

in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### PART 944—FRUITS; IMPORT REGULATIONS

- Sec.  
 944.28 Avocado Import Grade Regulation.  
 944.31 Avocado import maturity regulation.  
 944.106 Grapefruit import regulation.  
 944.312 Orange import regulation.  
 944.350 Safeguard procedures for avocados, grapefruit, kiwifruit, olives, oranges, prune variety plums (fresh prunes), and table grapes, exempt from grade, size, quality, and maturity requirements.  
 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, kiwifruit, oranges, prune variety plums (fresh prunes), and table grapes regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.  
 944.401 Olive Regulation 1.  
 944.503 Table Grape Import Regulation 4.  
 944.550 Kiwifruit import regulation.  
 944.700 Fresh prune import regulation.

AUTHORITY: 7 U.S.C. 601-674.

EDITORIAL NOTE: After January 1, 1979, Import regulations which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

#### § 944.28 Avocado Import Grade Regulation.

(a) Pursuant to section 8e of the act and Part 944-Fruits; Import Regulations, the importation into the United States of any avocados is prohibited on and after May 28, 1985, unless such avocados grade at least U.S. No. 2, as such grade is defined in the United States Standards for Florida Avocados (7 CFR 51.3050 through 51.3069). Such grade requirement is the same as that specified in § 915.306 for avocados grown in South Florida under M.O. 915 (7 CFR part 915).

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the government inspection service for certifying

the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR part 51) and in accordance with the regulations designating inspection services and procedure for obtaining inspection and certification (7 CFR 944.400).

(c) The term *importation* means release from custody of the United States Customs Service. The term *commercial processing into products* means the manufacture of avocado product which is preserved by any recognized commercial process, including canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

(d) Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

(e) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, seed, or commercial processing into products; prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such lot borne by the importer.

(f) The grade, size, and quality requirements of this section shall not be applicable to avocados imported for consumption by charitable institutions, distribution by relief agencies, seed, or commercial processing into products, but shall be subject to the safeguard provisions contained in § 944.350.

[50 FR 21032, May 22, 1985, as amended at 58 FR 69185, Dec. 30, 1993]

§ 944.31 Avocado import maturity regulation.

(a) Pursuant to section 8e [7 U.S.C. 608e-1] of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C 601-674], and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados, except the Hass, Fuerte, Zutano, and Edranol varieties, is prohibited unless:

(1) Any portion of the skin of the individual avocados has changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety; or

(2) Such avocados meet the minimum weight or diameter requirements for the Monday nearest each date specified, through the Sunday immediately

prior to the nearest Monday of the specified date in the next column, for each variety listed in the following table I: Provided, that avocados may not be handled prior to the earliest date specified in column A of such table for the respective variety; Provided further, There are no restrictions on size or weight on or after the date specified in column D; Provided further, That up to a total of 10 percent, by count to the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: Provided further, That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE 1

Variety	A date	Min. wt.	Min. diam.	B date	Min. wt.	Min. diam.	C date	Min. wt.	Min. diam.	D date
Dr. Dupuis										
#2	5-30	16	3 <sup>7</sup> / <sub>16</sub>	6-13	14	3 <sup>5</sup> / <sub>16</sub>	7-04	12	3 <sup>9</sup> / <sub>16</sub>	7-18
Simmons	6-20	16	3 <sup>9</sup> / <sub>16</sub>	7-04	14	3 <sup>7</sup> / <sub>16</sub>	7-18	12	3 <sup>1</sup> / <sub>16</sub>	8-01
Pollock	6-20	18	3 <sup>1</sup> / <sub>16</sub>	7-04	16	3 <sup>7</sup> / <sub>16</sub>	7-18	14	3 <sup>4</sup> / <sub>16</sub>	8-01
Hardee	6-27	16	3 <sup>9</sup> / <sub>16</sub>	7-04	14	2 <sup>1</sup> / <sub>16</sub>	7-11	12	.....	7-25
Nadir	6-27	14	3 <sup>9</sup> / <sub>16</sub>	7-04	12	3 <sup>1</sup> / <sub>16</sub>	7-11	10	2 <sup>1</sup> / <sub>16</sub>	7-18
Ruehle	7-04	18	3 <sup>1</sup> / <sub>16</sub>	7-11	16	3 <sup>9</sup> / <sub>16</sub>	8-01	12	3 <sup>5</sup> / <sub>16</sub>	8-15
				7-18	14	3 <sup>7</sup> / <sub>16</sub>	8-08	10	3 <sup>3</sup> / <sub>16</sub>	
Bernecker	7-18	18	3 <sup>9</sup> / <sub>16</sub>	8-01	16	3 <sup>5</sup> / <sub>16</sub>	8-15	14	3 <sup>1</sup> / <sub>16</sub>	8-29
Miguel (P)	7-18	22	3 <sup>1</sup> / <sub>16</sub>	8-01	20	3 <sup>1</sup> / <sub>16</sub>	8-15	18	3 <sup>9</sup> / <sub>16</sub>	8-29
Nesbitt	7-18	22	3 <sup>1</sup> / <sub>16</sub>	8-01	16	3 <sup>5</sup> / <sub>16</sub>	8-08	14	3 <sup>3</sup> / <sub>16</sub>	8-22
Tonnage	8-01	16	3 <sup>9</sup> / <sub>16</sub>	8-15	14	3 <sup>1</sup> / <sub>16</sub>	8-22	12	3 <sup>9</sup> / <sub>16</sub>	8-29
Waldin	8-01	16	3 <sup>9</sup> / <sub>16</sub>	8-15	14	3 <sup>7</sup> / <sub>16</sub>	8-29	12	3 <sup>4</sup> / <sub>16</sub>	9-12
Tower II	8-01	14	3 <sup>9</sup> / <sub>16</sub>	8-15	12	3 <sup>1</sup> / <sub>16</sub>	8-29	10	3 <sup>9</sup> / <sub>16</sub>	9-05
Beta	8-08	18	3 <sup>9</sup> / <sub>16</sub>	8-15	16	3 <sup>5</sup> / <sub>16</sub>	8-29	14	3 <sup>3</sup> / <sub>16</sub>	9-05
Lisa (P)	8-08	12	3 <sup>9</sup> / <sub>16</sub>	8-15	11	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	8-22
Black										
Prince	8-15	28	4 <sup>1</sup> / <sub>16</sub>	8-29	23	3 <sup>1</sup> / <sub>16</sub>	9-12	16	3 <sup>9</sup> / <sub>16</sub>	10-03
Loretta	8-22	30	4 <sup>3</sup> / <sub>16</sub>	9-05	26	3 <sup>1</sup> / <sub>16</sub>	9-19	22	3 <sup>1</sup> / <sub>16</sub>	9-26
Booth 8	8-29	16	3 <sup>9</sup> / <sub>16</sub>	9-12	14	3 <sup>9</sup> / <sub>16</sub>	9-26	12	3 <sup>3</sup> / <sub>16</sub>	10-24
							10-10	10	3 <sup>1</sup> / <sub>16</sub>	
Booth 7	8-29	18	3 <sup>1</sup> / <sub>16</sub>	9-12	16	3 <sup>9</sup> / <sub>16</sub>	9-26	14	3 <sup>9</sup> / <sub>16</sub>	10-10
Booth 5	9-05	14	3 <sup>9</sup> / <sub>16</sub>	9-19	12	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	10-03
Choquette	9-26	28	4 <sup>1</sup> / <sub>16</sub>	10-17	24	4 <sup>1</sup> / <sub>16</sub>	10-31	20	3 <sup>1</sup> / <sub>16</sub>	11-14
Hall	9-26	26	3 <sup>1</sup> / <sub>16</sub>	10-10	20	3 <sup>9</sup> / <sub>16</sub>	10-24	18	3 <sup>9</sup> / <sub>16</sub>	11-07
Lula	10-03	18	3 <sup>1</sup> / <sub>16</sub>	10-10	14	3 <sup>9</sup> / <sub>16</sub>	10-31	12	3 <sup>3</sup> / <sub>16</sub>	11-14
Monroe	11-07	26	4 <sup>3</sup> / <sub>16</sub>	11-21	24	4 <sup>1</sup> / <sub>16</sub>	12-05	20	3 <sup>1</sup> / <sub>16</sub>	1-02
							12-19	16	3 <sup>9</sup> / <sub>16</sub>	
Arue	5-16	16	.....	5-30	14	3 <sup>9</sup> / <sub>16</sub>	6-20	12	.....	7-04
Donnie	5-23	16	3 <sup>9</sup> / <sub>16</sub>	6-06	14	3 <sup>4</sup> / <sub>16</sub>	6-20	12	.....	7-04
Fuchs	6-06	14	3 <sup>9</sup> / <sub>16</sub>	6-20	12	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	7-04
K-5	6-13	18	3 <sup>9</sup> / <sub>16</sub>	6-27	14	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	7-11
West Indian										
Seedling <sup>1</sup>	6-20	18	.....	7-18	16	.....	8-22	14	.....	9-19
Gorham	7-04	29	4 <sup>5</sup> / <sub>16</sub>	7-18	27	4 <sup>3</sup> / <sub>16</sub>	.....	.....	.....	8-15
Biondo	7-11	13	.....	.....	.....	.....	.....	.....	.....	8-15
Petersen	7-11	14	3 <sup>9</sup> / <sub>16</sub>	7-18	12	3 <sup>5</sup> / <sub>16</sub>	7-25	10	3 <sup>9</sup> / <sub>16</sub>	8-08
232	7-18	14	.....	8-01	12	.....	.....	.....	.....	8-15
Pinelli	7-18	18	3 <sup>1</sup> / <sub>16</sub>	8-01	16	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	8-15
Trapp	7-18	14	3 <sup>9</sup> / <sub>16</sub>	8-01	12	3 <sup>7</sup> / <sub>16</sub>	.....	.....	.....	8-15
K-9	8-01	16	.....	.....	.....	.....	.....	.....	.....	8-22
Christina	8-01	11	2 <sup>1</sup> / <sub>16</sub>	.....	.....	.....	.....	.....	.....	8-22
Catalina	8-15	24	.....	8-29	22	.....	.....	.....	.....	9-19

