

(4) increases to 10 percent, the quantity of sound whole kernels that may be contained in lots of splits for specified peanut varieties. These changes are intended to maximize handling efficiency and to provide peanut producers, handlers, and importers with flexibility to meet new market demands, while maintaining peanut quality and wholesomeness for consumers.

Smaller Kernel Sizes

Changing screen sizes used in handling peanuts will allow smaller kernels of all varieties to be used for edible purposes. Proponents of smaller kernel use claim that manufacturers of peanut products now have markets for smaller whole kernels, and that this rule change will enable them to take advantage of this recent shift in the marketplace. Market share for U.S. peanuts is expected to rise because the rule enables handlers to sell smaller peanuts to buyers who would otherwise purchase less expensive peanuts from other origins for manufacturing into peanut butter and paste, and other similar products.

This rule implements a relaxation in the utilization of small peanut kernels by changing the screens used for sorting sound whole kernels and kernels with splits from a slotted screen to one with round holes. The equipment for this change (smaller screen sizes) is currently in use for split lots in most shelling facilities. This change should therefore require little or no additional investment for most shellers, large or small.

The Inspection Service has a supply of screens for smaller peanut kernels to cover five new shelling plants scheduled to begin operation for the 2003 crop year. In addition, the Inspection Service will provide screens for peanut shellers that need them at a cost per screen of \$55.00 plus shipping.

Although the chances of aflatoxin contamination in small kernels is not significant, proponents of the rule change claim that modern electronic color sorting technologies can sort out the moldy or defective kernels, thus ensuring that the new screens will not have a negative impact on the quality and wholesomeness of peanuts entering edible food channels.

Shellers that have already have this technology will have little or no additional cost. Compliance officers report that out of 77 shellers only 15 do not have electronic sorting technology in their shelling plants. These firms only shell seed peanuts, which are not shipped to the edible market.

Re-inspection of Blanched Lots

This rule change allows shelled lots that are being reconditioned to be excluded from re-inspection for damage or minor defects if the lot originally passed based on those standards. Peanut lots which meet quality (grade) standards, including damage and minor defects, but which fail on aflatoxin, may be blanched to remove the aflatoxin-contaminated kernels.

Under the current standards, the lot must be re-inspected for damage and minor defects after blanching. In some cases, the result of the re-inspection is that the blanched lot exceeds tolerances for damage and minor defects, even though the original lot did not fail to meet the standard. This result can occur because the removal of the skins in the blanching process may expose instances of damage or minor defects not previously detected.

The primary benefit of this rule change would be to reduce handler operating costs and avoid an additional loss of peanuts. The impact of this change is not expected to be different between large and small entities.

Increased Sound Whole Kernel Tolerance

The Minimum Quality Standards table in 996.31(a) provides standards for split kernel lots by specifying the maximum percentage of sound whole kernels permitted in a lot. For Virginia variety peanuts, sound whole kernel content is currently limited to 10 percent of the lot by weight. For Runner, Spanish, and Valencia varieties, the sound whole kernel content is currently limited to 4 percent. This rule change accepts the Board recommendation that the Sound Whole Kernel tolerance for Runner, Spanish and Valencia be relaxed to 10 percent, the same tolerance that applies to Virginia variety peanuts. The primary benefit of this rule change would be to lower costs and increase sales revenue by rejecting fewer lots of the Runner, Spanish, and Valencia varieties for splits. No adverse financial impact is expected from making this standard uniform for all four varieties. The impact of this change is not expected to be different between large and small entities.

Appeal Procedures

The addition of provisions specifying that financially interested persons may appeal quality inspection results and "holders of the title" to any lot of peanuts may request appeals of aflatoxin test results will benefit all persons involved.

USDA has considered alternatives to the suggested changes to the quality and

handling standards. The Act requires USDA to consult with the Board on these standards. An alternative would be to continue the 2002–03 crop year standards for the 2003–04 crop year without implementing the recommended relaxations made by the Board at its April 30, 2003, meeting. Because of the anticipated benefits of the recommended changes, USDA believes that implementation of the Board's suggested changes is preferable to continuing without change. The Board's meeting was a public meeting and all interested persons were able to attend and provide input.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. A small business guide on complying with AMS' fresh fruit, vegetable, and specialty crop programs similar to this peanut program may be viewed at the following Web site: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide or compliance with this program should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on the Board's recommendations to change the quality and handling standards. Any comments received will be considered prior to finalization. Interested persons also are invited to submit information on the regulatory and economic impact of this action on small businesses.

Information Collection

The Act specifies in section 1601(c)(2)(A) that the standards established pursuant to the Act, may be implemented without regard to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Furthermore, this rule does not change the existing information collection burden.

Section 1601 also specifies that promulgation of the standards and administration of the program shall be made without regard to the statement of policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804) relating to notice of proposed rulemaking and public participation in rulemaking and the notice and comment provisions of section 553 of title 5, United States Code.

Nonetheless, USDA may find, upon good cause, that it would be impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because (1) This rule relaxes quality and