

## Agricultural Marketing Service, USDA

## § 999.1

- (i) U.S. Jumbos
- (ii) U.S. Fancy Handpicks
- (iii) Valencia-Roasting Stock<sup>2</sup>
- (2) [Reserved]

(k) The indemnification value for peanuts indemnified shall be 35 cents per pound.

[61 FR 55549, Oct. 28, 1996]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g., sections .200 through .299) and "Handling" regulations (e.g., sections .300 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the "List of CFR Sections Affected" in the Finding Aids section of this volume.

### ASSESSMENT RATES

#### § 998.409 Assessment rate.

On and after July 1, 1998, an administrative assessment rate of \$0.33 per net ton of farmers stock peanuts received or acquired other than those described in § 998.31 (c) and (d) is established for handlers signatory to the Agreement. Assessments are due on the 15th of the month following the month in which the farmers stock peanuts are received or acquired.

[63 FR 41184, Aug. 3, 1998]

## PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

Sec.

- 999.1 Regulation governing the importation of dates.
- 999.100 Regulation governing imports of walnuts.
- 999.200 Regulation governing the importation of prunes.
- 999.300 Regulation governing importation of raisins.
- 999.400 Regulation governing the importation of filberts.

the handler's plant or storage to the point within the Continental United States or Canada where the rejection occurred and from such point to a delivery point specified by the Committee shall be the extent of the indemnification payment.

<sup>2</sup>Inshell peanuts with not more than 25 percent having shells damaged by discoloration, which are cracked or broken, or both.

- 999.500 Safeguard procedures for walnuts and certain dates exempt from grade, size, quality, and maturity requirements.
- 999.600 Regulation governing imports of peanuts.

AUTHORITY: 7 U.S.C. 601-674; 7 U.S.C. 1445c-3, and 7 U.S.C. 7271.

#### § 999.1 Regulation governing the importation of dates.

(a) *Definitions.* (1) *Dates in retail packages* means whole or pitted dates, other than dates prepared or preserved, wrapped or packaged for sale at retail.

(2) *Dates for packaging* means whole or pitted dates in bulk containers which are to be repacked, in whole or part, in the United States as dates in retail packages.

(3) *Bulk container* means any container of dates which, together with the dates therein, weighs more than ten pounds.

(4) *Dates for processing* means any dates for use in a bakery, confectionery, or other product and includes dates coated with a substance materially altering their color.

(5) *Dates prepared or preserved* means dates processed into a confection or other product, dates coated with a substance materially altering their color, or dates prepared for incorporation into a product by chopping, slicing, or other processing which materially alters their form.

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

(7) *Fruit and Vegetable Division* means the Fruit and Vegetable Division of the Consumer and Marketing Service, United States Department of Agriculture, Washington, DC 20250.

(8) *USDA inspector* means an inspector of the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division or any other duly authorized employee of the USDA.

(9) *Inspection certificate* means a written statement or memorandum report issued by a USDA inspector setting forth in addition to appropriate descriptive information the quality and condition of the product inspected, and in the case of imported dates, a statement of meeting or failing, as applicable, the U.S. import requirements

under section 8e of the AMA Act of 1937.

(10) *Importation* means release from custody of United States Bureau of Customs.

(b) *Grade requirements.* (1) Except as provided in paragraph (d) of this section, the importation into the United States of any lot of dates for packaging or dates in retail packages is prohibited unless the dates are wholesome and unadulterated and meet the following grade requirements which are determined to be comparable to those imposed upon domestic dates handled pursuant to Order No. 987, as amended (part 987 of this chapter: The whole or pitted dates in the lot are of one variety, and are of such quality and condition that upon inspection on the basis of a representative sample thereof, with hydration (of the sample) in accordance with good commercial practice or without any hydration, the dates possess a reasonably good color, are reasonably uniform in size, are reasonably free from defects, possess a reasonably good character, and score not less than 80 points when scored in accordance with the scoring system applicable to U.S. Grade B dates, as prescribed in the U.S. Standards for Grades of Dates (§§ 52.1001 through 52.1011 of this chapter): *Provided*, That not more than 25 percent, by weight, of the dates may possess semidry or dry calyx ends except that not more than 5 percent, by weight, of the dates may possess dry calyx ends: *And provided further*, That in determining the grade for pitted dates, the pitted dates shall not be scored as damaged because of the longitudinal slit caused by removing the pit or the mashing resulting therefrom unless the flesh is seriously torn or mangled.

(2) Compliance with the grade requirements shall be determined on the basis of an inspection and certification by a USDA inspector.

(c) *Inspection and certification requirements.* (1) *Inspection.* Inspection shall be performed by USDA inspectors in accordance with the Regulations Governing the Inspection and Certification of Processed Fruits and Vegetables and Related Products (part 52 of this title). The cost of each such inspection and related certification shall be borne by

the applicant. Applications for inspection shall be made at least 10 days in advance and be accompanied by, or there shall be submitted promptly thereafter, either an onboard bill of lading designating the lots to be inspected by USDA inspectors and those to be entered as dates for processing, or a list of such lots and their identifying marks.

(2) *Certification.* Each lot of dates inspected in accordance with paragraph (c)(1) of this section shall be covered by an inspection certificate. Each such certificate shall set forth, among other things, the following:

- (i) The date and place of inspection.
- (ii) The name of the applicant.
- (iii) The variety, quantity, and identifying marks of the lot inspected.
- (iv) The statement, if applicable: "Meets U.S. import requirements under section 8e of the AMA Act of 1937".

(v) If the lot fails to meet the import requirements, a statement to that effect and the reasons therefor, governing imports of walnuts.

(d)(1) *Exemptions.* Notwithstanding any other provisions of this section, any lot of dates for importation which in the aggregate does not exceed 70 pounds and any dates that are so denatured as to render them unfit for human consumption may be imported exempt from the provisions of this section.

(2) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to dates which are donated to needy persons, prisoners or Native Americans on reservations, but such dates shall be subject to the safeguard provisions contained in § 999.500.

(e) *Importation.* No person may import dates into the United States unless he first files with the Collector of Customs at the port at which the customs entry is filed, as a condition of each such importation, either an inspection certificate or an executed "Dates—Section 8e Entry Declaration," prescribed in paragraph (e)(2) of this section as Date Form No. 1.

(1) *Dates for packaging and dates in retail packages.* No person may import any lot of dates for packaging or dates in retail packages unless the dates are

**Agricultural Marketing Service, USDA**

**§ 999.1**

covered by an inspection certificate containing the statement as to meeting the requirements set forth in paragraph (c)(2)(iv) of this section.

