

**§ 1446.415**

(2) The processor shall submit proof of export to the marketing association of like kind, as determined by the marketing association, as that required by this part for exports of peanuts under nonphysical supervision.

(3) Upon verification of product yield by the marketing association, approval of the form CCC-1006, and approval of the letter of credit, a product export obligation will be established on marketing association ledgers and the processor will be notified of the quantity of product export obligation.

(4) Upon receipt of proof of export that is acceptable to the marketing association, the processor, with the concurrence of the marketing association, may reduce the letter of credit to the extent that such letter of credit exceeds the amount determined by the marketing association, in accordance with instructions issued by FSA, to be necessary to assure compliance by the processor with the provisions in this part.

(d) *Applicability of regulations.* By registering as a handler and selecting a method of supervision in accordance with this section, a processor of peanuts shall be considered to have agreed:

(1) To perform in accordance with the provisions of this part;

(2) That the provisions of this part such as access to facilities, fraud, liens against peanuts on which penalty is due, and any other provisions that apply to a handler of additional peanuts, shall apply to the processor; and

(3) That the processor shall be considered as a handler for purposes of applying the penalty provisions of this part.

(e) *Records.* A peanut processor shall maintain records that will enable the marketing association or other representative of the Secretary to determine compliance with the provisions of this section.

**§ 1446.415 Prohibition on importation or reentry of contract additional peanuts.**

Neither exported contract additional peanuts nor peanut products made from additional peanuts shall be imported or reentered in commercial quantities by anyone into the United

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States in any form. If contract additional peanuts or peanut products made from such peanuts are imported or reentered into the United States, the handler importing such peanuts or peanut products shall be liable for a penalty assessed in accordance with this part, for reentering contract additional peanuts.

**§ 1446.416 Suspension of restrictions on imported peanuts.**

Notwithstanding any other provision of this part, if the President issues a proclamation under Section 404(b) of the Uruguay Round Agreements Act (19 USCS § 3601(b)) expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or under section 22 of the Agricultural Adjustments Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, temporarily suspending restrictions on the importation of peanuts, a handler, with the written consent of the producer and CCC, may purchase additional peanuts from any producer who, in accordance with this part, contracted with the handler to deliver additional peanuts to such handler and may use such peanuts for sale for domestic edible use without incurring any marketing penalty for failure to crush or export such peanuts. However, the maximum quantity of peanuts that may be purchased by such handler in accordance with this provision of this section is the quantity of contract additional peanuts that remains undelivered by such producer under the contract. For purposes of application of this section, a proclamation temporarily increasing the import quota shall not be considered the same as a temporary suspension of restrictions on the importation of peanuts.

[56 FR 16230, Apr. 19, 1991, as amended at 65 FR 64595, Oct. 30, 2000]

**§ 1446.417 Loss of peanuts.**

Should a handler suffer a loss of peanuts as a result of fire, flood or any other condition beyond the control of the handler, the portion of such loss that may be attributed to contract additional peanuts, as determined by the marketing association shall not be greater than an amount determined by

dividing the total of the contract additional peanuts acquired by the handler during the year by such handler's total peanut purchases for the year and multiplying the result by the quantity for which acceptable proof of loss has been furnished to the marketing association. Such attribution shall take into account any dispositions of peanuts that occurred prior to the loss of the peanuts for which the attribution is made.

### Subpart E—Handling Contract Additional Peanuts-Physical Supervision

#### § 1446.501 Accounting for contract additional peanuts acquired under physical supervision.

(a) *Commingled storage*—(1) *General*. For a handler operating under physical supervision, contract additional peanuts placed in commingled storage must be accounted for on a dollar value basis less a one time adjustment for shrinkage for each crop.

(2) *Shrinkage*. For peanuts that are graded out and accounted for:

(i) Before February 1 of the applicable marketing year, the adjustment of the dollar value for shrinkage shall be:

(A) 3.5 percent for Virginia-type peanuts; and

(B) 3.0 percent for all other peanuts.

(ii) After January 31 of the applicable marketing year, the adjustment of the dollar value for shrinkage shall be:

(A) 4.0 percent for Virginia-type peanuts; and

(B) 3.5 percent for all other peanuts.

(3) *Records*. The handler shall maintain a copy of each form FSA-1007 that was issued for any peanuts that are placed in commingled storage and that is issued for any peanuts removed from storage.

(b) *Supervised identity preserved storage*. For a handler operating under physical supervision, contract additional peanuts may be stored identity preserved and may be accounted for by disposing of the entire contents of the peanuts in each identity preserved warehouse in accordance with this part and under the supervision of a representative of the marketing association. In such case:

(1) All peanuts that are loaded into each warehouse must be inspected as farmers stock peanuts and must be loaded under the supervision of the marketing association.

(2) At the end of each day in which peanuts are placed in or removed from the warehouse, the warehouse must be sealed by a representative of the marketing association.

(3) Each warehouse seal may be removed only by a representative of the marketing association.

(4) The marketing association shall be reimbursed by the handler for all expenses of providing a representative to supervise the loading and unloading of each warehouse.

(c) *Nonsupervised identity preserved storage*—(1) *Conditions*. For a handler operating under physical supervision, contract additional peanuts may be stored identity preserved without supervision at the time of loading the peanuts into each warehouse, but only if:

(i) All peanuts that are loaded into a warehouse are inspected prior to loading into such warehouse and a form FSA-1007 prepared for each lot that is inspected;

(ii) The entire contents of each warehouse will be removed and disposed of in accordance with this part and under supervision of a representative of the marketing association; and

(iii) The peanuts are accounted for on a dollar value basis except that shrinkage, in the amounts provided for in paragraph (c)(2) of this section, will be allowed if the dollar value of the peanuts that are loaded out of each warehouse is less than the dollar value of the peanuts that were loaded into such warehouse.

(2) *Shrinkage*. For peanuts that are graded out and accounted for:

(i) Before February 1 of the applicable marketing year, the adjustment of the dollar value for shrinkage shall be:

(A) 3.5 percent for Virginia-type peanuts; and

(B) 3.0 percent for all other peanuts.

(ii) After January 31 of the applicable marketing year, the adjustment of the dollar value for shrinkage shall be:

(A) 4.0 percent for Virginia-type peanuts; and

(B) 3.5 percent for all other peanuts.