

SIZE DESIGNATION AND SIZE VARIATION CHART

Column 1 size designation	Column 2 maximum number of fruit per 8-pound sample	Column 3 size variation tolerance (diameter)
18 or larger	25	½-inch (12.7 mm).
20	27	½-inch (12.7 mm).
23	30	½-inch (12.7 mm).
25	32	½-inch (12.7 mm).
27/28	35	½-inch (12.7 mm).
30	39	½-inch (12.7 mm).
33	43	⅜-inch (9.5 mm).
36	46	⅜-inch (9.5 mm).
39	49	⅜-inch (9.5 mm).
42	53	⅜-inch (9.5 mm).
45 or smaller	55	¼-inch (6.4 mm).

(B) The average weight of all sample units in a lot must weigh at least 8 pounds, but no sample unit may be more than 4 ounces less than 8 pounds.

(C) Not more than 10 percent, by count, of the containers in any lot and not more than 5 percent, by count, of kiwifruit in any container, (except that for Sizes 42 and 45 kiwifruit, the tolerance, by count, in any one container, may not be more than 25 percent) may fail to meet the size variation requirements of this paragraph.

(iii) All volume fill containers of kiwifruit designated by weight shall hold 19.8-pounds (9-kilograms) net weight of kiwifruit unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit.

(b) *Definitions.* The term *KAC No. 1 quality* means kiwifruit that meets 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 all varieties of kiwifruit are exempt from the “tightly packed” standard as defined in §51.2338(a) of the U.S. Standards for Grades of Kiwifruit. The terms *fairly uniform in size and diameter* mean the same as defined in the U.S. Standards for Grades of Kiwifruit.

(c) *Exemptions.* Any person may handle kiwifruit without regard to the provisions of this section provided that such kiwifruit is handled for (1) con-

sumption by charitable institutions; (2) distribution by relief agencies; or (3) commercial processing into products. For the purposes of this section, *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.

[50 FR 36568, Sept. 9, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §920.302 see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§920.303 Container marking regulations.

No handler shall ship any kiwifruit except in accordance with the following terms and conditions:

(a) Each package or container of kiwifruit shall bear on at least one outside principal display panel in plain sight and in plain letters, the word *kiwifruit*, the name of the variety (if other than the Hayward variety), if known or, when the variety is not known, the words *unknown variety*.

(b) Each package or container of kiwifruit shall bear on one outside principal display panel in plain sight and in plain letters the name and address (including the city, state, and zip code) of the shipper.

(c) Each package or container of kiwifruit shall bear on one outside principal display panel in plain sight

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and in plain letters the following information regarding the quantity of kiwifruit packed within the container:

(1) The quantity shall be indicated in terms of count and size for kiwifruit packed in cell compartments, cardboard fillers, or molded trays, and the contents shall conform to the count.

(2) The quantity shall be indicated in terms of the size designation and either the net weight for volume-fill containers packed by weight or the count for volume-fill containers packed by count.

(3) For bulk containers or individual consumer packages not within a master container, the quantity shall be indicated in terms of the size designation and net weight, or in terms of the size designation and count.

(4) Master containers, which hold more than one individual package, must be properly marked with the quantity of the contents. The size designation must also be indicated.

(5) The quantity shall be indicated in terms of either net weight or count (or both) for individual consumer packages within a master container. If count is used, it must be accompanied by the size designation.

(6) Designations of size, count, and net weight on each container shall be accompanied by the words *size*, *count*, or *net weight* as applicable.

(d) Except as provided in paragraph (f) of this section, containers of kiwifruit must be positive lot identified prior to shipment in accordance with the following requirements. All exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on the pallet, shall be positive lot identified with a plain mark corresponding to the lot inspection conducted by an authorized inspector, except for individual consumer packages within a master container and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service. Individual consumer packages of kiwifruit placed directly on a pallet shall have all outside or exposed packages on a pallet positive lot identified with a plain mark corresponding to the lot inspection conducted by an authorized inspector or have one inspection

label placed on each side of the pallet. Reusable plastic containers of kiwifruit, placed on a pallet, shall be positive lot identified in accordance with Federal or Federal-State Inspection Service procedures and shall have required information on the cards of the individual containers, as provided in this section of the regulations.

(e) As used in this section, the term *principal display panel* means that part of the package or container most likely to be displayed, presented, shown or examined under normal or customary conditions of display and purchase.

(f) Kiwifruit that has been inspected and certified, and is subsequently placed into new containers, does not have to be positive lot identified, as prescribed in paragraph (d) of this section: *Provided, That:*

(1) Such kiwifruit is of the same grade and size as originally inspected; and

(2) The handler requests a verification number from the Federal or Federal-State Inspection Service prior to shipment; plainly marks one end of each container with such number and the letter "R," both of which shall be at least one-half inch in height; and submits a Kiwifruit Verification Form to the Federal or Federal-State Inspection Service within 3 business days of such request. The handler shall provide the following information on the Kiwifruit Verification Form.

(i) From the original inspection:

(A) The positive lot identification numbers;

(B) The identity of the handler;

(C) The inspection certificate numbers;

(D) The grade and size of the kiwifruit;

(E) The number and type of containers; and

(F) The handler's brand; and

(ii) On the kiwifruit placed into new containers:

(A) The number and type of containers; and

(B) The applicable brand.

[58 FR 43246, Aug. 16, 1993, as amended at 61 FR 13395, Mar. 27, 1996; 64 FR 41019, July 29, 1999; 69 FR 54199, Sept. 8, 2004; 71 FR 58249, Oct. 3, 2006]

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

Subpart—Order Regulating Handling

SOURCE: 22 FR 3514, May 21, 1957, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

DEFINITIONS

§ 922.1 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 922.2 Act.

Act means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047).

§ 922.3 Person.

Person means an individual, partnership, corporation, association, or any other business unit.