

the Almond
CONFERENCE
2019

How to Deal with Rejection

 **california
almonds**
Almond Board of California

Session Speakers

Geoffrey Bogart, ABC

Nico Blonk, Synergy Food Ingredients and Processing

Tim Birmingham, ABC





How to Deal with Rejection

Tuesday, December 10, 2019

Topics to be Covered Today

- Why did we do this session?
- What do we mean by rejection? What are the main options for dealing with a rejected consignment?
 - Reprocessing in the EU. Yes you can do it (Spain and the Netherlands)
 - Return Goods to the U.S. (EU and Japan)
- You can also ship to a Non-EU Market (MRL); or destroy the Consignment (rare)
- Costs of Rejection
- What is ABC Doing?
- Role of the Foreign Agricultural Service/US Embassy
- General Discussion and Q and A

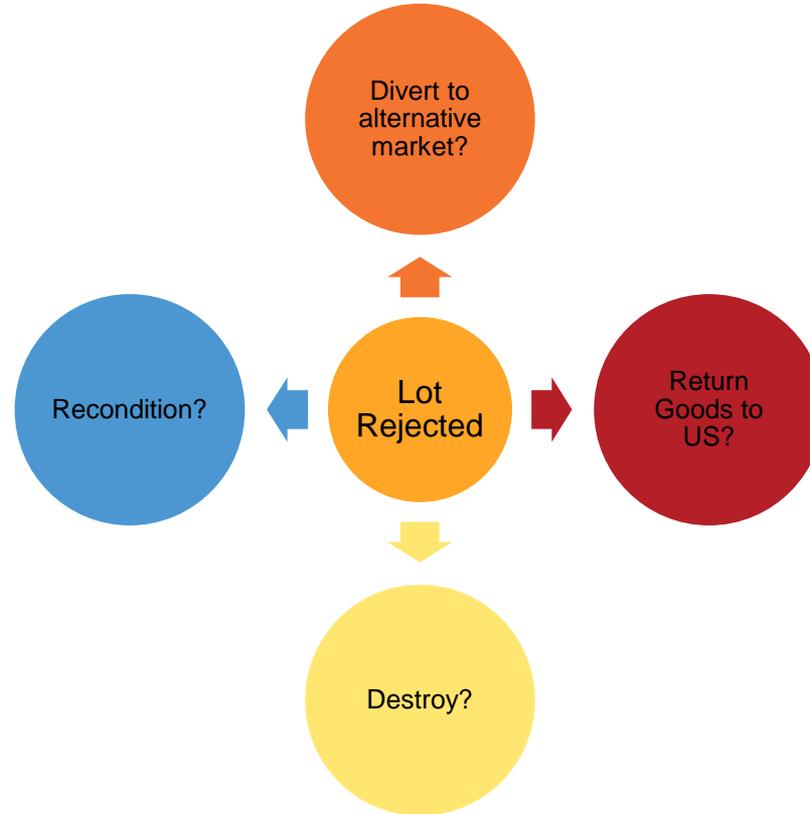
Rejection Defined for Today's Seminar

Definition of Rejection: Consignment that is denied entry into the EU or Japan for exceeding approved Aflatoxin Tolerances of 10 ppb. (In a few cases, hygiene and salmonella have also been the basis for rejection)

- The focus will be primarily on the European Union for this discussion, however....
- We are very aware that Aflatoxin issues in Japan are a real concern
- Tim's talk on Goods Return will apply to EU and Japan or anywhere else a rejection must be shipped back to the U.S.

How to Deal With Rejection – What Are My Options?

