

option. In the case of a handler having an annual total obligation of less than 1,000 pounds, delivery may be to the Board in lieu of an accepted user, in which case the Board would certify the disposition lot and report the results to the USDA. For dispositions by handlers with mechanical sampling equipment, samples may be drawn by the handler in a manner acceptable to the Board and the inspection agency. For all other dispositions, samples shall be drawn by or under supervision of the inspection agency. Upon approval by the Board and the inspection agency, sampling may be accomplished at the accepted user's destination. The edible and inedible almond meat content of each delivery shall be determined by the inspection agency and reported by the inspection agency to the Board and the handler. The handler's disposition obligation will be credited upon satisfactory completion of ABC Form 8. ABC Form 8, Part A, is filled out by the handler, and Part B by the accepted user. Deliveries containing less than 50 percent almond meat content shall not be credited against the disposition obligation. At least 25 percent of a handler's total crop year inedible disposition obligation shall be satisfied with dispositions consisting of inedible kernels as defined in §981.408: *Provided*. That this 25 percent requirement shall not apply to handlers with total annual obligations of less than 1,000 pounds. Each handler's disposition obligation shall be satisfied when the almond meat content of the material delivered to accepted users equals the disposition obligation, but no later than August 31 succeeding the crop year in which the obligation was incurred.

(6) *Inedible almonds unfit for processing*. All lots received from growers as "inedible almonds unfit for processing," shall be exempt from the requirements of paragraphs (a) (1) and (3) of this section, but shall be disposed of in their entirety (other than as pickouts), as provided in paragraph (a)(5) of this section. Disposition of these lots shall not be credited toward the disposition obligation of paragraph (a)(4) of this section. If a grower sells or ships inedible almonds to a person other than a handler, the grower there-

by becomes a handler and subject to all the requirements of this paragraph.

(7) *Accepted Users*. An accepted user's eligibility shall be subject to the following criteria:

(i) Completion of an application with the Board for accepted user status;

(ii) Submission of a business data sheet to the Board; and

(iii) The accurate and prompt submission of ABC Form 8 Part B to the Board for each lot of almonds received, supported by a public weighmaster weight certificate issued at the request of the accepted user at the time of receipt.

(iv) The Board may deny or revoke accepted user status at any time if the applicant or accepted user fails to meet the terms and conditions of §981.442, or if the applicant or accepted user fails to meet the terms and conditions set forth in the accepted user application (ABC Form 34).

The eligibility of accepted users shall be reviewed annually by the Board. Handlers will not receive credit towards their disposition obligations pursuant to paragraph (a)(4) of this section for lots where the difference between the weight of the lot reported by the inspection agency on ABC Form 8 and the weight of the lot reported on the public weighmaster weight certificate exceeds 2.0 percent.

[42 FR 3160, Jan. 17, 1977, as amended at 43 FR 47969, Oct. 18, 1978; 44 FR 30075, May 24, 1979; 44 FR 67077, Nov. 23, 1979; 49 FR 40788, Oct. 18, 1984; 50 FR 47708, Nov. 20, 1985; 51 FR 36383, Oct. 10, 1986; 52 FR 45608, Dec. 1, 1987; 53 FR 26424, July 13, 1988; 56 FR 65420, Dec. 17, 1991; 59 FR 13434, Mar. 22, 1994; 61 FR 42991, Aug. 20, 1996; 62 FR 37488, July 14, 1997; 63 FR 41711, Aug. 5, 1998; 66 FR 39273, July 30, 2001; 69 FR 40536, July 6, 2004]

§ 981.450 Exempt dispositions.

As provided in §981.50 any handler disposing of almonds for crushing into oil, or for poultry or animal feed, may have the kernel weight of these almonds excluded from his receipts, and exempt from program obligations so long as the handler qualifies as, or delivers such almonds to, a crusher, a feeder, or dealer in nut waste; the crusher, feeder, or dealer are acceptable to the Board; each delivery is made directly to the crusher, feeder, or dealer, by June 30 of the crop year; and

§ 981.455

each delivery is certified to the Board by the handler on ABC Form 8.

