

## Agricultural Marketing Service, USDA

## § 983.57

no handler shall ship pistachios for domestic human consumption unless they meet the applicable requirements as evidenced by certification acceptable to the committee.

[74 FR 56541, Nov. 2, 2009]

### § 983.52 Failed lots/rework procedure.

(a) *Substandard pistachios.* Each lot of substandard pistachios may be reworked to meet aflatoxin or quality requirements. The committee may establish, with the Secretary's approval, appropriate rework procedures.

(b) *Failed lot reporting.* If a lot fails to meet the aflatoxin and/or the quality requirements of this part, a failed lot notification report shall be completed and sent to the committee within 10 working days of the test failure. This form must be completed and submitted to the committee each time a lot fails either aflatoxin or quality testing. The accredited laboratories shall send the failed lot notification reports for aflatoxin tests to the committee, and the handler, under the supervision of an inspector, shall send the failed lot notification reports for the lots that do not meet the quality requirements to the committee.

[74 FR 56542, Nov. 2, 2009]

### § 983.53 Testing of minimal quantities.

(a) *Aflatoxin.* Handlers who handle less than 1 million pounds of assessed weight per year have the option of utilizing both of the following methods for testing for aflatoxin:

(1) The handler may have an inspector sample and test his or her entire inventory of hulled and dried pistachios for the aflatoxin certification before further processing.

(2) The handler may segregate receipts into various lots at the handler's discretion and have an inspector sample and test each specific lot. Any lots that are found to have less aflatoxin than the level established by the committee and approved by the Secretary can be certified by an inspector to be negative as to aflatoxin. Any lots that are found to have aflatoxin exceeding the level established by the committee and approved by the Secretary may be tested after reworking in the same manner as specified in § 983.50.

(b) *Quality.* The committee may, with the approval of the Secretary, establish regulations regarding the testing of minimal quantities of pistachios for quality.

[74 FR 56540, Nov. 2, 2009]

### § 983.54 Commingling.

Certified lots may be commingled with other certified lots, but the commingling of certified and uncertified lots shall cause the loss of certification for the commingled lots.

[74 FR 56540, Nov. 2, 2009]

### § 983.55 Reinspection.

The Secretary, upon recommendation of the committee, may establish rules and regulations to establish conditions under which pistachios would be subject to reinspection.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56540, Nov. 2, 2009]

### § 983.56 Inspection, certification and identification.

Upon recommendation of the committee and approval of the Secretary, all pistachios that are required to be inspected and certified in accordance with this part shall be identified by appropriate seals, stamps, tags, or other identification to be affixed to the containers by the handler. All inspections shall be at the expense of the handler, *Provided*, That for handlers making shipments from facilities located in an area where inspection costs for inspector travel and shipment of samples for aflatoxin testing would otherwise exceed the average of those same inspection costs for comparable handling operations located in Districts 1 and 2, such handlers may be reimbursed by the committee for the difference between their respective inspection costs and such average, or as otherwise recommended by the committee and approved by the Secretary.

[74 FR 56540, Nov. 2, 2009]

### § 983.57 Substandard pistachios.

The committee shall, with the approval of the Secretary, establish such reporting and disposition procedures as it deems necessary to ensure that pistachios which do not meet the

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aflatoxin and quality requirements established pursuant to §§ 983.50 and 983.51 shall not be shipped for domestic human consumption.

[74 FR 56540, Nov. 2, 2009]

### § 983.58 Interhandler transfers.

Within the production area, any handler may transfer pistachios to another handler for additional handling, and any assessments, inspection requirements, aflatoxin testing requirements, and any other marketing order requirements with respect to pistachios so transferred may be assumed by the receiving handler. The committee, with the approval of the Secretary, may establish methods and procedures, including necessary reports, to maintain accurate records for such transfers.

[74 FR 56541, Nov. 2, 2009]

### § 983.59 Modification or suspension of regulations.

(a) In the event that the committee, at any time, finds that by reason of changed conditions, any regulations issued pursuant to §§ 983.50 through 983.58 should be modified or suspended, it shall, pursuant to § 983.43, so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of pistachios in order to effectuate the declared policy of the Act, the Secretary shall modify or suspend such provisions. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the Act, the Secretary shall suspend or terminate such regulation.

(c) The Secretary, upon recommendation of committee, may issue rules and regulations implementing §§ 983.50 through 983.58.

[74 FR 56541, Nov. 2, 2009]

## REPORTS, BOOKS AND RECORDS

### § 983.64 Reports.

Upon the request of the committee, with the approval of the Secretary, each handler shall furnish such reports

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and information on such forms as are needed to enable the Secretary and the committee to perform their functions and enforce the regulations under this part. The committee shall provide a uniform report format for the handlers.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

### § 983.65 Confidential information.

All reports and records furnished or submitted by handlers to the committee which include confidential data or information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler or their customers shall be received by, and at all times kept in the custody and under the control of, one or more employees of the committee, who shall disclose such data and information to no person except the Secretary. However, such data or information may be disclosed only with the approval of the Secretary, to the committee when reasonably necessary to enable the committee to carry out its functions under this part.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

### § 983.66 Records.

Records of pistachios received, held and shipped by him, as will substantiate any required reports and will show performance under this part will be maintained by each handler for at least three years beyond the crop year of their applicability.

[69 FR 17850, Apr. 4, 2004. Redesignated at 74 FR 56541, Nov. 2, 2009]

### § 983.67 Random verification audits.

(a) All handlers' pistachio inventory shall be subject to random verification audits by the committee to ensure compliance with the terms of the order, and regulations adopted pursuant thereto.

(b) Committee staff or agents of the committee, based on information from the industry or knowledge of possible violations, may make buys of handler product in retail locations. If it is determined that violations of the order have occurred as a result of the buys,