

§ 999.500

7 CFR Ch. IX (1-1-14 Edition)

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 ker-

nel 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; 74 FR 2809, Jan. 16, 2009]

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

(a) Each person who imports or receives any of the commodities listed in paragraphs (a)(1) through (a)(3) of this section shall file an "Importer's Exempt Commodity Form" (FV-6) with the Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, and shall provide a printed copy of the completed Form FV-6 to the U.S. Customs and Border Protection Regional Director or District Director, as applicable, at the port at which the customs entry is filed. A printed copy shall accompany the lot to the exempt outlet specified on the form. Any lot of any commodity offered for inspection or aflatoxin testing and, all or a portion thereof, subsequently imported as exempt under this provision shall also be reported on an "Importer's Exempt Commodity Form." Such form, accompanied by a copy of the applicable inspection certificate, shall be provided to the Marketing Order and Agreement Division. The applicable commodities are:

(1) Dates which are donated to needy persons, prisoners or Native Americans on reservations;

(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; or

(3) Substandard pistachios which are for non-human consumption purposes.

(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 submitted online, mailed or faxed to the Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone (202) 720-4607; or FAX (202) 720-5698. FV-6 forms submitted by FAX must be followed by a mailed, original copy of the FV-6.

[61 FR 13060, Mar. 26, 1996, as amended at 77 FR 51690, Aug. 27, 2012]

§ 999.600 Regulation governing the importation of pistachios.

(a) *Definitions.* As used in this part:

(1) *Aflatoxin* is one of a group of mycotoxins produced by the molds *Aspergillus flavus* and *Aspergillus parasiticus*. Aflatoxins are naturally occurring compounds produced by molds, which can be spread in improperly processed and stored nuts, dried fruits, and grains.

(2) *Aflatoxin inspection certificate* means a certificate issued by a USDA or USDA-accredited laboratory.

(3) *Certified lots of pistachios* are those for which aflatoxin inspection certificates have been issued.

(4) *Customs* means the U.S. Customs and Border Protection.

(5) *Importation of pistachios* means the release of pistachios from the custody of U.S. Customs and Border Protection.

(6) *Importer* means a person who engages in the importation of pistachios into the United States.

(7) *Inshell pistachios* means pistachios that have shells that have not been removed.

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

(9) *Inspector* means any inspector authorized by USDA to draw and prepare pistachio samples.

(10) *Lot* means any quantity of pistachios that is submitted for testing purposes under this part.

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

(12) *Pistachio* means the nut of the pistachio tree, *Pistachia vera*, whether inshell or shelled.

(13) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his/her stead.

(14) *Shelled pistachios* means pistachio kernels, or portions of kernels, after the pistachio shells have been removed.

(15) *Substandard pistachios* means pistachios, inshell or shelled, that do not comply with the aflatoxin regulations of this section.

(16) *USDA* means the United States Department of Agriculture, including any officer, employee, service, program, or branch of the Department of Agriculture, or any other person acting as the Secretary's agent or representative in connection with any provisions of this section.

(17) *USDA laboratory* means laboratories of the Science and Technology Programs, Agricultural Marketing Service, USDA, that perform chemical analyses of pistachios for aflatoxin content.

(18) *USDA-accredited laboratory* means a laboratory that has been approved or accredited by the U.S. Department of Agriculture to perform chemical analyses of pistachios for aflatoxin content.

(b) *Importation Requirements.* The importation of any lot of pistachios for human consumption is prohibited unless it meets the requirements contained in this section, which are determined to be the same as or comparable