(2) *Dates for processing and dates prepared or preserved—importation.* Any person may import dates for processing and dates prepared or preserved exempt from the grade, inspection, and certification requirements of this section if the importer first files as a condition of such importation an executed Date Form No. 1 "Dates—Section 8e Entry Declaration." The importer shall promptly transmit a copy of the executed Date Form No. 1 to the Fruit and Vegetable Division. The following is prescribed as Date Form No. 1:

DATE FORM NO. 1

*Dates—Section 8e Entry Declaration*

I certify to the U.S. Department of Agriculture and the Bureau of Customs that none of the dates being imported and which are identified below are dates for packaging or dates in retail packages.

1. Name of vessel:
2. Country of origin of dates:
3. Date of arrival:
4. City of arrival:
5. Unlading pier:
6. Entered as dates for processing—

Lot or chop mark	Number of containers	Total net weight
.....	.....	lbs.

(List additional lots on added page)

7. Entered as dates prepared or preserved—

Lot or chop mark	Number of containers	Total net weight
.....	.....	lbs.
.....	.....	lbs.

I agree to obtain from each person to whom any of the dates listed under item 6 are delivered, an executed Date Form No. 2 "Dates for Processing—Section 8e Certification of Processor or Reseller" and to file the same with the Fruit and Vegetable Division, Consumer and Marketing Service, United States Department of Agriculture, Washington 25, DC, not later than the fifth day of the month following the month in which the dates were delivered.

Dated \_\_\_\_\_  
 Name of firm \_\_\_\_\_  
 Address \_\_\_\_\_

Signature \_\_\_\_\_  
 Title \_\_\_\_\_

*Distribution*

Original—Collector of Customs.  
 Copy—Fruit and Vegetable Division.  
 Copy—Food and Drug Administration.

(3) *Dates for processing—Sale by importer.* No importer or other person may import, sell, or use any dates for processing other than for use as set forth in paragraph (a)(4) of this section or as otherwise permitted by this section. Each importer of dates for processing shall obtain from each purchaser, no later than the time of delivery to such purchaser, and file with the Fruit and Vegetable Division not later than the fifth day of the month following the month in which the dates were delivered, an executed "Dates for Processing—Section 8e Certification of Processor or Reseller," prescribed in this paragraph as Date Form No. 2, which form is as follows:

DATE FORM NO. 2

*Dates for Processing—Section 8e Certification of Processor or Reseller*

I hereby certify to the U.S. Department of Agriculture that I have acquired the dates covered by this certification; that I will use or sell them for use only in bakery, confectionery, or other products as permitted by the Regulation Governing Importation of Dates (7 CFR 999.1); and that I am: (check one)

- processor (user of dates for processing)  
 reseller (dealer in dates for processing)

1. Date of purchase \_\_\_\_\_
2. Place of purchase \_\_\_\_\_
3. Name and address of importer or seller \_\_\_\_\_
4. Dates acquired:

Number of containers	Total net weight
.....	lbs.

Dated \_\_\_\_\_  
 Name of firm \_\_\_\_\_  
 Address \_\_\_\_\_  
 Signature \_\_\_\_\_  
 Title \_\_\_\_\_

*Distribution*

Original—Fruit and Vegetable Division.  
 Copy—Purchaser.

(4) *Dates for processing—sale by other than importer.* Each wholesaler or other reseller of dates for processing should, for his protection, obtain from each purchaser and hold in his files a Date Form No. 2 certification covering each sale or all sales of a calendar year.

(f) *Filing and retention of certificates.* The executed Date Form No. 2 “Dates for Processing—Section 8e Certification of Processor or Reseller” required to be filed pursuant to this section shall be executed in not less than three copies, of which one shall be filed with the Fruit and Vegetable Division not later than the fifth day of the month immediately following the month of delivery of the dates covered thereby, one shall be retained by the importer and one shall be retained by the person accepting delivery.

(g) *Reclassification.* Any dates submitted for importation as dates for packaging or dates in retail packages that fail to meet the import requirements of this section may, upon execution of Date Form No. 1 “Dates—Section 8e Entry Declaration,” be resubmitted for importation as dates for processing subject to the limitations of paragraph (j) of this section. Subsequent to importation, (1) any dates for processing other than dates that were resubmitted for importation in accordance with the preceding sentence and (2) any dates for packaging which through unintentional error were submitted for importation as dates for processing, either category having been covered by an executed Date Form No. 1, may if still held by the importer and if certified by a USDA inspector as meeting the requirements of this section for dates for packaging, be so reclassified and used. The reclassification to dates for packaging shall not be applicable to any dates that were falsely classified, other than through unintentional error, as dates for processing and submitted as such for importation.

(h) *Reconditioning.* Nothing contained in this section shall preclude the reconditioning of failing lots of dates, prior to importation, so that such dates may be made eligible to meet the grade requirements prescribed in paragraph (b) of this section.

(i) *Books and records.* Each person subject to this section shall maintain

true and complete records of his transactions with respect to imported dates. Such records and copies of executed forms shall be retained for not less than two years subsequent to the calendar year of acquisition. The Secretary, through his duly authorized representatives, shall have access to any such person’s premises during regular business hours and shall be permitted at any such times to inspect such records and any dates held by such person.

(j) *Other restrictions.* The provisions of this section do not supersede any restrictions or prohibitions on the importation of dates under the Plant Quarantine Act of 1912, the Federal Food, Drug, and Cosmetic Act, or any other applicable laws or regulations or the need to comply with applicable food and sanitary regulations of city, county, State, or Federal agencies.

(k) *Compliance.* Any person who violates any provision of this section shall be subject to a forfeiture in the amount prescribed in section 8a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (sections 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), or, upon conviction, a penalty in the amount prescribed in section 8c(14) of said act, or to both such forfeiture and penalty. False representations to an agency of the United States on any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

[28 FR 3469, Apr. 10, 1963, as amended at 31 FR 960, Jan. 25, 1966; 33 FR 15986, Oct. 31, 1968; 36 FR 6736, Apr. 8, 1971; 58 FR 69190, Dec. 30, 1993]

#### § 999.100 Regulation governing imports of walnuts.

(a) *Definitions.* (1) *Walnuts* means all walnuts commonly known as English or Persian walnuts (*Juglans regia*).

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

(3) *Shelled walnuts* means the kernels of walnuts after the shells are removed.

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

(5) *USDA Inspector* means any Federal or Federal-State inspector of the Fresh

Products Standardization and Inspection Branch of the Fruit and Vegetable Division, Consumer and Marketing Service, United States Department of Agriculture.

(6) *Importation of walnuts* means the release of walnuts from the custody of the United States Customs Service.

