agencies and health benefits carriers that participate in the FEHB Program.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM proposes to amend 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), and 11246 (b) and (c) of Pub. L. 105–33, 111 Stat. 251.

§ 890.201 [Amended]

2. In § 890.201, paragraph (a)(10) is removed and paragraph (a)(11) is redesignated as paragraph (a)(10).

3. In § 890.301, paragraph (f)(4) is revised to read as follows:

§ 890.301 Opportunities for employees to enroll or change enrollment; effective dates.

* * * * *

(f) * * *

(4)(i) An open season new enrollment for an employee in a pay status takes effect on the first day of January of the next year.

(ii) An open season new enrollment for an employee in a non-pay status takes effect on the first day of the first pay period that begins in the next year and which follows a pay period during any part of which the employee is in a pay status.

(iii) An open season change of enrollment takes effect on the first day of January of the next year.

* * * * *

4. In § 890.306, paragraph (f)(2) is revised to read as follows:

§ 890.306 Opportunities for annuitants to change enrollment or to reenroll; effective dates.

* * * * *

(f) * * *

(2) An open season reenrollment or change of enrollment takes effect on the first day of January of the next year.

* * * * *

5. In § 890.806, paragraph (f)(2) is revised to read as follows:

§ 890.806 Opportunities for former spouses to enroll and change enrollment; effective dates of enrollment.

* * * * *

(f) * * *

(2) An open season reenrollment or change of enrollment takes effect on the first day of January of the next year.

* * * * *

6. In § 890.1108, paragraph (e)(2) is revised to read as follows:

§ 890.1108 Opportunities to change enrollment; effective dates.

* * * * *

(e) * * *

(2) An open season change of enrollment takes effect on the first day of January of the next year.

* * * * *

[FR Doc. 98–23335 Filed 8–28–98; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 999

[Docket No. FV98–999–1 PR]

Revised Quality and Handling Requirements and Entry Procedures for Imported Peanuts for 1999 and Subsequent Import Periods

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on several revisions to the peanut import regulation effective with the 1999 and subsequent peanut import quota periods. The proposed changes would: Relax certain quality requirements; modify entry procedures; revise handling requirements; reduce the reporting burden; and establish a new reporting period for peanuts imported into the United States. Changes to the quality and handling requirements are proposed to make the import requirements consistent, as required by law, with regulations covering domestically-produced peanuts under Marketing Agreement No. 146 (Agreement). Changes to import procedures and reporting requirements are proposed by the Agricultural Marketing Service (AMS) to improve efficiency of the importation process, ease the reporting burden, and provide importers with more time to meet peanut import regulation requirements. This proposal continues safeguard measures which prevent non-edible imported peanuts from being used in human consumption outlets in the United States. This action would benefit peanut importers, handlers, and consumers by helping to ensure that all peanuts in the domestic marketplace comply with the same quality standards.

DATES: Comments received by September 30, 1998 will be considered prior to issuance of a final rule. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through October 30, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C. 20090–6456; fax: (202) 720–5698, or E-mail: moabdocketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. Comments received will be made available for public inspection in the Office of the Docket Clerk during regular business hours. Comments concerning the amended information collection under the Paperwork Reduction Act of 1995 should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, D.C. 20090–6456; telephone: (202) 720–6862, or fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber at the same address and fax number, telephone: (202) 720–2491.

SUPPLEMENTARY INFORMATION: This proposed rule would amend the peanut import regulation (7 CFR Part 999.600) issued June 11, 1996, and published in the **Federal Register** (61 FR 31306, June 19, 1996), which regulates the quality of peanuts imported into the United States. Amendments to the regulation were issued December 31, 1996 (62 FR 1269, January 9, 1997) and September 19, 1997 (62 FR 50243, September 25, 1997).

The import regulation is effective under subparagraph (f)(2) of section

108B of the Agricultural Act of 1949 (7 U.S.C. 1445c3) (Act), as amended November 28, 1990, and August 10, 1993, and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271). These statutes provide that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR Part 998) (Agreement), issued pursuant to the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674). The handling requirements proposed in this rule are the same as, or similar to, those recommended by the Peanut Administrative Committee (Committee or PAC), the administrative agency that oversees the Agreement's quality assurance program.

This rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the regulations, importers of foreign-produced peanuts must: Follow certain entry procedures with the U.S. Customs Service (Customs Service); obtain certification that such peanuts meet edible quality requirements or are disposed to non-edible peanut outlets; and report disposition of peanuts to AMS within an established time period. This rule proposes several changes to the current regulation to relax quality requirements, modify entry procedures, and relax reporting requirements. The rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Discussion

The peanut import regulation was issued June 11, 1996. At that time, three duty free peanut quotas for 1996 had been filled and no peanuts were entered under duty for the remainder of 1996. Therefore, the peanut import regulation had its first practical application on January 1, 1997, when the Mexican peanut quota opened, and again on April 1, 1997, when Argentine and ''other country'' quotas opened. By international agreements, these three duty free peanut quotas increase each year, allowing more foreign-produced peanuts duty free access to U.S. markets. For the 1999 peanut quota year, the Mexican quota will total approximately 8.7 million pounds (3.95 million kilograms). Argentina's 1999 peanut quota will total approximately 89 million pounds (40.4 million kg.) and the quota for all other countries will be approximately 17.7 million pounds (8 million kg.). The total volume will be about a 10 percent increase over the combined 1998 peanut quotas.

The Committee met April 29 and 30, 1997, and recommended relaxations to the quality and handling requirements of the domestic peanut program. Those relaxations have been finalized by the Department of Agriculture (USDA) and made effective for domestically-produced peanuts. Where applicable, those changes are proposed for imported peanuts in this rulemaking. The Committee met a second time on May 27, 1998, and unanimously recommended no further changes in the domestic program's quality requirements or handling procedures. In addition, after review of the entry and certification process, AMS proposes additional modifications to the import regulation to increase the efficiency of the importation procedure and relax reporting requirements.

Therefore, this rulemaking action proposes the following modifications to Section 999.600.

(1) AMS proposes removal of a phrase in the definition of *Negative aflatoxin content*, in Section 999.600, paragraph (a)(10). The phrase, ''and 25 parts-per-billion (ppb) or less for non-edible quality peanuts,'' is proposed to be removed because that action level is no longer used for non-edible peanuts. This proposed revision would make the requirements under these regulations consistent with those under the Agreement. Molds such as *Aspergillus flavus* (A.flavus) are present naturally in soil. Aflatoxin is a carcinogen which may develop from A.flavus which is more likely to be found on stressed peanut plants and damaged or defective kernels than on sound, whole kernels.

Also, in paragraph (a)(15), Marketing Agreement No. 146 is referred to as the Peanut Marketing Agreement No. 146. The word ''peanut'' is not a part of the title of the Agreement and would be removed from the definition to make it technically correct.

(2) AMS proposes to change the definition of *Conditionally released* in Section 999.600, paragraph (a)(16), to conform with Customs Service terminology. The current definition states that peanuts are conditionally released for further handling ''before final release.'' The phrase ''final release'' is not consistent with Customs Service terminology and would be removed to avoid confusion. This proposal would define conditionally released as ''released from U.S. Customs Service custody for further handling, sampling, inspection, chemical analysis, storage, and, if necessary, reconditioning.'' These activities are conducted to meet the requirements of the import regulation. If inspection and certification are not obtained prior to application for entry, or if peanuts are not held in Customs Service bonded storage facilities when inspected, the peanuts would be conditionally released for such inspection and needed reconditioning. Conditional release would provide more time for importers to obtain inspection certifications and to report compliance with the import regulation.

(3) AMS proposes to remove a redundant sentence in paragraph (b)(1) of Section 999.600. The second sentence states that ''only Segregation 1 peanuts may be used for human consumption.'' This sentence is re-stated at the end of the paragraph and is more appropriately placed at the end of the paragraph.

(4) Paragraph (c)(1)(i) of the *Outgoing regulation* in Section 999.600, currently states that ''no importer shall ship or otherwise dispose'' of imported peanuts unless the peanuts meet certain import requirements. The introductory sentence would be amended by removing the words ''ship or otherwise.'' This change would make the text consistent with the revised text of corresponding paragraph (a) of Section 998.200 of the Agreement regulations.

This modification has the effect of removing text which allows forwarding of very high quality imported peanuts to buyers before receipt of quality certifications. However, the impact of this modification is not expected to be significant. Given the quality of imported peanuts, importers have been reluctant to forward lots to buyers prior to receipt of both grade and aflatoxin certifications. The risk of having to have the lot returned for reconditioning is greater than the benefit of shipping a few days early. The delays are not excessive as aflatoxin analyses are usually completed within two or three days, and the results faxed back to importers. Finally, grade and aflatoxin certifications often are completed before other Federal agency clearances are received. Therefore, this modification would not be expected to have an impact on the importation process or on peanut importers. This modification is made in conjunction with Recommendation 6.

(5) To be consistent with a recent change in the Agreement regulation's

''Other Edible Quality'' table, this rule proposes to relax the tolerance for ''Unshelled and damaged kernels'' (from 1.50 to 2.00 percent) in the ''lots of splits'' categories specified in Table 1, ''Minimum Grade Requirements'' of paragraph (c)(1)(i). The new requirement now matches the tolerance for ''Unshelled and damaged kernels'' as specified in the U.S. Grade Standards for Peanuts. Table 1 shows the current tolerance for unshelled and damaged kernels as 1.50 percent (the second column under ''Lots of splits''). The tolerance would be relaxed to allow for 2.00 percent unshelled and damaged kernels in split lots. The relaxation in tolerance of one half of one percent could reduce the number of imported peanut lots that need to be reconditioned to meet outgoing quality requirements. This could save importers reconditioning costs and storage costs. This relaxation already has been made effective for domestically-produced peanuts.

(6) This modification would remove the text of paragraph (c)(1)(ii) and the first six grade categories in Table 2—Superior Quality Requirements. The Committee established Table 2 in the Agreement regulations several years ago to qualify higher grade peanut lots for its indemnification program. However, the indemnification coverage has been greatly reduced by recent Committee actions and the first six grade categories are no longer certified under the Agreement. Thus, those grade categories would be removed from the import regulation in this rulemaking action.

The final three grade categories in Table 2 covering domestically-produced peanuts with not more than 15 percent sound split kernels still have a small domestic marketing niche and have been moved to Table 1 under the Maximum Limitations category in the Agreement regulations. To be consistent with that modification, the last three imported ''with splits'' categories covering Runners, Virginias, and Spanish and Valencia with ''not more than 15 percent sound splits'' would be moved to the Minimum Grade Requirements table in paragraph (c)(1)(i) of the import regulation. Also, to be consistent with the other maximum tolerances in the ''Unshelled peanuts and damaged kernels'' column, and in the ''Minor defects'' column, the percentage tolerances for the three transferred categories would be increased (relaxed) from 1.25 to 1.50 percent and from 2.00 to 2.50 percent, respectively.

Recommendations 5 and 6 have the effect of relaxing the minimum quality requirements of the import regulation, and, together, simplify grade requirements by providing only one set of peanut quality requirements for human consumption use. While these proposed changes remove a provision that allows shipment of high quality lots to buyers immediately after grading, given the nature of peanut quality and importation processes, the proposed changes would not be expected to delay shipments or negatively affect the handling of imported peanuts.

To effectuate the above three changes, paragraph (c)(1)(i) would be modified by removing the words ''ship or otherwise.'' The text and the first six grade categories of Table 2 in paragraph (c)(1)(ii) also would be deleted from the regulation and the last three grade categories would be moved to the table in paragraph (c)(1)(i). Paragraph (c)(1)(iii) would be redesignated as paragraph (c)(1)(ii) and a conforming change would be made to that paragraph by deleting the second sentence which specifies that samples must be taken from Superior Quality peanut lots prior to shipment. Finally, because Table 2 would be deleted, it would not be necessary to refer to the ''Minimum Grade Requirements'' table as Table 1, and conforming changes would be made in paragraph (c)(1)(i), introductory paragraph (e), and in paragraph (e)(3).

(7) Paragraph (d)(3)(ii) would be changed to specify a maximum lot size for farmers stock peanuts. The import regulation currently specifies the maximum lot size for farmers stock, cleaned-inshell and shelled peanuts as 200,000 pounds (90,720 kilograms). However, the 200,000 pound size limit is applied only to shelled peanuts under the Agreement, and is based on an understanding between the Committee and the inspection service, reached some years ago. The maximum lot size for domestically-produced, farmers stock peanuts is limited to one conveyance, or two or more conveyances with a combined weight not exceeding 24,000 pounds (10,886 kilograms). The smaller lot size is established for farmers stock peanuts because farmers stock peanuts have not undergone extensive cleaning and sorting processes and, generally, contain more foreign material and A.flavus mold than lots of milled peanuts. Smaller lot sizes help increase the effectiveness of sampling variability and assure that the collected sample is representative of the entire lot. The 200,000 pound limit for shelled peanuts is the maximum volume on which random sampling procedures can be systematically and accurately implemented.

Therefore, under this proposal, foreign-produced peanuts imported in farmers stock form would be inspected in single conveyances or combined conveyances not exceeding a total of 24,000 pounds. Only a small percentage of the peanuts imported during 1997 and 1998 were imported in farmers stock form, and all complied with this maximum lot size. This inspection practice would help exporters plan their shipments and should not have a negative impact on future imports of farmers stock peanuts. For these reasons, the second sentence of paragraph (d)(3)(ii) would be modified to provide maximum lot size for farmers stock peanuts.

