

§ 1446.409

the peanuts were produced, or such earlier date as may be authorized by the Deputy Administrator, State and County Operations, if the final TKC obligation determined for such handler, when converted to a farmers stock peanuts basis by dividing the TKC pounds by 0.795 for runner peanuts; 0.75 for Spanish peanuts; 0.735 for Virginia peanuts; or 0.77 for Valencia peanuts, is less than the amount that would be applicable for such handler and for such amount of farmers stock peanuts as determined in accordance with §1446.403 of this part. The letter of credit may be decreased to the amount so determined.

(b) *Adjusting the letter of credit for acceptable proof of disposition.* The handler shall deliver to the marketing association satisfactory evidence as described in this part, to verify that contract additional peanuts have been exported or otherwise disposed of in accordance with the provisions of this part. On January 31, of the calendar year following the year in which the peanuts were produced, and monthly thereafter of such following year, the marketing association shall permit a reduction of the letter of credit if the existing letter of credit exceeds 140 percent of the national average quota price support rate for the applicable crop times the farmers stock equivalent of the remaining TKC obligation as determined in the same manner as provided in paragraph (a) of this section.

(c) *Drawing against the letter of credit.*

(1) If less than 16 days remain before the expiration of a handler's letter of credit, and upon authorization by CCC, the marketing association may draw against the letter of credit and apply the amount toward any penalty due for failure to properly dispose of, or account for, contract additional peanuts in accordance with this part if:

(i) By the final disposition date required in this part, a deficiency remained in the handler's obligation to crush or export contract additional peanuts;

(ii) By the date required in this part, the handler did not provide satisfactory documentary evidence of the full export of peanuts or peanut products; or

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(iii) The handler has committed another violation of this part with respect to such peanuts.

(2) Any draw down against a letter of credit shall not compromise any penalty due CCC if the letter of credit is insufficient to cover the full amount of the penalty or prevent any re-determination of whether there has been a proper disposition of and/or accounting for peanuts.

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

§ 1446.409 Access to facilities.

A handler, by entering into contracts to receive contract additional peanuts, or any person or firm otherwise receiving contract additional peanuts, shall be considered to have agreed that any authorized representative of CCC or the marketing association:

(a) May enter and remain upon any of the premises of the handler when such peanuts are being received, shelled, cleaned, bagged, sealed, weighed, graded, stored, milled, blanched, crushed, packaged, shipped, sized, processed into products, or otherwise handled;

(b) May inspect such peanuts and the oil, meal, and other products thereof; and

(c) May inspect the premises, facilities, operations, books, and records of the handler to the extent necessary to determine that such peanuts have been handled in accordance with this part.

§ 1446.410 Disposition date.

(a) *Final disposition date.* To avoid a penalty as provided in this part, a handler shall dispose of all contract additional peanuts, in accordance with the provisions in this part, by the final disposition date. Except as provided in paragraph (b) of this section, the final disposition date shall be October 15 of the year following the calendar year in which the crop was grown.

(b) *Extension of final disposition date.* The final disposition date for an individual handler may be extended by the marketing association to November 30 of the year following the calendar year in which the crop was grown if, by the final disposition date identified in paragraph (a) of this section, the handler files a written request with the marketing association that specifies

the number of pounds for which an extension is requested.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38330, Aug. 13, 1991; 57 FR 27145, June 18, 1992; 61 FR 37625, July 18, 1996]

§ 1446.411 Export provisions.

(a) *Export to a U.S. Government agency.* Except for the exportation of raw peanuts to the military exchange services of the United States for processing outside the United States, the export of peanuts in any form by or to a United States Government agency shall not be considered as export to an eligible country, but shall instead be considered a domestic edible use of such peanuts. However, sales to a foreign government which are financed with funds made available by a United States agency, such as the Agency for International Development or CCC, will not be considered sales to a United States Government agency if the peanuts are not purchased by the foreign buyer for transfer to an agency of the United States.

(b) *Export to an eligible country.* All contract additional peanuts which are not crushed domestically (including approved processing into flakes) and which are eligible for export shall be exported in accordance with the provisions of this part to an eligible country as peanuts or peanut products.

§ 1446.412 Evidence of export.

To receive credit toward an obligation to dispose of contract additional peanuts in accordance with this part, the handler must:

(a) *Certified statement.* Provide a statement signed by the handler specifying the name and address of the consignee and certifying that the peanuts have been exported.

(b) *Documentation.* Not later than 45 days after the final disposition date provided in this part, or a later date established by the Director, TPD, for cases where the Director finds that the handler has made a good faith effort to furnish documentation in a timely manner and that the failure to do so was due to conditions beyond the control of the handler, furnish to the marketing association or CCC the following documentary evidence of the export of peanuts or peanut products:

(1) *Export by water.* For peanuts or peanut products and peanut products that were exported by water, a non-negotiable original or original duplicate copy (not a machine made copy) of an on-board ocean bill of lading. Such bill of lading must have been signed on behalf of the carrier and must include:

- (i) The date and place of loading such peanuts on-board the vessel;
- (ii) The weight of the peanuts, peanut meal, or products exported;
- (iii) The name of vessel;
- (iv) The name and address of the U.S. exporter;
- (v) The name and address for the foreign buyer;
- (vi) The country of destination; and
- (vii) For peanut meal which is unsuitable for use as feed because of contamination by aflatoxin, the statement required on the bill of lading in accordance with this part.

(2) *Export by rail or truck.* For peanuts and peanut products that were exported by rail or truck:

- (i) A copy of the bill of lading that must include the weight of the peanuts or peanut meal or products exported, and for peanut meal that is unsuitable for feed use because of contamination by aflatoxin, the statement required on the bill of lading in accordance with this part; and
- (ii) A copy of the Shipper's Export Declaration or, in the alternative, a U.S., Canadian or Mexican Customs' document which shows entry into the country; or
- (iii) Other documentation that is acceptable to the marketing association.

(3) *Export by air.* For peanuts and peanut products that were exported by air:

- (i) A copy of the airway bill that must include:
 - (A) The weight of the peanuts, peanut meal, or peanut products exported;
 - (B) The consignee and shipper; and
 - (C) For peanut meal that is unsuitable for feed use because of contamination by aflatoxin, the statement required on the airway bill in accordance with this part: or
- (ii) Other documentation that is acceptable to the marketing association.

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