(b) *Grade and size regulations.* No person may import walnuts (*Juglans regia*) into the United States unless such walnuts have been inspected and certified by a USDA inspector as meeting the following requirements:

(1) *Inshell walnuts.* All inshell walnuts shall be of a quality equal to or better than the requirements of U.S. No. 2 and "baby" size as prescribed in the United States Standards for Walnuts (*Juglans regia*) in the Shell (§§51.2945 through 51.2966 of this title); or

(2) *Shelled walnuts.* All shelled walnuts shall be of a quality equal to or better than the requirements for U.S. Commercial Grade as prescribed in the United States Standards for Shelled Walnuts (*Juglans regia*) (§§51.2275 through 51.2294 of this title excluding §§51.2278(b), 51.2284 and 51.2285) effective January 25, 1959, except that the minimum size shall be pieces not more than five percent of which will pass through a round opening  $\frac{3}{4}$  inch in diameter and no other size requirements shall apply.

(c) *Inspection and certification.* (1) All inspections and certifications required by paragraph (b) of this section shall be made by USDA inspectors in accordance with the regulations governing the inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title). The cost of inspection and certification shall be borne by the applicant.

(2) Each inspection certificate shall set forth among other things the following:

- (i) The date and place of inspection;
- (ii) The name of the applicant;
- (iii) The name of the importer;
- (iv) The quantity and identifying marks of the container; and
- (v) The statement, if applicable, "Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937".

(3) Whenever walnuts are offered for inspection, the applicant shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection. The applicant shall also furnish the USDA inspector the entry number and such other identifying information for each lot as he may request.

(4) Inspection must be completed prior to the importation of walnuts. To avoid delay the applicant should make advance arrangements with the USDA inspection office.

(d) *Reconditioning prior to importation.* Nothing contained in this section shall be deemed to preclude reconditioning walnuts prior to importation, in order that such walnuts may be made eligible to meet the grade and size regulations prescribed in paragraph (b) of this section.

(e)(1) *Minimum quantity.* Notwithstanding any other provision of this section, the importation of any lot of walnuts which does not exceed, in net weight, 60 pounds of shelled walnuts or 115 pounds of inshell walnuts shall be exempt from the requirements of this section.

(2) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to walnuts which are: green walnuts (so immature that they cannot be used for drying and sale as dried walnuts); walnuts used in non-competitive outlets such as use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and diversion to animal feed or oil manufacture, but such walnuts shall be subject to the safeguard provisions contained in §999.500.

(f) *Other import requirements.* The provisions of this section do not supersede any restrictions or prohibitions on walnuts under the Federal Plant Quarantine Act of 1912, or any other applicable laws or regulations of city, county, State, or Federal Agencies including the Federal Food, Drug and Cosmetic Act.

(g) *Compliance.* Any person violating any of the provisions of this regulation is subject to a forfeiture in the amount prescribed in section 608a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), or,

upon conviction, a penalty in the amount prescribed in section 608c(14) of said act, or to both such forfeiture and penalty. False representations in any matter within the jurisdiction of any agency of the United States, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

[29 FR 230, Jan. 9, 1964, as amended at 40 FR 29263, July 11, 1975; 41 FR 2075, Jan. 14, 1976; 42 FR 35146, July 8, 1977; 58 FR 69190, Dec. 30, 1993]

**§ 999.200 Regulation governing the importation of prunes.**

(a) *Definitions.* (1) *Prunes* means and includes all sun-dried or artificially dehydrated plums, of any type of variety, produced from plums, except: Sulfur-bleached prunes which are produced from yellow varieties of plums and are commonly known as silver plums; (ii) plums which have not been dried or dehydrated to a point where they are capable of being stored prior to packing, without material deterioration or spoilage unless refrigeration or other artificial means of preservation are used, and so long as they are treated by a process which is in conformity with, or generally similar to, the processes for treatment of plums of that type which have been developed or recommended by the Food Technology Division, College of Agriculture, University of California, for the specialty pack known as "high moisture content prunes", but this exception shall not apply if and when such plums are dried to the point where they are capable of being stored without material deterioration or spoilage, refrigeration or other artificial means of preservation; and (iii) brine dried prunes that have been impregnated with brine or salt during the dehydration process to the extent that they have lost their form and character as prunes, and cannot be reconstituted to permit economic use of the individual fruits as prunes, and are imported under International Harmonized Tariff Schedule No. 0813.20.1000.

(2) *Pitted prunes* means prunes with the pit removed that are characterized by a uniform depression and minimal skin break where the pit has been removed.

(3) *Macerated prunes* means dried prunes with the pit removed that are characterized by a flattened appearance with slightly more skin break where the pit has been removed than with pitted prunes.

(4) *Standard prunes* means any lot of prunes meeting the grade and size requirements prescribed in paragraph (b)(1) of this section.

(5) *Standard pitted prunes* means any lot of pitted prunes meeting the grade requirements prescribed in paragraphs (b)(2) and (b)(3) of this section.

(6) *Standard pitted macerated prunes* means any lot of pitted macerated prunes meeting the grade requirements in paragraphs (b)(2) and (b)(4) of this section.

(7) *Manufacturing grade substandard prunes* means any lot of prunes which meets the grade requirements prescribed in paragraph (b)(5) of this section but fails to meet the requirements for standard prunes, standard pitted prunes and standard pitted macerated prunes.

(8) *Size* means the number of prunes contained in a pound.

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

(10) *Fruit and Vegetable Division* means the Fruit and Vegetable Division of the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250.

(11) *USDA inspector* means an inspector of the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, or any other duly authorized employee of the USDA.

(12) *Importation* means release from custody of the U.S. Bureau of Customs.

(13) *Undersized prunes* means those prunes that pass freely through a round opening 23/32 of an inch in diameter.

(b) *Grade and size requirements.* (1) Except as provided in paragraph (b)(5) or paragraph (d) of this section, no person may import any lot of prunes into the United States unless the prunes are inspected and an inspection certificate issued with respect thereto, and the lot meets the applicable grade requirements specified in exhibit A of this section and the average count (i.e., number) of the prunes in such lot is 100 or

less per pound. In determining whether any lot conforms to the size requirement, the following tolerance shall apply: In a sample of 100 ounces, the count per pound of 10 ounces of smallest prunes may not vary from the count per pound of 10 ounces of the largest prunes by more than 45 points.

(2) No person may import any lot of pitted prunes or pitted macerated prunes for human consumption as pitted or pitted macerated prunes unless the lot meets the applicable minimum grade requirements set forth in § 999.200 (exhibit A), except that skin or flesh damage shall not be scored as a defect in determining whether the prunes meet the grade requirements. Pitted and pitted macerated prunes shall not be subject to size and undersized requirements.

