

(i) *Shell pieces* means open inshell without a kernel, half shells or pieces of shell which are loose in the sample.

(ii) *Blanks* means a non-split shell not containing a kernel or containing a kernel that fills less than one-half of the shell cavity.

(iii) *Foreign material* means leaves, sticks, loose hulls or hull pieces, dirt, rocks, insects or insect fragments not attached to nuts, or any substance other than pistachio shells or kernels. Glass, metal or live insects shall not be permitted.

(iv) *Particles and dust* means pieces of nut kernels that will pass through $\frac{5}{64}$ inch round opening.

(v) *Undersized* means inshell pistachios that fall through a $\frac{30}{64}$ -inch round hole screen.

(c) *Minimum quality certificate*. Each shipment for domestic human consumption must be covered by a USDA certificate certifying a minimum quality or higher. Pistachios that fail to meet the minimum quality specifications shall be disposed of in such manner as described in § 983.40.

(d) *Transfers between handlers*. Transfers between handlers within the production area are exempt from the minimum quality regulation of this section.

(e) *Minimum quality testing procedures*. To obtain a minimum

quality certificate, each lot to be certified shall be uniquely identified, shall be traceable from testing through shipment by the handler and shall be subjected to the following procedure:

(1) *Sampling of pistachios for maximum defects and minimum size*. The gross weight of the inshell and kernel sample, and number of samplings required to meet the minimum quality regulation, is shown in Table 4 of this paragraph (e)(1). These samples shall be drawn from the lot that is to be certified pursuant to § 983.38(d)(1) under the supervision of an inspector or as approved under an alternative USDA recognized inspection program.

TABLE 4.—INSHELL AND KERNEL PISTACHIO LOT SAMPLING INCREMENTS FOR MINIMUM QUALITY CERTIFICATION

Lot weight (lbs.)	Number of incremental samples for the lot sample	Total weight of lot sample (grams)	Weight of inshell and kernel test sample (grams)
220 or less	10	500	500
221–440	15	500	500
441–1100	20	600	500
1101–2200	30	900	500
2201–4400	40	1200	500
4401–11,000	60	1800	500
11,001–22,000	80	2400	1000
22,001–150,000	100	3000	1000

(2) *Testing of pistachios for maximum defect and minimum size*. The sample shall be analyzed according to USDA protocol, current or as subsequently revised, to insure that the lot does not exceed maximum defects and meets at least the minimum size levels as specified in Table 3 of paragraph (a) of this section. For inshell pistachios, those nuts with dark stain, adhering hull, and those exhibiting apparent serious defects shall be shelled for internal kernel analysis. The USDA protocol currently appears in USDA inspection instruction manual “Pistachios in the Shell, Shipping Point and Market Inspection Instructions,” June 1994; revised September 1994, HU–125–9(b). Copies may be obtained from the Fresh Products Branch, Agricultural Marketing Service, USDA. Contact information may be found at <http://www.ams.usda.gov/fv/fvstand.htm>.

(f) *Certification of minimum quality*. Each inspector shall complete minimum quality testing and reporting and shall certify that every lot of California pistachios or portion thereof shipped domestically meets minimum quality levels. A record of each test, along with a record of final shipping disposition, shall be kept by each handler. These

records must be maintained for three years following the production year in which the pistachios were shipped, and are subject to audit by the committee at any time.

§ 983.40 Failed lots/rework procedure.

(a) *Substandard pistachios*. Each lot of substandard pistachios may be reworked to meet minimum quality requirements.

(b) *Failed lot reporting*. If a lot fails to meet the aflatoxin and/or the minimum quality requirements of this part, a failed lot notification report shall be completed and sent to the committee within 10 working days of the test failure. This form must be completed and submitted to the committee each time a lot fails either aflatoxin or the minimum quality testing. The accredited laboratories shall send the failed lot notification reports for aflatoxin tests to the committee, and the handler, under the supervision of an inspector, shall send the failed lot notification reports for the lots that do not meet the minimum quality requirements to the committee.

(c) *Inshell rework procedure for aflatoxin*. If inshell rework is selected as a remedy to meet the aflatoxin requirements of this part, then 100% of the product within that lot shall be

removed from the bulk and/or retail packaging containers and reworked to remove the portion of the lot that caused the failure. Reworking shall consist of mechanical, electronic or manual procedures normally used in the handling of pistachios. After the rework procedure has been completed the total weight of the accepted product and the total weight of the rejected product shall be reported to the committee. The reworked lot shall be sampled and tested for aflatoxin as specified in § 983.38 except that the lot sample size and the test sample size shall be doubled. The reworked lot shall also be sampled and tested for the minimum quality requirements. If, after the lot has been reworked and tested, it fails the aflatoxin test for a second time, the lot may be shelled and the kernels reworked, sampled and tested in the manner specified for an original lot of kernels, or the failed lot may be used for non-human consumption or otherwise disposed of.

(d) *Kernel rework procedure for aflatoxin*. If pistachio kernel rework is selected as a remedy to meet the aflatoxin requirements of § 983.38, then 100% of the product within that lot shall be removed from the bulk and/or retail packaging containers and