Disposition to crushing may be to handlers who are crushers or to domestic crushers who

are not handlers under the Agreement only on the condition that they agree to comply with the terms of this paragraph and all other applicable requirements of the Agreement. The movement of such peanuts shall be reported to the Committee by the shipping handler and the crusher, as requested by the Committee.

(1) If the peanuts have not been tested and certified as to aflatoxin content, as prescribed in paragraph (c) of this section, the handler 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.

(h) *Blanching and remilling peanuts failing quality requirements.* (1) Handlers may blanch or cause to have blanched positive lot identified shelled peanuts, which originated from Segregation 1 peanuts, that fail to meet the requirements of paragraph (a) of this section because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin. Prior to movement of such peanuts to a blancher, handlers shall report to the Committee, on a form furnished by the Committee, and receive authorization from the Committee for movement and blanching of each such lot. Lots of peanuts which are moved under these provisions must be accompanied by a valid grade inspection certificate and the title shall be retained by the handler until the peanuts are blanched and certified by an inspector of the Federal or Federal-State Inspection Service as meeting the requirements for disposal into human consumption outlets. To be eligible for disposal into human consumption outlets, such peanuts after blanching, must meet specifications for unshelled peanuts, damaged kernels, minor defects, moisture, and foreign material as listed in paragraph (a) of this section and be accompanied by an aflatoxin certificate determined to be negative by the Committee. The residual peanuts, excluding skins and hearts, resulting from blanching under these provisions, shall be bagged and red tagged and disposition shall be that such peanuts are returned to the handler for further disposition; or, in the alternative, such residuals shall be positive lot identified by the Federal or Federal-State Inspection Service, and shall be disposed of, by the blancher, to handlers who are crushers, or to domestic crushers who are not handlers under the Agreement only on the

condition that they agree to comply with the terms of paragraph (g) of this section and all other applicable requirements of the Agreement. Blanching under the provisions of this paragraph shall be performed only by those firms who agree to procedures acceptable to the Committee and who are approved by the Committee to do such blanching.

(2) Handlers may contract with Committee-approved remillers for remilling shelled peanuts, which originated from Segregation 1 peanuts, that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a) of this section: *Provided*, That such lots of peanuts contain not in excess of 10 percent fall through. Prior to movement of such peanuts under these provisions to a Committee-approved remiller, handlers shall report to the Committee, on a form furnished by the Committee, and receive authorization from the Committee for movement and remilling of each such lot. Lots of peanuts moved under these provisions must be accompanied by a valid grade inspection certificate and must be positive lot identified and the title of such peanuts shall be retained by the handler until the peanuts have been remilled and certified by the Federal or Federal-State Inspection Service as meeting the requirements for disposition to human consumption outlets specified in paragraph (a) of this section, and be accompanied by an aflatoxin certificate determined to be negative by the Committee. Remilling under these provisions may include composite remilling of more than one such lot of peanuts owned by the same handler. However, such peanuts owned by one handler shall be held and remilled separate and apart from all other peanuts. The residual peanuts resulting from remilling under these provisions, shall be bagged and red tagged and disposition shall be that such peanuts are returned to the handler for further disposition; or, in the alternative, such residuals shall be positive lot identified by the Federal or Federal-State Inspection Service, and shall be disposed of, by the remiller, to handlers who are crushers, or to domestic crushers who are not handlers under the Agreement only on the condition that they agree to comply with the terms of paragraph (g) of this section and all other applicable requirements of the Agreement. Remilling under the provisions of this paragraph shall be performed only by those firms who agree to procedures acceptable to the Committee and who

are approved by the Committee to do such remilling.

(i) *Documentation of compliance.* Each handler shall keep and maintain records of all receipts and acquisitions and all milling, remilling, blanching, use and disposition of peanuts which have not been certified as meeting the requirements for disposition to human consumption, pursuant to paragraph (a) or (b) of this section, as will document and substantiate compliance and performance under this agreement.

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 continues to read as follows:

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

2. Section 999.600 is revised to read as follows:

§ 999.600 Regulation governing imports of peanuts.

