

§ 1446.603 Disposition credit for peanuts in exported products made from quota peanuts.

A handler who has selected nonphysical supervision and who manufactures peanut products from quota peanuts may export such products to an eligible country and receive disposition credit to apply to such handler's obligation to dispose of contract additional peanuts by crushing or by exporting.

(a) *Eligible peanuts.* In order to receive such credit, the quota peanuts used in such products shall be:

(1) Of the same crop year as the crop year of the contract additional peanuts for which the obligation, to crush or export, was established.

(2) Of the same type as the contract additional peanuts to which such credit shall be applied.

(b) *Handler requirements* (1) The handler, with respect to each marketing year and each area in which such handler will apply for export credit for manufactured products, shall submit a certification to the applicable marketing association:

(i) With respect to any marketing year in which such handler intends to request disposition credit for exported products made from quota peanuts, prior to requesting such disposition credit;

(ii) On a product-by-product basis; and

(iii) Of the peanut product content of peanut products manufactured by such handler for which disposition credit will be requested.

(2) Such certification of peanut product content, as required in accordance with paragraph (b)(1) of this section, must indicate by type of peanuts, with respect to each individual product, the respective portion of such peanut kernels that are:

(i) SS kernels;

(ii) SMK's;

(iii) AO kernels.

(3) If any change is made in any peanut product formula, as certified in accordance with this section, the handler shall notify the applicable area marketing association of such change within 90 days after such change is implemented.

(c) *Disposition credit.* (1) To the extent that a handler provides satisfactory

proof, to the applicable marketing association, of the export of peanut products made from quota peanuts, such handler who has complied with the provisions of paragraph (b) of this section may receive disposition credit for eligible peanuts in peanut products exported to an eligible country.

(2) Disposition credit received in accordance with paragraph (c)(1) of this section shall be prorated by type to SS kernels, SMK's and AO kernels in the same proportion as the handler certified with respect to the peanut product content in accordance with paragraph (b)(2) of this section.

(d) *Records.* Any handler who receives disposition credit under paragraph (c) of this section shall maintain records, as required in this part, to support:

(1) The accuracy of such handler's certification made in accordance with this section; and

(2) Any disposition credit that is requested by such handler in accordance with this section.

(e) *Annual review.* The marketing association or employees of TPD shall conduct an annual review of the certifications made by handlers in accordance with this section.

(f) *Inaccurate certification.* In the case of an inaccurate certification, the disposition credit shall be adjusted accordingly. Such action shall be in addition to any other remedy, including, but not limited to, any civil or criminal remedy for fraud, as may apply.

Subpart G—Penalties and Liquidated Damages

§ 1446.701 Excess marketing of quota peanuts.

A handler will be subject to a penalty for noncompliance with this part, if, as determined under this part, from any crop of peanuts, such handler markets, for domestic edible use, a larger quantity, or higher grade or quality of peanuts, than could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of farmers stock peanuts purchased by the handler during the applicable marketing year as quota peanuts, including those peanuts purchased in accordance with the "immediate buyback" provisions of this part. In