

**§ 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

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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]