

§ 999.400 Regulation governing the importation of filberts.

(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 Customs entry number pertaining to the lot or shipment covered by the certificate;
- (v) The quantity, and identifying marks of the lot inspected.
- (vi) The statement, if applicable: "Meets U.S. import requirements under section 8e of the AMA Act of 1937".

(vii) 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,

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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 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.

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§ 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)