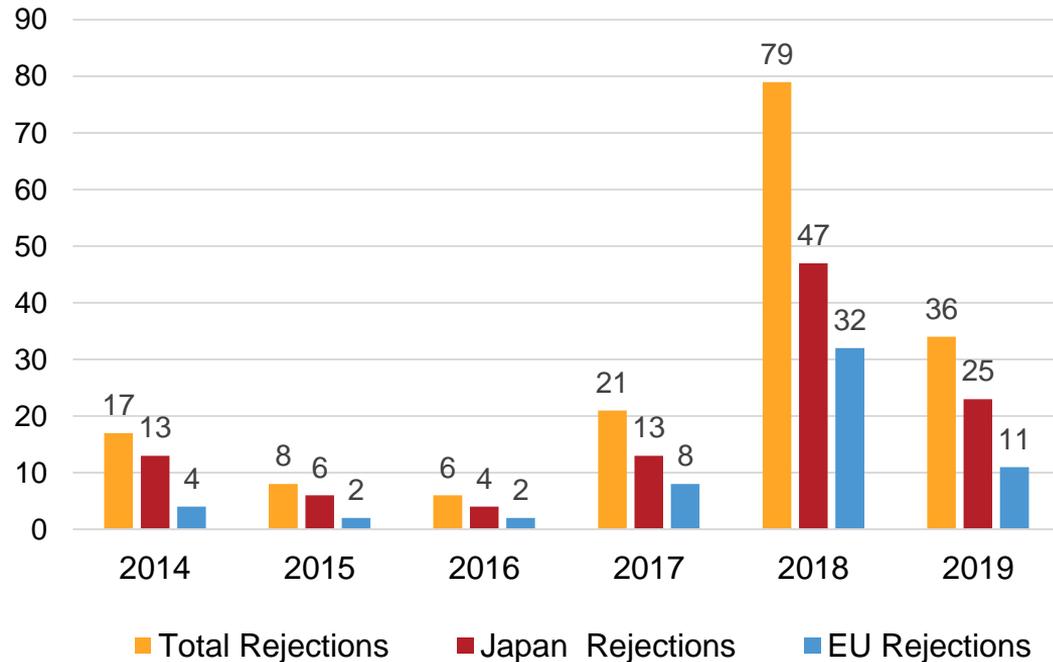
- Ultimately what you do with the product will be depend upon:
 - Specific Country Requirements
 - Practicality
 - Customer Needs
 - Costs



EU & Japan Aflatoxin Historical Rejections

- # of Rejections is low on a percentage basis.....
- But # of rejections is still significant
 - Particularly if you are one of the “lucky” ones!
- Rejections trending lower this year
- Will continue to have to deal with rejection as crop grows

Aflatoxin Rejections



Latest on Japan Aflatoxin Inspections

- To date, 25 consignments rejected for aflatoxin; only option, Return to US
- Japan is still inspecting at the 100% level
- MHLW unwilling to engage with industry on “policy” matters
- Trade supportive of ABC initiative
- ABC recent meetings in Tokyo with USDA/FAS agreed to a strategy – workplan now being developed
- ABC working with FAS to engage MHLW
- Hoping to build on success of EU recognition of equivalent systems
- No PEC program for Japan contemplated



Addressing Aflatoxin Issues in Europe



REPROCESSING IN EUROPE

- Companies in Spain, Netherlands identified
- Handler Notice and FAQs have been distributed
- Spanish rejects reprocessed (Rotterdam and Spain)
- Staff continuing to visit authorities, ports, trade



PEC < 1% INSPECTION

- EU Commission Services issue an internal RASFF notice
- Confirms to Competent Authorities that the frequency of controls for U.S. almonds under Regulation (EU) 2015/949 are again applicable (meaning, return to < 1%)



U.S. GOODS RETURN

- Delays, inconsistencies raised with local FDA authorities
- ABC working with FDA offices in DC
- Reprocessing plan template drafted for discussion
- Engaging AMS re MOU with FDA for USDA-approved labs

Typical Rejection Scenario:

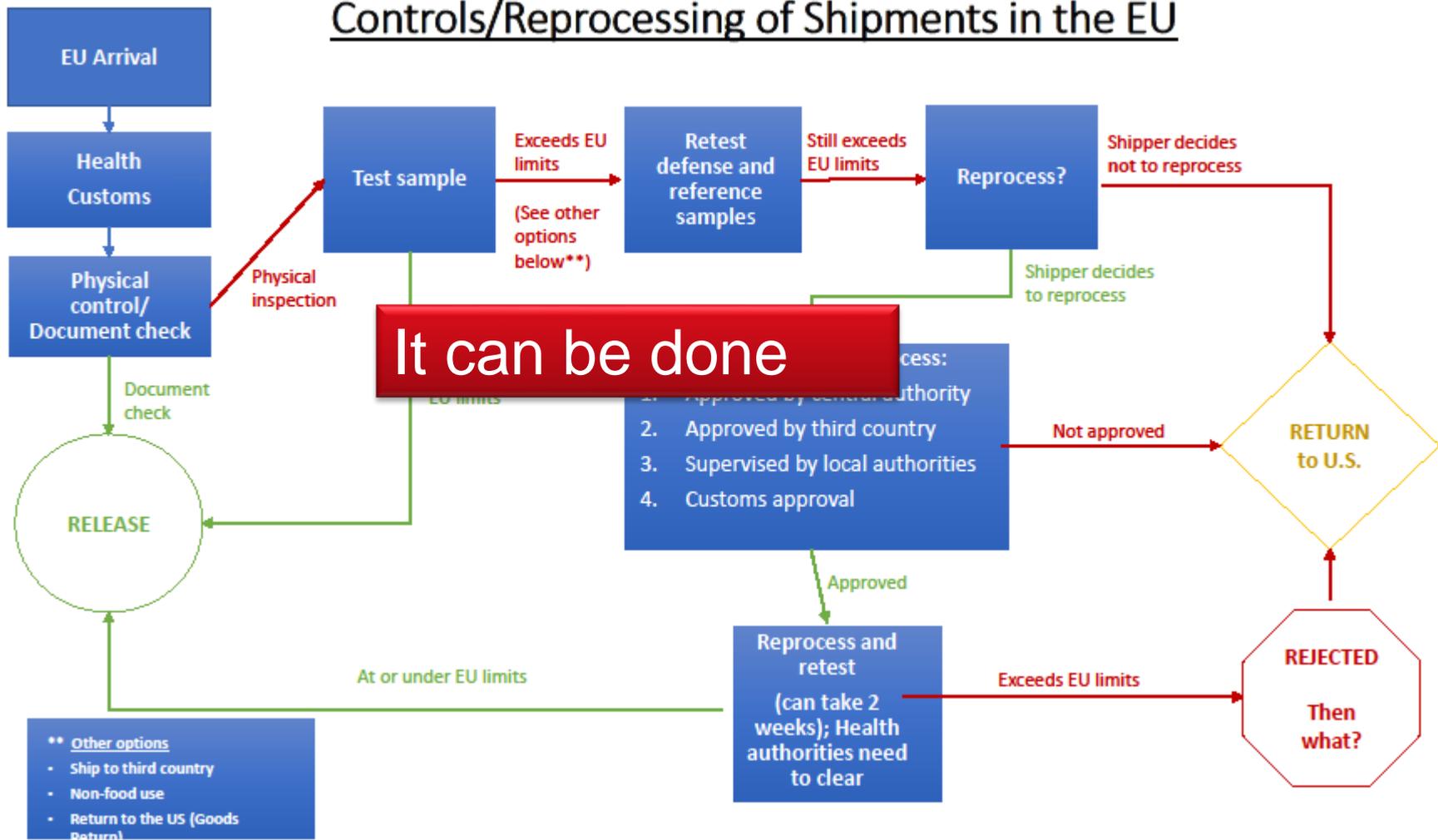
- Your consignment was PEC-certified in California
- It leaves Port of Oakland on-time headed to Spain; your buyer is notified that all is well
- The consignment arrives three weeks later in Valencia, Spain
- Valencia Health Authorities inspect the load; samples are taken
- The Aflatoxin lab results come back as **24 ppb**. Valencia health authority rejects the consignment
- You get that dreaded email from your buyer. **You shout an expletive**, and then you call Geoffrey Bogart at the Almond Board
- What happens next?

What Next?

- If there is an actual “Rapid Alert Border Rejection” that has been issued, ABC gets it from Brussels. We will contact the exporter if we did not hear from you first. Not all rejections become alerts
- With or without an Alert, ABC will need to collect as much detail from the Handler/trading company;
 - Container Number; Vessel; Date of Arrival in Foreign Port, (If PEC, #); EU lab reports
- We will review the requirements for each option you have and share any anecdotal information to help you decide what you want to do with the rejected consignment.
- As needed, ABC will liaise with U.S. Embassy in country of rejection to facilitate communications with port health officials
- Once completed, ABC will then communicate with the EU in Brussels as to the final disposition if there is a Rapid Alert published

Reprocessing in the European Union

Controls/Reprocessing of Shipments in the EU



It can be done

- ** Other options**
- Ship to third country
 - Non-food use
 - Return to the US (Goods Return)

Estimated Costs of Rejection*—Reprocessing vs. Return to U.S.