[42 FR 19322, Apr. 13, 1977]

§ 981.455 Interhandler transfers.

(a) *Transfers of almonds.* Interhandler transfers of almonds pursuant to § 981.55 shall be reported to the Board on ABC Form 7. The report shall contain the following information: (1) Date of transfer; (2) the names, and plant locations of both the transferring and receiving handlers; (3) the variety of almonds transferred; (4) whether the almonds are shelled or unshelled; and (5) the name of the handler assuming reserve and assessment obligations on the almonds transferred. ABC Form 7 shall be signed by the transferring handler and by the receiving handler if the latter is assuming the obligation(s).

(b) *Transfers of reserve credits.* A handler may transfer reserve credits to another handler after having filed with the Board, in accordance with § 981.474, a completed ABC Form 13/14 covering the almonds to be diverted to a non-competitive outlet and all the documentation applicable thereto. Such a transfer does not relieve the transferring handler of any reserve obligations for the applicable crop year. The transferred credit shall not exceed the quantity needed by the receiving handler to cover that handler's reserve obligation. The Board shall complete the transfer upon receipt of an ABC Form 11 executed by both handlers. No transfer of reserve credits shall be made to satisfy a handler's inedible disposition obligation incurred pursuant to § 981.42(a).

(c) *Transfers of reserve withholding obligation.* A handler may transfer reserve withholding obligation to other handlers pursuant to § 981.55 after having filed with the Board an ABC Form 11 executed by both handlers. The Board shall approve the transfer upon receipt of the properly completed form.

(d) Transfer of inedible obligation may be made, with the approval of the Board, only when the inedible kernels are physically transferred with the entire lot of almonds. The transfer of the lot shall be reported on ABC Form 9, showing date of transfer and, for the transferring handler, the (1) original inspection certificate number, (2) total weight shown on the certificate, and (3)

7 CFR Ch. IX (1-1-05 Edition)

weight of inedible kernels shown on the certificate. For the receiving handler, ABC Form 9 shall show the (1) new inspection certificate number, (2) total weight shown on the certificate, and (3) weight of inedible kernels shown on the certificate. ABC Form 9 shall be signed by both, the transferring handler and the receiving handler, and submitted by the receiving handler to the Board for approval.

[42 FR 19322, Apr. 13, 1977, as amended at 44 FR 30076, May 24, 1979; 56 FR 19794, Apr. 30, 1991; 62 FR 56051, Oct. 29, 1997]

§ 981.466 Almond butter.

Almond butter as used in § 981.66(c) is hereby defined as a comminuted food product prepared by grinding shelled or blanched almonds into a homogeneous plastic or semiplastic mass or liquid having very few particles larger than $\frac{1}{16}$ inch in any dimension. To produce chunky style almond butter, almond chunks or pieces may be added up to a maximum of 25 percent by weight of the finished product. The size of the almond pieces used to make chunky style almond butter may not exceed $\frac{5}{16}$ inch in any dimension.

[48 FR 11250, Mar. 17, 1983]

§ 981.467 Disposition in reserve outlets by handlers.

(a) *Agents of Board.* Beginning with August 1 of any crop year, a handler may become an agent of the Board pursuant to § 981.67 for the purpose of disposing of reserve almonds of such crop year, in the authorized outlets. The agency shall be established upon a handler executing a reserve agreement (ABC Form 12) ABC, applicable to diversion, containing terms and conditions specified by the Board.

(b) *Reserve credit.* Credit in satisfaction of a reserve obligation shall not exceed the accrued reserve obligation derived by applying the reserve percentage to the quantity of almonds received by a handler for his own account during the crop year. Disposition by an agent of the Board in eligible reserve outlets within a crop year in excess of his reserve obligation shall be held to be a disposition of salable almonds. Whenever such disposition has been inspected and certified, if required, and