Paragraph (d)(3)(i)(A) would be changed to reflect closing of the inspection office in Yuma, Arizona. The introductory sentence in paragraph (d)(3)(i)(B) would be changed to more accurately reflect the sampling service provided by some inspection service offices.

(8) AMS proposes strengthening the lot identification requirements for shelled peanuts by adding new paragraph (d)(4) of the import regulation. The Agreement regulation requires Positive Lot Identification (PLI) generally using tags which are sewn on each bag or super sack of domestically-produced shelled peanuts. The PLI tag is applied after shelling, at the time of packaging and inspection. The current import regulation does not require PLI tags sewn at the time of first inspection when several hundred thousand pounds of peanuts arrive at a port-of-entry at one time. Such a requirement would be a burden on importers because of the large volume and lack of equipment, space, and time needed to sew tags on individual bags. However, better lot identification for imported peanuts is needed to insure integrity of the peanut import program.

Lot identification practices currently applied to imported peanuts by the Federal-State Inspection Service (inspection service) provide that lots, or pallets within a lot, be identified by a tag which is affixed to the lot or pallet. Such identification does not prevent the individual bags, sacks, or cartons in the lot from being tampered with or exchanged with other bags, sacks, or cartons. The inspection service cannot insure integrity of a lot that is only ''lot identified.'' Simple lot identity does not guarantee that peanuts drawn in a second sample under an appeal process come from the same peanut lot or containers from which the first sample was drawn.

Therefore, AMS proposes a more reliable PLI to be applied to shelled peanuts by the inspector at the time of first inspection. This may include: (1)

Wrapping PLI tape around the top layer of bags or boxes in such a way that no peanuts could be removed or added; (2) shrink wrapping pallets or multiple bags with a PLI sticker applied to the wrapped pallets or bags; (3) stamping or stenciling and numbering individual bags or boxes; (4) affixing a PLI seal to the door of a shipping container so that it could not be opened without breaking the seal; or (5) other methods acceptable to the inspection service that clearly identifies the lot, is securely affixed to the lot, and prevents peanuts from being removed or added to the lot.

These PLI methods represent substantially less burdensome and less-costly procedures than PLI tags sewn on individual bags. For instance, stenciling bags with a spray paint is a faster and much less expensive method of lot identity that represents an acceptable alternative to sewing tags on individual bags. The inspection service office in Suffolk, Virginia, used stenciling of imported peanuts in bags during the 1997 and 1998 quota years. These methods also do not require special training or equipment and can be carried out by inspection service personnel throughout the U.S. These methods should not require substantial extra time or material at the time of first inspection. Increased costs to the importer should be in the form of a few extra minutes to wrap pallets or stencil bags, and would vary with the size and containerization of each lot. These PLI methods could increase average storage costs when warehouse space for inspection is very limited or when an unusual amount of movement of lots is required during lengthy warehouse storage. However, increased costs should not be significant in comparison to overall costs of importation. Also, importers should benefit from improved lot identity if a lot needs to have an appeal inspection or if the Customs Service were to demand redelivery.

The inspection service currently works with domestic peanut handlers and storage warehouses to determine the most appropriate PLI or lot identity method to be used. The same cooperative relationship should apply to importers. Several factors will dictate which PLI method should be used: (1) Size of the lot; (2) storage space on the wharf or in the warehouse; (3) required, further movement of the lot prior to receipt of certification; and (4) other needs of the importer, wharf or warehouse operators, or the Customs Service. Any request for extension of the reporting period, or appeal inspection, would include the PLI number or designation of the lot needing additional reporting time.

AMS believes that these increased lot identity practices outweigh the possible minimal increases in handling or inspection costs associated with better lot identification. Tighter lot-identity requirements would be consistent with practices currently used by the inspection service to PLI domestically-produced peanuts. PLI also would help importers maintain the integrity of lots, should questions arise from the Customs Service after conditional release.

AMS believes that positive lot identification of inspected lots is essential in maintaining the integrity of imported shelled lots after first inspection. Lots failing grade and aflatoxin certifications can be appealed pursuant to current paragraph (d)(5). In the appeal process, the lot is sampled a second time. Without PLI, there is no guarantee that peanuts sampled under an appeal inspection are the same peanuts as those which failed initial inspection. Therefore, a sentence would be added to current paragraph (d)(5) to provide that peanut lots which show evidence of tampering or PLI violation, would not be eligible for an appeal inspection.

These PLI methods would be applied to peanut lots at the first inspection. If a lot subsequently fails either grade or aflatoxin analysis, the lot may be sent to a remilling or blanching operation for reconditioning. In such cases, PLI of the lot from the warehouse to the reconditioning site and during reconditioning does not have to be maintained. However, the importer must maintain information which ties the reconditioned lot to the original lot. This information must be provided to the inspection service upon inspection after reconditioning. Thus, inspection surveillance of the lot does not have to be maintained during reconditioning. This lot identity procedure is consistent with the handling requirements for domestically produced peanuts under the Agreement.

PLI requirements after reconditioning also would be updated in this proposal to make the treatment of reconditioned imported peanuts consistent with current industry practice for domestically-produced peanuts. Under Agreement requirements, failing lots that are reconditioned by remilling or blanching are positive lot identified by sewing tags on bags and by taping and tagging bulk bins. For shelled peanuts, the tag is sewn into the closure of the bag. In plastic bags, the tag is inserted prior to sealing so that the official stamp is visible. This is the most efficient PLI procedure and is currently carried out by the remiller or blancher at the end of the remilling and blanching process. The inspection service certifies the reconditioned lot based on the PLI tags applied to bags and bins. Bulk shipments and bulk bins would be positive lot identified by sealing the conveyance and, if in other containers, sealed by means acceptable to the inspection service. This proposal would ensure that the same PLI procedures are applied to imported peanuts which are reconditioned by remilling or blanching. Costs for these PLI measures are covered in the remilling and blanching charges, and, thus, would not be expected to increase costs for importers. Indeed, some blanching operations used this PLI method on imported peanuts during 1997 and 1998.

These PLI requirements and procedures would be established in the import regulation by adding a new paragraph (d)(4) and redesignating current paragraphs (d)(4) and (5) as (d)(5) and (6), respectively. Also, references to lot identity in paragraphs (c), (d), (d)(1) and (g)(6) would be amended to read ''Positive Lot Identification.''

It shall be noted that under the Agreement and import programs, a failing lot that is reconditioned must be re-certified for both grade and aflatoxin content after reconditioning. It does not matter whether the original lot fails for grade or aflatoxin analysis; both analyses must be conducted a second time. The reconditioned lot is considered to be a new lot because the size and quality is different from the original lot, and the previous lot identity has been lost. This procedure was in effect and properly carried out for reconditioned imported peanuts in 1997 and 1998.

A minor clarification would be added to redesignated paragraphs (d)(5)(ii) and (iii). These paragraphs refer to a ''notice of sampling'' as the inspection service's grade certification of shelled peanuts. The inspection service now commonly uses the ''Milled Peanut Inspection Certificate,'' AMS form FV–184–9A, to certify the grade quality of shelled peanuts. That form's title would be added to paragraphs (d)(5)(ii) and (iii).

AMS would advise importers that containers of imported lots of shelled peanuts may be subdivided prior to inspection. During the 1997 and 1998 quota years, some containers of shelled peanuts, when off-loaded and made available for inspection, revealed wet or moldy bags. The importers, suspecting such bags would fail quality requirements, isolated the wet and moldy bags apart from other bags in the container to reduce possible contamination of good peanuts. This practice is acceptable and can be done

at a Customs Service bonded warehouse without inspection service oversight. If the moldy bags are held separately in a Customs Services bonded warehouse and then re-exported without leaving Customs Service custody, those moldy bags do not have to be reported to AMS—except that the difference in the volume reported on the stamp-and-fax form and the volume inspected must be reported to the inspection service.

However, if the moldy bags are combined into a separate lot and identified on an inspection certificate, or moved out of Customs custody, the bags are subject to import requirements and must be reported as separate peanut lots. If such a lot fails quality requirements, it may be reconditioned, disposed to an non-edible peanut outlet pursuant to import requirements, or re-exported pursuant to Customs Service procedures. These dispositions must be reported to AMS.

(9) The second to the last sentence in current paragraph (d)(4)(iii) provides that laboratories shall provide aflatoxin assay results to the importer. Upon review, USDA determines that this sentence is redundant with provisions in current paragraph (d)(4)(v). Thus, this proposal would remove the second to last sentence of current paragraph (d)(4)(iii).

(10) Several changes in the regulatory text would be made regarding reporting of aflatoxin certifications to AMS. Current paragraph (d)(4)(iv)(A) provides that importers ''should'' contact one of the laboratories to arrange for chemical analyses of imported peanut lots. However, because chemical analysis is required under the regulation, the word ''should'' does not convey the mandatory nature of the requirement that aflatoxin analysis must be conducted on all imported peanut lots intended for human consumption. Thus, the first sentence of redesignated paragraph (d)(5)(iv)(A) would be revised to state that importers ''shall'' contact one of the laboratories to arrange for chemical analyses.

Current paragraph (d)(4)(v) would be revised to include the requirement that importers ''shall cause'' aflatoxin certifications to be reported to AMS. The last sentence in current paragraph (d)(4)(v)(B) would be revised and moved to redesignated paragraph (d)(5)(v) for more appropriate placement of the instructions.

(11) The list of aflatoxin testing laboratories shown in current paragraph (d)(4)(iv)(A) would be updated in this rulemaking action. The laboratory in Ashburn, Georgia formerly operated by AMS is now operated privately as a PAC-approved laboratory. The USDA laboratory in Dothan, Alabama is now operated by the Alabama-Federal State Inspection Service. In addition, three new laboratories in Headland, Goshen, and Enterprise, Alabama have been certified by AMS and approved by the PAC as Alabama-Federal State laboratories. The PAC-approved laboratory in San Antonio, Texas should be dropped from the list as that laboratory no longer certifies the aflatoxin content of peanut lots. Finally, the name of the AMS office that operates USDA laboratories and certifies the private laboratories has been changed from Science and Technology Division to Science and Technology Programs.

The import regulation refers to private aflatoxin testing laboratories as ''PAC-approved'' because those laboratories are approved by the Committee to perform chemical analyses on domestically-produced peanuts. These PAC-approved laboratories also may be referred to as ''designated'' laboratories. Whether a laboratory is referred to as ''PAC-approved'' or ''designated,'' only those laboratories listed in redesignated paragraph (d)(5)(iv)(A) may conduct aflatoxin content analysis on imported peanuts.

(12) Another Committee recommendation to modify the Agreement regulations would provide that shelled peanut lots failing quality requirements because of excessive ''fall through'' may be blanched. Paragraph (e) of the import regulation prescribes the corresponding requirement that imported shelled peanuts failing quality requirements because of excessive damage, minor defects, moisture, or foreign material may be reconditioned by remilling and/or blanching. This proposed change would add peanut lots failing ''fall through'' requirements to those lots that can be reconditioned by blanching. After blanching, all such lots would have to be sampled and certified as meeting minimum ''fall through'' requirements prior to disposition to edible peanut outlets.

This change would be made in paragraph (e) of Section 999.600 by adding a new second sentence to the introductory paragraph providing that peanuts which fail minimum grade requirements because of excessive ''fall through'' may be blanched. For consistency, the second to last sentence in introductory paragraph (e) also would be revised to include minimum ''fall through'' requirements as a condition for human consumption.

(13) A final change to be consistent with Agreement regulations would prescribe that shelled peanut lots meeting the minimum grade requirements specified in the Minimum Grade Requirements table, but which fail aflatoxin requirements, may be roasted during the blanching process. After roasting, the peanuts would be sampled and assayed for aflatoxin content, and, if meeting aflatoxin requirements (15 ppb or less), may be disposed of to human consumption outlets. The lot would not have to be re-inspected for grade quality because the lot would have already met grade requirements. This modification is a relaxation of requirements and would be an optional process for importers who intend to roast imported peanuts. It could save time, reduce costs, and reduce possibilities for damage or split kernels.

This process was recommended by the Committee for domestic peanuts because blanched peanuts, after sampling and certification, often are placed back into the blancher to complete the roasting process. This adds costs to the roasting process and can cause additional splits or kernel damage due to the extra handling of the peanuts. Also, roasting enhances the blanching efforts to eliminate aflatoxin, thus improving the wholesomeness of the peanuts.

Inspection service oversight of the blanching process is necessary to maintain lot identity. However, the Department believes that the savings involved in blanching and roasting in one step and prevention of additional damage and splits due to excessive handling are benefits that would outweigh the costs of inspection service oversight. Any residual peanuts, excluding skins and hearts, resulting from the roasting process, must be red tagged and disposed of to non-edible peanut outlets, and so reported to AMS. This proposal is added as new paragraph (e)(4) in Section 999.600. Current paragraph (e)(4) would be redesignated as (e)(5).

Paragraph (f) Safeguard procedures of Section 999.600 outlines the steps that importers must follow when entering peanuts into U.S. commercial markets. The stamp-and-fax process helps assure that AMS will be notified of all peanut entries. This rule would modify or remove several requirements of the current safeguard procedures and reporting requirements to help streamline the entry process, ease reporting burdens, and provide more time for importers to obtain human consumption certification. The changes are proposed after AMS' review of the peanut importation process during the 1997 and 1998 quota periods. Where applicable, the changes are proposed

with the concurrence of the Customs Service.