(a) *Definitions.* (1) *Peanuts* means the seeds of the legume *Arachis hypogaea* and includes both inshell and shelled peanuts produced in countries other than the United States, other than those marketed in green form for consumption as boiled peanuts.

(2) *Farmers stock peanuts* means picked and threshed raw peanuts which have not been shelled, crushed, cleaned or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the form in which customarily marketed by producers.

(3) *Inshell peanuts* means peanuts, the kernels or edible portions of which are contained in the shell.

(4) *Incoming inspection* means the sampling and inspection of farmers stock peanuts to determine Segregation quality.

(5) *Segregation 1 peanuts*, unless otherwise specified, means farmers stock peanuts with not more than 2.00 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(6) *Segregation 2 peanuts*, unless otherwise specified, means farmers stock peanuts with more than 2.00 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(7) *Segregation 3 peanuts*, unless otherwise specified, means farmers stock peanuts with visible *Aspergillus flavus* mold.

(8) *Shelled peanuts* means the kernels of peanuts after the shells are removed.

(9) *Outgoing inspection* means the sampling and inspection of either: shelled peanuts which have been cleaned, sorted, sized and otherwise prepared for human consumption markets; or inshell peanuts which have been cleaned, sorted and otherwise prepared for inshell human consumption markets.

(10) *Negative aflatoxin content* means 15 parts-per-billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements, and 25 ppb or less for inedible quality peanuts.

(11) *Person* means an individual, partnership, corporation, association, or any other business unit.

(12) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture (Department or USDA) who is, or who may hereafter be, authorized to act on behalf of the Secretary.

(13) *Inspection service* means the Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, USDA.

(14) *USDA laboratory* means laboratories of the Science and Technology Division, Agricultural Marketing Service, USDA, that chemically analyze peanuts for aflatoxin content.

(15) *PAC approved laboratories* means laboratories approved by the Peanut Administrative Committee, pursuant to Peanut Marketing Agreement No. 146 (7 CFR Part 998), that chemically analyze peanuts for aflatoxin content.

(16) *Conditionally released* means released from Customs Service custody for further handling (sampling, inspection, chemical analysis, or storage) before final release.

(17) *Importation* means the arrival of a peanut shipment at a port-of-entry

with the intent to enter the peanuts into channels of commerce of the United States.

(b) *Incoming regulation.* (1) Farmers stock peanuts presented for consumption must undergo incoming inspection. Only Segregation 1 peanuts may be used for human consumption. All foreign produced farmers stock peanuts for human consumption must be sampled and inspected at a buying point or other handling facility capable of performing incoming sampling and inspection. Sampling and inspection shall be conducted by the inspection service. Only Segregation 1 peanuts certified as meeting the following requirements may be used in human consumption markets:

(i) *Moisture.* Except as provided under paragraph (b)(2) *Seed peanuts*, of this section, peanuts may not contain more than 10.49 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storage or milling.

(ii) *Foreign material.* Peanuts may not contain more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term "sand-screen" means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(iii) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(2) *Seed peanuts.* Farmers stock peanuts determined to be Segregation 1 quality, and shelled peanuts certified negative to aflatoxin (15 ppb or less), may be imported for seed purposes. Residuals from the shelling of Segregation 1 seed peanuts may be

milled with other imported peanuts of the importer, and such residuals meeting quality requirements specified in paragraph (c)(1) of this section may be disposed to human consumption channels. Any portion not meeting such quality requirements shall be disposed to inedible peanut channels pursuant to paragraphs (f) and (g) of this section. All disposition of seed peanuts and residuals from seed peanuts, whether commingled or kept separate and apart, shall be reported to the Secretary pursuant to paragraphs (f)(2) and (f)(3) of this section. The receiving seed outlet must retain records of the transaction, pursuant to paragraph (g)(7) of this section.