TABLE 1—Continued

Variety	A date	Min. wt.	Min. diam.	B date	Min. wt.	Min. diam.	C date	Min. wt.	Min. diam.	D date
Blair .....	8-29	16	3 <sup>9</sup> / <sub>16</sub>	9-12	14	3 <sup>5</sup> / <sub>16</sub>	.....	.....	.....	10-03
Guatemalan Seedling <sup>2</sup>	9-05	15	.....	10-03	13	.....	.....	.....	.....	12-05
Marcus .....	9-05	32	4 <sup>12</sup> / <sub>16</sub>	9-19	24	4 <sup>5</sup> / <sub>16</sub>	.....	.....	.....	10-31
Brooks										
1978 .....	9-05	12	3 <sup>4</sup> / <sub>16</sub>	9-12	10	3 <sup>1</sup> / <sub>16</sub>	9-19	8	2 <sup>14</sup> / <sub>16</sub>	10-10
Rue .....	9-12	30	4 <sup>3</sup> / <sub>16</sub>	9-19	24	3 <sup>15</sup> / <sub>16</sub>	10-03	18	3 <sup>9</sup> / <sub>16</sub>	10-17
Collinson ...	9-12	16	3 <sup>10</sup> / <sub>16</sub>	.....	.....	.....	.....	.....	.....	10-10
Hickson .....	9-12	12	3 <sup>1</sup> / <sub>16</sub>	9-26	10	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	10-10
Simpson ....	9-19	16	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	.....	.....	.....	10-10
Chica .....	9-19	12	3 <sup>7</sup> / <sub>16</sub>	10-03	10	3 <sup>1</sup> / <sub>16</sub>	.....	.....	.....	10-17
Leona .....	9-26	18	3 <sup>19</sup> / <sub>16</sub>	10-03	16	.....	.....	.....	.....	10-10
Melendez ...	9-26	26	3 <sup>14</sup> / <sub>16</sub>	10-10	22	3 <sup>11</sup> / <sub>16</sub>	10-24	18	3 <sup>7</sup> / <sub>16</sub>	11-07
Herman ....	10-03	16	3 <sup>9</sup> / <sub>16</sub>	10-17	14	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	10-31
Pinkerton										
(CP) .....	10-03	13	3 <sup>3</sup> / <sub>16</sub>	10-17	11	3 <sup>9</sup> / <sub>16</sub>	10-31	9	.....	11-14
Taylor .....	10-10	14	3 <sup>5</sup> / <sub>16</sub>	10-24	12	3 <sup>2</sup> / <sub>16</sub>	.....	.....	.....	11-07
Ajax (B-7)										
Booth 3 .....	10-10	18	3 <sup>14</sup> / <sub>16</sub>	.....	.....	.....	.....	.....	.....	10-31
Booth 3 .....	10-10	16	3 <sup>8</sup> / <sub>16</sub>	10-17	14	3 <sup>6</sup> / <sub>16</sub>	.....	.....	.....	10-31
Semil 34 ....	10-17	18	3 <sup>10</sup> / <sub>16</sub>	10-31	16	3 <sup>8</sup> / <sub>16</sub>	11-14	14	3 <sup>5</sup> / <sub>16</sub>	11-28
Semil 43 ....	10-24	18	3 <sup>19</sup> / <sub>16</sub>	11-7	16	3 <sup>9</sup> / <sub>16</sub>	11-21	14	3 <sup>5</sup> / <sub>16</sub>	12-05
Booth 1 .....	11-14	16	3 <sup>12</sup> / <sub>16</sub>	11-28	12	3 <sup>6</sup> / <sub>16</sub>	.....	.....	.....	12-12
Zio (P) .....	11-14	12	3 <sup>1</sup> / <sub>16</sub>	11-28	10	2 <sup>14</sup> / <sub>16</sub>	.....	.....	.....	12-12
Gossman ...	11-28	11	3 <sup>1</sup> / <sub>16</sub>	.....	.....	.....	.....	.....	.....	12-26
Brookslate										
12-05	18	3 <sup>13</sup> / <sub>16</sub>	12-12	16	3 <sup>10</sup> / <sub>16</sub>	1-02	12	3 <sup>5</sup> / <sub>16</sub>	1-30	
12-19	14	3 <sup>8</sup> / <sub>16</sub>	1-16	10	.....	.....	.....	.....	.....	
Meya (P) ...	12-12	13	3 <sup>2</sup> / <sub>16</sub>	12-26	11	3 <sup>9</sup> / <sub>16</sub>	.....	.....	.....	1-09
Reed (CP)										
12-12	12	3 <sup>4</sup> / <sub>16</sub>	12-26	10	3 <sup>3</sup> / <sub>16</sub>	1-09	9	3 <sup>9</sup> / <sub>16</sub>	1-23	