(3) No person may import any lot of pitted prunes for human consumption as pitted prunes unless the lot does not exceed an average of 0.5 percent by count of prunes with whole pits and/or pit fragments 2 mm or longer and four of ten subsamples examined have no more than 0.5 percent by count of prunes with whole pits and/or pit fragments 2 mm or longer.

(4) No person may import any lot of pitted macerated prunes for human consumption as pitted macerated prunes unless the lot does not exceed an average of 2 percent by count of prunes with whole pits and/or pit fragments 2 mm or longer; and four of ten subsamples examined have no more than 2 percent by count with whole pits and/or pit fragments 2 mm or longer.

(5) Any person may import any lot of prunes, except any lot containing undersized prunes, pitted prunes or pitted macerated prunes, into the United States for use in human consumption outlets as prune products in which the prunes lose their form and character as prunes by conversion prior to consumption if the prunes are inspected and an inspection certificate issued with respect thereto, and each lot meets the grade requirements set forth in paragraphs (1), (2), and (3) of exhibit A of this section, and the importer first files as a condition of such importation an executed "Prune Form No. 1 Prunes-Section 8e Entry Declaration".

(c) *Inspection and certification requirements.* (1) *Inspection.* Inspection shall be performed by a USDA inspector in accordance with the regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products (part 52 of this title). The cost of each such inspection and related certification shall be borne by the applicant.

(2) *Certification.* Each lot of prunes inspected in accordance with paragraph (c)(1) of this section shall be covered by an inspection certificate. Each such certificate shall set forth, among other things, the following:

(i) The date and place of inspection.

(ii) The name of the applicant.

(iii) The quantity and identifying marks of the lot inspected.

(iv) The statement, as applicable: "Meets U.S. import requirements for standard prunes, standard pitted and standard pitted macerated prunes under section 8e of the AMA Act of 1937"; "Meets U.S. import requirements for manufacturing grade substandard prunes under section 8e of the AMA Act of 1937"; or "Fails to meet U.S. import requirements for prunes under section 8e of the AMA Act of 1937".

(v) If the lot fails to meet the import requirements, a statement of the reason therefor.

(d) *Exemptions.* Notwithstanding any other provisions of this section, the importation of any lot of prunes which in the aggregate does not exceed 150 pounds, net weight, and any prunes that are so denatured as to render them unfit for human consumption shall be exempt from the requirements of this section.

(e) *Additional requirements.* (1) *General.* Prior to importation of any prunes, the person importing such prunes shall file an inspection certificate with the Collector of Customs at the port at which the customs entry is filed. In addition, if such prunes are manufacturing grade substandard prunes, such person shall also file with the Collector of Customs an executed "Prunes—Section 8e Entry Declaration," prescribed in paragraph (e)(2) of this section as Prune Form No. 1. Promptly after such filing, such person

**§ 999.200**

**7 CFR Ch. IX (1-1-99 Edition)**

shall transmit a copy of this form to the Fruit and Vegetable Division. No person may import, sell, or use any manufacturing grade substandard prunes other than for use as set forth in paragraph (b)(5) of this section. Each person importing manufacturing grade substandard prunes shall obtain from each purchaser, no later than the time of delivery to such purchaser, and file with the Fruit and Vegetable Division not later than the 5th day of the month following the month in which the prunes were delivered, an executed "Prunes—Section 8e Certification of Processor or Reseller," prescribed in paragraph (e)(3) of this section as Prune Form No. 2. One copy of this executed form shall be retained by the importer and one copy shall be retained by the purchaser.

(2) *Prune Form No. 1.* The following is prescribed as Prune Form No. 1:

PRUNE FORM NO. 1

PRUNES—SECTION 8E ENTRY DECLARATION

I certify to the U.S. Department of Agriculture and the Bureau of Customs that none of the manufacturing grade substandard prunes being imported and which are identified below will be used other than in manufacturing in which the prunes lose their form and identity as prunes.

1. Name of vessel: \_\_\_\_\_
2. Country of origin of prunes: \_\_\_\_\_
3. Date of arrival: \_\_\_\_\_
4. City of arrival: \_\_\_\_\_
5. Unloading pier: \_\_\_\_\_
6. Substandard Prunes Entered: \_\_\_\_\_

Lot or chop mark	Number of containers	Total net weight (lbs.)
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

I agree to obtain from each person to whom any of the manufacturing grade substandard prunes listed under item 6 are delivered, an executed Prune Form No. 2 (Prunes—Section 8e Certification of Processor or Reseller) and to file the same with the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, not later than the 5th day of the month following the month in which the prunes were delivered.

Dated: \_\_\_\_\_  
Name of firm: \_\_\_\_\_

Address: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

(3) *Prune Form No. 2.* The following is prescribed as Prune Form No. 2:

PRUNE FORM NO. 2

PRUNES—SECTION 8E CERTIFICATION OF PROCESSOR OR RESELLER

I hereby certify to the U.S. Department of Agriculture that I have acquired the manufacturing grade substandard prunes covered by this certification; that I will use or sell them for use only in manufacturing in which the prunes lose their form and identity as prunes as permitted by the Regulation Governing the Importation of Prunes (7 CFR 999.200); and that I am: (check one or both if applicable)

- processor (user of prunes for manufacturing).  
 reseller (dealer in prunes for manufacturing).

1. Date of purchase: \_\_\_\_\_
2. Place of purchase: \_\_\_\_\_
3. Name and address of importer or seller: \_\_\_\_\_
4. Prunes acquired: \_\_\_\_\_

Number of containers	Total net weight (lbs.)
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

Dated: \_\_\_\_\_  
Name of firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

(4) *Manufacturing Grade Substandard Prune—sale by other than importer.* Each wholesaler or other reseller of manufacturing grade substandard prunes should, for his protection, obtain from each purchaser and hold in his files an executed Prune Form No. 2 covering each sale during the calendar year.

(f) *Reconditioning.* Nothing contained in this section shall preclude the reconditioning of failing lots of prunes, prior to importation, so that such prunes may be made eligible to meet the requirements prescribed pursuant to paragraphs (b)(1) through (5), as applicable, of this section.

(g) *Books and records.* Each person subject to this section shall maintain true and complete records of his transactions with respect to imported

prunes. Such records and copies of executed forms shall be retained for not less than 2 years subsequent to the calendar year of acquisition. The Secretary, through his duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted at any such times to inspect such records and any prunes held by such person.

(h) *Other restrictions.* The provisions of this section do not supersede any restrictions or prohibitions on the importation of prunes under the Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, or any other applicable laws or regulations or the need to comply with applicable food and sanitary regulations of city, county, State, or Federal agencies.