Reprocessing in the EU	Returning Consignment to the US
<p><u>Transportation:</u> Send load to Re-processor. (Cost will depend on distance, etc.)</p>	<p><u>Transportation:</u> Estimated \$4-5,000 per container in just shipping costs to port in the U.S.</p>
<p><u>Demurrage</u> (\$100 per day). Make sure buyer/importer makes logistics arrangements to avoid excessive delays.</p>	<p><u>Demurrage:</u> (\$100 per day). Number of days will vary</p>
<p><u>Reconditioning:</u> \$1,200 (40,000 lbs. @ \$0.03 cents)</p>	<p><u>Reconditioning:</u> If required upon return. Cost will depend on reconditioning plan</p>
<p><u>Retesting:</u> \$250-500, depending on how samples are taken, third-party involvement, etc.</p>	<p><u>Retesting:</u> \$250-500, depending on how samples are taken, third-party involvement, etc.</p>
<p>* <i>Based on estimates from industry</i></p>	

Reprocessing in the Netherlands: Conversation with Nico Blonk, Synergy Food

- Who ?
- What ?
- When ?
- Where ?
- How ?
- Issues?



Nico Blonk, Synergy Food Ingredients and Processing

Nico.blonk@synergyfood.nl

www.synergyfood.nl

Tips for Reprocessing

- Make the decision **soon** to reprocess after a rejection is issued; the longer you wait, the more it will cost in demurrage, etc.
- Check with your buyer and other involved parties that they are willing to facilitate the reprocessing; confirm their ability to do so and potential time to reprocess
- Lost in the translation; details can be mis-interpreted; ok to call
- Contact the Almond Board for any additional assistance and background information





What's ABC Doing?

ABC Visits to Port Officials in 2019
Barcelona, Valencia, and Naples



GTRA Visit to Spain and Italy, September 2019

- Efforts to address ongoing issues involving inspections, reprocessing snags
- Visits with authorities in Spain (Madrid and Valencia) and Italy (Rome and Napoli)
- Meetings focused on
 - Reviewing improved crop quality,
 - Communications regarding the return to < 1% controls established by Brussels
- Progress made on securing Government of Italy support to allow reprocessing of aflatoxin consignments in Italy
- Ground-work laid for TASC-funded workshops in Italy, Spain next April
 - Geared towards educating port officials and inspectors on the PEC program and quality controls
- EU Port officials will be invited to California next Spring





How to Deal With Rejection – Goods Returned

Tim Birmingham, Almond Board of
California

U.S. Goods Returned – Why Do We Have to Jump Through Hoops

FDA treats all goods entering U.S. Ports as Imports – Regardless of country of origin



- All Imports are subject to Customs Border Protection (CBP) and Food and Drug Administration Scrutiny
 - Prior Notice (Advanced Notice) must be provided

U.S. Goods Returned: 3 Part Process

1. Get the product back onto US soil
2. Prepare & Submit a reconditioning plan
 - Only required if Detention Notice is received by FDA
3. Reconditioning – Carrying out the Plan

Note: If aflatoxin rejection $>20\text{PPB}$ in foreign port expect and prepare for FDA detention notice “Notice of FDA Action” upon return



1. Getting the Product Back

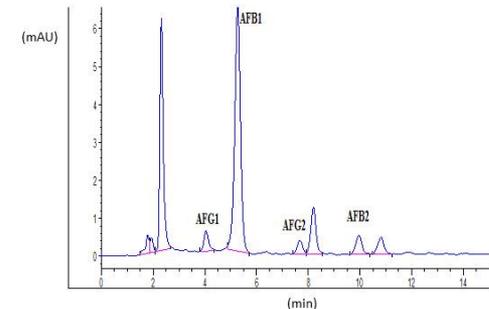
1. Notify ABC
 - ABC will issue official “Goods Returned Letter” to EU authorities for return to U.S. (if required)
2. Contact Licensed Customs Broker
3. Prepare for Detention Notice - “Notice of FDA Action”
 - Handler will have a limited amount of time to submit a plan to bring the product into compliance after notice issued