(3) *Oilstock and exportation.* Farmers stock peanuts of lower quality than Segregation 1 (Segregation 2 and 3 peanuts) shall be used only in inedible outlets. Segregation 2 and 3 peanuts may be commingled but shall be kept separate and apart from edible quality peanut lots. Commingled Segregation 2 and 3 peanuts and Segregation 3 peanuts shall be disposed only to oilstock or exported. Shelled peanuts and cleaned-inshell peanuts which fail to meet the requirements for human consumption in paragraphs (c)(1) or (c)(2), respectively, of § 997.600, may be crushed for oil or exported.

(c) *Outgoing regulation.* No person shall import peanuts for human consumption into the United States unless such peanuts are lot identified and certified by the inspection service as meeting one of the following requirements:

(1) *Shelled peanuts.* (i) No importer shall ship or otherwise dispose of shelled peanuts to human consumption markets unless such peanuts are lot identified, certified as "negative" to aflatoxin, and meet the requirements specified in Table 1.

TABLE 1.—MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole Kernels and Splits]
Maximum limitations
Excluding lots of "splits"

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total		
Runner	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 15/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (except No. 2).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 15/64 × 1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia.	1.50	2.50	3.00%; 15/64 inch; round screen.	3.00%; 15/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00

TABLE 1.—MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION—Continued
 [Whole Kernels and Splits]
 Maximum limitations
 Excluding lots of "splits"

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total		
No. 2 Virginia	1.50	3.00	6.00%; 17/64 inch; round screen.	6.00%; 15/64 × 1 inch; slot screen.	6.00%; both screens.	.20	9.00
Lots of "splits"							
Runner (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (not less than 90% splits).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64 × 1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 16/64 inch; round screen.	3.00%; 13/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00

(ii) Shelled peanuts which are lot identified, certified as "negative" to aflatoxin pursuant to paragraph (d)(4)(v) of this section, and meet requirements specified in the Table 2, may be shipped to human consumption markets prior to the importer receiving such aflatoxin certification.

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION
 [Whole Kernels and Splits]
 Maximum limitations

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Runner U.S. No.1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia U.S. No.1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 × 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia U.S. No.1 and better.	1.25	2.00	3.00%; 16/64 inch, round screen.	2.00%; 15/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Runner U.S. Splits (not more than 4% sound, whole kernels)..	1.25	2.00	2.00%; 17/64 inch, round screen.	3.00%; 14/64 × 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Virginia U.S. Splits (not less than 90% splits and not more than 3.00% sound whole kernels and portions passing through 29/64 inch round screen)..	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 14/64 × 1 inch, slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia U.S. Splits (not more than 4% sound, whole kernels)..	1.25	2.00	2.00%; 16/64 inch, round screen.	3.00%; 13/64 × 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Runner with splits (not more than 15% sound splits)..	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION—Continued
 [Whole Kernels and Splits]
 Maximum limitations

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Virginia with splits (not more than 15% sound splits)..	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 × 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia with splits (not more than 15% sound splits)..	1.25	2.00	3.00%; 19/64 inch, found screen.	2.00%; 15/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00

(iii) The term “fall through”, as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Prior to shipment, appropriate samples for pretesting shall be drawn in accordance with paragraph (d) of this section from each lot of Superior Quality peanuts.

(2) *Cleaned-inshell peanuts.* Peanuts declared as cleaned-inshell peanuts may be presented for sampling and outgoing inspection in bags at the port-of-entry. Alternatively, peanuts may be conditionally released as cleaned-inshell peanuts but shall not subsequently undergo any cleaning, sorting, sizing or drying process prior to presentation for outgoing inspection as cleaned-inshell peanuts. Cleaned-inshell peanuts which fail outgoing inspection may be reconditioned or redelivered to the port-of-entry, at the option of the importer. Cleaned-inshell peanuts determined to be unprepared farmers stock peanuts must be inspected against incoming quality requirements and determined to be Segregation 1 peanuts prior to outgoing inspection for cleaned-inshell peanuts. Cleaned-inshell peanuts intended for human consumption may not contain more than:

- (i) 1.00 percent kernels with mold present, unless a sample of such peanuts is drawn by the inspection service and analyzed chemically by a USDA or PAC approved laboratory and certified “negative” as to aflatoxin.
- (ii) 2.00 percent peanuts with damaged kernels;
- (iii) 10.00 percent moisture (carried to the hundredths place); and
- (iv) 0.50 percent foreign material.