(i) *Compliance.* Any person who violates any provision of this section shall be subject to a forfeiture in the amount prescribed in section 8a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (sections 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), or, upon conviction, a penalty in the amount prescribed in section 8c(14) of said act, or to both such forfeiture and penalty. False representations to an agency of the United States on any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

#### EXHIBIT A

##### GRADE REQUIREMENTS

A. *Defects.* Defects are: (1) Off-color; (2) inferior meat condition; (3) end cracks; (4) fermentation; (5) skin or flesh damage; (6) scab; (7) burned; (8) mold; (9) imbedded dirt; (10) insect infestation; (11) decay.

B. *Explanation of terms.* (1) *Off-color* means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) *Inferior meat condition* means flesh which is fibrous, woody, or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) *End cracks* means callous growth cracks, at the blossom end of prunes, aggregating more than three-eighths of one inch ( $\frac{3}{8}$ " ) but not more than one-half of one inch ( $\frac{1}{2}$ " ) in length.

(4) *Fermentation* means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

(5) *Skin or flesh damage* means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, except end cracks as defined in this section, aggregating more than three-eighths of one inch ( $\frac{3}{8}$ " ) in length;

(b) Splits or skin breaks exposing flesh and materially affecting the normal appearance of the prunes;

(c) Any cracks, splits, or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect appearance, edibility or keeping quality.

(6) *Scab* means tough or thick scab exceeding in the aggregate the area of a circle three-eighths of one inch ( $\frac{3}{8}$ " ) in diameter or by unsightly scab of another character exceeding in the aggregate the area of a circle three-fourths of one inch ( $\frac{3}{4}$ " ) in diameter.

(7) *Burned* means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(8) *Mold* means a characteristic fungus growth and is self-explanatory.

(9) *Imbedded dirt* means the presence of dirt or other extraneous material so imbedded in, or adhering to, the prune that it cannot readily be removed in washing the fruit.

(10) *Insect infestation* means the presence of insects, insect fragments or insect remains.

C. *Maximum tolerances.* Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) There shall be no tolerance allowance for live insect infestation.

(2) The tolerance allowances for decay shall not exceed one percent (1%).

(3) The combined tolerance allowance for mold, brown rot, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%), and, within such tolerance, brown rot shall not exceed three percent (3%).

(4) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed eight percent (8%).

(5) The combined tolerance allowance for end cracks, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed ten percent (10%), except that the first eight percent (8%) of end cracks shall be given one-half value and any additional percentage of end cracks shall be given full value.

(6) The combined tolerance allowance for off-color, inferior meat condition, end cracks, fermentation, skin or flesh damage,

## § 999.300

scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed fifteen percent (15%), except that the first eight percent (8%) of end cracks shall be given one-half value and any additional percentage of end cracks shall be given full value.

[36 FR 18782, Sept. 22, 1971, as amended at 47 FR 47230, Oct. 25, 1982; 57 FR 56245, Nov. 27, 1992; 59 FR 38113, July 27, 1994; 60 FR 57910, Nov. 24, 1995]

### § 999.300 Regulation governing importation of raisins.

(a) *Definitions.* For purposes of this section:

(1) *Raisins* means grapes from which a part of the natural moisture has been removed.

(2) *Varietal type* means the applicable one of the following: Thompson Seedless raisins, Muscat raisins, Layer Muscat raisins, Currant raisins, Monukka raisins, Other Seedless raisins, and Golden Seedless raisins.

(3) *Thompson Seedless Raisins* includes those raisins commonly referred to in international trade as Sultana raisins and means raisins made from Thompson Seedless (Sultana) grapes and from grapes with characteristics similar to Thompson Seedless (Sultanina) grapes.

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

(5) *Fruit and Vegetable Quality Division* means the Fruit and Vegetable Quality Division of the Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250.

(6) *USDA inspector* means an inspector of the Processed Products Branch, Fruit and Vegetable Quality Division, or any other duly authorized employee of the U.S. Department of Agriculture.

(7) *Importation of raisins* means the release of raisins from custody of the U.S. Customs Service.

(8) *Fruit and Vegetable Division* means the Fruit and Vegetable Division of the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250.

(b) *Grade and size requirements.* The importation of raisins into the United States is prohibited unless the raisins are inspected and certified as provided in this section. Except as provided in paragraph (e)(2) of this section, no person may import raisins into the United States unless such raisins have been in-

## 7 CFR Ch. IX (1-1-99 Edition)

spected and certified by a USDA inspector as to whether or not the raisins are of a varietal type, and if a varietal type, as at least meeting the following applicable grade and size requirements, which requirements are the same as those imposed upon domestic raisins handled pursuant to Order No. 989, as amended (part 989 of this chapter):

(1) With respect to Thompson Seedless raisins—the requirements of U.S. Grade C as defined in the effective United States Standards of Grades of Processed Raisins (§§ 52.1841 through 52.1858 of this title): *Provided*, That at least 70 percent, by weight, of the raisins shall be well-matured or reasonably well-matured. With respect to select-sized and mixed-sized raisin lots, the raisins shall at least meet the U.S. Grade B tolerances for pieces of stem, and undeveloped and substandard raisins, and small (midget) sized raisins shall meet the U.S. Grade C tolerances for those factors;

(2) With respect to Muscat raisins—the requirements of U.S. Grade C as defined in said standards;

(3) With respect to Layer Muscat raisins—the requirements of U.S. Grade B as defined for “Layer or Cluster Raisins with Seeds” in said standards, except for the provisions therein relating to moisture content;

(4) With respect to Currant raisins—the requirements of U.S. Grade B as defined in said standards;

(5) With respect to Monukka and Other Seedless raisins—the requirements for Thompson Seedless Raisins prescribed in paragraph (b)(1) of this section, except that the tolerance for moisture shall be 19 percent rather than 18 percent;

(6) With respect to Golden Seedless raisins—the requirements prescribed in paragraph (b)(1) of this section for Thompson Seedless raisins and the color requirements for “colored” as defined in said standards.

(c) *Inspection and certification requirements.* (1) All inspections and certifications required by paragraph (b) of this section shall be made by USDA inspectors in accordance with the regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products

**Agricultural Marketing Service, USDA**

**§ 999.300**

(part 52 of this title). The cost of each such inspection and certification shall be borne by the applicant.

