

§ 999.200

7 CFR Ch. IX (1–1–21 Edition)

(g) *Compliance.* Any person violating any of the provisions of this regulation is subject to a forfeiture in the amount prescribed in section 608a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), or, upon conviction, a penalty in the amount prescribed in section 608c(14) of said act, or to both such forfeiture and penalty. False representations in any matter within the jurisdiction of any agency of the United States, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

[29 FR 230, Jan. 9, 1964, as amended at 40 FR 29263, July 11, 1975; 41 FR 2075, Jan. 14, 1976; 42 FR 35146, July 8, 1977; 58 FR 69190, Dec. 30, 1993; 74 FR 2809, Jan. 16, 2009; 85 FR 12296, Mar. 6, 2020]

§ 999.200 Regulation governing the importation of prunes.

(a) *Definitions.* (1) *Prunes* means and includes all sun-dried or artificially dehydrated plums, of any type of variety, produced from plums, except: Sulfur-bleached prunes which are produced from yellow varieties of plums and are commonly known as silver plums; (ii) plums which have not been dried or dehydrated to a point where they are capable of being stored prior to packing, without material deterioration or spoilage unless refrigeration or other artificial means of preservation are used, and so long as they are treated by a process which is in conformity with, or generally similar to, the processes for treatment of plums of that type which have been developed or recommended by the Food Technology Division, College of Agriculture, University of California, for the specialty pack known as “high moisture content prunes”, but this exception shall not apply if and when such plums are dried to the point where they are capable of being stored without material deterioration or spoilage, refrigeration or other artificial means of preservation; and (iii) brine dried prunes that have been impregnated with brine or salt during the dehydration process to the extent that they have lost their form and character as prunes, and cannot be reconstituted to permit economic use of the individual fruits as prunes, and are imported under International Har-

monized Tariff Schedule No. 0813.20.1000.

(2) *Pitted prunes* means prunes with the pit removed that are characterized by a uniform depression and minimal skin break where the pit has been removed.

(3) *Macerated prunes* means dried prunes with the pit removed that are characterized by a flattened appearance with slightly more skin break where the pit has been removed than with pitted prunes.

(4) *Standard prunes* means any lot of prunes meeting the grade and size requirements prescribed in paragraph (b)(1) of this section.

(5) *Standard pitted prunes* means any lot of pitted prunes meeting the grade requirements prescribed in paragraphs (b)(2) and (b)(3) of this section.

(6) *Standard pitted macerated prunes* means any lot of pitted macerated prunes meeting the grade requirements in paragraphs (b)(2) and (b)(4) of this section.

(7) *Manufacturing grade substandard prunes* means any lot of prunes which meets the grade requirements prescribed in paragraph (b)(5) of this section but fails to meet the requirements for standard prunes, standard pitted prunes and standard pitted macerated prunes.

(8) *Size* means the number of prunes contained in a pound.

(9) *Person* means any individual, partnership, corporation, association, or other business unit.

(10) *Fruit and Vegetable Division* means the Fruit and Vegetable Division of the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250.

(11) *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.

(12) *Importation* means release from custody of the U.S. Bureau of Customs.

(13) *Undersized prunes* means those prunes that pass freely through a round opening 23/32 of an inch in diameter.

(b) *Grade and size requirements.* (1) Except as provided in paragraph (b)(5) or paragraph (d) of this section, no person may import any lot of prunes into the

United States unless the prunes are inspected and an inspection certificate issued with respect thereto, and the lot meets the applicable grade requirements specified in exhibit A of this section and the average count (i.e., number) of the prunes in such lot is 100 or less per pound. In determining whether any lot conforms to the size requirement, the following tolerance shall apply: In a sample of 100 ounces, the count per pound of 10 ounces of smallest prunes may not vary from the count per pound of 10 ounces of the largest prunes by more than 45 points.

(2) No person may import any lot of pitted prunes or pitted macerated prunes for human consumption as pitted or pitted macerated prunes unless the lot meets the applicable minimum grade requirements set forth in § 999.200 (exhibit A), except that skin or flesh damage shall not be scored as a defect in determining whether the prunes meet the grade requirements. Pitted and pitted macerated prunes shall not be subject to size and undersized requirements.