(d) *Sampling and inspection.* (1) All sampling and inspection, quality certification, chemical analysis, and lot identification, required under this

section, shall be done by the inspection service, a USDA laboratory, or a PAC-approved laboratory, as applicable, in accordance with the procedures specified herein. The importer shall make arrangements with the inspection service for sampling, inspection, lot identification and certification of all peanuts accumulated by the importer. The importer also shall make arrangements for the appropriate disposition of peanuts failing edible quality requirements of this section. All costs of sampling, inspection, certification, identification, and disposition incurred in meeting the requirements of this section shall be paid by the importer. Whenever peanuts are offered for inspection, the importer shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection.

(2) For farmers stock inspection, the importer shall cause the inspection service to perform an incoming inspection and to issue an CFSA-1007, “Inspection Certificate and Sales Memorandum” form designating the lot as Segregation 1, 2, or 3 quality peanuts. For shelled and cleaned-inshell peanuts, the importer shall cause the inspection service to perform an outgoing inspection and issue an FV-184-9A, “Milled Peanut Inspection Certificate” reporting quality and size of the shelled or cleaned-inshell peanuts, whether the lot meets or fails to meet quality requirements for human consumption of this section, and that the lot originated in a country other than the United States. The importer shall provide to the Secretary copies of all CFSA 1007 and FV-184-9A applicable to each peanut lot conditionally released to the importer. Such reports shall be

submitted as provided in paragraphs (f)(2) and (f)(3) of this section.

(3) *Procedures for sampling and testing peanuts.* Sampling and testing of peanuts for incoming and outgoing inspections of peanuts presented for consumption into the United States will be conducted as follows:

(i) *Application for sampling.* The importer shall request inspection and certification services from one of the following inspection service offices convenient to the location where the peanuts are presented for incoming and/or outgoing inspection. To avoid possible delays, the importer should make arrangements with the inspection service in advance of the inspection date. A copy of the Customs Service entry document specific to the peanuts to be inspected shall be presented to the inspection official prior to sampling of the lot.

- (A) The following offices provide incoming farmers stock inspection:
 Dothan, AL, tel: (334) 792-5185,
 Graceville, FL, tel: (904) 263-3204,
 Winter Haven, FL, tel: (941) 291-5820, ext 260,
 Albany, GA, tel: (912) 432-7505,
 Williamston, NC, tel: (919) 792-1672,
 Columbia, SC, tel: (803) 253-4597,
 Suffolk, VA, tel: (804) 925-2286,
 Portales, NM, tel: (505) 356-8393,
 Oklahoma City, OK, tel: (405) 521-3864,
 Gorman, TX, tel: (817) 734-3006,
 Yuma, AZ, tel: (602) 344-3869.

(B) The following offices, in addition to the offices listed in paragraph (A), provide outgoing sampling and/or inspection services, and certify shelled and cleaned-inshell peanuts as meeting or failing the quality requirements of this section:

Eastern U.S.
 Mobile, AL, tel: (205) 690-6154,

Jacksonville, FL, tel: (904) 359-6430,
Miami, FL, tel: (305) 592-1375,
Tampa, FL, tel: (813) 272-2470,
Presque Isle, ME, tel: (207) 764-2100,
Baltimore/Washington, tel: (301) 344-1860,
Boston, MA, tel: (617) 389-2480,
Newark, NJ, tel: (201) 645-2670,
New York, NY, tel: (212) 718-7665,
Buffalo, NY, tel: (716) 824-1585,
Philadelphia, PA, tel: (215) 336-0845,
Norfolk, VA, tel: (804) 441-6218,

Central U.S.