(2) Each lot of raisins inspected in accordance with paragraph (c)(1) of this section shall be covered by an inspection certificate. Each such certificate shall set forth, among other things, the following:

- (i) The date and place of inspection;
- (ii) The name of the applicant;
- (iii) The name of the importer;
- (iv) The quantity and identifying marks of the lot inspected;
- (v) The statement, as applicable, "Meets U.S. import requirements under section 8e of the AMA Act of 1937" or "Fails to meet U.S. import requirements under section 8e of the AMA Act of 1937"; and
- (vi) If the lot fails to meet the import requirements, a statement of the reasons therefor.

(3) Whenever raisins are offered for inspection, the applicant shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection. The applicant shall also furnish the USDA inspector the entry number and such other identifying information for each lot as he may request. "To avoid delay in scheduling the inspection the applicant should make advance arrangements with the USDA inspection office."

(d) *Reconditioning.* Nothing contained in this section shall preclude the reconditioning of failing lots of raisins prior to importation of raisins in order that such raisins may be made eligible to meet the applicable grade and size requirements in paragraph (b) of this section.

(e) *Exemptions.* (1) Notwithstanding any other provision of this section, any lot of raisins which in the aggregate does not exceed 100 pounds, net weight, may be imported without regard to the restrictions of this section.

(2) Any person may import any lot of raisins which does not meet the applicable grade and size requirements of paragraph (b) of this section for use in the production of alcohol, syrup for industrial use, or which does not meet such requirements with respect to mechanical damage or sugaring for use in the production of raisin paste. Prior to

such importation, such person shall file with the Customs Service Regional Commissioner or District Director, as applicable, at the port at which the customs entry is filed an executed "Raisins—Section 8e Entry Declaration" prescribed in paragraph (e)(2)(i) of this section as "Raisin Form No. 1". Promptly after such filing, such person shall transmit a copy of this form to the Fruit and Vegetable Division. No person may import, sell, or use any raisins which do not meet the applicable grade and size requirements of paragraph (b) of this section other than for use as set forth in this paragraph. Each person importing raisins, which do not meet the applicable grade and size requirements of paragraph (b) of this section, for use in the production of alcohol, syrup for industrial use, or raisin paste shall obtain from each purchaser, not later than the time of delivery to such purchaser, and file with the Fruit and Vegetable Division not later than the fifth day of the month following the month in which the raisins were delivered, an executed "Raisins—Section 8e Certification of Processor or Reseller," prescribed in paragraph (e)(2)(ii) of this section as "Raisin Form No. 2." One copy of this executed form shall be retained by the importer and one copy shall be retained by the purchaser. Each reseller of raisins imported pursuant to this subparagraph should, for his protection, obtain from each purchaser and hold in his files an executed Raisin Form No. 2, covering such sales of such raisins during the calendar year. One copy of this executed form shall be retained by the reseller and one copy shall be retained by the purchaser.

(i) *Raisin Form No. 1.* The following is prescribed as Raisin Form No. 1.

RAISIN FORM NO. 1

RAISIN—SECTION 8E ENTRY DECLARATION

I certify to the U.S. Department of Agriculture and the Bureau of Customs that none of the raisins being imported and which are identified below will be used other than in the production of alcohol, syrup for industrial use, or raisin paste.

- 1. Name of vessel: \_\_\_\_\_
- 2. Country of origin of raisins: \_\_\_\_\_
- 3. Date of arrival: \_\_\_\_\_
- 4. City of arrival: \_\_\_\_\_
- 5. Unloading pier: \_\_\_\_\_

**§ 999.400**

**7 CFR Ch. IX (1-1-99 Edition)**

6. USDA Certificate of Quality and Condition Number: \_\_\_\_\_  
 7. Raisins entered: \_\_\_\_\_

Title: \_\_\_\_\_

Lot or chop mark	Number of containers	Total net weight (pounds)
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

(f) *Books and records.* Each person subject to this section shall maintain true and complete records of his transactions with respect to imported raisins. Such records shall be retained for not less than 2 years subsequent to the calendar year of importation. The Secretary, through his 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 imported raisins held by such person.

I agree to obtain from each person to whom any of the raisins listed above are delivered, an executed Raisin Form No. 2 "Raisins—Section 8e Certification of Processor or Reseller" and to file the same with the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, not later than the fifth day of the month following the month in which the raisins were delivered.

(g) *Other restriction.* The provisions of this section do not supersede any restrictions or prohibitions on the importation of raisins under the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, or any other applicable laws or regulations, or the need to comply with applicable food and sanitary regulations of city, county, State, or Federal agencies.

Dated: \_\_\_\_\_  
 Name of firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_

(h) *Compliance.* Any person violating any of the provisions of this regulation is subject to a forfeiture in the amount prescribed in section 8a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (sections 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), or, upon conviction, a penalty in the amount prescribed in section 8c(14) of said act, or to both such forfeiture and penalty. False representation to an agency of the United States in any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

(ii) *Raisin Form No. 2.* The following is prescribed as Raisin Form No. 2.

RAISIN FORM NO. 2  
 RAISINS—SECTION 8E CERTIFICATION OF  
 PROCESSOR OR RESELLER

I hereby certify to the U.S. Department of Agriculture that I have acquired the raisins covered by this certification; that I will use or sell them for use only in production of alcohol, syrup for industrial use, or raisin paste, as permitted by the Regulation Governing the Importation of Raisins (7 CFR 999.300; 37 FR 5282; 13634) and I am (check one or more if applicable):  
 —Producer of alcohol. —Producer of syrup for industrial use. —Producer of raisin paste. —Reseller.

[37 FR 5282, Mar. 14, 1972, as amended at 37 FR 13635, July 12, 1972; 37 FR 23820, Nov. 9, 1972; 41 FR 52646, Dec. 1, 1976; 43 FR 47972, Oct. 18, 1978; 43 FR 57863, Dec. 11, 1978; 45 FR 65513, Oct. 3, 1980; 47 FR 51731, Nov. 17, 1982; 50 FR 45808, Nov. 4, 1985; 53 FR 34715, Sept. 8, 1988]

1. Date of purchase: \_\_\_\_\_
2. Place of purchase: \_\_\_\_\_
3. Name and address of importer or seller: \_\_\_\_\_
4. USDA Certificate of Quality and Condition Number: \_\_\_\_\_
5. Raisins acquired:

Number of containers	Total net weight (lbs.)
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....
.....	.....

**§ 999.400 Regulation governing the importation of filberts.**

Dated: \_\_\_\_\_  
 Name of firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Signature: \_\_\_\_\_

- (a) *Definitions.* (1) *Filberts* means filberts or hazelnuts.  
 (2) *Inshell filberts* means filberts, the kernels or edible portions of which are contained in the shell.  
 (3) *Shelled filberts* means the kernels of filberts after the shells are removed.