(14) Under the ''stamp-and-fax'' procedure, importers notify the inspection service of pending peanut shipments by faxing or mailing a copy of the Customs Service entry documentation to the inspection service office that will sample the imported peanut shipment. The first sentence of paragraph (f)(1) provides that such documentation must be sent ''prior to arrival'' of the peanuts at the port-of-entry. However, experience shows that it may not be possible to send a completed stamp-and-fax document to the inspection service ''prior to arrival'' of the shipment at the port-of-entry. While it is in the importer's interest to give the inspection service advance notice of inspection, it is not essential that this be done before arrival of the shipment at a port. Thus, the first sentence of paragraph (f)(1) would be changed to read ''Prior to, or upon, arrival * * *''.

The Customs Service will not release imported peanut lots without entry documentation stamped by the inspection service. Further, the inspection service will not sample and inspect peanuts that are not covered in a stamp-and-faxed entry document.

(15) AMS proposes revising paragraph (f)(1) to change the information that is currently required on the stamp-and-fax document. This rule would add the Customs Service entry number(s) for the peanut shipment(s) covered in a stamp-and-fax document. The entry number is basic Customs Service entry information and appears on Customs Form 3461 (Entry/Immediate Deliver) which is commonly used as the stamp-and-fax document. During the 1997 and 1998 quota periods, the inspection service recorded the entry number on the grade certificates, enabling AMS to monitor imported lots and communicate with the Customs Service regarding importers' compliance with program requirements.

Experience of the last two import years shows that different Customs Service forms may be used in the stamp-and-fax process. In most cases, Customs Form 3461 has been used. USDA's Animal and Plant Health Inspection Service (APHIS) Form 368 (Notice of Arrival) also may be used as a stamp-and-fax document. In these cases, the importer or customs broker filing the stamp-and-fax document must add the inland destination and contact number before sending the document to the inspection service.

The current provision specifies that the destination location, including city and street address, be included on the stamp-and-fax form. The street address is not necessary as long as the city and receiving entity is identified. A telephone contact number also must be included. Experience shows that the receiving entities are usually cold storage warehouses.

The current provision specifies that the stamp-and-fax document include the date and time that the peanut shipment will be inspected at the inland destination. However, a date and time for inspection is not always known at the time of entry, and it is not necessary that this information be included on the stamp-and-fax document. The purpose of the stamp-and-fax is to assure that the inspection service is aware of every peanut lot being imported. Arrangements for the time and date of the inspection often are made by the cold storage warehouse after arrival of the imported lot at the inland destination.

Therefore, this rule proposes that the information required on the stamp-and-fax be amended to include: the Customs Service entry number; the volume (weight) of peanuts being imported; the city, and location of the entity receiving the peanuts; and a contact name or number at the destination. Paragraph (f)(1) would be changed accordingly.

(16) The ''stamp and fax'' process would be further modified by removing the fifth sentence in paragraph (f)(1) that requires importers to send a copy of the stamp-and-fax entry document to the Secretary. AMS can obtain information on peanut entries from the inspection service and from the Customs Service on data tapes. That information effectively replaces the need for stamp-and-fax entry documents to be reported by importers to AMS' headquarters office. The change would be made in the fifth sentence in paragraph (f)(1) by removing the words ''and send a copy of the document to the Secretary.'' A similar change also would be made in the first sentence in paragraph (f)(2) by removing the words ''entry document'' from that sentence. This modification does not change the requirement that importers must file the stamp and fax with the inspection service office as provided in paragraph (f)(1).

Another change regarding the stamp-and-fax reporting would be made in paragraph (f)(1). The last sentence provides that the importer shall cause a copy of the entry document to accompany the peanut lot and be presented to the inspection service ''at the inland destination.'' The intent of this requirement was to help inspection service offices account for all peanut lots which those offices have authorized entry by stamp-and-fax. However, the provision, as currently written, could be interpreted as meaning that all peanut lots must be shipped inland for inspection. This is not the intent of the provision. Peanuts may be inspected and certified for human consumption while at the port-of-entry, free trade zone, or bonded warehouse adjacent to the port of entry. If inspected at the port or free trade zone and certified as edible, the lot does not have to be seen again by the inspection service and may be transported to its intended destination. Uninspected lots and failing lots which are sent inland for inspection or reconditioning must be accompanied by Customs Service entry documentation relevant to the lots, which must be presented to the inspection service at the time of inland inspection.

The last sentence in paragraph (f)(1) would, therefore, be modified to provide that the entry documentation be presented at the time of sampling—whether that sampling is at the port of entry or at an inland destination. The last sentence of paragraph (d)(3)(i) also would be revised to conform with this clarification.

(17) The import regulation's reporting requirements are specified in paragraph (f)(2) of Section 999.600. Currently, importers are required to file with the Secretary entry documents, including all grade and aflatoxin certifications, showing that imported peanut lots meet quality and disposition requirements of the regulation. Certifications filed by importers enable AMS to monitor all imported peanut shipments and ensure compliance with the regulation's quality and disposition requirements. The reporting requirements can be burdensome if, as now happens, large volumes of peanuts are entered simultaneously when a country's peanut import quota is opened.

The inspection service performs all inspections of imported peanuts, and AMS has access to all of those grade certificates. In addition, AMS' Science and Technology Programs' laboratories conduct chemical analysis of imported peanut lots, and, thus, AMS has access to aflatoxin certificates issued by those laboratories. Through memoranda of understanding with these offices, AMS' Marketing Order Administration Branch (MOAB), which administers the import regulation, can obtain copies of grade and aflatoxin certificates issued by the inspection service and the USDA laboratories. Therefore, it is not necessary that importers file inspection service grade certifications and USDA laboratory aflatoxin certifications on lots which meet requirements. Those certifications can be provided to MOAB

by the inspection service and laboratories. Filing of aflatoxin certifications provided by PAC-approved private laboratories is addressed below.

Experience shows that if importers do not have to file certifications on peanut lots which meet import requirements, a large portion of the reporting burden would be removed. Importer would continue to be required to report failing lots and disposition of those failing lots. AMS believes such a modification of the reporting requirements would not reduce the effectiveness of the regulation's safeguard procedures or AMS' program oversight, because its compliance efforts focus on failing peanut lots. Therefore, AMS proposes to revise paragraph (f)(2) of Section 999.600 to provide that importers file with AMS only certificates of imported peanut lots failing quality or aflatoxin requirements.

This proposed rulemaking action would update the kind of information required to be filed by importers, or others on behalf of importers.

Importers who choose to use PAC laboratories for aflatoxin certification must either file those certifications themselves or direct the private laboratory to file the certifications with AMS. Similarly, it is the responsibility of the importer to either file, or direct the filing of, documentation covering such non-edible peanut dispositions. The first sentence of paragraph (f)(2) would be revised to require that importers ''shall file, or cause to have filed'' documentation showing disposition of peanut lots which fail to meet quality requirements. The phrase ''cause to have filed'' would enable importers to direct the entity to file the documents on behalf of the importer.

This optional reporting procedure could reduce importers' direct reporting burdens because they would not have to file the certificates themselves. The cost, if any, of reporting aflatoxin certifications to AMS could be included in the cost of testing. Thus, while importers would be responsible for the reporting charges, the additional reporting costs should be less than the costs of individual importers filing the certificates themselves. The certifications would not have to be reported individually or on a scheduled basis, but would have to be filed by the reporting deadline relevant to each imported lot. A laboratory could file certificates from many importers in one mailing.

As noted above, this proposed rulemaking would continue importers' responsibility for reporting, or causing the reporting of, final disposition of all failing peanut lots. Proper disposition of a failing peanut lot could include: (1) Appeal inspection and analysis which results in subsequent certification that the peanut lot meets grade or aflatoxin requirements; (2) reconditioning through remilling or blanching of the lot to meet grade or aflatoxin requirements; (3) disposition to a non-edible peanut outlet such as crushing oilmill, animal feed, or seed use; (4) dumping in a landfill or otherwise destroying the peanuts; or (5) re-exportation to another country.

It is the importer's responsibility to insure that the business entity disposing of non-edible peanuts uses the peanuts in a non-edible product, and that proof of such use is reported to AMS. The business entity could be directed to file proof of disposition directly to AMS or send the report to the importer who would then forward the report to AMS.

Paragraph (f)(2) would also be modified to clarify the type of documentation needed to prove such disposition. AMS requires ''source'' documents as proof of disposition. Source documents are documents originating from the business entity carrying out the actual disposition of the peanuts. For example: proof of crushing must be reported by the oilmill performing the crushing; an animal feed manufacturer must file proof of receipt of non-edible peanuts and certify in writing to the non-edible use of those peanuts; re-exported peanuts must be reported on a Customs Service form showing exportation. These certifications should be on the business letterhead of the disposing entity as proof that it is a ''source'' document; i.e., a document prepared by the originator of the disposition action. If such a report cannot be obtained from the disposing entity, the inspection service may be contacted to assist in documenting the disposition. For instance, certification of a landfill dumping may not be provided by the landfill. In such case, the inspection service may be contacted to observe and certify such disposition. Peanut growers associations in the Virginia-Carolina, Southeast, and Southwest also may be contacted, particularly with regards to certifying disposition to an oilmill for crushing.

''Source'' documents must include reference to the lot number or Customs Service entry number for the peanut lot(s) and the volume (weight) being disposed. For instance, if residual peanuts are crushed for oil, the importer must file, or direct the crusher to file, documentation which shows the name of the crusher, the failing lot number, and the weight of residuals crushed. If crushing is directly observed by a regional peanut growers association or the inspection service, documentation can be provided by those entities. The volume may reflect several residual lots commingled for crushing.

''Source'' documentation of a feed lot disposition would include certification that the feed company received imported peanuts and has, or intends to, use those peanuts as animal feed. Such documentation must include, as required by paragraph (e)(2)(ii) of the import regulation, an aflatoxin certificate showing that the peanuts did not exceed 300 ppb aflatoxin content.

Non-edible peanuts sent to a landfill also must be reported. If no documentation can be obtained from the landfill operator, the inspection service may be contacted to certify the dumping.

Documentation of re-exported peanuts must include a completed Customs Service form, specific to the peanuts, verifying exportation from the U.S.

The current regulation specifies bills-of-lading as documentation that can be filed in reporting disposition. In reporting dispositions, many importers have filed bills of lading showing residual peanuts were transported to a crushing facility. However, neither the importers nor crushers filed proof of crushing. A bill-of-lading showing shipment to an oilmill operation is not sufficient to verify that the residuals were received by the oilmill and crushed. Bills-of-lading and transfer certificates may be filed in conjunction with other source documents to help show movement of non-edible peanuts, but cannot be filed as proof of final non-edible disposition. Therefore, the terms ''bills-of-lading'' and ''transfer certificates'' would be removed from paragraph (f)(2) as a document showing proof of disposition.

Further, some importers have requested appeal analyses on failing peanut lots. An appeal inspection involves resampling and reinspection by the inspection service and/or aflatoxin testing laboratory. If the failing lot is determined to meet requirements upon an appeal analysis, the importer must file both the initial failing certificate(s) and the appeal certificate(s) showing the same peanut lot ultimately was certified as meeting quality requirements on appeal.

Experience with the 1997 and 1998 imports also shows that most failing lots were reconditioned by blanching. After reconditioning, the lots are reinspected and, in most cases, certified for edible consumption. In reporting reconditioning of a failing peanut lot, the importer must account for pickouts

and other poor quality kernels that are removed from the lot during the reconditioning process. For example, if a 40,000 pound container of peanuts fails grade requirements, the lot may be blanched. If the resulting lot, weighing 30,000 pounds, is certified as edible, the importer must file: (1) The first failing grade certificate; (2) the first passing aflatoxin certificate (''negative'' to aflatoxin); (3) the second passing grade certificate; (4) the second passing aflatoxin certificate; and (5) proof of disposition of the non-edible residuals.

The volume of residual peanuts may not exactly equal the difference between the two weights because of ''disappearance'' during the reconditioning and re-inspection process. Such disappearance can include bag weight, skins, moisture from the blanching, other loss of kernels, and differences in weighing scales, which, to the extent practical, must be documented.

Fees charged for disposition of failing peanuts must be borne by the importer.

AMS has found that grade and aflatoxin certificates are the primary documentation for monitoring edible and non-edible disposition of imported peanuts. Tying a disposition back to an original imported peanut lot may be difficult without reference to grade and aflatoxin certificate numbers. Thus, for compliance purposes, it is necessary that all reporting of non-edible disposition include the grade and aflatoxin certificate numbers of the original failing lot(s).

Residuals from the remilling or blanching of several imported peanut lots belonging to the same importer may be commingled into a larger, residual lot. Proof of disposition of a commingled residual lot must include: (1) The name and telephone number of the disposition outlet; (2) lot numbers from which the residuals were removed; and (3) the total weight of the disposed residual lot. The report must be sufficient to account for all of the residual peanuts and identify the lots from which the residuals were taken. Residuals from imported peanut lots cannot be commingled with domestically-produced residual peanuts because of the separate compliance and recordkeeping responsibilities for domestic peanuts (to the Committee) and imported peanuts (to AMS). Certification of PLI issued by the inspection service may be used to verify commingling of multiple residual peanut lots.

