

CPG Sec. 550.230 Cherries, Canned - Misbranding Involving Food Standards

REGULATORY ACTION GUIDANCE:

The following represents criteria for direct reference seizure *requests to the Office of Human and Animal Food Operations (OHAFO) in consultation with the Office of Enforcement and Import Operations (OEIO) and CFSAN, and for direct citation by the appropriate Field Office within the Human and Animal Food Program*:

1. Pits - (21 CFR 145.125 (b)(1)(i))

The canned pitted cherries contain more than one pit per 20 ounces.

2. Blemish (See Note 1 and Note 2) - (21 CFR 145.125 (b)(1)(v))

- a. More than 15 percent by count of the cherries are blemished in all cans examined;

or

- b. The average of all cans examined is more than 15 percent by count blemished cherries and one-half or more of the cans contain 20 percent or more blemished cherries.

NOTES:

1. Examine the entire contents of at least 12 cans for cans smaller than #10. Examine 100 cherries at random from each at least six cans of #10 size.
2. Brown discolorations or "freckles" due to cherry rust are not considered as blemish unless the concentration and intensity is such that the appearance is unsightly and objectionable. Refer borderline samples containing cherry rust to CFSAN/Office of *Compliance/Division of Field Programs/Low Acid and Acidified Foods Team* for examination. Mottling on Royal Ann and other light-skinned cherry varieties normally occurs from cooking during canning and is not considered to be a blemish.

REMARKS:

Seizures involving these products must be discussed with the U.S. Department of Agriculture. *E-mail* or FAX the following information to CFSAN/Office of *Compliance*/Division of Enforcement (HFS-605) and await reply before processing:

Sample Number

Article Involved

Amount of Lot
Codes

Date of Shipment

Dealer

Shipper

Analytical Conclusions

SPECIMEN CHARGE:

1. PITS

Article misbranded when introduced into and while in interstate commerce, within meaning of 21 U.S.C. 343(h)(1), in that it purports to be and is represented as canned pitted cherries, a food for which a standard of quality has been prescribed by regulation (21 CFR 145.125(b)) promulgated pursuant to 21 U.S.C. 341, and its quality falls below such standard, since section 145.125(b)(1)(i) of such standard provides that in canned pitted cherries of standard quality there is not more than 1 pit in each 20 ounces of canned cherries as determined by the method prescribed in such standard; whereas, the article contains more than 1 pit in each 20 ounces, as determined by the method prescribed in such standard, and its label fails to bear, in such manner and form as such regulations specify, a statement that it falls below such standard.

2. BLEMISH

Article misbranded when introduced into and while in interstate commerce, within meaning of 21 U.S.C. 343(h)(1), in that it purports to be and is represented as canned cherries, a food for which a standard of quality has been prescribed by regulation (21 CFR 145.125(b)) promulgated pursuant to 21 U.S.C. 341, and its quality falls below such standard since section 145.125(b)(1) (v) of such standard provides that in canned cherries of standard quality not more than 15 percent by count of the cherries in the container are blemished with scab, hail injury, discoloration, scar tissue, or other abnormality; whereas, more than 15 percent by count of the cherries in the container of the article are blemished with scab, hail injury, discoloration, scar tissue, or other abnormality, and its label fails to bear, in such manner and form as such regulations specify, a statement that it falls below such standard.

Material between asterisks is new or revised

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