

§ 1446.502

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

§ 1446.502 Physical supervision of contract additional peanuts.

(a) *Supervision.* A handler who has chosen to operate under physical supervision shall make arrangements that are satisfactory to the marketing association for representatives of the marketing association to conduct onsite supervision of domestic handling of contract additional peanuts including storing, shelling, crushing, cleaning, milling, blanching, weighing, and shipping.

(b) *Final dates for scheduling supervision.* Contract additional farmers stock peanuts shall be scheduled for supervision by the marketing association during the normal marketing period but not later than August 15 of the calendar year following the year in which the crop was grown, unless prior approval of a later date has been made by the marketing association.

(c) *Notifying the marketing association.* Before moving or processing any contract additional peanuts, the handler or an agent of the handler shall notify the marketing association of the time such operation will begin and the approximate period of time required to complete the operation. When a plant is not currently under supervision, the handler shall give at least five working days of advance notice to the marketing association so that supervision can be arranged.

(d) *Processing.* The identical peanuts identified at time of load-out as contract additional peanuts shall be shelled or otherwise milled, crushed, or shelled and crushed under supervision of the marketing association as a continuous operation separate from other peanuts. Shelled peanuts shall be identified with positive lot identity tags before being stored and moved for crushing, exportation, or processing into peanut products to be exported. Except as otherwise authorized by the marketing association, such peanuts will be considered as having been

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crushed or exported only if positive lot identity has been maintained in the following manner:

(1) *Transportation.* The peanuts shall be transported from storage locations in a covered vehicle such as a truck or railroad car. The vehicle shall be sealed unless the marketing association determines that identity of the peanuts can be maintained without sealing.

(2) *Storage.* Farmers stock peanuts shall be stored in a separate building(s) or bin(s) which can be sealed or which the marketing association otherwise determines will satisfactorily maintain lot identity. Milled peanuts shall be stored in such a manner that the marketing association, under procedures issued by CCC, may make periodic inventory verification of the contract additional lots that are shown on marketing association records as being in the storage facility. The handler shall furnish to the marketing association the name and location of the storage facilities in which the contract additional peanuts are located.

§ 1446.503 Disposition requirements under physical supervision.

(a) *Methods of disposition.* Except under the provisions of §1446.504 of this part applicable to substitution, the identical contract additional farmers stock peanuts and milled peanuts that are shelled under supervision of the marketing association and formed into lots shall be disposed of, in accordance with the provisions of this part that are applicable to contract additional peanuts and to physical supervision, by domestic crushing or by export to an eligible country as follows:

(1) All kernels may be crushed domestically under supervision of the marketing association representative; or

(2) All kernels may be exported for crushing, if fragmented; or

(3) All kernels that meet the standards established for the domestic market under the Marketing Agreement No.146 may be exported and the remaining kernels crushed domestically under supervision of the marketing association representative; or

(4) All of the peanuts may be exported as farmers stock peanuts, provided that such peanuts meet the standards established for the domestic market under the Marketing Agreement No. 146 and are positive lot identified; or

(5) The peanuts may be exported to an eligible country as peanut products if such products are produced domestically; or

(6) The peanuts may be exported as milled or in-shell peanuts if they meet the edible export standards established for the domestic market under the Marketing Agreement No. 146; or

(7) The peanuts may be considered exported or crushed if it is determined by CCC that such peanuts have been destroyed or otherwise made unsuitable for any commercial purpose.

(b) *Peanuts diverted.* Contract additional peanuts, or peanut products made from contract additional peanuts, that are diverted to any country other than an eligible country shall not be credited in the handler's favor against the handler's obligation to crush or export such peanuts.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38330, Aug. 13, 1991]

§ 1446.504 Substitution of quota and additional peanuts.

(a) *Substitution of quota peanuts which have been exported*—(1) *Farmers stock peanuts.* With prior notification to and approval of the marketing association, farmers stock quota peanuts that have been exported from the same crop, type, quality, and area may be substituted for additional peanuts that otherwise would have to be exported in accordance with this part to avoid a penalty.

(2) *Milled peanuts.* With prior notification to and approval by the marketing association, peanuts that are milled under supervision of the marketing association may be used to replace, in domestic edible use, quota peanuts that have been exported to an eligible country from the same crop, type, area, and of the same grade as recognized by the Peanut Administrative Committee (PAC) for edible quality grades. Such grades shall be established at the time the peanuts are

milled and the lot is formed unless CCC directs otherwise in writing. The quota peanuts that are exported, for which substitution is requested, must have been positive lot identified and otherwise handled as additional peanuts under the supervision of the marketing association.

(b) *Use of additional peanuts for domestic edible uses prior to substitution*—(1) *General requirements.* Additional peanuts may be used for domestic edible use with prior notification and approval of the marketing association and upon presentation to the marketing association of an irrevocable letter of credit in an amount that is determined in the same manner as such handler's initial letter of credit for the quantity of peanuts that will be substituted. Such letter of credit is in addition to the letter of credit required in accordance this part as a condition for approval of contracts for additional peanuts. Such additional letter of credit for substitution shall be issued in a form and by a bank which is acceptable to CCC.

(2) *Submitting evidence of export.* The handler subsequently shall dispose of a like amount of quota peanuts in the manner prescribed in this part for contract additional peanuts. If the quota peanuts are exported, the handler shall subsequently deliver to the marketing association satisfactory evidence that a like amount of quota peanuts of the same type and of a similar grade has been exported. Such evidence must be submitted no later than the earlier of:

(i) 30 days after the final date for export as established in accordance with this part; or

(ii) 15 days prior to the expiration of the letter of credit.

(3) *Failure to timely submit evidence of export.* If satisfactory evidence is not presented by such date determined in (b)(2) of this section, CCC may authorize the marketing association to draw against the letter of credit for the full amount of the penalty which would otherwise be due for failure to dispose of contract additional peanuts in accordance with this part.