

## 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