During the 1997 and 1998 quotas, some customs brokers, warehouse operators, and blanchers failed to identify the importer of record when requesting inspections. If the warehouse or blancher is shown as the applicant for the inspection and the importer's name withheld, AMS has difficulty matching up certificates and verifying that the importer has satisfied reporting requirements. For AMS recordkeeping purposes, the applicant requesting inspection must provide the name of the importer to the inspection service. A provision to this effect would be added to the first sentence of paragraph (f)(2).

Because of the extent of these revisions, the first half of paragraph (f)(2) would be revised. Crushing, feed, seed, or burying would be added as examples of non-edible disposition outlets. Bills-of-lading and transfer certificates would be removed as proof of final disposition. The address to which disposition documentation must be filed would remain unchanged. Finally, current paragraph (d)(4)(v)(B), which provides that importers file aflatoxin certificates ''regardless of the test result'' would be removed to conform with reduced reporting of only failing lots.

(18) Paragraph (f)(3) of the peanut import regulation establishes the period for importers to obtain inspection and certification of their imported peanut lots and report disposition to AMS. The current reporting period is 23 days after Customs Service release of the peanut lot. However, based on the experience of the 1997 and 1998 import quotas, the 23-day period does not provide enough time for importers to meet requirements for all lots and report disposition to AMS. Indeed, the 23-day reporting period was extended for the 1997 reports only in a separate rulemaking (62 FR 50243, September 25, 1997). Therefore, current paragraph (f)(3) and the reporting period would be completely revised.

Because of the high demand for foreign-produced peanuts, the 1997 Argentine and ''other country'' quotas were filled on the day of opening. Among other things, this caused a flood of imported peanuts into clearance channels at the same time. For the most part, the inspection service and aflatoxin labs were able to provide timely sampling and inspection of imported peanuts. However, some importers encountered problems obtaining wharfage and storage space in bonded warehouses and other delays in other clearance processes. Large volume importers had particular difficulty coordinating the paperwork required by different Federal government offices, and the quality inspections and needed reconditioning to meet requirements of the import regulation, 7 CFR Part 999.600.

Therefore, the period for reporting compliance with the import regulation is proposed to be extended in this rulemaking. An extended period would help alleviate problems encountered with the large numbers of lots entered under Argentine and ''other country'' quotas on April 1 each year. The extended period also would be helpful for imports of Mexican peanuts, some of which are farmers stock peanuts needing the extra steps of shelling, sorting, and sizing before certification for edible use.

The reporting period proposed in this rulemaking action would be 180 days from the date of release of a lot by the Customs Service. Lengthening the reporting period would be accomplished by providing that all Customs Service releases of peanuts be designated as ''conditional'' releases. The 180-day period would be established as the conditional release period for Customs Service purposes.

A peanut lot which is inspected and certified as edible in advance of a quota's opening day would be conditionally released, and would be subject to the 180-day conditional release/reporting period. However, importers would be able to dispose of those peanuts after receipt of the required edible certifications and after conditional release of the lots by the Customs Service.

Uninspected peanut lots would be conditionally released under bond, provided that, within 180 days, those peanuts be inspected and reported to AMS as meeting requirements of the import regulation.

Inspected peanut lots that fail to meet quality requirements would be conditionally released for reconditioning and re-inspection. Reconditioning and reinspection must be completed and reported to AMS within the 180-day conditional release period. Non-edible disposition of residual peanuts or pick-outs from the reconditioning process also must be reported within the 180-day period. Positive lot identification would have to be maintained on these peanuts.

If AMS finds that, after the 180-day conditional release period expires, an uninspected or failing peanut lot has not been reported as meeting import requirements, AMS would request the Customs Service to issue a Notice of Redelivery to the importer. Subsequent to that request, the Customs Service would have 30 days to issue, under the terms of the basic importation bond, a valid demand for redelivery. Upon receiving the Notice of Redelivery, the importer would have 30 days to

redeliver the unreported or failing peanuts to the Customs Service.

Current paragraph (f)(3) provides for a 60-day extension of the redelivery demand period to enable an importer additional time to meet a redelivery demand. This provision would be removed from paragraph (f)(3) because the Department believes that, with the extended 180-day conditional release period, an extension of the redelivery demand period would not be needed. A conforming change would be made by removing the second sentence in paragraph (f)(4).

Current paragraph (f)(4) also would be revised to restate the redelivery demand process. The paragraph also would continue to include the consequences of an importer's failure to comply with import regulation, i.e., assessment of liquidated damages equal to the value of the peanuts involved, under the terms of the Basic Importation and Entry Bond. Further, failure to fully comply with quality and handling requirements or failure to notify the AMS of disposition of uninspected or failing imported peanuts, as required under this section, may result in a compliance investigation by AMS. Finally, revised paragraph (f)(4) includes the proviso that falsification of reports submitted to AMS also is a violation of Federal law and is punishable by fine or imprisonment, or both.

(19) AMS believes that the need for extension of the 180-day conditional release and reporting period should be significantly reduced because of the longer reporting period proposed in this rulemaking. However, new paragraph (f)(5) would provide for extension of the reporting period, should an importer be unable to dispose of a particular peanut lot within 180 days. This rule proposes an extension of an additional 60 days, giving importers a total of 240 days to meet requirements of the import regulation.

Unusual circumstances could necessitate an extended delay in disposition of an imported peanut lot. There have been a few instances over the last two years where failing lots were set aside and not reconditioned until months after the initial inspections. Disposition of farmers stock peanuts which require shelling and final outgoing inspection also may require an extended period of time to complete shelling and final inspections. In such instances, the importers needed an extension of the reporting period. Under this proposal, the length of the extension, up to 60 days, would be specified in the extension request and would be made by the importer in writing at the end of the conditional release period. The extension request also would specify the lot's Customs Service entry number, PLI designation, volume or weight, and current location. Requests for extension would be made to AMS at the address provided in paragraph (f)(2).

(20) AMS proposes to add a new paragraph (f)(6) to clarify a procedural question that arose during the 1997 quota period. Not all peanut lots that arrive in the U.S. are entered for consumption. Because of the expected overfill of the Argentine quota, some importers placed peanuts in bonded storage and did not file consumption entry documents (including a stamp-and-fax) until after quota allotments were determined by the Customs Service. The excess peanuts had to be either exported to another country, held in bonded storage for the next year's quota, or entered as admittable. Such peanuts that are held in bonded storage and subsequently exported from the U.S. without import application or stamp-and-fax communication, need not be reported to AMS. However, if a peanut lot is included in a stamp-and-fax document, but is subsequently exported without being entered by the Customs Service, the importer must notify AMS of the export decision and provide proof of export. The lot must be so reported even if it is not sampled and inspected by the inspection service.

With the addition of new paragraphs (f)(5) and (f)(6), current paragraphs (f)(5) and (f)(6) would be redesignated as paragraphs (f)(7) and (f)(8), respectively, and references to those paragraphs would be changed accordingly.

In addition, minor additions would be made in paragraphs (f)(7) and (8) to clarify the current provisions of those paragraphs. In paragraph (f)(7), the words ''and aflatoxin'' would be inserted between ''inspection certificate(s)'' to clarify that the Secretary may reject a current aflatoxin certificate as well as grade certificate. The word ''may'' also would be removed from the sentence to clarify the authority of the Secretary to require reinspections of suspect peanut lots. In paragraph (f)(8), the second sentence would be changed by adding the words ''the storage'' before the word location to clarify the requirement that importers advise AMS of the storage location of peanuts held in bonded storage for longer than one month prior to quota opening.

(21) A clarification would be made to paragraph (g)(1) *Additional requirements.* The second sentence currently states that all peanuts presented for entry for human consumption must be certified as meeting import requirements. The phrase ''presented for entry'' can be misleading in that, as discussed above, many peanuts presented for entry are not subsequently imported. AMS proposes to change the sentence by replacing the phrase ''presented for entry'' with the term ''intended'' for human consumption. This clarifies the purpose for importation. Also, the phrase ''prior to such disposition'' would be added to the end of the sentence to further state that all peanuts imported for edible use meet those requirements prior to movement to the receiver or buyer.

(22) Finally, several minor changes would be made to paragraph (g)(6) to clarify and simplify provisions regarding costs incurred in meeting the requirements of the import regulation. The changes would include clarification that the inspection service and aflatoxin testing laboratories bill ''applicants'' making the request for inspection and chemical analysis, not only the importer, as currently stated. Applicants include customs brokers, storage warehouses, or other entities acting of behalf of importers. The list of the types of chargeable services would be modified for clarity and simplicity. PLI certifications would replace ''certifications of lot identification'' to be in conformance with Recommendation 8, above.

The Department proposes these amendments and modifications to the peanut import regulation, Section 999.600 to update and streamline the provisions of that regulation.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this proposed rule will be submitted to the Office of Management and Budget (OMB) for approval. The information collection requirements in the current peanut import regulation were approved by OMB on September 3, 1996, and assigned OMB number 0581–0176.

This paperwork burden analysis applies to only AMS' peanut import regulation burden in Section 999.600, and does not include or supersede other reporting requirements for imported peanuts that may be established by APHIS, the Food and Drug Administration (FDA), the Customs Service, or other agencies.

The current burden statement for the peanut import regulation was developed and approved before the regulation was put into effect. The reporting burden is based on importers, or others acting on behalf of importers, filing copies of

documents necessary to show compliance with program requirements. There are no forms to be completed and filed. The import program's current reporting and recordkeeping estimates are not broken down in OMB's 0581–0176 burden statement—making it difficult to apply comparisons for the individual changes proposed in this regulation. Also, because the duty free quota has increased by approximately 21 percent since the current burden statement was approved, savings calculated in this proposal are based on 1999 quota volumes.

The average reporting time for each response is reduced in this proposal from 5 minutes to 3.5 minutes. The current burden was calculated based on importers filing certificates one at a time. However, experience shows that importers generally file documents in large groups, thus, saving considerable reporting time. With extended reporting periods, importers will be able to collect relevant inspection certificates and other needed documents and file them in packages. This reduces the response time to an estimated 3.5 minutes for each response—which is used in this reporting burden.

The current reporting burden estimates 25 respondents filing 5,000 responses, for a total of 300 burden hours—an average of 12 reporting hours per importer. The current recordkeeping burden is estimated at 25 respondents and a total of 125 burden recordkeeping hours—an average of 5 recordkeeping hours per importer.

This rule proposes to revise the current information collection burden based on: (1) Experience of the 1997 and 1998 peanut quota periods; (2) a two-year increase in peanut quota volume from 94.8 million to 115.4 million pounds for 1999, as established by trade agreements; (3) an estimated 2,650 lots entered (based on lot sizes of 40,000 pounds for most lots and 200,000 pounds for a small number of lots; (4) proposed reductions in information collection requirements; (5) reduced response time from 5 minutes per response to 3.5 minutes; (6) reduced number of respondents (importers) from 25 to 15; and (7) generally good peanut quality, with an estimated 10 percent of the lots failing initial quality requirements.

Reporting burden: The following proposed changes should reduce the AMS paperwork reporting burden on peanut importers.

Recommendation 16: This recommendation would remove from paragraph (f)(1) the requirement that importers must send copies of each stamp-and-fax document to AMS headquarters. The intent of the current requirement was to ensure AMS headquarters has knowledge of all peanut imports for monitoring and compliance purposes. However, this rule proposes that the inspection service and aflatoxin testing laboratories provide copies of all inspection certificates issued on imported peanuts (Recommendation 17). In addition, AMS receives periodic database printouts of all peanut entries from the Customs Service. Together, these reports should be sufficient documentation for AMS headquarters' purposes. Therefore, it would not be necessary that importers send copies of their stamp-and-fax documents to AMS headquarters.

Savings: The burden of filing stamp-and-fax documents with AMS' headquarters would be completely eliminated by this proposed rule. The current burden for reporting stamp-and-fax documents is factored into the total program burden of 5,000 hours. Based on the 1999 quota of 115.4 million pounds, projected entries of 2,650 lots, and 5 containers listed on each stamp-and-fax document, approximately 530 stamp-and-fax documents would be filed. This number of responses would be saved if AMS headquarters did not have to be notified, as proposed. At 5 minutes per filing, the new reporting burden for reporting stamp-and-fax would total 44 hours and the savings would be 44 hours.

Recommendation 17: This recommendation would reduce the number of inspection certificates which importers must report to AMS. Currently, importers must file copies of both passing and failing grade and aflatoxin certificates issued on all imported peanut lots. Those certificates are issued by the inspection service and by AMS and private laboratories. The certificates can be made available to AMS by those entities, thus relieving importers of a significant direct reporting burden.

Because AMS' compliance efforts focus on failing lots, AMS proposes that importers continue to be required to file only certificates covering failing peanut lots. AMS receives copies of passing certificates from the inspection service and laboratories as a check on all lots entered. Approximately 2,650 peanut lots are expected to be imported under 1999 peanut quotas. For burden-reporting purposes, this rule estimates that 10 percent of the imported lots will fail one or both inspections. Thus, approximately 265 lots can be expected to fail quality requirements and will have to be either reconditioned to meet requirements, disposed of to non-edible peanut outlets, or re-exported. The other 90 percent of the lots (2,385 lots) can be expected to meet quality requirements, and would not have to be reported.