(3) No person may import any lot of pitted prunes for human consumption as pitted prunes unless the lot does not exceed an average of 0.5 percent by count of prunes with whole pits and/or pit fragments 2 mm or longer and four of ten subsamples examined have no more than 0.5 percent by count of prunes with whole pits and/or pit fragments 2 mm or longer.

(4) No person may import any lot of pitted macerated prunes for human consumption as pitted macerated prunes unless the lot does not exceed an average of 2 percent by count of prunes with whole pits and/or pit fragments 2 mm or longer; and four of ten subsamples examined have no more than 2 percent by count with whole pits and/or pit fragments 2 mm or longer.

(5) Any person may import any lot of prunes, except any lot containing undersized prunes, pitted prunes or pitted macerated prunes, into the United States for use in human consumption outlets as prune products in which the prunes lose their form and character as prunes by conversion prior to consumption if the prunes are inspected and an inspection certificate issued with respect thereto, and each lot meets the

grade requirements set forth in paragraphs (1), (2), and (3) of exhibit A of this section, and the importer first files as a condition of such importation an executed Form FV-6—'Importer's Exempt Commodity Form.'

(c) *Inspection and certification requirements*—(1) *Inspection*. Inspection shall be performed by a USDA inspector in accordance with the regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products (part 52 of this title). The cost of each such inspection and related certification shall be borne by the applicant.

(2) *Certification*. Each lot of prunes 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 quantity and identifying marks of the lot inspected.
- (v) The statement, as applicable: "Meets U.S. import requirements for standard prunes, standard pitted and standard pitted macerated prunes under section 8e of the AMA Act of 1937"; "Meets U.S. import requirements for manufacturing grade substandard prunes under section 8e of the AMA Act of 1937"; or "Fails to meet U.S. import requirements for prunes under section 8e of the AMA Act of 1937".
- (vi) If the lot fails to meet the import requirements, a statement of the reason therefor.

(d) *Exemptions*. Notwithstanding any other provisions of this section, the importation of any lot of prunes which in the aggregate does not exceed 150 pounds, net weight, and any prunes that are so denatured as to render them unfit for human consumption shall be exempt from the requirements of this section.

(e) *Additional requirements*—(1) *General*. Prior to importation of any prunes, the person importing such prunes shall file an inspection certificate with the Collector of Customs at

the port at which the customs entry is filed. In addition, if such prunes are manufacturing grade substandard prunes, such person shall also file with the Collector of Customs an executed Form FV-6—'Importer's Exempt Commodity Form.' Promptly after such filing, such person shall transmit a copy of this form to the Fruit and Vegetable Division. No person may import, sell, or use any manufacturing grade substandard prunes other than for use as set forth in paragraph (b)(5) of this section. Each person importing manufacturing grade substandard prunes 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 5th day of the month following the month in which the prunes were delivered, an executed Form FV-6—'Importer's Exempt Commodity Form.' One copy of this executed form shall be retained by the importer and one copy shall be retained by the purchaser.

(2) *Manufacturing Grade Substandard Prune—sale by other than importer.* Each wholesaler or other reseller of manufacturing grade substandard prunes should, for his or her protection, obtain from each purchaser and hold in his or her files an executed Form FV-6—'Importer's Exempt Commodity Form' covering each sale during the calendar year.

(f) *Reconditioning.* Nothing contained in this section shall preclude the reconditioning of failing lots of prunes, prior to importation, so that such prunes may be made eligible to meet the requirements prescribed pursuant to paragraphs (b)(1) through (5), as applicable, of this section.

(g) *Books and records.* Each person subject to this section shall maintain true and complete records of his transactions with respect to imported prunes. Such records and copies of executed forms shall be retained for not less than 2 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 prunes held by such person.

(h) *Other restrictions.* The provisions of this section do not supersede any restrictions or prohibitions on the importation of prunes 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.

(i) *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 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

A. *Defects.* Defects are: (1) Off-color; (2) inferior meat condition; (3) end cracks; (4) fermentation; (5) skin or flesh damage; (6) scab; (7) burned; (8) mold; (9) imbedded dirt; (10) insect infestation; (11) decay.

B. *Explanation of terms.* (1) *Off-color* means a dull color or skin differing noticeably in appearance from that which is characteristic of mature, properly handled fruit of a given variety or type.