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

(5) *USDA inspector* means a Federal or Federal-State inspector, Food Safety and Quality Service, United States Department of Agriculture, or any other duly authorized employee of the USDA.

(6) *Importation* means release from custody of the United States Bureau of Customs.

(b) *Grade and size requirements.* Except as provided in paragraph (d) of this section, no person shall import into the United States any lot of filberts unless the filberts meet the following requirements, which are identical to those for filberts grown in Oregon and Washington and handled pursuant to Order No. 982, as amended (7 CFR part 982):

(1) *Inshell filberts.* All inshell filberts shall be of a quality equal to or better than the requirements of U.S. No. 1 grade and medium size as defined in the U.S. Standards for Filberts in the Shell (7 CFR part 51), except that the tolerance for insect injury shall be two percent. With this modification, the U.S. No. 1 grade, medium size is identical to the Oregon No. 1 grade, medium size (as defined in the Oregon Grade Standards Filberts in Shell) and prescribed for inshell filberts under Order No. 982, as amended.

(2) *Shelled filberts.* All shelled filberts shall be of a quality equal to or better than the requirements prescribed in exhibit A of this section.

(c) *Inspection and certification requirements.* (1) *General.* Compliance with the grade and size requirements of paragraph (b) of this section shall be determined on the basis of an inspection and certification by a USDA inspector.

(2) *Inspection.* Inspection shall be performed by USDA inspectors in accordance with the Regulations Governing the Inspection and Certification of Fresh Fruits and Vegetables and Related Products (7 CFR part 51). The cost of each such inspection and related certification shall be borne by the applicant. Whenever filberts are offered for inspection, the applicant shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection. The applicant shall also furnish the USDA inspector

the entry number and such other identifying information for each lot as he may request. Inspection must be completed prior to the importation of filberts. The applicant should make advance arrangements with the USDA inspection office to avoid delay in scheduling the inspection.

(3) *Certification.* Each lot of filberts inspected in accordance with paragraph (c)(1) of this section shall be covered by an inspection certificate. Each such certificate shall set forth, among other things, the following:

- (i) The date and place of inspection.
- (ii) The name of the applicant.
- (iii) The name of the importer.
- (iv) The quantity, and identifying marks of the lot inspected.
- (v) The statement, if applicable: "Meets U.S. import requirements under section 8e of the AMA Act of 1937".

(vi) If the lot fails to meet the import requirements, a statement to that effect and the reasons therefor.

(d) *Exemptions.* Notwithstanding any other provisions of this section, the importation of any lot of filberts which does not exceed 115 pounds in net weight shall be exempt from the requirements of this section.

(e) *Reconditioning prior to importation.* Nothing contained in this section shall be deemed to preclude reconditioning filberts prior to importation, in order that such filberts may be made eligible to meet the applicable grade and size regulations prescribed in paragraph (b) of this section.

(f) *Other restrictions.* The provisions of this section do not supersede the Federal Plant Quarantine Act of 1912, the Federal Food, Drug, and Cosmetic Act, or any other applicable laws or regulations or the need to comply with applicable food and sanitary regulations of city, county, State or Federal agencies.

(g) *Compliance.* Any person who violates any provision of this section shall be subject to a forfeiture in the amount prescribed in section 8a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (sections 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), or, upon conviction, a penalty in the amount prescribed in section 8c(14) of said act, or to both such forfeiture and penalty. False representations to any

§ 999.500

7 CFR Ch. IX (1-1-99 Edition)

agency of the United States on any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

EXHIBIT A

GRADE REQUIREMENTS FOR SHELLED FILBERTS

Filbert kernels or portions of filbert kernels shall meet the following requirements:

- (1) Well dried and clean;
- (2) Free from foreign material, mold, rancidity, decay or insect injury; and
- (3) Free from serious damage caused by serious shriveling, or other means.

TOLERANCES

In order to allow for variations incident to proper grading and handling the following tolerances, by weight, are permitted as specified:

- (1) For Foreign Material: 0.02 of one percent, for foreign material.
- (2) For Defects: Five percent for kernels or portions of kernels which are below the requirements of this grade, including not more than the following: Two percent for mold, rancidity, decay or insect injury: *Provided*, That not more than one percent shall be for mold, rancidity, or insect injury.

DEFINITIONS

- (1) *Well dried* means that the kernels are firm and crisp, not containing more than 6 percent moisture.
- (2) *Clean* means practically free from plainly visible adhering dirt or other foreign material.
- (3) *Foreign material* means any substance other than the filbert kernels, or portions of kernels. (Loose skins, pellicles or corky tissue which have become separated from the kernels shall not be considered as foreign material, provided that this material does not exceed .02 of one percent by weight.)
- (4) *Serious damage* means any specific defect described in this section, or any equally objectionable variation of any one of these defects, or any other defects, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual portion of the kernel or of the lot as a whole. The following defects shall be considered as serious damage.
  - (i) *Serious shriveling* means when the kernel is seriously shrunken, wrinkled and tough.
  - (ii) *Mold* means that there is a visible growth of mold either on the outside or inside of the kernel.
  - (iii) *Rancidity* means that the kernel is noticeably rancid to the taste. An oily appearance of the flesh does not necessarily indicate a rancid condition.

(iv) *Decay* means that any portion of the kernel is decomposed.

(v) *Insect injury* means that the insect, frass or web is present, or the kernel or portion of kernel show definite evidence of insect feeding.

[42 FR 64899, Dec. 29, 1977, as amended at 45 FR 63482, Sept. 25, 1980; 47 FR 12612, Mar. 24, 1982; 48 FR 34015, July 27, 1983]

**§ 999.500 Safeguard procedures for walnuts and certain dates exempt from grade, size, quality, and maturity requirements.**

(a) Each person who imports:

- (1) Dates which are donated to needy persons, prisoners or Native Americans on reservations; or
- (2) Walnuts which are: green walnuts (so immature that they cannot be used for drying and sale as dried walnuts); walnuts used in non-competitive outlets such as use by charitable institutions, relief agencies, governmental agencies for school lunch programs, and diversion to animal feed or oil manufacture shall obtain an "Importer's Exempt Commodity Form" (FV-6) from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, and shall show the completed "Importer's Exempt Commodity Form" to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is filed. One copy shall be mailed to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, with a postmark not later than two days after the date of importation and a third copy shall accompany the lot to the exempt outlet specified on the form. Any lot offered for inspection and, all or a portion thereof, imported as exempt under this provision shall be reported on an "Importer's Exempt Commodity Form" and such form, accompanied by a copy of the applicable inspection certificate, shall be mailed to the Marketing Order Administration Branch.
- (b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall also receive a copy of the same numbered Importer's Exempt Commodity Form filed by the importer or customs broker and shall certify, by completing and signing Section II of the

form and mailing the form to the Marketing Order Administration Branch within two days of receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

(c) It is the responsibility of the importer to notify the Marketing Order Administration Branch of any lot of exempt commodity rejected by a receiver, shipped to an alternative exempt receiver, exported, or otherwise disposed of. In such cases, a second "Importer's Exempt Commodity Form" must be filed by the importer providing sufficient information to determine ultimate disposition of the exempt lot and such disposition shall be so certified by the final receiver.