Recommendation 17 would make two clarifications. First, the name of the importer would be entered on filed inspection certificates, which are completed by the inspection service. Often the business requesting the inspection is not the importer, but another entity acting on behalf of the importer. This proposal would clarify that in such cases, the importer's identity should be placed on the certificate. This would not increase the reporting burden because the name is entered by the inspector, not the importer. Secondly, the recommendation clarifies that ''source'' documents must be used when reporting disposition of failing lots. This also is not an increase in requirements, but a clarification to identify the kinds of documentation needed to meet the reporting requirements of this regulation. The documentation should be available to importers as part of their normal business practices.

Savings: If importers are not required to file certificates on lots meeting program requirements, a savings of approximately 4,770 responses would be realized (2,385 lots, times 2 certificates per lot) and 398 hours saved (4,770 times 5 minutes per response). The new reporting burden under Recommendation 17 would be 4 responses for each of the 265 imported lots failing requirements, or 1,060 total responses. At 3.5 minutes per filing, the total reporting burden for filing disposition of failing lots only is projected to be 62 hours. The new average would be 70 responses and 4 hours per importer. If this proposed regulation does not become effective, the 1,999 reporting burden on importers would be approximately 5,830 responses filed, and, based on 5 minute reporting time per response, roughly 485 burden hours. Thus, Recommendation 17 could result in an estimated savings of roughly 4,770 responses and 423 burden hours in 1999.

Recommendation 18: A small portion of the 5,000 hours under the current reporting burden accounts for importers filing requests for extension of the reporting period. Recommendation 18 would extend the reporting period from 23 days after entry to 180 days after conditional release by the Customs Service. The 23-day period proved to be too short for reporting most imported lots, forcing importers to request extensions on nearly all lots imported during 1997 and 1998. Extension of the reporting period to 180 days should

alleviate the need to file requests for extension for almost all imported peanut lots. In addition, extension of the reporting period also should affect an importer's reporting burden because, with more time to meet requirements, an importer would be able to collect certificates as the lots are certified, and file all certificates on failing lots at one time, thus saving the burden of reporting individual lots. After deadline extensions were granted by AMS during the 1997 and 1998 quota periods, importers filed outstanding reports in groups.

Savings: Extending the reporting period from 23 days to 180 days means importers would likely not have to request extensions and they would be able to combine the failing lot certificates into fewer reports. Savings from the proposed reduction in the reporting burden is factored into the estimate of Recommendation 17.

Recommendations 10, 15, and 20 would clarify reporting requirements but not change the burden. Recommendation 10 would clarify that importers may designate other entities (aflatoxin testing laboratories, customs import brokers, warehouses, blanchers, crushers, etc.) to file certificates and reports on their behalf. This reporting may be done as a part of the business contract between the importer and the service-provider at little or no cost to the importer, thus relieving the importer of the reporting burden. Recommendation 15 would clarify the information that is needed on stamp-and-fax documents. This change in information needed would not increase the time needed to complete the stamp-and-fax document or the reporting burden. Recommendation 20 would clarify that if peanuts are not covered in a stamp-and-fax document and are not inspected—but are subsequently exported—those peanuts should not be reported.

Total average savings, reporting burden: This proposed rule could represent an annual savings of approximately 5,300 responses and 467 reporting hours.

The savings may be only a few minutes for small importers who import a few containers of peanuts. A large importer of 8 million pounds of peanuts—200 lots with 20 lots failing requirements—could have the following reporting burden in 1999 (vs. the current burden estimate in parentheses): 40 stamp-and-fax notices (80 stamp-and-fax notices); 0 certificates on passing lots (360 certificates on passing lots); 80 certificates on failing lots (80 certificates on failing lots); 0 deadline extensions (40 deadline extensions); total 120 reports filed (total 560 reports filed); 8 hours reporting burden (46.6 hours reporting burden). These are rough estimates for general comparison purposes only.

Recordkeeping burden: In addition to the reporting requirements, Section 999.600 requires that importers retain copies of certifications and entry documentation for not less than two years after the calendar year of acquisition. Customs Service document retention requirements are five years. While the importers would not file grade and aflatoxin certificates on passing lots, they must store that information for AMS and the Customs Service. The current recordkeeping burden totals 125 hours, based on 25 respondents retaining records—an average of 5 recordkeeping hours per importer. The revised recordkeeping burden, based on the 21 percent increase in the quota volume and 15 record keepers, would be 151 hours for an average of 10 recordkeeping hours per importer.

Cumulative new burden: This proposed rule would require a new annual reporting and total recordkeeping burden for OMB number 0581–0176 of 1590 responses and 257 hours. This compares to the current burden of 5,000 responses and 425 hours. The proposed new burden would average 106 annual responses and 17 burden hours for each peanut importer. The burden hours per importer is increased because the estimated number of importers is sharply reduced.

Comments to this amended Paperwork Reduction Act burden should reference this proposed regulation and the date and page number of this **Federal Register**. Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C., 20503. OMB is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the rule.

Comments on proposed reduction of the paperwork burden also should be submitted to the Department in care of the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090–6456; fax: (202) 720–5698, or E-mail: moabdocketclerk@usda.gov. All comments received will also become a matter of public record.

Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the AMS has considered the economic impact of the import regulation on small entities and whether these proposed changes to the regulation would disproportionately or unfairly effect small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, AMS has prepared the following initial regulatory flexibility analysis.

The import regulation is required by law—subparagraph (f)(2) of Section 108B of the Agricultural Act of 1949, as amended, and the Federal Agriculture Improvement and Reform Act of 1996. Subparagraph (f)(2) mandates that the Secretary shall require that ''all peanuts in the domestic and export marketplace fully comply with quality standards under Marketing Agreement 146.'' Handling requirements similar to those established under the Agreement also are established in the import regulation, to the extent necessary to assure comparability of quality standards. The import regulation was issued June 11, 1996 (61 FR 31306, June 19, 1996) with the intent to minimize the regulatory burden on importers. An amendment was issued December 31, 1996, (62 FR 1269, January 9, 1997), to conform to changes in the Agreement regulations and to add necessary storage reporting requirements.

Experience of the 1997 and 1998 peanut quota periods shows that approximately 15 business entities imported peanuts and were subject to this import regulation. Importers appear to cover a broad range of business entities, including fresh and processed food handlers, and both large and small commodity brokers who buy agricultural products on behalf of others. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. Less than one third of the importers appear to be small business entities. The majority of peanut importers are large business entities under this definition. AMS is not aware of any peanut producers (farmers) who imported peanuts during these quota years.

The 1997 and 1998 peanut quota years were the first two years that imported peanuts have been regulated

under 7 CFR Part 999.600. Analysis of the regulatory impact of the regulation is complicated by several factors. Peanuts are imported from at least half a dozen countries and can be imported in inshell, shelled, or cleaned-inshell forms. This makes it difficult to compare the costs of importation with purchase price of the product. The costs of importation can vary greatly, with significant cost factors being transportation distance, shipment method, wharf fees, demurrage costs, storage charges, and the quality of the peanuts imported.

The proposed amendments to the import regulation in this rulemaking action are recommended for the following reasons. Five changes are proposed to conform with changing Agreement requirements (relaxing the tolerance for unshelled and damaged kernels; allowing lots with excessive fall-through peanuts to be blanched; and allowing failing lots to be roasted during blanching without requiring grade re-inspection). Seventeen changes are proposed by AMS to update, clarify, and reduce the importation procedures and reporting requirements specified in the regulation. Of the 17 changes, three relax reporting requirements by removing nearly 90 percent of the documents that must be filed and extending the reporting period to ease the time pressures for those documents that must be filed. The AMS changes would improve oversight of imported peanut lots, increase quality assurance, and correct misunderstandings of importation procedures.

All of these proposed changes are intended to apply uniformly to both large and small importers. None are intended to, or are expected to, disproportionately affect small importers. The changes would have the following regulatory impact on importers.

Recommendation 1 would make two changes in definitions. The first change would remove reference to an out-of-date aflatoxin level for non-edible peanuts in paragraph (a)(10) defining *Negative aflatoxin content*. The level of 25 ppb should have been removed in previous rulemaking. No imported peanuts have been graded against this old quality level. Recommendation 1 also would remove the word ''Peanuts'' from the title of Marketing Agreement No. 146 as specified in paragraph (a)(15) defining *PAC-approved laboratories*. The term ''Peanuts'' is not a part of the title of the Agreement.

Recommendation 2 would change the definition of *Conditionally released* in paragraph (a)(16) by removing the words ''before final release'' and adding reference to reconditioning. The ''final release'' term does not conform with Customs Service terminology. The addition of the words ''and, if necessary, reconditioning'' helps complete the definition. These changes do not alter the intent or meaning of the definition. There would be no regulatory impact on importers.

Recommendation 3 would remove a redundant sentence in paragraph (b)(1) relating to use of Seg. 1 peanuts for human consumption only. This reference appears twice in the same paragraph.

Recommendations 4 and 6 are inter related and are proposed to make the import regulation consistent with changes in handling and quality requirements to the Agreement. These changes simplify both the import and Agreement regulations. Recommendation 6 would remove Table 2, Superior Quality Requirements—Peanuts for Human Consumption from paragraph (c)(1)(ii). Currently, peanut lots meeting the higher quality requirements of Table 2 may be shipped to buyers prior to receiving aflatoxin analyses on the lots. Recommendation 4 is a conforming change that would have the affect or requiring importers to receive aflatoxin analyses on all lots prior to forwarding the peanuts to buyers.

While these changes represent a tightening of handling requirements, the affect on importers is minimal. Under limited circumstances, the provisions help reduce, by a few days, the storage time for such high quality peanuts. AMS does not have information on the number of imported lots that would have been affected by this proposal had it been in effect for the last two quota seasons. AMS also does not have financial data on storage costs and whether those costs are on a daily or weekly basis. However, in conversations between AMS and importers and customs brokers during 1997 and 1998, importers did not indicate that they shipped superior quality lots without waiting for aflatoxin certification. Also, importers did not contact AMS about the timeliness of aflatoxin certifications. Given today's overnight mail and facsimile technologies, aflatoxin analyses are routinely reported within two days. Finally, importers who arranged for arrival, inspection, and bonded storage prior to quota opening had quality and aflatoxin certifications ready when the peanuts were released by the Customs Service. Thus, delays and any regulatory impact due to these proposed changes would be negligible.

Not all categories of peanuts would be removed from Table 2. Three ''with split'' categories of peanuts would be moved from Table 2 to Table 1 to retain the small marketing niche in the domestic market for lots with high percentages of split kernels. This change was made to the Agreement regulations in 1998 and is proposed in this regulation to conform with that change. Any impact on importers would be positive as it would allow lots with high split kernel content to continue to be imported. AMS does not maintain data on the number of peanut lots that were imported under these ''with splits'' categories. Data on the last two years' imported peanut lots cannot be used to reliably indicate quality of future shipments or the impact of this relaxation.

Recommendation 5 would relax tolerances in Table 1 for ''unshelled and damaged kernels by one half of one percent in split lots. The change is made to be consistent with a change already made to the Agreement regulations. It should reduce the number of lots that must be reconditioned to meet edible quality requirements. Reconditioning a lot to remove excessive splits can significantly increase costs by adding additional transportation costs, remilling or blanching charges, and additional inspection fees. Data on the last two years' imported peanut lots cannot be used to reliably indicate the impact on future shipments because the quality of imports varies significantly from year to year and country to country.

Recommendation 7 would set a maximum limit on the volume of farmers stock peanuts that may comprise one lot. Paragraph (d)(3)(ii) would be modified. The volume, 24,000 pounds (10,886 kg), has been in effect for domestic peanuts as part of inspection service procedures. The lot size is the largest for which optimum sampling procedures can be applied and is the industry standard. Buying points where farmers stock peanuts must be inspected are set up to handle this maximum lot size. For logistical and cost reasons, farmers stock peanuts have been imported only from Mexico—in large semi-trailer truck loads. The 24,000 pound limit approximates the volume of farmers stock peanuts that are carried in semi-trailer trucks. It would be unrealistic to transport a lot larger than 24,000 pounds. Only a small percentage of imported peanuts were imported in farmers stock form during 1997 and 1998 and all were within this maximum lot size. Thus, Recommendation 7 can be expected to have no negative impact on peanut importers.

Recommendation 8 would add new paragraph (d)(4) to strengthen lot identification requirements for imported peanuts. In some situations, the proposed modified positive lot identification procedures could take additional warehouse personnel and space, as well as inspection service time. However, warehouse labor is needed to lay out all bags for sampling, so costs in addition to those normally charged should not be significant. Additional inspection time could vary from a few minutes to wrap PLI tape around containers or stacked bags to 30 minutes or more to reassemble bags on pallets and shrink-wrapping pallets or stenciling individual bags with spray paint. The PLI requirements could increase costs for some, but not all, imported lots. Inspection service sampling and grading costs currently are $43 an hour. Inspections generally take from one to three hours, including travel time, to complete. The costs to importers would be proportionate to the number of lots inspected and is not considered to unfairly affect small importers.

The amended PLI requirement would make the import regulation more consistent with domestic program PLI requirements, and is consistent with the intent of the Act. Importers, as well as domestic peanut producers, handlers and manufacturers benefit from quality assurances and the integrity of the product—due, in large part, to enforced PLI procedures. The benefits of quality assurance and product integrity far outweigh the small increased costs of modified PLI methods proposed in this rulemaking.

Recommendation 9 would remove a redundant sentence in paragraph (d)(4)(iii) which provides that laboratories provide aflatoxin assay results to importers. This reference is repeated in paragraph (d)(4)(v). There is no regulatory impact from this change.