<sup>1</sup> Avocados of the West Indian type varieties and seedlings not listed elsewhere in table 1.  
<sup>2</sup> Avocados of the Guatemalan type varieties and seedlings, hybrid varieties and seedlings, and unidentified seedlings not listed elsewhere in table 1.

(3) Avocados which fail to meet the maturity requirements specified in this section must be maintained under the supervision of the Federal or Federal-State Inspection Service using the Positive Lot Identification program, and when presented for reinspection, must meet the maturity requirements which correspond to the date of the original inspection.

(b) The term *diameter* means the greatest dimension measured at a right angle to a straight line from the stem to the blossom end of the fruit.

(c) The term *importation* means release from custody of the United States Customs Service. The term *commercial processing into products* means the manufacture of avocado product which is preserved by any recognized commercial process, including canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

(d) Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

(e) The Federal or Federal-State Inspection Service, Fruit and Vegetable

Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all such imports. The inspection and certification services will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards of Fresh Fruits, Vegetables, and Other Products (7 CFR part 51), and in accordance with the regulation designating inspection services and procedure for obtaining inspection and certification (7 CFR 944.400).

(f) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, seed, or commercial processing into

**Agricultural Marketing Service, USDA**

**§ 944.106**

products; prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such lot borne by the importer.

(g) The maturity requirements of this section shall not be applicable to avocados imported for consumption by charitable institutions, distribution by relief agencies, seed, or commercial processing into products, but such avocados shall be subject to the safeguard provisions contained in §944.350.

[59 FR 30871, June 16, 1994, as amended at 61 FR 13058, Mar. 26, 1996; 64 FR 53186, Oct. 1, 1999; 73 FR 26945, May 12, 2008]

**§ 944.106 Grapefruit import regulation.**

(a) Pursuant to Section 8e [7 U.S.C. Section 608e-1] of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601-674], and Part 944—Fruits; Import Regulations, the importation into the United States of any grapefruit is prohibited unless such grapefruit meet the following minimum grade and size requirements for each specified grapefruit classification:

Grapefruit classification (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Seedless, red .....	On and after 11/13/00 .....	U.S. No. 1 .....	35/16
Seedless, except red .....	On and after 9/01/94 .....	U.S. No. 1 .....	35/16

(b) The term *grapefruit* is defined as citrus paradisi, MacFadyen.

(c) Terms and tolerances pertaining to grade and size requirements, which are defined in the United States Standards for Grades of Florida Grapefruit (7 CFR 51.750-51.784), and in Marketing Order No. 905 (7 CFR §§905.18 and 905.306), shall be applicable herein.

(d) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all such imports. The inspection and certification services will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards of Fresh Fruits, Vegetables, and Other Products (7 CFR part 51), and in accordance with the regulation designating inspection services and procedure for obtaining inspection and certification (7 CFR 944.400).

(e) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, animal feed, or commercial processing into canned or frozen products or into a beverage base; prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(f) Any person may import up to 15 standard packed cartons (12 bushels) of grapefruit exempt from the requirements specified in this section.

(g) Any grapefruit which fail to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such grapefruit borne by the importer.

(h) The Secretary has determined that grapefruit imported into the United States are in most direct competition with grapefruit grown in Florida regulated under Marketing Order No. 905 (7 CFR part 905).

(i) The grade, size, quality, and maturity requirements of this section shall

§944.312

7 CFR Ch. IX (1-1-10 Edition)

not be applicable to grapefruit imported for consumption by charitable institutions, distribution by relief agencies, animal feed, or commercial processing into canned or frozen products or into a beverage base, but shall be subject to the safeguard provisions contained in §944.350.

[58 FR 39430, July 23, 1993 as amended at 58 FR 59934, Nov. 12, 1993; 58 FR 69185, Dec. 30, 1993; 59 FR 56380, Nov. 14, 1994; 60 FR 58499, Nov. 28, 1995; 61 FR 64253, Dec. 4, 1996; 63 FR 62923, Nov. 10, 1998; 64 FR 58762, Nov. 1, 1999; 66 FR 229, Jan. 3, 2001; 68 FR 53024, Sept. 10, 2003; 74 FR 15644, Apr. 7, 2009]

**§944.312 Orange import regulation.**

(a) Pursuant to section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601-674), and part 944—Fruits; Import Regulations, the importation into the United States of any oranges is prohibited unless such oranges grade at least U.S. No. 2, and they are at least 2<sup>9</sup>/<sub>16</sub> inches in diameter. Effective July 1 through August 31 of each year this paragraph is suspended.

(b) The term *oranges* is defined as *Citrus sinensis*, Osbeck.

(c) The term *importation* means release from custody of the United States Customs Service. The term *processing* means the manufacture of any orange product which has been converted into sectioned fruit or into fresh juice, or preserved by any commercial process, including canning, freezing, dehydrating, drying, and the addition of chemical substances, or by fermentation.

(d) Terms and tolerances pertaining to grade and size requirements, which are defined in the United States Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 51.680-51.714), shall be applicable herein.

(e) Any person may import up to 400 pounds a day of oranges exempt from the requirements specified in this section.

(f) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and ma-

turity of oranges imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of oranges, is required on all such imports. The inspection and certification services will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards of Fresh Fruits, Vegetables, and Other Products (7 CFR part 51), and in accordance with the regulation designating inspection services and procedure for obtaining inspection and certification (7 CFR 944.400).

(g) Any oranges which fail to meet the import requirements, and are not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or processing into products; prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such oranges borne by the importer.

(h) The grade, size, quality, and maturity requirements of this section shall not be applicable to oranges imported for consumption by charitable institutions, distribution by relief agencies, or processing into products, but shall be subject to the safeguard provisions contained in §944.350. *Provided that:* oranges, imported as exempt under this regulation, cannot be shipped to processors who have facilities, equipment, or outlets to repack or sell fruit in fresh form.