New Orleans, LA, tel: (504) 589-6741,
Detroit, MI, tel: (313) 226-6059,
St. Paul, MN, tel: (612) 296-8557,
Las Cruces, NM, tel: (505) 646-4929,
Alamo, TX, tel: (210) 787-4091,
El Paso, TX, tel: (915) 540-7723,
Houston, TX, tel: (713) 923-2557,

Western U.S.

Nogales, AZ, tel: (602) 281-0783,
Los Angeles, CA, tel: (213) 894-2489,
San Francisco, CA, tel: (415) 876-9313,
Honolulu, HI, tel: (808) 973-9566,
Salem, OR, tel: (503) 986-4620,
Seattle, WA, tel: (206) 859-9801.

(C) Questions regarding inspection services or requests for further assistance may be obtained from: Fresh Products Branch, P.O. Box 96456, room 2049-S, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20090-6456, telephone (202) 690-0604, fax (202) 720-0393.

(i) *Sampling.* Sampling of bulk farmers stock lots shall be performed at a facility that utilizes a pneumatic sampler or approved automatic sampling device. The size of farmers stock lots, shelled lots, and cleaned-inshell lots, in bulk or bags, shall not exceed 200,000 pounds. For farmers stock, shelled and cleaned-inshell lots not completely accessible for sampling, the applicant shall be required to have lots made accessible for sampling pursuant to inspection service requirements. The importer shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by the inspection service. The amount of such peanuts drawn shall be large enough to provide for a grade and size analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. Because there is no acceptable method of drawing official samples from bulk conveyances of shelled peanuts, the importer shall arrange to have bulk conveyances of shelled peanuts sampled during the unloading process. A bulk lot sampled in this manner must be positive lot identified by the inspection service and held in a sealed bin until the associated inspection and aflatoxin test results have been reported.

(4) *Aflatoxin assay.* (i) The importer shall cause appropriate samples of each lot of shelled peanuts intended for edible consumption to be drawn by the inspection service. The three 48-pound samples shall be designated by the inspection service as "Sample 1IMP," "Sample 2IMP," and "Sample 3IMP" and each sample shall be placed in a suitable container and lot identified by the inspection service. Sample 1IMP may be prepared for immediate testing or Samples 1IMP, 2IMP and 3IMP may be returned to the importer for testing at a later date, under lot identification procedures.

(ii) The importer shall cause Sample 1IMP to be ground by the inspection service or a USDA or PAC-approved laboratory in a subsampling mill. The resultant ground subsample shall be of a size specified by the inspection service and shall be designated as "Subsample 1-ABIMP." At the importer's option, a second subsample may also be extracted from Sample 1IMP and designated "Subsample 1-CDIMP" which may be sent for aflatoxin assay to a USDA or PAC-approved laboratory. Both subsamples shall be accompanied by a notice of sampling signed by the inspector containing identifying information as to the importer, the lot identification of the shelled peanut lot, and other information deemed necessary by the inspection service. Subsamples 1-ABIMP and 1-CDIMP shall be analyzed only in a USDA or PAC-approved laboratory. The methods prescribed by the Instruction Manual for Aflatoxin Testing, SD Instruction-1, August 1994, shall be used to assay the aflatoxin level. The cost of testing and notification of Subsamples 1-ABIMP and 1-CDIMP shall be borne by the importer.

(iii) The samples designated as Sample 2IMP and Sample 3IMP shall be held as aflatoxin check-samples by the inspection service or the importer until the analyses results from Sample 1IMP are known. Upon call from the USDA or PAC-approved laboratory, the importer shall cause Sample 2IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample from Sample 2IMP shall be designated as "Subsample 2-ABIMP." Upon further call from the laboratory, the importer shall cause Sample 3IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample shall be designated as "Subsample 3-ABIMP." The importer shall cause Subsamples 2-ABIMP and 3-ABIMP to be sent to and analyzed only in a USDA or PAC-approved laboratory. Each subsample

shall be accompanied by a notice of sampling. The results of each assay shall be reported by the laboratory to the importer. All costs involved in the sampling, shipment and assay analysis of subsamples required by this section shall be borne by the importer.

