

## Agricultural Marketing Service, USDA

## § 983.48

(b) *Minimum quality.* Handlers who handle less than 1 million pounds of assessed weight can apply to the committee for an exemption from minimum quality testing. If the committee grants an exemption, then the handler must pull and retain samples of the lots and make samples available for review by the committee. The handler shall maintain the samples for 90 days.

EFFECTIVE DATE NOTE: At 72 FR 69141, Dec. 7, 2007, in §983.41, paragraph (b) was suspended, effective December 10, 2007.

### § 983.42 Commingling.

After a lot is issued an aflatoxin inspection certificate and minimum quality certificate, it may be commingled with other certified lots.

EFFECTIVE DATE NOTE: At 72 FR 69141, Dec. 7, 2007, in §983.42, the words “and minimum quality certificate” were suspended, effective December 10, 2007.

### § 983.43 Reinspection.

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

### § 983.44 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.

### § 983.45 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 outgoing maximum aflatoxin tolerance and minimum quality requirements prescribed by §§983.38 and 983.39 shall not be shipped for domestic human consumption.

EFFECTIVE DATE NOTE: At 72 FR 69141, Dec. 7, 2007, in §983.45, the words “and minimum quality requirements,” the first “§,” and

“and 983.39” were suspended, effective December 10, 2007.

### § 983.46 Modification or suspension of regulations.

(a) In the event that the committee, at any time, finds that the order provisions contained in §§983.38 through 983.45 should be modified or suspended, it shall by vote of at least seven concurring members, 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 the aflatoxin or minimum quality provisions in §§983.38 and 983.39 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 committee, with the approval of the Secretary, may issue rules and regulations implementing §§983.38 through 983.45.

EFFECTIVE DATE NOTE: At 69 FR 17850, Apr. 4, 2004, part 983 was added, effective April 6, 2004, except for §§983.38 through 983.46, which are effective Aug. 1, 2004. At 69 FR 44460, July 26, 2004, the effective date was delayed to February 1, 2005. At 70 FR 661, Jan. 5, 2005, the effective date was further delayed to August 12, 2005. At 70 FR 4191, Jan. 28, 2005, the effective date was corrected to August 1, 2005.

## REPORTS, BOOKS AND RECORDS

### § 983.47 Reports.

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

### § 983.48 Confidential information.

All reports and records furnished or submitted by handlers to the committee which include confidential data

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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.

**§ 983.49 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.

**§ 983.50 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, the matter will be referred to the Secretary for appropriate action.

**§ 983.51 Verification of reports.**

For the purpose of checking and verifying reports filed by handlers or the operation of handlers under the provisions of this part, the Secretary and the committee, through their duly authorized agents, shall have access to any premises where pistachios and records relating thereto may be held by any handler and at any time during reasonable business hours, shall be permitted to inspect any pistachios so held by such handler and any and all records of such handler with respect to the acquisition, holding, or disposition of all pistachios which may be held or

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which may have been shipped by him/her.

**EXPENSES AND ASSESSMENTS**

**§ 983.52 Expenses.**

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each production year for the maintenance and functioning of the committee and for such other purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

**§ 983.53 Assessments.**

(a) Each handler who receives pistachios for processing in each production year shall pay the committee on demand, an assessment based on the *pro rata* share of the expenses authorized by the Secretary for that year attributable to the assessed weight of pistachios received by that handler in that year.

(b) The committee, prior to the beginning of each production year, shall recommend and the Secretary shall set the assessment for the following production year, which shall not exceed one-half of one percent of the average price received by producers in the preceding production year. The committee, with the approval of the Secretary, may revise the assessment if it determines, based on information including crop size and value, that the action is necessary, and if the revision does not exceed the assessment limitation specified in this section and is made prior to the final billing of the assessment.

**§ 983.54 Contributions.**

The committee may accept voluntary contributions but these shall only be used to pay for committee expenses.

**§ 983.55 Delinquent assessments.**

Any handler who fails to pay any assessment within the time required by the committee, shall pay to the committee a late payment charge of 10 percent of the amount of the assessment determined to be past due and, in addition, interest on the unpaid balance at the rate of one and one-half percent per month. The late payment and interest