Recommendation 10 would make minor changes in three paragraphs regarding the mandatory nature of aflatoxin testing and reporting test results. The regulation clearly states throughout that chemical analysis is required on imported peanuts. Paragraph (d)(4)(iv)(A) clarifies that importers ''shall,'' rather than ''should,'' contact a laboratory to arrange for chemical testing. Also under Recommendation 10, the clarification that laboratories can be designated by the importer to report test results to AMS would be moved from paragraph (d)(4)(v)(B) to paragraph (d)(5)(v) for better placement of that instruction. These changes identify an optional reporting procedure and have no regulatory impact on importers.

Recommendation 11 would amend redesignated paragraph (d)(5)(iv)(A) by updating the list of aflatoxin testing laboratories certified to conduct chemical analyses on imported peanuts. There is no regulatory impact.

Recommendation 12 would add a new sentence to introductory paragraph (e) to provide a blanching option for shelled peanuts failing quality requirements because of excessive ''fall through.'' This is a relaxation in the regulation and is consistent with Agreement requirements. AMS does not maintain records of the number of lots that fail ''fall through'' and, thus, cannot estimate the impact of this relaxation. However, allowing such lots to be reconditioned offers the possibility of increasing the per ton value of the lot from approximately $150 for non-edible use to over $500 for edible peanuts.

Recommendation 13 also would relax requirements by adding a new paragraph (e)(4), pursuant to a change in Agreement regulations. The change would allow lots meeting grade requirements but failing aflatoxin requirements to be blanched until roasted and then reinspected only for aflatoxin content. The impact of this relaxation can be significant if the importer has many such failing lots which can be roasted for the buyer. Savings are accrued because the peanuts do not have to be removed from the blanching process for inspection and then returned to the blanching process for the remaining portion of the roasting process. The original grade certificate would be recognized and the only additional inspection charges would be for sampling and aflatoxin analyses. AMS does not have data on the actual costs that could be saved in this process and cannot estimate the number of imported peanuts that may be affected by it in the future.

Recommendations 14, 15, and 16 would relax requirements relating to the stamp-and-fax entry process in paragraph (f)(1). Recommendation 14 would remove the terms which specify that the stamp-and-fax document be filed ''prior to arrival'' at the port-of-entry. Experience shows that importers may not have all of the needed information until after arrival of the peanuts. Recommendation 15 would amend paragraph (f)(1) by reducing, slightly, the information required on stamp-and-fax documents. Information on subsequent inspection of the arriving peanuts is not necessary for the purposes of the stamp-and-fax. One needed piece of information, the Customs Service entry number applicable to the lot, is not specified. In total, these changes reduce the reporting burden by a few words. The needed information was included on the stamp-and-fax documents during 1997 and 1998, but was not so specified as part of the entry information in paragraph (f)(1). Recommendation 16 would remove the requirement in paragraph (f)(1) that a copy of the stamp-and-fax document be forwarded to AMS headquarters. This reduces one reporting requirement for importers. These three relaxations are proposed to make the entry procedure consistent with the reporting needs of AMS. The regulatory impact is minimal but does reduce requirements on importers.

Recommendation 17 would reduce the number of lots that have to be reported by requiring that only certificates on failing lots be filed by importers. If imported peanut quality is the same in 1999 as the average in 1997 and 1998, roughly 90 percent of the lots will meet quality requirements and will not have to be reported to AMS headquarters. This would save an estimated 423 reporting hours. The revision is in paragraph (f)(2).

Recommendation 18 would extend the reporting period specified in paragraph (f)(3) from 23 days after entry to 180 days after conditional release by the Customs Service. The extended reporting period allows importers more time to make good business decisions regarding imported lots, particularly failing lots that must be either reconditioned or re-exported. Also, with an extended reporting period, importers should not have to request extensions of reporting periods and could file all failing certifications and dispositions at one time after all certifications and reports are acquired. This could save the time of filing individual reports as each lot is certified, disposed of, or re-exported.

Recommendation 19 provides for up to a 60-day extension of the proposed 180 day reporting period. There is no time limit on domestic peanut disposition. However, because of Customs Service required liquidation of entry documentation, there must be some time limit for importers to obtain clearances on failing lots and report to AMS. A 240-day reporting period represents a compromise between the open-ended domestic requirements and Customs Service liquidation schedules. The impact of this requirement should be minimal, as continued storage costs or successive reconditions would eventually reduce margins and force business decisions on lots pending eight months after conditional entry. A new paragraph (f)(5) would be added.

Recommendations 20, 21, and 22 propose minor changes that would have no regulatory impact on importers. Recommendation 20 clarifies that if a container or shipment is re-exported without conditional entry by the Customs Service, it does not have to be reported to AMS and inspected. Such situations were not foreseen in the original import regulation and are included for clarity in new paragraph (f)(6) in this regulation. Recommendation 21 makes a minor wording change in paragraph (g)(1) regarding peanuts that are ''intended'' to be entered but are not entered. Recommendation 22 clarifies that those who are billed for inspections are those requesting inspections. Customs house brokers and storage warehouses often request inspections, and are the entities billed for services provided. However, costs of the inspections are borne by the importer. These three recommendations clarify current provisions and do not change the regulatory aspects of the rule or reporting burden already authorized by OMB.

The relaxation of quality and handling requirements proposed in this rulemaking also would result in an overall reduction of the information reporting and recordkeeping burden of the peanut import regulation, currently assigned as OMB number 0581–0176. The most significant reduction in the reporting burden would be that importers must file copies of grade and aflatoxin certificates only on failing lots, rather than all lots (Recommendation 17) . Using the quality of 1997 and 1998 imported peanuts as a guide, this proposal could reduce that reporting requirement by as much as 90 percent. The proposed recordkeeping requirement would be increased by an estimated 21 percent because the 1999 duty-free tariff quota is 21 percent higher than the 1997 quota on which the current recordkeeping burden is based. Thus, this proposed rule would establish an annual reporting and recordkeeping burden of 1,590 responses and 257 hours. This is a reduction from the current burden of 5,000 responses and 425 hours.

Finally, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule. Besides meeting AMS import quality requirements, clearance of each imported peanut lot also must be obtained from the Customs Service, FDA, and APHIS. Program requirements of those entities do not overlap the quality requirements of this regulation. AMS has consulted with the Customs Service to assure that the proposed changes are consistent with its entry procedures.

Based on available information, the Administrator of the AMS has determined that this proposed rule could impose very small additional costs (PLI) on affected importers, but could save considerable reconditioning, storage, and reporting expenses. The benefits of maintaining a high quality product should exceed any additional costs which could be incurred in meeting these requirements. On balance, the proposed changes would be expected to reduce program costs incurred by importers.

This proposal provides a 30-day period for interested persons to comment on the proposed changes in quality and handling requirements, on import procedures, and on the impacts of this action on small businesses. The proposed changes should be put into effect by January 1, 1999, when the next (Mexican) peanut quota period opens. Comments on the proposed reduction in paperwork reporting and recordkeeping burden must be submitted to both OMB and AMS within 60 days of publication of this proposal.

Upon publication, this proposal will be distributed to the Washington, D.C. embassies of peanut exporting countries, all known peanut exporters and importers, customs house brokers, storage warehouses, and reconditioning facilities. This proposal also will be electronically disseminated on the Internet and comments may be received electronically. Comments should be submitted to the mailing address, fax number, or E-mail address listed under **ADDRESSES** at the beginning of this document. All written comments timely received will be considered before a final determination is made on the recommendations proposed herein.

List of Subjects in 7 CFR Part 999

Dates, Food grades and standards, Hazelnuts, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR Part 999 is proposed to be amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 continues to read as follows:

Authority: 7 U.S.C. 601–674, 7 U.S.C. 1445c-3, and 7 U.S.C. 7271.

2. Section 999.600 is revised to read as follows:

§ 999.600 Regulation governing imports of peanuts.

(a) *Definitions.* (1) *Peanuts* means the seeds of the legume *Arachis hypogaea* and includes both inshell and shelled peanuts produced in countries other than the United States, other than those marketed in green form for consumption as boiled peanuts.

(2) *Farmers stock peanuts* means picked and threshed raw peanuts which have not been shelled, crushed, cleaned or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the form in which customarily marketed by producers.

(3) *Inshell peanuts* means peanuts, the kernels or edible portions of which are contained in the shell.

(4) *Incoming inspection* means the sampling and inspection of farmers stock peanuts to determine Segregation quality.

(5) *Segregation I peanuts,* unless otherwise specified, means farmers stock peanuts with not more than 2.00 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(6) *Segregation 2 peanuts,* unless otherwise specified, means farmers stock peanuts with more than 2.00 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(7) *Segregation 3 peanuts,* unless otherwise specified, means farmers stock peanuts with visible *Aspergillus flavus* mold.

(8) *Shelled peanuts* means the kernels of peanuts after the shells are removed.

(9) *Outgoing inspection* means the sampling and inspection of either: shelled peanuts which have been cleaned, sorted, sized, or otherwise prepared for human consumption markets; or, inshell peanuts which have been cleaned, sorted and otherwise prepared for inshell human consumption markets.

(10) *Negative aflatoxin content* means 15 parts-per-billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements.

(11) *Person* means an individual, partnership, corporation, association, or any other business unit.

(12) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the U.S. Department of Agriculture (Department or USDA) who is, or who may hereafter

be, authorized to act on behalf of the Secretary.

(13) *Inspection service* means the Federal or Federal-State Inspection Service, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA.

(14) *USDA laboratory* means laboratories of the Science and Technology Programs, Agricultural Marketing Service, USDA, that chemically analyze peanuts for aflatoxin content.

(15) *PAC-approved laboratories* means laboratories approved by the Peanut Administrative Committee, pursuant to Marketing Agreement No. 146 (7 CFR part 998), that chemically analyze peanuts for aflatoxin content.

(16) *Conditionally released* means released from U.S. Customs Service custody for further handling, sampling, inspection, chemical analysis, storage, and, if necessary, reconditioning.

(17) *Importation* means the arrival of a peanut shipment at a port-of-entry with the intent to enter the peanuts into channels of commerce of the United States.

(b) *Incoming regulation.* (1) Farmers stock peanuts presented for consumption must undergo incoming inspection. All foreign-produced farmers stock peanuts for human consumption must be sampled and inspected at a buying point or other handling facility capable of performing incoming sampling and inspection. Sampling and inspection shall be conducted by the inspection service. Only Segregation 1 peanuts certified as meeting the following requirements may be used in human consumption markets:

(i) *Moisture.* Except as provided under paragraph (b)(2) of this section, peanuts may not contain more than 10.49 percent moisture: *Provided,* That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storage or milling.

(ii) *Foreign material.* Peanuts may not contain more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term ''sand-screen'' means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(iii) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(2) *Seed peanuts.* Farmers stock peanuts determined to be Segregation l quality, and shelled peanuts certified negative to aflatoxin (15 ppb or less), may be imported for seed purposes. Residuals from the shelling of Segregation l seed peanuts may be milled with other imported peanuts of the importer, and such residuals meeting quality requirements specified in paragraph (c)(1) of this section may be disposed to human consumption channels. Any portion not meeting such quality requirements shall be disposed to non-edible peanut channels pursuant to paragraphs (f) and (g) of this section. All disposition of seed peanuts and residuals from seed peanuts, whether commingled or kept separate and apart, shall be reported to the Secretary pursuant to paragraphs (f)(2) and (f)(3) of this section. The receiving seed outlet must retain records of the transaction, pursuant to paragraph (g)(7) of this section.

(3) *Oilstock and exportation.* Farmers stock peanuts of lower quality than Segregation 1 (Segregation 2 and 3 peanuts) shall be used only in non-edible outlets. Segregation 2 and 3 peanuts may be commingled but shall be kept separate and apart from edible quality peanut lots. Commingled Segregation 2 and 3 peanuts and Segregation 3 peanuts shall be disposed only to oilstock or exported. Shelled peanuts and cleaned-inshell peanuts which fail to meet the requirements for human consumption in paragraphs (c)(1) or (c)(2), respectively, of this section, may be crushed for oil or exported.

(c) *Outgoing regulation.* No person shall import peanuts for human consumption into the United States unless such peanuts are Positive Lot Identified and certified by the inspection service as meeting the following requirements:

(1) *Shelled peanuts.* (i) No importer shall dispose of shelled peanuts to human consumption markets unless such peanuts are Positive Lot Identified pursuant to paragraph (d)(4) of this section, certified as ''negative'' to aflatoxin, pursuant to paragraph (d)(5)(v)(A) of this section, and meet the requirements specified in the following table.

MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole kernels and splits: maximum limitations]

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total (percent)		
Excluding lots of ''splits''							
Runner	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 16/64 x 3/4 inch slot screen.	4.00; both screens	.20	9.00
Virginia (except No. 2).	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 15/64 x 1 inch slot screen.	4.00; both screens	.20	9.00
Spanish and Valencia.	1.50	2.50	3.00%; 16/64 inch round screen.	3.00%; 15/64 x 3/4 inch slot screen.	4.00; both screens	.20	9.00
No. 2 Virginia	1.50	3.00	6.00%; 17/64 inch round screen.	6.00%; 15/64 x 1 inch slot screen.	6.00; both screens	.20	9.00
Runner with splits (not more than 15% sound splits).	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 16/64 x 3/4 inch slot screen.	4.00; both screens	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.50	2.50	3.00% 17/64 inch round screen.	3.00%; 15/64 inch slot screen.	4.00; both screens	.10	9.00

MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION—Continued

[Whole kernels and splits: maximum limitations]

Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total (percent)		
Spanish & Valencia with splits (not more than 15% sound splits).	1.50	2.50	3.00%; 16/64 inch round screen.	2.00%; 15/64 inch slot screen.	4.00; both screens	.10	9.00
Lots of "splits"							
Runner (not more than 4% sound whole kernels).	2.00	2.50	3.00%; 17/64 inch round screen.	3.00%; 14/64 × 3/4 inch slot screen.	4.00; both screens	.20	9.00
Virginia (not less than 90% splits).	2.00	2.50	3.00%; 17/64 inch round screen.	3.00; 14/64 × 1 inch slot screen.	4.00; both screens	.20	9.00
Spanish & Valencia (not more than 4% sound whole kernels).	2.00	2.50	3.00%; 16/64 inch round screen.	3.00%; 13/64 × 3/4 inch slot screen.	4.00; both screens	.20	9.00

(ii) The term ''fall through,'' as used in this section, shall mean sound split and broken kernels and whole kernels which pass through specified screens.

(2) *Cleaned-inshell peanuts.* Peanuts declared as cleaned-inshell peanuts may be presented for sampling and outgoing inspection at the port-of-entry. Alternatively, peanuts may be conditionally released as cleaned-inshell peanuts but shall not subsequently undergo any cleaning, sorting, sizing or drying process prior to presentation for outgoing inspection as cleaned-inshell peanuts. Cleaned-inshell peanuts which fail outgoing inspection may be reconditioned or redelivered to the port-of-entry, at the option of the importer. Cleaned-inshell peanuts determined to be unprepared farmers stock peanuts must be inspected against incoming quality requirements and determined to be Segregation l peanuts prior to outgoing inspection for cleaned-inshell peanuts. Cleaned-inshell peanuts intended for human consumption may not contain more than:

(i) 1.00 percent kernels with mold present, unless a sample of such peanuts is drawn by the inspection service and analyzed chemically by a USDA or PAC-approved laboratory and certified ''negative'' as to aflatoxin.

(ii) 2.00 percent peanuts with damaged kernels;

(iii) 10.00 percent moisture (carried to the hundredths place); and

(iv) 0.50 percent foreign material.

(d) *Sampling and inspection.* (1) All sampling and inspection, quality certification, chemical analysis, and Positive Lot Identification, required under this section, shall be done by the inspection service, a USDA laboratory, or a PAC-approved laboratory, as applicable, in accordance with the procedures specified in this section. The importer shall make arrangements with the inspection service for sampling, inspection, Positive Lot Identification and certification of all peanuts accumulated by the importer. The importer also shall make arrangements for the appropriate disposition of peanuts failing edible quality requirements of this section. All costs of sampling, inspection, certification, identification, and disposition incurred in meeting the requirements of this section shall be paid by the importer. Whenever peanuts are offered for inspection, the importer shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection.

(2) For farmers stock inspection, the importer shall cause the inspection service to perform an incoming inspection and to issue a CFSA–1007, ''Inspection Certificate and Sales Memorandum,'' form designating the lot as Segregation 1, 2, or 3 quality peanuts. For shelled and cleaned-inshell peanuts, the importer shall cause the inspection service to perform an outgoing inspection and issue an FV–184–9A, ''Milled Peanut Inspection Certificate,'' reporting quality and size of the shelled or cleaned inshell peanuts, whether the lot meets or fails to meet quality requirements for human consumption of this section, and that the lot originated in a country other than the United States. The importer shall provide to the Secretary copies of all CFSA–1007 and FV–184–9A forms applicable to each peanut lot conditionally released to the importer. Such reports shall be submitted as provided in paragraphs (f)(2) and (f)(3) of this section.

(3) *Procedures for sampling and testing peanuts.* Sampling and testing of peanuts for incoming and outgoing inspections of peanuts presented for consumption into the United States will be conducted as follows:

(i) *Application for sampling.* The importer shall request inspection and certification services from one of the following inspection service offices convenient to the location where the peanuts are presented for incoming and/or outgoing inspection. To avoid possible delays, the importer should make arrangements with the inspection service in advance of the inspection date. A copy of the Customs Service entry document specific to the peanuts to be inspected shall be presented to the inspection official at the time of sampling the lot.

(A) The following offices provide incoming farmers stock inspection:

Dothan, AL, tel: (334) 792–5185,
Graceville, FL, tel: (904) 263–3204,
Winter Haven, FL, tel: (941) 291–5820, ext 260,
Albany, GA, tel: (912) 432–7505,
Williamston, NC, tel: (919) 792–1672,
Columbia, SC, tel: (803) 253–4597,
Suffolk, VA, tel: (757) 925–2286,
Portales, NM, tel: (505) 356–8393,
Oklahoma City, OK, tel: (405) 521–3864,
Gorman, TX, tel: (817) 734–3006.

(B) The following offices, in addition to the offices listed in paragraph (d)(3)(i)(A) of this section, provide outgoing sampling for certification of shelled and cleaned in-shell peanuts:

Eastern U.S.

Mobile, AL, tel: (334) 415–2531,
Jacksonville, FL, tel: (904) 359–6430,
Miami, FL, tel: (305) 870–9542,
Tampa, FL, tel: (813) 272–2470,
Presque Isle, ME, tel: (207) 764–2100,
Baltimore/Washington, tel: (301) 317–4387,
Boston, MA, tel: (617) 389–2480,
Newark, NJ, tel: (201) 645–2636,
New York, NY, tel: (718) 991–7665,
Buffalo, NY, tel: (800) 262–4810,
Philadelphia, PA, tel: (215) 336–0845.

Central U.S.

New Orleans, LA, tel: (504) 589–6741,
Detroit, MI, tel: (313) 226–6059,
St. Paul, MN, tel: (612) 296–8557,
Las Cruces, NM, tel: (505) 646–4929,
Alamo TX, tel: (956) 787–4091,
El Paso, TX, tel: (915) 540–7723,
Houston, TX, tel: (713) 923–2557.

Western U.S.

Nogales, AZ, tel: (520) 281–4719,
Los Angeles, CA, tel: (213) 894–2489,
San Francisco, CA, tel: (415) 876–9313,
Honolulu, HI, tel: (808) 973–9566,
Salem, OR, tel: (503) 986–4620,
Seattle, WA, tel: (206) 859–9801.

(C) Questions regarding inspection services or requests for further assistance may be obtained from: Fresh Products Branch, P.O. Box 96456, room 2049–S, Fruit and Vegetable Programs, AMS, USDA, Washington, D.C. 20090–6456, telephone (202) 690–0604, fax (202) 720–0393.

(ii) *Sampling.* Sampling of bulk farmers stock lots shall be performed at a facility that utilizes a pneumatic sampler or approved automatic sampling device. The maximum lot size of farmers stock peanuts shall be one conveyance, or two or more conveyances not exceeding a combined weight of 24,000 pounds. Shelled peanut lots and cleaned-inshell lots, in bulk or bags, shall not exceed 200,000 pounds. For farmers stock, shelled and cleaned-inshell lots not completely accessible for sampling, the applicant shall be required to have lots made accessible for sampling pursuant to inspection service requirements. The importer shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by the inspection service. The amount of such peanuts drawn shall be large enough to provide for a grade and size analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. Because there is no acceptable method of drawing official samples from bulk conveyances of shelled peanuts, the importer shall arrange to have bulk conveyances of shelled peanuts sampled during the unloading process. A bulk lot sampled in this manner must be Positive Lot Identified by the inspection service and held in a sealed bin until the associated inspection and aflatoxin test results have been reported.

(4) Positive Lot Identification (PLI) shall be applied to all shelled and cleaned-inshell peanut lots during or immediately after first inspection by the inspection service or under the guidance of the inspection service. Positive Lot Identification of a lot may be accomplished by: Wrapping PLI tape around bags or boxes on pallets; shrink wrapping pallets or multiple bags and applying a PLI sticker; stenciling and numbering of individual bags or boxes; affixing PLI seals on shipping container doors; or by other methods acceptable to the inspection service that clearly identifies the lot, is securely affixed to the lot, and prevents peanuts from being removed or added to the lot. Such positive lot identification methods may be dictated by the size and containerization of the lot, by warehouse storage or space requirements, or, by necessary further movement of the lot prior to receipt of certification. Failing lots that are reconditioned shall be positive lot identified by sewing tags on bags or affixing a seal and taping bulk bin containers after such reconditioning or by other means acceptable to the inspection service that clearly identifies the peanuts in the lot, is securely affixed to the lot, and which prevents peanuts from being removed or added to the lot.

(5) *Aflatoxin assay.* (i) The importer shall cause appropriate samples of each lot of shelled peanuts intended for edible consumption to be drawn by the inspection service. The three 48-pound samples shall be designated by the inspection service as ''Sample 1IMP,'' ''Sample 2IMP,'' and ''Sample 3IMP'' and each sample shall be placed in a suitable container and lot identified by the inspection service. Sample 1IMP may be prepared for immediate testing or Samples 1IMP, 2IMP and 3IMP may be returned to the importer for testing at a later date, under Positive Lot Identification procedures.

(ii) The importer shall cause Sample 1IMP to be ground by the inspection service or a USDA or PAC-approved laboratory in a subsampling mill. The resultant ground subsample shall be of a size specified by the inspection service and shall be designated as ''Subsample 1–ABIMP.'' At the importer's option, a second subsample may also be extracted from Sample 1IMP and designated ''Subsample 1–CDIMP'' which may be sent for aflatoxin assay to a USDA or PAC-approved laboratory. Both subsamples shall be accompanied by a Milled Peanut Inspection Certificate or Notice of Sampling signed by the inspector containing identifying information as to the importer, the lot identification of the shelled peanut lot, and other information deemed necessary by the inspection service. Subsamples 1–ABIMP and 1–CDIMP shall be analyzed only in a USDA or PAC-approved laboratory. The methods prescribed by the Instruction Manual for Aflatoxin Testing, SD Instruction-1, August 1994, shall be used to assay the aflatoxin level. The cost of testing and notification of Subsamples 1–ABIMP and 1–CDIMP shall be borne by the importer.

(iii) The samples designated as Sample 2IMP and Sample 3IMP shall be held as aflatoxin check-samples by the inspection service or the importer until the analyses results from Sample 1IMP are known. Upon call from the USDA or PAC-approved laboratory, the importer shall cause Sample 2IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample from Sample 2IMP shall be designated as ''Subsample 2—ABIMP.'' Upon further call from the laboratory, the importer shall cause Sample 3IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample shall be designated as ''Subsample 3—ABIMP.'' The importer shall cause Subsamples 2—ABIMP and 3—ABIMP to be sent to and analyzed only in a USDA or PAC-approved laboratory. Each subsample shall be accompanied by a Milled Peanut Inspection Certificate or a Notice of Sampling. All costs involved in the sampling, shipment and assay analysis of subsamples required by this section shall be borne by the importer.

(iv)(A) To arrange for chemical analysis, importers shall contact one of the following USDA or PAC-approved laboratories:

Science and Technology Programs, AMS, 301 West Pearl St., Aulander, NC 27805 (P.O. Box 279), Tel: (919) 345–1661 Ext. 156, Fax: (919) 345–1991

Science and Technology Programs, AMS, 1211 Schley Ave., Albany, GA 31707, Tel: (912) 430–8490 / 8491, Fax: (912) 430–8534

Science and Technology Programs, AMS, 610 North Main St., Blakely, GA 31723, Tel: (912) 723–4570, Fax: (912) 723–3294

Science and Technology Programs, AMS, 107 South Fourth St., Madill, OK 73446, Tel: (405) 795–5615, Fax: (405) 795–3645

Science and Technology Programs, AMS, 715 North Main St., Dawson, GA 31742 (P.O. Box 272), Tel: (912) 995–7257, Fax: (912) 995–3268

Science and Technology Programs, AMS, 308 Culloden St., Suffolk, VA 23434 (P.O. Box 1130), Tel: (757) 925–2286, Fax: (757) 925–2285

Federal-State Inspection Service Laboratory, 1557 Reeves St., Dothan, AL 36303 (P.O. Box 1368, ZIP 36302), Tel: (334) 792–5185, Fax: (334) 671–7984

Federal-State Inspection Service Laboratory, 201 Broad St., Headland, AL 36345 (P.O. Box 447, ZIP 36345–0447), Tel: (334) 693–2729, Fax: (334) 693–2183

Federal-State Inspection Service Laboratory, 103 Greenville Ave., Goshen, AL 36035 (P.O. Box 204), Tel: (334) 484–3340, Fax: (334) 484–3340

Federal-State Inspection Service Laboratory, 805 North Main St., Enterprise, AL 36330 (P.O. Box 310926), Tel: (334) 347–6525

ABC Research, 3437 SW 24th Ave., Gainesville, FL 32607, Tel: (904) 372–0436, Fax: (904) 378–6483

J. Leek Associates, Inc., 200 Wyandotte, Albany, GA 31705 (P.O. Box 50395, ZIP 31703), Tel: (912) 889–8293, Fax: (912) 888–1166

J. Leek Associates, Inc., 139 South Lee St., Ashburn, GA 31714, Tel: (912) 567–3703, Fax: (912) 567–8055

J. Leek Associates, Inc., 402 S.E. 3rd Street, Anadarko, OK 73005, Tel: (405) 247–3266, Fax: (405) 247–3270

J. Leek Associates, Inc., 502 West Navarro St., DeLeon, TX 76444 (P.O. Box 6), Tel: (817) 893–3653, Fax: (817) 893–3640

Pert Laboratories, 145 Peanut Drive, Edenton, NC 27932 (P.O. Box 267), Tel: (919) 482–4456, Fax: (919) 482–5370

Pert Laboratory South, Hwy 82 East, Seabrook Drive, Sylvester, GA 31791 (P.O. Box 129), Tel: (912) 776–1256, Fax: (912) 776–1029

Southern Cotton Oil Company, 600 E. Nelson Street, Quanah, TX 79252 (P.O. Box 180), Tel: (817) 663–5323, Fax: (817) 663–5091

Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, TX 78154–1257, Tel: (210) 651–5799, Fax: (210) 651–9271

(B) Further information concerning the chemical analyses required pursuant to this section may be obtained from: Science and Technology Programs, AMS, USDA, P.O. Box 96456, room 3507–S, Washington, DC 20090–6456, Tel. (202) 720–5231, or Fax (202) 720–6496.

