

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.

[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; 85 FR 12296, Mar. 6, 2020]

§ 999.500 Safeguard procedures for walnuts, dates, pistachios, and raisins 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 (4) of this section shall file (electronically or paper) an "Importer's Exempt Commodity Form" (FV-6) with the Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA. A "person who imports" may include a customs broker, acting as an importer's representative (hereinafter referred to as "importer"). A copy of the form (electronic or paper) shall be provided to the U.S. Customs and Border Protection. If a paper form is used, a copy of the form 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, subse-

quently imported as exempt under this provision shall also be reported on an FV-6. Such form (electronic or paper) shall be provided to the Marketing Order and Agreement Division in accordance with paragraph (d) of this section. The applicable commodities are:

(1) Dates which are donated to needy persons, prisoners or Native Americans on reservations; dates for processing; dates prepared or preserved; or dates for packaging or dates in retail packages that fail to meet grade, size, quality, and maturity requirements and are reclassified as dates for processing;

(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;

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

(4) Raisins which do not meet grade and size requirements and are used in the production of alcohol, or syrup for industrial use, or which do not meet grade requirements with respect to mechanical damage or sugaring and are used in the production of raisin paste.

(b) *Certification of exempt use.* (1) Each importer of an exempt commodity as specified in paragraph (a) of this section shall certify on the FV-6 form (electronic or paper) as to the intended exempt outlet (e.g., processing, charity, livestock feed). If certification is made using a paper FV-6 form, the importer shall provide a handwritten signature on the form.

(2) Each receiver of an exempt commodity as specified in paragraph (a) of this section shall also receive a copy of the associated FV-6 form (electronic or paper) filed by the importer. Within two days of receipt of the exempt lot, the receiver shall certify on the form (electronic or paper) that such lot has been received and will be utilized in the exempt outlet as certified by the importer. If certification is made using a paper FV-6 form, the receiver shall provide a handwritten signature on the form.

(c) It is the responsibility of the importer to notify the Marketing Order and Agreement Division 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 FV–6 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 exempt commodities must be submitted electronically, by mail, or by fax to the Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; telephone (202) 720–2491; email ComplianceInfo@ams.usda.gov; or fax (202) 720–5698.

[80 FR 15678, Mar. 25, 2015]

§ 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 to those imposed upon domestic pistachios handled pursuant to Order No. 983, as amended (part 983 of this chapter).

(c) *Maximum aflatoxin tolerance.* No importer shall ship for domestic human