(i) The Secretary has determined that oranges imported into the United States are in most direct competition with oranges grown in Texas regulated under Marketing Order No. 906.

[59 FR 25792, May 18, 1994, as amended at 60 FR 33679, June 29, 1995; 61 FR 13059, Mar. 26, 1996]

**§944.350 Safeguard procedures for avocados, grapefruit, kiwifruit, olives, oranges, prune variety plums (fresh prunes), and table grapes, exempt from grade, size, quality, and maturity requirements.**

(a) Each person who imports:

## Agricultural Marketing Service, USDA

## § 944.400

(1) Avocados, grapefruit, kiwifruit, limes, olives, oranges, and prune variety plums (fresh prunes) for consumption by charitable institutions or distribution by relief agencies;

(2) Avocados, grapefruit, kiwifruit, oranges, prune variety plums (fresh prunes), and table grapes for processing;

(3) Olives for processing into oil;

(4) Grapefruit for animal feed; or

(5) Avocados for seed shall obtain an "Importer's Exempt Commodity Form" (FV-6 form) from the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, and shall show the completed "Importer's Exempt Commodity Form" to the U.S. Customs Service Regional Director or District Director, as applicable, at the port at which the customs entry is filed. One copy shall be mailed to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA with a postmark no later than two days after the date of importation and a third copy shall accompany the lot to the exempt outlet specified on the form. Any lot offered for inspection and, all or a portion thereof, subsequently imported as exempt under this provision shall be reported on an "Importer's Exempt Commodity Form" and such form, accompanied by a copy of the applicable inspection certificate, shall be mailed to the Marketing Order Administration Branch.

(b) Each person who receives an exempt commodity for the purposes specified in paragraph (a) of this section shall also receive a copy of the same numbered Importer's Exempt Commodity Form filed by the importer or customs broker and shall certify, by completing and signing Section II of the form and mailing the form to the Marketing Order Administration Branch within two days of receipt of the exempt lot, that such lot has been received and will be utilized in the exempt outlet.

(c) It is the responsibility of the importer to notify the Marketing Order Administration Branch of any lot of exempt commodity rejected by a receiver, shipped to an alternative exempt receiver, exported, or otherwise destroyed. In such cases, a second "Importer's Exempt Commodity

Form" must be filed by the importer providing sufficient information to determine ultimate disposition of the exempt lot and such disposition shall be so certified by the final receiver.

(d) All FV-6 forms and other correspondence regarding entry of 8e commodities must be mailed to the Marketing Order Administration Branch, USDA, AMS, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456, telephone (202)-720-4607. FV-6 forms submitted by fax must be followed by a mailed, original copy of the FV-6 form. Fax transmissions may be sent to the MOAB at (202) 720-5698.

[61 FR 13059, Mar. 26, 1996, as amended at 61 FR 40958, Aug. 7, 1996; 68 FR 10346, Mar. 5, 2003]

### **§ 944.400 Designated inspection services and procedure for obtaining inspection and certification of imported avocados, grapefruit, kiwifruit, oranges, prune variety plums (fresh prunes), and table grapes regulated under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.**

(a) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados, grapefruit, nectarines, oranges, prune variety plums (fresh prunes), and table grapes that are imported into the United States. Agriculture and Agri-Food Canada is also designated as a governmental inspection service for the purpose of certifying grade, size, quality and maturity of prune variety plums (fresh prunes) only. Inspection by the Federal or Federal-State Inspection Service or the Agriculture and Agri-Food Canada, with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective services, applicable to the particular shipment of the specified fruit, is required on all imports. Inspection and certification by the Federal or Federal-State Inspection Service will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards for Fresh Fruits,

**§ 944.400**

Vegetables, and Other Products (7 CFR part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados, grapefruit, nectarines, oranges, prune variety plums (fresh prunes), and table grapes should make arrangements for inspection through the applicable one of the following offices, at least the specified number of the days prior to the time when the fruit will be imported:

**PORTS, OFFICES AND ADVANCE NOTICE**

*Eastern Region*

In Alabama, Officer In Charge, Post Office Box 244, Mobile, AL 36601, PH: 205-690-6154, or  
In Jacksonville, Florida, Officer In Charge, Unit 8, 3335 N. Edgewood Ave., Jacksonville, FL 32205, PH: 904-354-5983, or  
In Miami, Florida, Officer In Charge, 1350 N.W. 12th Ave., RM. 530, Miami FL 33136, PH: 305-324-6116, or  
In Maryland, Officer In Charge, Maryland Wholesale Produce Market—Building B Unit 13, Jessup, MD 20794, PH: 301-799-5899, or  
In Massachusetts, Officer In Charge, Boston Terminal Market, Room 1, 34 Market Street, Everett, MA 02149, PH: 617-389-2480, or  
In Buffalo, New York, Officer In Charge, 176 Niagara Frontier Food Terminal—Rm. 7, Buffalo, NY 14206, PH: 716-824-1585, or  
In New Jersey, Officer In Charge, Federal Building, RM. 839, 970 Broad Street, Newark, NJ 07102, PH: 201-645-2208, or  
In New York, New York, Officer In Charge, Room 28-A, Hunts Point Market, Bronx, NY 10474, PH: 212-991-7669, or  
In Pennsylvania, Officer In Charge, 293 Produce Building, 3301 S. Galloway Street, Philadelphia, PA 19148, PH: 215-336-0845, or  
In Virginia, Officer In Charge, 3661 Virginia Beach Blvd., Norfolk, VA 23502, PH: 804-441-6218, or  
In Puerto Rico, Officer In Charge, Post Office Box 9112, Santurce, PR 00908, PH: 809-783-2230.  
All other Eastern Port of entry: Regional Director Skyline Office Building, 5205 Leesburg Pike—Suite 806, Falls Church, VA 22041, PH: 703-756-6781.

*Central Region*

In Louisiana, Officer In Charge, 5027 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, LA 70113, PH: 504-589-6741, or  
In Michigan, Officer In Charge, 90 Detroit Union Produce, 7201 West Fort Street, Detroit, MI 48209, PH: 313-226-6059, or

**7 CFR Ch. IX (1-1-10 Edition)**

In Minnesota, Officer In Charge, Agriculture Building Room 226, 90 West Plato Boulevard, St. Paul, MN 55107, PH: 612-296-8557, or  
In El Paso, Officer In Charge, 6070 Gateway East, Suite 410, El Paso, TX 79905, PH: 915-543-7723, or  
In Houston, Texas, Officer In Charge, 3100 Produce Row, Room 14, Houston, TX 77023, PH: 713-923-2557.  
All other Texas Ports: Officer In Charge, Post Office Box 107, San Juan, TX 78589, PH: 512-787-4091.  
All other Central Ports of Entry: Regional Director, Room 1012, 610 South Canal Street, Chicago, IL 60607, PH: 312-353-6225.

