

§ 982.254

(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.

[47 FR 12611, Mar. 24, 1982, as amended at 48 FR 34015, July 27, 1983]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g., sections .300 through .399) and "Marketing percentage" regulations (e.g., sections .200 through .299) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

Subpart—Free and Restricted Percentages

§ 982.254 Free and restricted percentages—2006–2007 marketing year.

The final free and restricted percentages for merchantable hazelnuts for the 2006–2007 marketing year shall be 8.2840 percent and 91.7160 percent, respectively.

[72 FR 2603, Jan. 22, 2007]

Subpart—Assessment Rates

§ 982.340 Assessment rate.

On and after July 1, 2000, an assessment rate of \$0.005 per pound is established for Oregon and Washington hazelnuts.

[65 FR 47247, Aug. 2, 2000]

7 CFR Ch. IX (1–1–08 Edition)

Subpart—Administrative Rules and Regulations

SOURCE: 26 FR 4191, May 16, 1961, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

§ 982.446 Inspection documentation.

Pursuant to § 982.46(b), handlers are required to use the following identification on bags and cartons of 25 pounds or larger capacity which contain certified hazelnuts:

(a) The words "This Produce Inspected and Certified Per Federal Marketing Order No. 982" shall be contained within an outline of the combined States of Oregon and Washington; and

(b) This identification shall be printed on the upper right quarter of the printed side of a bag; or

(c) This identification shall be printed on the upper right quarter of one of the side panels of a carton.

[54 FR 46720, Nov. 7, 1989]

§ 982.450 Application of restricted obligation.

(a) Each handler required to withhold restricted hazelnuts pursuant to § 982.50 or § 982.51 shall hold such hazelnuts separate from all other hazelnuts and shall maintain the identity of each lot so withheld. The restricted product withheld must be reported to the Board on F/H Form 1d, Restricted Inshell Certified.

(b) Each handler making the election pursuant to § 982.50(c) in connection with certified merchantable hazelnuts which have not been handled, shall thereupon give written notification to the Board on F/H Form 4 of the particular election and of the weight and identity of the hazelnuts involved.

(c) Pursuant to § 982.50(d), a handler may withdraw from withholding restricted hazelnuts in excess of such handler's restricted obligation upon advising the Board of the weight and lot identity of the hazelnuts to be withdrawn. When the quantity of restricted hazelnuts to be withdrawn from withholding consists of a part of a lot of ungraded hazelnuts, no part of such lot shall be withdrawn unless the remainder of such lot is reinspected and meets

Agricultural Marketing Service, USDA

§ 982.453

the requirements of §982.51. Handlers will use F/H Form 1d prior to the end of the marketing year or F/H Form 7 after the end of the marketing year, when reporting the withdrawal of restricted hazelnuts from withholding status.

[54 FR 46720, Nov. 7, 1989]

§ 982.452 Disposition of restricted hazelnuts.

(a) *Shelling.* (1) Any person desiring to shell restricted hazelnuts during a fiscal year may do so upon being designated by the Board as an authorized sheller for such year. Application for such designation shall be made in duplicate on F/H Form B and include, in addition to the conditions specified in §982.52(a), the following: (i) The location of the applicant's shelling operation; (ii) the number of years such person has operated a hazelnut shelling plant; and (iii) the daily (8-hour) shelling capacity of the plant. Designation of an authorized sheller shall be effected by the board manager signing the application form and returning a signed copy of the form to the applicant. Each such designation shall continue in effect during the particular fiscal year so long as the authorized sheller is in compliance with the requirements and conditions pursuant to §982.52 applicable to authorized shellers.

(2) When an authorized sheller completes the shelling of a lot of restricted hazelnuts, the sheller shall submit a report thereon to the Board on F/H Form 7 showing: (i) The date shelling was completed; (ii) the inspection certificate or lot number; (iii) the quantity shelled; (iv) the weight of the kernels produced; and (v) the location where restricted hazelnuts were held immediately prior to shelling.

(b) *Exports.* Any handler who desires to act as agent of the Board in negotiating export sales of certified merchantable restricted hazelnuts may do so upon the execution of an "Export Agreement", F/H Form A, wherein the handler agrees, among other things, to negotiate such export sales at not less than such price as the Board may prescribe, and in conformity to and compliance with the other terms and conditions of the Export Agreement including those set forth in §982.52(b).

(c) *Other authorized outlets.* Under the direction or supervision of the Board, a handler may dispose of restricted hazelnuts for charitable purposes and for promoting the consumption of hazelnuts on behalf of the hazelnut industry in general. The report required under §982.67(b) following each such disposition shall be accompanied by a certification by the person receiving such hazelnuts from the handler that they will be used for charitable or promotional purposes, as authorized.

[26 FR 4191, May 16, 1961. Redesignated at 26 FR 12751, Dec. 30, 1960, and amended at 54 FR 46721, Nov. 7, 1989]

§ 982.453 Disposition of substandard hazelnuts.

The Board shall maintain a list of approved users who are crushers, livestock feed manufacturers, or livestock feeders, and of the locations of the facilities to which substandard hazelnuts may be shipped. Users interested in purchasing substandard hazelnuts or hazelnut waste must make prior application to the Board on F/H Form D to be included on the approved list of such users. Each handler who disposes of substandard hazelnuts to an approved user shall, upon shipment, report to the Board on F/H Form D1 the quantities disposed of or shipped. Substandard hazelnuts disposed of to an approved user may only be shipped directly to an approved location where the crushing, feed manufacture, or feeding is to take place. The Board may deny approval to any user application, or may remove any user from the approved list when such denial or removal is deemed necessary to ensure control over disposition of substandard hazelnuts. This may occur if the Board determines that substandard hazelnuts are not properly shipped to, or utilized at, approved facilities, in compliance with this requirement. F/H Form D includes the location and description of the disposal facilities to be used as well as a certification to the Board and the Secretary of Agriculture that the applicant will:

(a) Crush, manufacture feed, or feed to livestock such hazelnuts at the location;

(b) Use such hazelnuts for no other purpose than for crushing into oil,