

§ 996.75

7 CFR Ch. IX (1-1-10 Edition)

(4) Commingles failing quality peanuts with certified edible quality peanuts and ships the commingled lot for human consumption use;

(5) Fails to maintain positive lot identification, pursuant to § 996.40(a), on peanut lots certified for human consumption use;

(6) Fails to maintain and provide access to records, pursuant to § 996.71, on the reconditioning or disposition of peanuts acquired by such handler or importer; or

(7) Otherwise violates any provision of section 1308 of the Act or any provision of this part.

(b) Any peanut lot which fails to meet the Outgoing quality standards specified in § 996.31, and is not reconditioned to meet such standards, or is not disposed to non-human consumption outlets as specified in § 996.50, shall be reported by USDA to the Food and Drug Administration and listed on an Agricultural Marketing Service Web site.

§ 996.75 Effective time.

The provisions of this part, as well as any amendments, shall apply to 2003-04 and subsequent crop year peanuts, to 2002-03 and 2001-02 crop year peanuts not yet inspected, or failing peanuts that have not met disposition standards, and shall continue in force and effect until modified, suspended, or terminated.

[68 FR 46924, Aug. 7, 2003]

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.

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

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 Customs entry number pertaining to the lot or shipment covered by the certificate;
- (iv) The variety, 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. 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 or she 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 Form FV-6—‘Importer’s Exempt Commodity Form.’

(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 covered by an inspection certificate containing the statement as to meeting the requirements set forth in paragraph (c)(2)(v) 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 Form FV-6—'Importer's Exempt Commodity Form.' The importer shall promptly transmit a copy of the executed Form FV-6 to the Fruit and Vegetable Division.

(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 Form FV-6.

(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 Form FV-6 certification covering each sale or all sales of a calendar year.

(f) *Filing and retention of certificates.* The executed Form FV-6—'Importer's Exempt Commodity Form' 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 Form FV-6—'Importer's Exempt Commodity Form' 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 accord-

ance 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 Form FV-6, 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

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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; 74 FR 2808, Jan. 16, 2009]

§ 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 di-

ameter 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 Customs entry number pertaining to the lot or shipment covered by the certificate;
- (v) The quantity and identifying marks of the container; and
- (vi) 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.