*Western Region*

In Arizona, Officer In Charge, Post Office Box 1485, Nogales, AZ 85621, PH: 602-281-0783, or  
In Los Angeles, California, Officer In Charge, Wholesale Terminal Bldg., Room 271, 784 South Central Avenue, Los Angeles, CA 90021, PH: 213-688-2489, or  
In San Francisco, California, Officer In Charge, P.O. Box 4266, Burlingame, CA 94010, PH: 415-876-1093 & 1094, or  
In Hawaii, Officer In Charge, P.O. Box 22159, Pawa Substation, Honolulu, HI 96822, PH: 808-548-7147, or  
In Oregon, Officer In Charge, Cascade Plaza, Suite 125, 2828 S.W. Corbett, Portland, OR 97201, PH: 503-229-6161, or  
In Washington, Officer In Charge, 5507 Sixth Avenue South, Seattle, WA 98108, PH: 206-764-3500, or  
In New Mexico, Officer In Charge, New Mexico Market and Development Branch, New Mexico Department of Agriculture, P.O. Box 5600, Las Cruces, NM 88003, PH: 505-646-4929.  
All other Western Ports of Entry: Regional Director, P.O. Box 214287, Sacramento, CA 95821, PH: 916-484-4952 & 3549.  
Headquarters: Washington, DC: Chief, Fresh Products Branch, Fruit and Vegetable Division, AMS, Room 2052-S. Bldg., U.S. Department of Agriculture, Washington, DC 20250, PH: 202-447-5870.

*Notification:*

Port Offices—at least one (1) day;  
Regional Director—at least two (2) days;  
Headquarters—at least three (3) days.

(b) Inspection certificates shall cover only the quantity of fruit that is being imported at a particular port of entry by a particular importer.

(c) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification

## Agricultural Marketing Service, USDA

## § 944.401

of fresh fruits, vegetables, and other products (7 CFR part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(d) Each inspection certificate issued with respect to any of the specified fruits to be imported into the United States shall set forth among other things:

- (1) The name and place of inspection;
- (2) The name of the shipper, or applicant;
- (3) The Customs entry number pertaining to the lot or shipment covered by the certificate;
- (4) The commodity inspected;
- (5) The quantity of the commodity covered by the certificate;
- (6) The principal identifying marks on the container;
- (7) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, the name of the air carrier, or other identification of the shipment; and
- (8) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

[48 FR 44459, Sept. 29, 1983, as amended at 56 FR 10504, Mar. 13, 1991; 61 FR 40958, Aug. 7, 1996; 68 FR 10347, Mar. 5, 2003; 74 FR 2808, Jan. 16, 2009]

### § 944.401 Olive Regulation 1.

(a) *Definitions.* (1) *Canned ripe olives* means olives in hermetically sealed containers and heat sterilized under pressure, of the two distinct types "ripe" and "green-ripe" as defined in the current U.S. Standards for Grades of Canned Ripe Olives. The term does not include Spanish-style green olives.

(2) *Spanish-style green olives* means olives packed in brine and which have been fermented and cured, otherwise known as "green olives."

(3) *Variety group 1* means the following varieties and any mutations, sports, or other derivations of such varieties: Aghizi Shami, Amellau Ascolano, Ascolano dura, Azapa, Balady, Barouni, Carydolia, Cucco, Gigante di Cerignola, Gordale, Grosane, Jahlut, Polymorpha, Prunara, Ropades, Sevillano, St. Agostino, Tafahi, and Touffahi.

(4) *Variety group 2* means the following varieties and any mutations, sports, or other derivations of such varieties: Manzanillo, Mission, Nevadillo, Obliza, and Redding Picholine.

(5) *USDA Inspector* means an inspector of the Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, or any other duly authorized employee of the Department.

(6) *Importation* means release from custody of the U.S. Bureau of Customs.

(7) *Limited use* means the use of processed olives in the production of packaged olives of the halved, segmented (wedged), sliced, or chopped styles, as defined in said standards.

(8) Terms used in this section shall have the same meaning as are given to the respective terms in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR part 52) including the terms *size*, *character*, *defects* and *ripe type*: *Provided*, That the definition of *broken pitted olives* is as follows: "Broken pitted olives" consist of large pieces that may have been broken in pitting but have not been sliced or cut.

(b) The importation into the United States of any canned ripe olives is prohibited unless such olives are inspected and meet the following applicable requirements: *Provided*, That olives imported in bulk form and used in the production of any canned ripe olives are subject to such applicable requirements and the additional requirements in paragraph (b)(12) of this section.

(1) *Minimum quality requirements.* Canned ripe olives shall meet the following quality requirements, except that no requirements shall be applicable with respect to color and blemishes for canned green ripe olives:

(i) Canned whole and pitted olives of the ripe type shall meet the minimum quality requirements prescribed in table 1 of this section;

(ii) Canned sliced, segmented (wedged), and halved olives of the ripe type shall meet the minimum quality requirements prescribed in table 2 of this section;

(iii) Canned chopped olives of the ripe type shall meet the minimum quality requirements prescribed in table 3 of this section and shall be practically



§ 944.401

7 CFR Ch. IX (1–10 Edition)

free from identifiable units of pit caps, end slices, and slices (“practically free from identifiable units” means that not more than 10 percent, by weight, of the unit of chopped style olives may be identifiable pit caps, end slices, or slices); and

(iv) Canned broken pitted olives of the ripe type shall meet the minimum quality requirements prescribed in table 4 of this section, *Provided*, That broken pitted olives consist of large pieces that may have been broken in pitting but have not been sliced or cut.

(v) A lot of canned ripe olives is considered to meet the requirements of this section if all or most of the sample units meet the requirements specified in tables 1 through 4 of this section: *Provided*, That the number of sample units which do not meet the requirements specified in tables 1 through 4 of this section does not exceed the acceptance number prescribed for in the sample size provided in table I of 7 CFR 52.38: *Provided further*, That there is no off flavor in any sample unit.