(2) *Inferior meat condition* means flesh which is fibrous, woody, or otherwise inferior due to immaturity to the extent that the characteristic texture of the meat is substantially affected.

(3) *End cracks* means callous growth cracks, at the blossom end of prunes, aggregating more than three-eighths of one inch ($\frac{3}{8}$ ") but not more than one-half of one inch ($\frac{1}{2}$ ") in length.

(4) *Fermentation* means damage to the flesh by fermentation to the extent that the characteristic appearance or flavor is substantially affected.

(5) *Skin or flesh damage* means growth cracks, splits, breaks in skin or flesh of the following descriptions:

(a) Callous growth cracks, except end cracks as defined in this section, aggregating more than three-eighths of one inch ($\frac{3}{8}$ " in length;

(b) Splits or skin breaks exposing flesh and materially affecting the normal appearance of the prunes;

(c) Any cracks, splits, or breaks open to the pit;

(d) Healed or unhealed surface or flesh blemishes caused by insect injury and which materially affect appearance, edibility or keeping quality.

(6) *Scab* means tough or thick scab exceeding in the aggregate the area of a circle three-eighths of one inch ($\frac{3}{8}$ " in diameter or by unsightly scab of another character exceeding in the aggregate the area of a circle three-fourths of one inch ($\frac{3}{4}$ " in diameter.

(7) *Burned* means injury by sunburn or excessive heat in dehydration to the extent that the characteristic appearance, flavor or edibility of the fruit is noticeably affected.

(8) *Mold* means a characteristic fungus growth and is self-explanatory.

(9) *Imbedded dirt* means the presence of dirt or other extraneous material so imbedded in, or adhering to, the prune that it cannot readily be removed in washing the fruit.

(10) *Insect infestation* means the presence of insects, insect fragments or insect remains.

C. *Maximum tolerances.* Tolerance allowances shall be on a weight basis and shall not exceed the following:

(1) There shall be no tolerance allowance for live insect infestation.

(2) The tolerance allowances for decay shall not exceed one percent (1%).

(3) The combined tolerance allowance for mold, brown rot, imbedded dirt, insect infestation, and decay shall not exceed five percent (5%), and, within such tolerance, brown rot shall not exceed three percent (3%).

(4) The combined tolerance allowance for fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed eight percent (8%).

(5) The combined tolerance allowance for end cracks, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed ten percent

(10%), except that the first eight percent (8%) of end cracks shall be given one-half value and any additional percentage of end cracks shall be given full value.

(6) The combined tolerance allowance for off-color, inferior meat condition, end cracks, fermentation, skin or flesh damage, scab, burned, mold, imbedded dirt, insect infestation, and decay shall not exceed fifteen percent (15%), except that the first eight percent (8%) of end cracks shall be given one-half value and any additional percentage of end cracks shall be given full value.

[36 FR 18782, Sept. 22, 1971, as amended at 47 FR 47230, Oct. 25, 1982; 57 FR 56245, Nov. 27, 1992; 59 FR 38113, July 27, 1994; 60 FR 57910, Nov. 24, 1995; 74 FR 2809, Jan. 16, 2009]

EFFECTIVE DATE NOTE: At 74 FR 2809, Jan. 16, 2009, § 999.200 was suspended indefinitely.

§ 999.300 Regulation governing importation of raisins.

(a) *Definitions.* For purposes of this section:

(1) *Raisins* means grapes from which a part of the natural moisture has been removed.

(2) *Varietal type* means the applicable one of the following: Thompson Seedless raisins, Muscat raisins, Layer Muscat raisins, Currant raisins, Monukka raisins, Other Seedless raisins, Golden Seedless raisins, and Other Seedless-Sulfured raisins.

(3) *Thompson Seedless Raisins* includes those raisins commonly referred to in international trade as Sultana raisins and means raisins made from Thompson Seedless (Sultana) grapes and from grapes with characteristics similar to Thompson Seedless (Sultanina) grapes.

(4) *Person* means any individual, partnership, corporation, association, or other business unit.

(5) *USDA inspector* means an inspector of the Specialty Crops Inspection Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, or any other duly authorized employee of the U.S. Department of Agriculture.

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

(b) *Grade and size requirements.* The importation of raisins into the United States is prohibited unless the raisins