

§ 983.69

§ 983.69 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise, in connection with any provisions of this part or any regulation issued there under,

(b) Release or extinguish any violation of this part or any regulation issued there under, or

(c) Affect or impair any rights or remedies of the Secretary, or of any other persons, with respect to such violation.

§ 983.70 Exemption.

Any handler may handle pistachios within the production area free of the requirements in §§ 983.38 through 983.45 and 983.53 if such pistachios are handled in quantities not exceeding 1,000 dried pounds during any marketing year. This subpart may be changed as recommended by the committee and approved by the Secretary.

Subpart—Rules and Regulations

§ 983.138 Samples for testing.

Prior to testing, a sample shall be drawn from each lot to be used to test pistachios for aflatoxin. The lot sample shall be of sufficient weight to comply with Tables 1 and 2 of § 983.38.

[72 FR 69141, Dec. 7, 2007]

§ 983.141 Procedures for exempting handlers from minimum quality testing.

(a) *Exemption procedures.* The Committee, or its duly authorized agents, shall notify all handlers each year of the opportunity to apply to be exempted from minimum quality testing and handlers shall submit such requests on forms furnished by the Committee. The deadline for submission shall be August 1. The Committee, or its duly authorized agents, shall:

(1) Promptly review all exemption applications received. In reviewing ap-

plications for exemption, the Committee, or its duly authorized agents, shall determine that the quantity of assessed weight pistachios handled during the prior production year was less than 1 million assessed weight pounds and that the applicants are in compliance with the order's reporting requirements and the provisions of § 983.41. Handler compliance will be determined through handler audits;

(2) Complete the review and approve or disapprove requests for exemptions by August 20;

(3) Maintain complete files detailing the reason(s) for the approval or disapproval of each application for at least three years beyond the crop year of applicability; and

(4) Notify in writing all applicants by August 30 of the approval or disapproval of their requests together with the reason(s) for disapproval, if applicable.

(b) *Revocation of exemptions.* A handler's exemption shall be revoked by the Committee, or its duly authorized agents, if the handler fails to provide reports required under § 983.147, or has not complied with the provisions on minimal quality testing in § 983.41, of this part. Additionally, the Committee, or its duly authorized agents, shall revoke an approved exemption when a handler audit reveals that a handler has handled a million pounds or more of assessed weight pistachios during the current production year. The revocation of a handler's exemption shall be made in writing to the handler and shall specify the reason(s) for and the effective date.

(c) *Appeals.* (1) Any handler who believes that he/she has been improperly denied an exemption or improperly had an exemption revoked, may appeal to the Secretary, within 20 days after notification of the Committee's, or agents of the Committee's, decisions. All appeals shall be in writing. When requested by the Secretary, the Committee, or its duly authorized agents, shall forward a file with all pertinent information related to any handler appeal. The Secretary shall inform the handler and all interested persons of the Secretary's decision.