TABLE 1—WHOLE AND PITTED STYLE  
[Defects by count per 50 olives]

FLAVOR .....	Reasonably good; no “off” flavor
FLAVOR (Green Ripe Type) .....	Free from objectionable flavors of any kind
SALOMETER .....	Acceptable range in degrees: 3.0 to 14.0
COLOR .....	Reasonably uniform with not less than 60% having a color equal or darker than the USDA Composite Color Standard for Ripe Type
CHARACTER .....	Not more than 5 soft units or 2 excessively soft units
UNIFORMITY OF SIZE .....	60%, by visual inspection, of the most uniform in size. The diameter of the largest does not exceed the smallest by more than 4mm
DEFECTS:	
Pitter Damage (Pitted Style Only) .....	15
Major Blemishes .....	5
Major Wrinkles .....	5
Pits and Pit Fragments (Pitted Style Only) .....	Not more than 1.3% average by count
Major Stems .....	Not more than 3
HEVM .....	Not more than 1 unit per sample
Mutilated .....	Not more than 3
Mechanical Damage .....	Not more than 5
Split Pits or Misshapen .....	Not more than 5

TABLE 2—SLICED, SEGMENTED (WEDGED), AND HALVED STYLES  
[Defects by count per 255]

FLAVOR .....	Reasonably good; no “off” flavor
SALOMETER .....	Acceptable range in degrees: 3.0 to 14.0
COLOR .....	Reasonably uniform with no units lighter than the USDA Composite Color Standard for Ripe Type
CHARACTER .....	Not more than 13 grams excessively soft
DEFECTS:	
Pits and Pit Fragments .....	Average of not more than 1 by count per 300 grams
Major Stems .....	Not more than 3
HEVM .....	Not more than 2 units per sample
Broken Pieces and End Caps .....	Not more than 125 grams by weight

TABLE 3—CHOPPED STYLE  
[Defects by count per 255 grams]

FLAVOR .....	Reasonably good; no “off” flavor
SALOMETER .....	Acceptable range in degrees: 3.0 to 14.0
COLOR .....	Reasonably uniform with no units lighter than the USDA Composite Color Standard for Ripe Type
DEFECTS:	
Pits and Pit Fragments .....	Average of not more than 1 by count per 300 grams
Major Stems .....	Not more than 3
HEVM .....	Not more than 2 units per sample

TABLE 4—BROKEN PITTED STYLE  
[Defects by count per 255 grams]

FLAVOR .....	Reasonably good; no “off” flavor
SALOMETER .....	Acceptable range in degrees: 3.0 to 14.0
COLOR .....	Reasonably uniform with no units lighter than the USDA Composite Color Standard for Ripe Type
CHARACTER .....	Not more than 13 grams excessively soft
DEFECTS:	
Pits and Pit Fragments .....	Average of not more than 1 by count per 300 grams
Major Stems .....	Not more than 3
HEVM .....	Not more than 2 units per sample

(2) Canned whole ripe olives of Variety Group 1, except the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that not more than 25 percent, by count, of the olives may weigh less than 1/75 pound (6.0 grams) each, except that not more than 10 percent, by count, of the olives may weigh less than 1/82 pound (5.5 grams) each;

(3) Canned whole ripe Variety Group 1 olives, of the Ascolano, Barouni, and St. Agostino varieties, shall be of such size that not more than 25 percent, by count, of the olives may weigh less

than 1/105 pound (4.3 grams) each except that not more than 10 percent, by count, of the olives may weigh less than 1/116 pound (3.9 grams) each;

(4) Canned whole ripe olives of Variety Group 2, except the Obliza variety, shall be of such a size that not more than 35 percent, by count, of the olives may weigh less than 1/140 pound (3.2 grams) each except that not more than 7 percent, by count, of the olives may weigh less than 1/160 pound (2.8 grams) each;

(5) Canned whole ripe Variety Group 2 olives, of the Obliza variety, shall be of such a size that not more than 35 percent, by count, of the olives may weigh less than 1/127 pound (3.5 grams) each except that not more than 7 percent, by count, of the olives may weigh less than 1/135 pound (3.3 grams) each;

(6) Canned whole ripe olives not identifiable as to variety or variety group shall be of such a size that not more than 35 percent, by count, of the olives may weigh less than 1/140 pound (3.2 grams) each except that not more than 7 percent, by count, of the olives may weigh less than 1/160 pound (2.8 grams) each;

(7) Canned pitted ripe olives of Variety Group 1, except the Ascolano, Barouni, and St. Agostino varieties, shall be at least "Extra Large" as defined in §52.3754 of the U.S. Standards for Grades of Canned Ripe Olives.

(8) Canned pitted ripe Variety Group 1 olives of the Ascolano, Barouni, and St. Agostino varieties shall be at least "Large" as defined in §52.3754 of the U.S. Standards for Grades of Canned Ripe Olives.

(9) Canned pitted ripe olives of Variety Group 2, except the Obliza variety, shall be at least "Small" as defined in §52.3754 of the U.S. Standards for Grades of Canned Ripe Olives.

(10) Canned pitted ripe Variety Group 2 olives of the Obliza variety shall be at least "Medium" as defined in §52.3754 of the U.S. Standards for Grades of Canned Ripe Olives.

(11) Canned pitted ripe olives not identifiable as to variety or variety group shall be at least "Small" as defined in §52.3754 of the U.S. Standards for Grades of Canned Ripe Olives.

(12) Imported bulk olives when used in the production of canned ripe olives

must be inspected and certified as prescribed in this section. Imported bulk olives which do not meet the applicable minimum size requirements specified in paragraphs (b)(2) through (b)(11) of this section may be imported after August 1, 1996, for limited-use, but any such olives so used shall not be smaller than the following applicable minimum size:

(i) Whole ripe olives of Variety Group 1, except Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/105 pound (4.3 grams) each.

(ii) Whole ripe olives of Variety Group 1 of the Ascolano, Barouni, or St. Agostino varieties, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/180 pound (2.5 grams) each.

(iii) Whole ripe olives of Variety Group 2, except the Obliza variety, of a size that not more than 35 percent of the olives, by count, may be smaller than 1/205 pound (2.2 grams) each.

(iv) Whole ripe olives of Variety Group 2 of the Obliza variety of a size that not more than 35 percent of the olives, by count, may be smaller than 1/180 pound (2.5 grams) each.

(v) Whole ripe olives not identifiable as to variety or variety group of a size that not more than 35 percent of olives, by count, may be smaller than 1/205 pound (2.2 grams) each.

(c) The Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade and size of processed olives from imported bulk lots for use in canned ripe olives and the grade and size of imported canned ripe olives. Inspection by said inspection service with appropriate evidence thereof in the form of an official inspection certificate, issued by the service and applicable to the particular lot of olives, is required. With respect to imported bulk olives, inspection and certification shall be completed prior to use as packaged ripe olives. With respect to canned ripe olives, inspection and certification shall be completed prior to importation. Any lot of olives which fails to

meet the import requirements and is not being imported for purposes of contribution to a charitable organization or processing into oil may be exported or disposed of under the supervision of the Processed Products Branch, Fruit and Vegetable Division, AMS, USDA, with the cost of certifying the disposal borne by the importer. Such inspection and certification services will be available, upon application, in accordance with the applicable regulations governing the inspection and certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (part 52 of this title). Application for inspection of canned ripe olives shall be made not less than 10 days prior to the time when the olives will be imported. Since inspectors are not located in the immediate vicinity of some of the small ports of entry, importers of canned ripe olives shall make arrangements for inspection through the following office at least 10 days prior to the time when the olives will be imported: Processed Products Branch, USDA, AMS, F&V Division, P.O. Box 96456, Room 0726-S, Washington, DC 20090-6456, telephone (202) 720-5021, fax (202) 690-1527. Application for inspection of processed bulk olives shall be made not less than 3 days prior to use in the production of canned ripe olives. Such application shall be made through one of the following offices: Regional Director, Eastern Regional Office, 800 Roosevelt Road, Building A, suite 380 Glen Ellyn, IL 60137, telephone (708) 790-6937/8/9, fax (708) 469-5162; or Regional Director, Western Regional Office, 2202 Monterey Street, suite 102-C, Fresno, CA 93721, telephone (209) 487-5891, fax (209) 487-5900.

