

averaged aflatoxin level of the Test Samples #1 and #2 is at or above 20 ppb, the lot fails and the accredited laboratory shall fill out a failed lot notification report as specified in § 983.40. If the averaged aflatoxin level of Test Sample #1 and #2 is above 10 ppb and below 20 ppb, the accredited laboratory may, at the handler's discretion, analyze Test Sample #3 and the results of Test Samples #1, #2 and #3 will be averaged. Alternatively, the handler may elect to withdraw the lot from testing, re-work the lot, and re-submit it for testing after a re-working. If the handler directs the laboratory to proceed with the analysis of Test Sample #3, a lot will be certified as negative to aflatoxin and the laboratory shall issue an aflatoxin inspection certificate if the averaged results of Test Samples #1, #2 and #3 is at or below 15 ppb. If the averaged aflatoxin results of

Test Samples #1, #2 and #3 is above 15 ppb, the lot fails and the accredited laboratory shall fill out a failed lot notification report as specified in § 983.40. The accredited laboratory shall send a copy of the failed lot notification report to the committee and to the failed lot's owner within 10 working days of any failure described in this section. If the lot is certified as negative as described in this section, the aflatoxin inspection certificate shall certify the lot using a certification form identifying each lot by weight, grade and date. The certification expires for the lot or remainder of the lot after 12 months.

(5) *Certification of aflatoxin levels.* Each accredited laboratory shall complete aflatoxin testing and reporting and shall certify that every lot of California pistachios shipped domestically does not exceed the aflatoxin levels as required in

§ 983.38(d)(4). Each handler shall keep a record of each test, along with a record of final shipping disposition. These records must be maintained for three years beyond the crop year of their applicability, and are subject to audit by the Secretary or the committee at any time.

(6) *Test samples that are not used for analysis.* If a handler does not elect to use Test Samples #2 or #3 for certification purposes the handler may request the laboratory to return them to the handler.

§ 983.39 Minimum quality levels.

(a) *Maximum defect and minimum size.* No handler shall ship for domestic human consumption, pistachios that exceed permissible maximum defect and minimum size levels shown in the following Table 3 of this paragraph.

TABLE 3.—MAXIMUM DEFECT AND MINIMUM SIZE LEVELS

Factor	Maximum permissible defects (percent by weight)	
	Inshell	Kernels
EXTERNAL (SHELL) DEFECTS		
1. Non-splits & not split on suture	10.0	.....
(i) Maximum non-splits allowed	4.0	.....
2. Adhering hull material	2.0	.....
3. Dark stain	3.0	.....
4. Damage by other means, other than 1, 2 and 3 above, which materially detracts from the appearance or the edible or marketing quality of the individual shell or the lot.	10.0	.....
INTERNAL (KERNEL) DEFECTS		
1. Damage: Immature kernel (Fills <75%—>50% of the shell); Kernel spotting (Affects 1/8 aggregate surface)	6.0	3.0
2. Serious damage: Minor insect or vertebrate injury/insect damage, insect evidence, mold, rancidity, decay	4.0	2.5
(i) Maximum insect damage allowed	2.0	0.5
Total external or internal defects allowed	9.0	.....
OTHER DEFECTS		
1. Shell pieces and blanks (Fills <50% of the shell)	2.0	.....
(i) Maximum blanks allowed	1.0	.....
2. Foreign material, No glass, metal or live insects permitted	0.25	0.1
3. Particles and dust	0.25	.....
4. Loose kernels	6.0	.....
		Minimum permissible defects (percent by weight)
Maximum allowable inshell pistachios that will pass through a 30/64 inch round hole screen	5.0	.....

(b) *Definitions applicable to permissible maximum defect and minimum size levels:* The following definitions shall apply to inshell pistachio and pistachio kernel maximum defect and minimum size:

(1) *Loose kernels* means kernels or kernel portions that are out of the shell

and which cannot be considered particles and dust.

(2) *External (shell) defects* means any abnormal condition affecting the hard covering around the kernel. Such defects include, but are not limited to, non-split shells, shells not split on suture, adhering hull material or dark stains.

(3) *Damage by external (shell) defects* shall also include any specific defect described in paragraphs (b)(3)(i) through (iv) of this section or an equally objectionable variation of any one of these defects, any other defect or any combination of defects which materially detracts from the appearance or the