(iv)(A) Importers should contact one of the following USDA or PAC-approved laboratories to arrange for chemical analysis.

Science and Technology Division, AMS, USDA, P.O. Box 279, 301 West Pearl St., Aulander, NC 27805, Tel: (919) 345-1661 Ext. 156, Fax: (919) 345-1991

Science and Technology Division, AMS, USDA, 1211 Schley Ave., Albany, GA 31707, Tel: (912) 430-8490 / 8491, Fax: (912) 430-8534

Science and Technology Division, AMS, USDA, P.O. Box 488, Ashburn, GA 31714, Tel: (912) 567-3703

Science and Technology Division, AMS, USDA, 610 North Main St., Blakely, GA 31723, Tel: (912) 723-4570, Fax: (912) 723-3294

Science and Technology Division, AMS, USDA, 1557 Reeves St., Dothan, AL 36303, Tel: (334) 794-5070, Fax: (334) 671-7984

Science and Technology Division, AMS, USDA, 107 South Fourth St., Madill, OK 73446, Tel: (405) 795-5615, Fax: (405) 795-3645

Science and Technology Division, AMS, USDA, P.O. Box 272, 715 N. Main Street, Dawson, GA 31742, Tel: (912) 995-7257, Fax: (912) 995-3268

Science and Technology Division, AMS, USDA, P.O. Box 1130, 308 Culloden St., Suffolk, VA 23434, Tel: (804) 925-2286, Fax: (804) 925-2285

ABC Research, 3437 SW 24th Avenue, Gainesville, FL 32607-4502, Tel: (904) 372-0436, Fax: (904) 378-6483

J. Leek Associates, Inc., P.O. Box 50395, 1200 Wyandotte (31705), Albany, GA 31703-0395, Tel: (912) 889-8293, Fax: (912) 888-1166

J. Leek Associates, Inc., P.O. Box 368, 675 East Pine, Colquitt, GA 31737, Tel: (912) 758-3722, Fax: (912) 758-2538

J. Leek Associates, Inc., P.O. Box 6, 502 West Navarro St., DeLeon, TX 76444, Tel: (817) 893-3653, Fax: (817) 893-3640

Pert Laboratories, P.O. Box 267, Peanut Drive, Edenton, NC 27932, Tel: (919) 482-4456, Fax: (919) 482-5370

Pert Laboratory South, P.O. Box 149, Hwy 82 East, Seabrook Drive, Sylvester, GA 31791, Tel: (912) 776-7676, Fax: (912) 776-1137

Professional Service Industries, Inc., 3 Burwood Lane, San Antonio, TX 78216, Tel: (210) 349-5242, Fax: (210) 342-9401

Southern Cotton Oil Company, 600 E. Nelson Street, P.O. Box 180, Quanah, TX 79252, Tel: (817) 663-5323, Fax: (817) 663-5091

Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, TX 78154-1257, Tel: (210) 651-5799, Fax: (210) 651-9271.

(B) Further information concerning the chemical analyses required pursuant to this section may be obtained from: Science and Technology Division, AMS, USDA, P.O. Box 96456, room 3507-S, Washington, DC 20090-6456, telephone (202) 720-5231, or facsimile (202) 720-6496.

(v) *Reporting aflatoxin assays.* A separate aflatoxin assay certificate, Form CSSD-3 "Certificate of Analysis for Official Samples" or equivalent PAC approved laboratory form, shall be issued by the laboratory performing the analysis for each lot. The assay certificate shall identify the importer, the volume of the peanut lot assayed, date of the assay, and numerical test result of the assay. The results of the assay shall be reported as follows.

(A) For the current peanut quota year, "negative" aflatoxin content means 15 parts per billion (ppb) or less aflatoxin content for peanuts which have been certified as meeting edible quality grade requirements. Such lots shall be certified as "Meets U.S. import requirements for edible peanuts under § 999.600 with regard to aflatoxin."