Tip: Use transit time to translate official notices (e.g. aflatoxin analysis) to English and submit along with original to FDA through ITACS System



The “Detailed” Reconditioning Plan

- Company Information
 - Company name, address, contact, contact info, description
- Returned Goods Background Information
 - Product description, packaging description, pack date, ship date, returned date
 - Pre-Shipment aflatoxin testing conducted (e.g. PEC sampling and testing)
 - Include sampling and testing records
- Aflatoxin in Almonds Background Information (ABC provided Information)
 - Brief description of aflatoxin contamination of almonds
 - Description on efficacy of sorting for Aflatoxin Removal
 - Description on efficacy of blanching for Aflatoxin Removal (If Using blanching)
- Reconditioning Method
- Post Reconditioning Compliance Verification (Aflatoxin Testing)
 - Must demonstrate that reconditioned product meets US Regulatory Limits



Reconditioning Method – Describe in Detail!

- Reconditioning location and method
- Process description describing the product flow, staff and equipment Include a process flow chart
- For equipment used to sort/remove insect damage, provide a brief description of how the equipment works
 - Provide photos and flow charts as appropriate to assist in visualization of sorting mechanism
- For hand and electronic sorting, describe how the removal of insect damage will be monitored
 - Describe records that will be maintained to demonstrate insect removal



Post Reconditioning Compliance Verification (Sampling for Aflatoxin Testing)

- Identify where sampling will occur
- Identify who will conduct the sampling
- Identify how product will be sampled / labeled / stored / delivered
- Identify records used to document sample collection

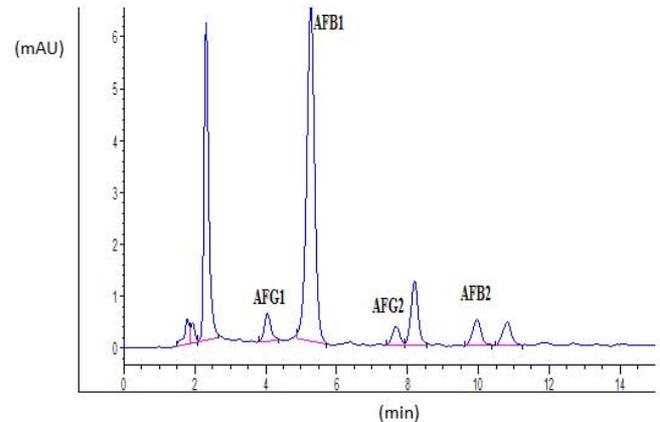
Tip: Reference PEC Sampling SOP



Post Reconditioning Compliance Verification (Aflatoxin Laboratory Testing)

- Use an accredited laboratory familiar with U.S. Goods Return process
 - USDA approved labs for almonds/aflatoxin are a good choice
 - Describe the sample preparation and analysis methodology
 - Describe data packet which will be shared with FDA

Tip: Indicate that the sample will be analyzed by USDA lab following PEC protocol



Tips to Avoid Additional Rejection

- Establish rapport with FDA Compliance Officer
 - Harder to reject a plan if FDA Officer understands you want to do the “right thing”
- Ask Questions / Seek input about how you plan to recondition
 - Email communication can work
- Don’t assume the FDA Compliance Officer understands aflatoxin in almonds, PEC, or reconditioning options
- Seek advice from ABC – We are happy to help navigate the process



Goods Returned – What is ABC Doing

- Ongoing work with FDA to streamline process
- FDA recently entered into MOU with USDA AMS for testing of imported peanuts, brazil nuts and pistachios for aflatoxin
 - Exploring options whereby USDA /USDA approved Labs for almond aflatoxin testing could be better leveraged for Almond Goods Returned Process
- ABC Guideline for Goods Returned

Thank-You!

tbirmingham@almondboard.com