(d) Inspection certificates shall cover only (1) the quantity of canned ripe olives that is being imported at a particular port of entry by a particular importer or (2) the quantity of canned ripe olives processed from a lot or subplot of imported bulk olives.

(e) Inspection shall be performed by USDA inspectors in accordance with said regulations governing the inspection and certification of processed fruits and vegetables and related products (part 52 of this title). The cost of each such inspection and related cer-

tification shall be borne by the applicant therefore. Applications for inspection shall be accompanied by, or there shall be submitted promptly thereafter, either (1) an "on board" bill of lading designating the lots to be entered as canned ripe olives, (2) a list of such lots by variety and their identifying marks, or (3) a list identifying lots by variety of imported bulk olives.

(f) Notwithstanding any other provisions of this regulation, any importation of canned ripe olives or olives imported in bulk for use in the production of canned ripe olives which, in the aggregate, does not exceed 100 pounds drained weight may be imported without regard to the requirements of this section.

(g) It is hereby determined, on the basis of the information currently available, that the minimum quality requirements and size requirements set forth in this part are comparable to those applicable to California canned ripe olives.

(h) No provisions of this section shall supersede the restrictions or prohibitions on canned ripe olives under the provisions of the Federal Food, Drug, and Cosmetic Act, or any other applicable laws or regulations or the need to comply with applicable food and sanitary regulations of city, county, State, or Federal agencies.

(i) Each inspection certificate issued with respect to canned ripe olives to be imported into the United States and canned ripe olives processed from a lot or subplot of imported bulk olives shall set forth among other things:

- (1) The date and place of inspection;
- (2) The name of the shipper or applicant;
- (3) The Customs entry number pertaining to the lot or shipment covered by the certificate;
- (4) The commodity inspected;
- (5) The quantity of the commodity covered by the certificate;
- (6) The principal identifying marks on the container;
- (7) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment;
- (8) The Consumption Entry Number for Canned Ripe Olives; and

(9) The following statement if the facts warrant: Meets the U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(j) The minimum quality, size, and maturity requirements of this section shall not be applicable to olives imported for charitable organizations or processing for oil, but shall be subject to the safeguard provisions contained in § 944.350.

[47 FR 51349, Nov. 15, 1982, as amended at 49 FR 34441, Aug. 31, 1984; 49 FR 44448, Nov. 7, 1984; 52 FR 38225, Oct. 15, 1987; 56 FR 49671, Oct. 1, 1991; 57 FR 36355, Aug. 13, 1992; 58 FR 69186, Dec. 30, 1993; 59 FR 38106, July 27, 1994; 59 FR 46910, Sept. 13, 1994; 60 FR 42774, Aug. 17, 1995; 61 FR 13059, Mar. 26, 1996; 61 FR 40510, Aug. 5, 1996; 62 FR 1244, Jan. 9, 1997; 74 FR 2808, Jan. 16, 2009]

#### § 944.503 Table Grape Import Regulation 4.

(a)(1) Pursuant to section 8e of the Act and Part 944—Fruits, Import Regulations, the importation into the United States of any variety of *Vinifera* species table grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, is prohibited unless such grapes meet the minimum grade and size requirements specified in 7 CFR 51.884 for U.S. No. 1 Table, as set forth in the United States Standards for Grades of Table Grapes (European or *Vinifera* Type, 7 CFR 51.880 through 51.914), or shall meet all the requirements of U.S. No. 1 Institutional with the exception of the tolerance for bunch size. Such tolerance shall be 33 percent instead of 4 percent as is required to meet U.S. No. 1 Institutional grade. Grapes meeting these quality requirements shall not be marked “Institutional Pack”, but may be marked “DGAC No. 1 Institutional.” In addition, during the period April 10 through July 10, 2009, U.S. No. 1 Table grade grapes may be packed in individual consumer packages containing 2 pounds net weight or less: *Provided*, That not more than 20 percent of the weight of such containers may consist of single clusters weighing less than one-quarter pound, but with at least five berries each.

(i) Grapes of the Perlette variety shall meet the minimum berry size re-

quirement of ten-sixteenths of an inch, and

(ii) Grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an inch (1.5875 centimeters) and shall be considered mature if the juice meets or exceeds 16.5 percent soluble solids, or the juice contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in the juice, in accordance with applicable sampling and testing procedures specified in sections 1436.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25 of Title 3: California Code of Regulations (CCR).

(2) Such minimum maturity standards are incorporated by reference, copies of which are available from Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20090-6456, telephone (202) 720-2491. They are also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the FEDERAL REGISTER.

(3) All regulated varieties of grapes offered for importation shall be subject to the grape import requirements contained in this section effective April 10 through July 10.

(b) The Federal or Federal-State Inspection Service, F&V, AMS, USDA, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of table grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of table grapes, is required on all imports. The inspection and certification services

**§ 944.550****7 CFR Ch. IX (1–1–10 Edition)**

will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR part 51) and in accordance with the Procedure for Requesting Inspection and designating the Agencies to Perform Requested Inspection and Certification (7 CFR 944.400).

(c) The term *importation* means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of processing, prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) The grade, size, quality and maturity requirements of this section shall not be applicable to grapes imported for processing, but shall be subject to the safeguard provisions contained in § 944.350.

[51 FR 12502, Apr. 11, 1986, as amended at 51 FR 13209, Apr. 18, 1986; 52 FR 31979, Aug. 25, 1987; 53 FR 22128, June 14, 1988; 58 FR 21537, Apr. 22, 1993; 58 FR 69186, Dec. 30, 1993; 59 FR 67619, 67620, Dec. 30, 1994; 60 FR 33681, June 29, 1995; 63 FR 28480, May 26, 1998; 69 FR 18801, Apr. 9, 2004; 74 FR 3419, Jan. 21, 2009; 74 FR 11277, Mar. 17, 2009]

**§ 944.550 Kiwifruit import regulation.**

(a) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, the importation into the United States of any kiwifruit is prohibited unless such kiwifruit meets all the requirements of the U.S. No. 1 grade as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340), except that the kiwifruit shall be “not badly misshapen,” and an additional tolerance of 7 percent is provided for kiwifruit that is “badly misshapen,” and except that such kiwifruit shall have a minimum of 6.2 percent soluble solids. Such fruit shall be at least Size 45, which means there shall be a maximum of 55 pieces of fruit and the average weight of all samples in a specific lot must weigh at least 8 pounds (3.632 kilograms), provided that no individual

sample may be less than 7 pounds 12 ounces (3.472 kilograms).