(B) Lots containing more than 15 ppb aflatoxin content shall be certified as "Fails to meet U.S. import requirements for edible peanuts under § 999.600 with regard to aflatoxin." The certificate of any inedible peanut lot also shall specify the aflatoxin count in ppb. The importer shall file USDA Form CSSD-3, or equivalent form, with the Secretary, regardless of the test result.

(5) *Appeal inspection.* In the event an importer questions the results of a quality and size inspection, an appeal inspection may be requested by the importer and performed by the inspection service. A second sample will be drawn from each container and shall be double the size of the original sample. The results of the appeal sample shall be final and the fee for sampling, grading and aflatoxin analysis shall be charged to the importer.

(e) *Disposition of peanuts failing edible quality requirements.* Peanuts shelled, sized and sorted in another country prior to arrival in the U.S. and shelled peanuts which originated from imported Segregation 1 peanuts that fail quality requirements of Table 1 (excessive damage, minor defects, moisture, or foreign material) or are positive to aflatoxin may be

reconditioned by remilling and/or blanching. After such reconditioning, peanuts meeting the quality requirements of Table 1 and which are negative to aflatoxin (15 ppb or less) may be disposed for edible peanut use. Residual peanut lots resulting from milling or reconditioning of such lots shall be disposed of as prescribed below:

(1) Failing peanut lots may be disposed for non-human consumption uses (such as livestock feed, wild animal feed, rodent bait, seed, etc.) which are not otherwise regulated by this section; *Provided*, that each such lot is lot identified and certified as to aflatoxin content (actual numerical count). On the shipping papers covering the disposition of each such lot, the importer shall cause the following statement to be shown: "The peanuts covered by this bill of lading (or invoice) are not to be used for human consumption."

(2) Peanuts, and portions of peanuts which are separated from edible quality peanuts by screening or sorting or other means during the milling process ("sheller oilstock residuals"), may be sent to inedible peanut markets pursuant to paragraph (e)(1) of this section, crushed or exported. Such peanut may be commingled with other milled residuals. Such peanuts shall be positive lot identified, red tagged in bulk or bags or other suitable containers.

(i) If such peanuts have not been certified as to aflatoxin content, as prescribed in paragraph (d) of this section, disposition is limited to crushing and the 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."

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

(3) Shelled peanuts which originated from Segregation 1 peanuts that fail quality requirements of Table 1, peanuts derived from the milling for seed of Segregation 2 and 3 farmers stock peanuts, and peanuts which are positive to aflatoxin may be remilled or blanched. Residuals of remilled and/or blanched peanuts which continue to fail quality requirements of Table 1 shall be disposed of pursuant to paragraphs (e) (1) or (2) of this section.

(4) All certifications, lot identifications, and movement to inedible dispositions, sufficient to account for all peanuts in each consumption entry, shall be reported to the Secretary by the importer pursuant

to paragraphs (f)(2) and (f)(3) of this section.

(f) *Safeguard procedures.* (1) Prior to 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 identifying lot(s) or container number(s) and volume of the peanuts in each lot being entered, and the location (including city and street address), date and time for inspection sampling. The inspection office shall sign, stamp, and return the entry document to the importer. The importer shall present the stamped document to the Customs Service at the port-of-entry and send a copy of the document to the Secretary. The importer also shall cause a copy of the entry document to accompany the peanut lot and be presented to the inspection service at the inland destination of the lot.

(2) The importer shall file with the Secretary copies of the entry document and grade, aflatoxin, and lot identification certifications sufficient to account for all peanuts in each lot listed on the entry document filed by the importer. Positive lot identification of residual lots, transfer certificates, and other documentation showing inedible disposition or export, such as bills of lading and sales receipts, export declarations, or certificates of burying, which report the weight of peanuts being disposed and the name, address and telephone number of the inedible peanut receiver, must be sent to the Marketing Order Administration Branch, Attn: Report of Imported Peanuts. Facsimile transmissions and overnight mail may be used to ensure timely receipt of inspection certificates and other documentation. Fax reports should be sent to (202) 720-5698. Overnight and express mail deliveries should be addressed to USDA, AMS, FV, Marketing Order Administration Branch, 14th and Independence Avenue, SW, Room: 2525-S, Washington, D.C., 20250, Attn: Report of Imported Peanuts. Regular mail should be sent to FV, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, Attn: Report of Imported Peanuts. Telephone inquiries should be made to (202) 720-6862.