(v) *Reporting aflatoxin assays.* A separate aflatoxin assay certificate, Form CSSD–3 ''Certificate of Analysis for Official Samples'' or equivalent PAC-approved laboratory form, shall be issued by the laboratory performing the analysis for each lot. The assay certificate shall identify the importer, the volume of the peanut lot assayed, date of the assay, and numerical test result of the assay. The importer shall file, or cause to be filed, with the Secretary, all USDA Form CSSD–3, or equivalent chemical assay forms issued on failing peanuts. The importer shall cause the results of all chemical assays issued by PAC-approved laboratories to be filed with the Secretary. The results of the assay shall be reported as follows:

(A) For the current peanut quota year, ''negative'' aflatoxin content means 15 parts per billion (ppb) or less aflatoxin content for peanuts which have been certified as meeting edible quality grade requirements. Such lots shall be certified as ''Meets U.S. import requirements for edible peanuts under Section 999.600 with regard to aflatoxin.''

(B) Lots containing more than 15 ppb aflatoxin content shall be certified as ''Fails to meet U.S. import requirements for edible peanuts under Section 999.600 with regard to aflatoxin.'' The certificate of any non-edible peanut lot also shall specify the aflatoxin count in ppb.

(6) *Appeal inspection.* In the event an importer questions the results of a quality and size inspection, an appeal inspection may be requested by the importer and performed by the inspection service. A second sample will be drawn from each container and shall be double the size of the original sample. The results of the appeal sample shall be final and the fee for sampling, grading and aflatoxin analysis shall be charged to the importer. Lots that show evidence of PLI violation or tampering, as determined by the inspection service, are not eligible for appeal inspection.

(e) *Disposition of peanuts failing edible quality requirements.* Peanuts shelled, sized, and sorted in another country prior to arrival in the U.S. and shelled peanuts which originated from imported Segregation 1 peanuts that fail minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section (excessive damage, minor defects, moisture, or foreign material) or are positive to aflatoxin may be reconditioned by remilling and/or blanching. Peanuts that fail minimum grade requirements because of excessive ''fall through'' may be blanched. After such reconditioning, peanuts meeting the minimum grade requirements in the table, including minimum ''fall through'' requirements, and which are negative to aflatoxin (15 ppb or less), may be disposed for edible use. Residual peanuts resulting from milling or reconditioning of such lots shall be disposed of as follows:

(1) Failing peanut lots may be disposed for non-human consumption uses (such as livestock feed, wild animal feed, rodent bait, seed, etc.) which are not otherwise regulated by this section; *Provided,* That each such lot is Positive Lot Identified and certified as to aflatoxin content (actual numerical count). On the shipping papers covering the disposition of each such lot, the importer shall cause the following statement to be shown: ''The peanuts covered by this bill of lading (or invoice) are not to be used for human consumption.''

(2) Peanuts, and portions of peanuts which are separated from edible quality peanuts by screening or sorting or other means during the milling process (''sheller oilstock residuals''), may be sent to non-edible peanut markets pursuant to paragraph (e)(1) of this section, crushed or exported. Such peanuts may be commingled with other milled residuals. Such peanuts shall be positive lot identified, red tagged in bulk or bags or other suitable containers.

(i) If such peanuts have not been certified as to aflatoxin content, as prescribed in paragraph (d) of this section, disposition is limited to crushing and the importer shall cause the following statement to be shown on the shipping papers: ''The peanuts covered by this bill of lading (or invoice, etc.) are limited to crushing only and may contain aflatoxin.''

(ii) If the peanuts are certified as 301 ppb or more aflatoxin content, disposition shall be limited to crushing or export.

(3) Shelled peanuts which originated from Segregation 1 peanuts that fail minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section, peanuts derived from the milling for seed of Segregation 2 and 3 farmers stock peanuts, and peanuts which are positive to aflatoxin, may be remilled or blanched. Residuals of remilled and/or blanched peanuts which continue to fail minimum grade requirements in the table shall be disposed pursuant to paragraphs (e)(1) or (2) of this section.

(4) Shelled peanuts that are certified as meeting minimum grade requirements specified in the table in paragraph (c)(1)(i) of this section and which are positive to aflatoxin may be roasted during blanching. After roasting, such peanuts certified as meeting aflatoxin requirements (15 ppb or less), and which are positive lot identified, may be disposed to human consumption outlets without further grade analysis. The residual peanuts, excluding skins and hearts, resulting from roasting process, shall be red tagged and disposed of to non-edible outlets pursuant to paragraphs (e)(1) or (2) of this section.

(5) All certifications, lot identifications, and movement to non-edible dispositions, sufficient to account for all peanuts in each consumption entry, shall be reported to the Secretary

by the importer pursuant to paragraphs (f)(2) and (f)(3) of this section.

(f) *Safeguard procedures.* (l) Prior to, or upon, arrival of a foreign-produced peanut lot at a port-of-entry, the importer, or customs broker acting on behalf of the importer, shall mail or send by facsimile transmission (fax) a copy of the Customs Service entry documentation for the peanut lot or lots to the inspection service office that will perform sampling of the peanut shipment. More than one lot may be entered on one entry document. The documentation shall include: the Customs Service entry number; the container number(s) or other identification of the lot(s); the volume of peanuts in each lot being entered; the inland shipment destination where the lot will be made available for inspection; and a contact name or telephone number at the destination. The inspection office shall sign, stamp, and return the entry document to the importer. The importer shall cause a copy of the relevant entry documentation to accompany each peanut lot and be presented to the inspection service at the time of sampling.

(2) The importer shall file, of cause to have filed, with the Secretary, copies of failing grade and aflatoxin certificates and non-edible disposition documents which identify the importer and the disposition outlet for failing quality peanuts. Such reports shall be sufficient to account for all peanuts failing quality requirements of this section: *Provided That:* importers shall cause all certificates of peanuts meeting aflatoxin requirements issued by PAC-approved laboratories to be filed with the Secretary. Proof of non-edible disposition must include documentation from the disposing entity or other entity on behalf of the importer, certifying to the crushing, feed or seed use, burying, or other non-edible disposition. Such documentation must include the weight of peanuts being disposed and the name and telephone number of the disposing entity. Proof of export must include U.S. Customs Service documentation showing exportation from the United States. These documents must be sent to the Marketing Order Administration Branch, Attn: Report of Imported Peanuts. Facsimile transmissions and overnight mail may be used to ensure timely receipt of inspection certificates and other documentation. Fax reports should be sent to (202) 205–6623. Overnight and express mail deliveries should be addressed to USDA, AMS, FV, Marketing Order Administration Branch, 1400 Independence Avenue, SW, Room: 2525–S, Washington, D.C., 20250, Attn: Report of Imported Peanuts. Regular mail should be sent to FV, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456, Attn: Report of Imported Peanuts.

(3) All peanuts imported into the United States subject to this part shall be conditionally released by the U.S. Customs Service for a period of 180 days following the date of Customs Service release, for the purpose of determining whether such peanuts meet the quality requirements for human consumption or non-edible disposition and reporting such certification or non-edible disposition to the Secretary.

(4) If the Secretary finds during, or upon termination, of the conditional release period that a lot of peanuts is not entitled to admission into the commerce of the United States, the Secretary shall request the Customs Service, within 30 days after close of the conditional release period, to demand return of said lot of peanuts to Customs Service custody. Failure to comply with a redelivery demand within 30 days of the date of the redelivery demand, may result in the assessment against the importer of record and surety, jointly and severally of liquidated damages equal to the value of the peanuts involved. Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign-produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

(5) An extension of the 180-day conditional release period may be granted by the Secretary upon request of the importer. Extension shall not exceed an additional 60 calendar days. Requests for extension shall be specific to each peanut lot and shall include the lot's Customs Service entry number, the positive lot identification, weight or volume, and current storage location. Requests for extension of the conditional release period shall be made in writing pursuant to paragraph (f)(2) of this section.

(6) Peanuts for which an import application is filed with the Customs Service but which are subsequently exported without sampling or inspection by the inspection service, need not be reported to the Secretary.

(7) *Reinspection.* Whenever the Secretary has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Secretary may reject the then effective inspection and aflatoxin certificates and require the importer to have the peanuts reinspected to establish whether or not such peanuts may be disposed of for human consumption.

(8) *Early arrival and storage.* Peanut lots sampled and inspected upon arrival in the United States, but placed in storage for more than one month prior to beginning of the quota year for which the peanuts will be entered, must be reported to AMS at the time of inspection. The importer shall file copies of the Customs Service documentation showing the volume of peanuts placed in storage and the storage location, including any identifying number of the storage warehouse. Such peanuts should be stored in clean, dry warehouses and under cold storage conditions consistent with industry standards. Pursuant to paragraph (f)(7) of this section, the Secretary may require reinspection of the lot at the time the lot is declared for entry with the Customs Service.

(g) *Additional requirements.* (1) Nothing contained in this section shall preclude any importer from milling or reconditioning, prior to importation, any shipment of peanuts for the purpose of making such peanuts eligible for importation into the United States. However, all peanuts intended for human consumption use must be certified as meeting the quality requirements specified in paragraph (c) of this section, prior to such disposition.

(2) Conditionally released peanut lots of like quality and belonging to the same importer may be commingled. Defects in an inspected lot may not be blended out by commingling with other lots of higher quality. Commingling also must be consistent with applicable Customs Service regulations. Commingled lots must be reported and disposed of pursuant to paragraphs (f)(2) and (f)(3) of this section.

(3) Inspection by the Federal or Federal-State Inspection Service shall be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 51). The importer shall make each conditionally released lot available and accessible for inspection as provided in this section. Because inspectors may not be stationed in the immediate vicinity of some ports-of-entry, importers must make arrangements for sampling, inspection, and certification through one of the offices and laboratories listed in paragraphs (d)(3) and (d)(5) of this section, respectively.

(4) Imported peanut lots sampled and inspected at the port-of-entry, or at other locations, shall meet the quality

requirements of this section in effect on the date of inspection.

(5) A foreign-produced peanut lot entered for consumption or for warehouse may be transferred or sold to another person: *Provided*, That the original importer shall be the importer of record unless the new owner applies for bond and files Customs Service documents pursuant to 19 CFR 141.113 and 141.20: *Provided further*, That such peanuts must be certified and reported to the Secretary pursuant to paragraphs (f)(2) and (f)(3) of this section.

(6) Payment of the cost of transportation, sampling, inspection, certification, chemical analysis, and Positive Lot Identification, as well as remilling and blanching, and further inspection of remilled and blanched lots, and disposition of failing peanuts, shall be the responsibility of the importer. Whenever an applicant presents peanuts for inspection, the applicant shall furnish any labor and pay any costs incurred in moving, opening containers for sampling, and the shipment of samples as may be necessary for proper sampling and inspection. The inspection service shall bill the applicant for fees covering quality inspections and other certifications as may be necessary to certify edible quality or non-edible disposition. USDA and PAC-approved laboratories shall bill the applicant separately for aflatoxin assay fees. The importer also shall pay Customs Service costs as required by that agency.

(7) Each person subject to this section shall maintain true and complete records of activities and transactions specified in these regulations. Such records and documentation accumulated during entry shall be retained for not less than two years after the calendar year of acquisition, except that Customs Service documents shall be retained as required by that agency. The Secretary, through duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted, at any such time, to inspect such records and any peanuts held by such person.

(8) The provisions of this section do not supersede any restrictions or prohibitions on peanuts under the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, any other applicable laws, or regulations of other Federal agencies, including import regulations and procedures of the Customs Service.

Dated: August 24, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–23230 Filed 8–28–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–28–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Pratt & Whitney (PW) JT9D series turbofan engines. This proposal would require a fluorescent penetrant inspection (FPI) of the rear skirt of the diffuser case for cracks, and, if necessary, blending down to minimum wall thickness to remove cracks and subsequent FPI to determine if cracks have been removed, polishing, and shotpeening. If the cracks are shown by subsequent FPI not to have been removed, this proposed AD would require removing the diffuser case from service and replace with a serviceable part. This proposal is prompted by a report of a diffuser case rupture during takeoff roll that resulted in damage to the aircraft. The actions specified by the proposed AD are intended to prevent diffuser case rupture due to cracks, which can result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by October 30, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–28–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–6600, fax (860) 565-4503. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7130, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–28–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–28–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) received a report of a diffuser case rupture on a Pratt & Whitney (PW)