(d) All FV-6 forms and other correspondence regarding entry of 8e commodities must be mailed to the Marketing Order Administration Branch, USDA, AMS, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456, telephone (202) 720-4607. FV-6 forms submitted by fax must be followed by a mailed, original copy of the FV-6. Fax transmissions may be sent to the MOAB at (202) 720-5698.

[61 FR 13060, Mar. 26, 1996]

**§ 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 per-

cent 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, and storage.

(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 1 quality, and shelled peanuts certified negative to aflatoxin (15 ppb or less), may be imported for seed purposes. Re-

siduals from the shelling of Segregation 1 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

Type and grade category	Whole kernels and splits: Maximum Limitations							
	Excluding lots of "splits"							
	Unshelled peanuts and damaged kernels	Unshelled peanuts, damaged kernels and minor defects	Sound split and broken kernels	Fall through	Sound whole kernels	Total	Foreign materials	Moisture
Runner.	1.50%	2.50%	3.00%; <sup>17</sup> / <sub>64</sub> inch round screen	3.00%; <sup>16</sup> / <sub>64</sub> x <sup>3</sup> / <sub>4</sub> inch slot screen	4.00% both screens	.20%	9.00%	
Virginia (except No. 2).	1.50%	2.50%	3.00%; <sup>17</sup> / <sub>64</sub> inch round screen	3.00%; <sup>15</sup> / <sub>64</sub> x 1 inch slot screen	4.00% both screens	.20%	9.00%	
Spanish and Valencia.	1.50%	2.50%	3.00%; <sup>16</sup> / <sub>64</sub> inch round screen	3.00%; <sup>15</sup> / <sub>64</sub> x <sup>3</sup> / <sub>4</sub> inch slot screen	4.00% both screens	.20%	9.00%	
No. 2 Virginia.	1.50%	3.00%	6.00%; <sup>17</sup> / <sub>64</sub> inch round screen	6.00%; <sup>15</sup> / <sub>64</sub> 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%; <sup>17</sup> / <sub>64</sub> inch round screen	3.00%; <sup>16</sup> / <sub>64</sub> x <sup>3</sup> / <sub>4</sub> 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%; <sup>17</sup> / <sub>64</sub> inch round screen	3.00%; <sup>15</sup> / <sub>64</sub> inch slot screen	4.00% both screens	.10%	9.00%	
Spanish & Valencia with splits (not more than 15% sound splits)	1.50%	2.50%	3.00%; <sup>16</sup> / <sub>64</sub> inch round screen	2.00%; <sup>15</sup> / <sub>64</sub> 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%; <sup>17</sup> / <sub>64</sub> inch round screen	3.00%; <sup>14</sup> / <sub>64</sub> x <sup>3</sup> / <sub>4</sub> inch slot screen	4.00% both screens	.20%	9.00%	
Virginia (not less than 90% splits)	2.00%	2.50%	3.00%; <sup>17</sup> / <sub>64</sub> inch round screen	3.00%; <sup>14</sup> / <sub>64</sub> x 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%; <sup>16</sup> / <sub>64</sub> inch round screen	3.00%; <sup>13</sup> / <sub>64</sub> x <sup>3</sup> / <sub>4</sub> 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 1 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: (252) 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

## Agricultural Marketing Service, USDA

§ 999.600

(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, PO Box 96456, room 2049-S, Fruit and Vegetable Programs, AMS, USDA, Washington, DC, 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 50,000 pounds (22,680 kilograms). 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. All lots forwarded to a reconditioning facility must be accompanied by valid PLI 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, (PO 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, (PO Box 1368, zip 36302), Tel: (334) 792-5185, Fax: (334) 671-7984
- Federal-State Inspection Service Laboratory, 201 Broad St., Headland, AL 36345, (PO Box 447, zip 36345-0447), Tel: (334) 693-2729, Fax: (334) 693-2183
- Federal-State Inspection Service Laboratory, 103 Greenville Ave., Goshen, AL 36035, (PO Box 204), Tel: (334) 484-3340, Fax: (334) 484-3340
- Federal-State Inspection Service Laboratory, 805 North Main St., Enterprise, AL 36630, (PO 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., 1200 Wyandotte, Albany, GA 31705, (PO 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 SE 3rd Street, Anadarko, OK 73005, Tel: (405) 247-3266, Fax: (405) 247-3270
- J. Leek Associates, Inc., PO Box 475, Blakely, GA 31723, Tel: (912) 723-9155, Fax: (912) 723-2980
- J. Leek Associates, Inc., 502 West Navarro St., DeLeon, TX 76444, (PO Box 6), Tel: (817) 893-3653, Fax: (817) 893-3640

## Agricultural Marketing Service, USDA

§ 999.600

J. Leek Associates, Inc., PO Box 333, Headland, AL 36345, Tel: (334) 693-9320, Fax: (334) 693-0491

Pert Laboratory South, 721 East Pine Street, Colquitt, GA 31737, (PO Box 396), Tel: (912) 758-9293, Fax: (912) 758-8286

Pert Laboratories, 145 Peanut Drive, Edenton, NC 27932, (PO Box 267), Tel: (252) 482-4456, Fax: (252) 482-5370

Southern Cotton Oil Company, 600 E. Nelson Street, Quanah, TX 79252, (PO Box 180), Tel: (940) 663-5323, Fax: (940) 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, PO 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 § 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 prescribed 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.* (1) 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 in storage or made available for inspection; and a contact name or telephone number at that 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 may include bills-of-lading, transfer certificates, and other documentation showing shipment from the importer, blancher, remiller, warehouse, or other entity, to 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 re-export must include U.S. Customs Service documentation showing exportation from the United States. These documents must be sent to the Marketing Order Administration

## Agricultural Marketing Service, USDA

§ 999.600

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, DC, 20250, Attn: Report of Imported Peanuts. Regular mail should be sent to FV, AMS, USDA, PO Box 96456, Room 2525-S, Washington, DC 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 141.20 and 141.113: *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 this section. 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.

[63 FR 71361, Dec. 24, 1998]