(3) Certificates and other documentation for each peanut lot must be filed within 23 days of the date of filing for consumption entry, or, if a

redelivery notice is issued on the peanut lot, subsequently filed prior to conclusion of the redelivery period which will be 60 days, unless otherwise specified by the Customs Service.

(4) The Secretary shall ask the Customs Service to issue a redelivery demand for foreign produced peanut lots failing to meet requirements of this section. Extensions in a redelivery period granted by the Customs Service will be correspondingly extended by the Secretary, upon request of the importer. Importers unable to account for the disposition of all peanuts covered in a redelivery order, or redeliver such peanuts, shall be liable for liquidated damages. Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

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

(6) *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 AMS 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. Pursuant to paragraph (f)(5) of this section, the Secretary may require reinspection of the lot at the time the lot is declared for entry with the Customs Service.

(g) *Additional requirements.* (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 presented for entry for human consumption use must be certified as meeting the quality requirements specified in paragraph (c) of this section.

(2) Conditionally released peanut lots of like quality and belonging to the same importer may be commingled. Defects in an inspected lot may not be blended out by commingling with other lots of higher quality. Commingling also must be consistent with applicable Customs Service regulations. Commingled lots must be reported and disposed of pursuant to paragraphs (f)(2) and (f)(3) of this section.

(3) Inspection by the Federal or Federal-State Inspection Service shall be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 51). The importer shall make each conditionally released lot available and accessible for inspection as provided herein. Because inspectors may not be stationed in the immediate vicinity of some ports-of-entry, importers must make arrangements for sampling, inspection, and certification through one of the offices and laboratories listed in paragraphs (d)(3) and (d)(4) of this section, respectively.

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

(5) 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 unless the new owner applies for bond and files Customs Service documents pursuant to 19 CFR §§141.113 and 141.20; and *Provided further*, That such peanuts must be certified and reported to the Secretary pursuant to paragraphs (f)(2) and (f)(3) of this section.

(6) 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 importer. Whenever peanuts are presented for inspection, the importer shall furnish any labor and pay any costs incurred in moving, opening containers, and shipment of samples as may be necessary for proper sampling and inspection. The inspection service shall bill the importer for fees covering quality and size inspections; time for sampling; packaging and delivering aflatoxin samples to laboratories; certifications of lot identification and lot transfer to other locations, and other inspection certifications as may be necessary to verify edible quality or inedible disposition, as specified herein.

The USDA and PAC-approved laboratories shall bill the importer separately for fees for aflatoxin assay. The importer also shall pay all required Customs Service costs as required by that agency.

(7) Each person subject to this section shall maintain true and complete records of activities and transactions specified in these regulations. Such records and documentation accumulated during entry shall be retained for not less than two years after the calendar year of acquisition, except that Customs Service documents shall be retained as required by that agency. The Secretary, through duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted, at any such time, to inspect such records and any peanuts held by such person.

(8) The provisions of this section do not supersede any restrictions or prohibitions on peanuts under the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, any other applicable laws, or regulations of other Federal agencies, including import regulations and procedures of the Customs Service.

Dated: December 31, 1996.

Larry B. Lace,

Acting Director, Fruit and Vegetable Division.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-51-AD; Amendment 39-9878; AD 97-01-07]

RIN 2120-AA64

Airworthiness Directives; British Aerospace Model BAe 146 and Avro 146-RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model BAe 146 and Avro 146-RJ series airplanes, that requires modification of the left and right elevators, and replacement of the elevator spring with a stiffer spring. This amendment is prompted by reports indicating that water and ice have accumulated at the trailing edge of the left and right elevators; this accumulation can cause