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the quality and size of kiwifruit imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to a particular shipment of kiwifruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR part 51) and in accordance with the procedure for requesting inspection and designating the agencies to perform required inspection and certification (7 CFR 944.400).

(c) The term *importation* means release from custody of the United States Customs Service. The term *commercial processing into products* means that the kiwifruit is physically altered in form or chemical composition through freezing, canning, dehydrating, pulping, juicing, or heating of the product. The act of slicing, dicing, or peeling shall not be considered commercial processing into products.

(d) Any lot or portion thereof which fails to meet the import requirements and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or commercial processing into products may be reconditioned or exported. Any failed lot which is not reconditioned or exported shall be disposed of under supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot borne by the importer.

(e) Any person may import up to 200 pounds of kiwifruit in any one shipment exempt from the requirements of this section.

(f) The grade, size, quality, and maturity requirements of this section shall not be applicable to kiwifruit imported

## Agricultural Marketing Service, USDA

## § 944.700

for consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, but shall be subject to the safeguard provisions contained in § 944.350.

[56 FR 10504, Mar. 13, 1991, as amended at 57 FR 42688, Sept. 16, 1992; 58 FR 69186, Dec. 30, 1993; 59 FR 45620, Sept. 2, 1994; 61 FR 13059, Mar. 26, 1996; 65 FR 54948, Sept. 12, 2000]

### § 944.700 Fresh prune import regulation.

(a) Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended, the importation into the United States of any fresh prunes, other than the Brooks variety, during the period July 15 through September 30 of each year is prohibited unless such fresh prunes meet the following requirements:

(1) Such fresh prunes grade at least U.S. No. 1, except that at least two-thirds of the surface of the fresh prune is required to be purplish in color, and such fresh prunes measure not less than 1¼ inches in diameter as measured by a rigid ring: Provided, That the following tolerances, by count, of the fresh prunes in any lot shall apply in lieu of the tolerance for defects provided in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 through 51.1538): A total of not more than 15 percent for defects, including therein not more than the following percentage for the defect listed:

(i) 10 percent for fresh prunes which fail to meet the color requirement;

(ii) 10 percent for fresh prunes which fail to meet the minimum diameter requirement;

(iii) 10 percent for fresh prunes which fail to meet the remaining requirements of the grade: Provided, That not more than one-half of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than 1 percent for decay.

(2) [Reserved]

(b) The importation of any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of fresh prunes of the Stanley or Merton varieties, or 350 pounds net weight, of fresh prunes of any variety other than the Stanley or Merton varieties, is ex-

empt from the requirements specified in this section.

(c) The grade, size and quality requirements of this section shall not be applicable to fresh prunes imported for consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, but such prunes shall be subject to the safeguard provisions in § 944.350.

(d) The term *U.S. No. 1* shall have the same meaning as when used in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 through 51.1538); the term *purplish color* shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (April 28, 1978), and the Oregon State Department of Agriculture Standards for Italian Prunes (October 5, 1977); the term *diameter* means the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit.

(e) The term *Prunes* means all varieties of plums, classified botanically as *Prunus domestica*, except those of the President variety.

(f) The term *importation* means release from custody of the United States Customs Service.

(g) Inspection and certification service is required for imports and will be available in accordance with the regulation designating inspection services and procedure for obtaining inspection and certification (7 CFR 944.400).

(h) Any lot or portion thereof which fails to meet the import requirements, and is not being imported for purposes of consumption by charitable institutions, distribution by relief agencies, or commercial processing into products, prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such fresh prunes borne by the importer.

(i) It is determined that fresh prunes imported into the United States shall meet the same minimum grade, size and quality requirements as those established for fresh prunes under Marketing Order No. 924 (7 CFR part 924).

[61 FR 40959, Aug. 7, 1996]

**Pt. 945**

**7 CFR Ch. IX (1–1–10 Edition)**

EFFECTIVE DATE NOTE: At 71 FR 26821, May 9, 2006, §944.700 was suspended indefinitely, effective May 10, 2006.

**PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON**

**Subpart—Order Regulating Handling**

DEFINITIONS

- Sec.
- 945.1 Secretary.
- 945.2 Act.
- 945.3 Person.
- 945.4 Production area.
- 945.5 Potatoes.
- 945.6 Varieties.
- 945.7 Certified seed potatoes.
- 945.8 Handler.
- 945.9 Ship or handle.
- 945.10 Producer.
- 945.11 Committee.
- 945.12 Fiscal period.
- 945.13 Grade and size.
- 945.14 Export.
- 945.15 Pack.
- 945.16 Container.
- 945.17 District.

ADMINISTRATIVE COMMITTEE

- 945.20 Establishment and membership.
- 945.21 Term of office.
- 945.22 Districts.
- 945.23 Redistricting and reapportionment.
- 945.24 Selection.
- 945.25 Nominations.
- 945.26 Failure to nominate.
- 945.27 Acceptance.
- 945.28 Vacancies.
- 945.29 Alternate members.
- 945.30 Procedure.
- 945.31 Expenses.
- 945.32 Powers.
- 945.33 Duties.

BUDGET, EXPENSES AND ASSESSMENTS

- 945.40 Expenses.
- 945.41 Budget.
- 945.42 Assessments.
- 945.43 Accounting.
- 945.44 Excess funds.

REGULATIONS

- 945.50 Marketing policy.
- 945.51 Recommendation for regulations.
- 945.52 Issuance of regulations.
- 945.53 Shipments for specified purposes.
- 945.54 Minimum quantity exemption.
- 945.55 Notification of regulation.
- 945.56 Safeguards.

INSPECTION AND CERTIFICATION

- 945.65 Inspection and certification.

COMPLIANCE

- 945.70 Compliance.

MISCELLANEOUS PROVISIONS

- 945.80 Reports.
- 945.81 Right of the Secretary.
- 945.82 Effective time.
- 945.83 Termination.
- 945.84 Proceedings after termination.
- 945.85 Effect of termination or amendments.
- 945.86 Duration of immunities.
- 945.87 Agents.
- 945.88 Derogation.
- 945.89 Personal liability.
- 945.90 Separability.
- 945.91 Amendments.

**Subpart—Rules and Regulations**

- 945.100 Communications.

DEFINITIONS

- 945.110 Order.
- 945.111 Fiscal period.
- 945.112 Terms.

CERTIFICATE OF PRIVILEGE

- 945.120 General.
- 945.121 Qualification.
- 945.122 Application.
- 945.123 Approval.
- 945.124 Reports.
- 945.125 Disqualification.

**Subpart—Assessment Rates**

- 945.249 Assessment rate.

**Subpart—Handling Regulations**

- 945.341 Handling regulation.

AUTHORITY: 7 U.S.C. 601–674.

**Subpart—Order Regulating Handling**

SOURCE: 23 FR 5709, July 30, 1958, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

DEFINITIONS

**§945.1 Secretary.**

*Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may