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# CODE OF FEDERAL REGULATIONS

# Title 7
## Agriculture

Parts 27 to 52

Revised as of January 1, 2014

Containing a codification of documents
of general applicability and future effect

As of January 1, 2014

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*Cite this Code:* CFR

*To cite the regulations in this volume use title, part and section number. Thus,* 7 CFR 27.1 *refers to title 7, part 27, section 1.*

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Title 1 through Title 16.....as of January 1
Title 17 through Title 27.....as of April 1
Title 28 through Title 41.....as of July 1
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CHARLES A. BARTH,
*Director,*
*Office of the Federal Register.*
*January 1, 2014.*

## THIS TITLE

Title 7—AGRICULTURE is composed of fifteen volumes. The parts in these volumes are arranged in the following order: Parts 1–26, 27–52, 53–209, 210–299, 300–399, 400–699, 700–899, 900–999, 1000–1199, 1200–1599, 1600–1759, 1760–1939, 1940–1949, 1950–1999, and part 2000 to end. The contents of these volumes represent all current regulations codified under this title of the CFR as of January 1, 2014.

The Food and Nutrition Service current regulations in the volume containing parts 210–299, include the Child Nutrition Programs and the Food Stamp Program. The regulations of the Federal Crop Insurance Corporation are found in the volume containing parts 400–699.

All marketing agreements and orders for fruits, vegetables and nuts appear in the one volume containing parts 900–999. All marketing agreements and orders for milk appear in the volume containing parts 1000–1199.

For this volume, Jonn V. Lilyea was Chief Editor. The Code of Federal Regulations publication program is under the direction of the Managing Editor, assisted by Ann Worley.

# Title 7—Agriculture

(This book contains parts 27 to 52)

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# Subtitle B—Regulations of the Department of Agriculture

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EDITORIAL NOTE: Nomenclature changes to chapter I appear at 69 FR 18803, Apr. 9, 2004.

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# SUBCHAPTER A—COMMODITY STANDARDS AND STANDARD CONTAINER REGULATIONS

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AUTHORITY: 7 U.S.C. 15b, 7 U.S.C. 473b, 7 U.S.C. 1622(g).

SOURCE: 22 FR 10923, Dec. 28, 1957; 30 FR 7239, May 29, 1965, unless otherwise noted.

CROSS REFERENCE: For regulations relating to cotton classing, testing, and standards, and cottonseed sold or offered for sale for crushing purposes, see parts 28 and 61 of this chapter.

## Subpart A—Regulations

DEFINITIONS

### § 27.1 Meaning of words.

Words used in this subpart in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

### § 27.2 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The Act*. The United States Cotton Futures Act (90 Stat. 1841–1846; 7 U.S.C. 15b).

(b) *Department*. The United States Department of Agriculture.

(c) *Service*. The Agricultural Marketing Service of the Department.

(d) *Administrator*. The Administrator of the Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Administrator's stead.

(e) *Cotton Division*. The Cotton Division of the Service.

(f) *Director*. The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in the Director's stead.

(g) *Marketing Services Office*. A facility of the Cotton Division established under the Act at any point.

(h) *Quality Assurance Division*. The Quality Assurance Division at Memphis, Tennessee; shall provide supervision of futures cotton classification.

(i) *Exchange*. Exchange, board of trade, or similar institution or place of business, at, on, or in which a basis grade contract may be made.

(j) *Exchange inspection agency*. The inspection agency of the New York Cotton Exchange, the New Orleans Cotton Exchange, the Board of Trade of the city of Chicago, or of any other exchange which may have an organized inspection agency recognized as such by the Director, as the case may be.

(k) *Basis grade contract*. Contract of sale of cotton for future delivery mentioned in the Act, made at, on, or in any exchange in compliance with subsection 15b(f) of the Act.

(l) *Person*. Individual, association, partnership, or corporation.

(m) *Owner*. Person who owns, controls, or has the disposition of any cotton.

(n) *Classification*. The classification of any cotton shall be determined by the quality of a sample in accordance with the Universal Cotton Standards (the official cotton standards of the United States) for cotton property measurements of American Upland cotton. High Volume Instruments will determine all cotton property measurements except extraneous matter. Cotton classers authorized by the Cotton and Tobacco Program will determine the presence of extraneous matter. Original Smith-Doxey data may serve as certification that bales submitted for quality verification meet quality and age parameters set by an applicable exchange inspection agency as a futures classification option.

(o) *Micronaire determination*. The measure of the fiber fineness and maturity of cotton, in combination, in terms of Micronaire readings as determined by an authorized employee of the Department in accordance with the official cotton standards of the United States for fiber fineness and maturity.

(p) *Smith-Doxey data*. Data reflecting the original classification of a cotton bale provided to producers of cotton

under the Smith-Doxey Act of April 13, 1937 (Pub. L. 75–28).

[22 FR 10923, Dec. 28, 1957, as amended at 32 FR 4157, Mar. 17, 1967; 42 FR 40677, Aug. 11, 1977; 48 FR 49210, Oct. 25, 1983; 65 FR 36598, June 9, 2000; 77 FR 5380, Feb. 3, 2012; 77 FR 20504, Apr. 5, 2012; 78 FR 68984, Nov. 18, 2013]

GENERAL

### § 27.3 Requirements of subsection 15b(f) of the Act.

The inspection, sampling, classification, and Micronaire determination of cotton pursuant to subsection 15b(f) of the Act shall be performed as prescribed in this subpart. All tenders of cotton and settlements therefor under basis grade contracts shall be made subject to the regulations in this subpart. No contract shall for the purposes of this subpart be deemed to comply with subsection 15b(f) of the Act if it contain or incorporate therein, by reference or otherwise, any provision or any bylaw, rule, or custom of an exchange which is inconsistent or in conflict with any requirement of said subsection 15b(f), nor if the parties enter into any collateral or additional agreement or understanding, either verbal or written, respecting the subject matter of such contract which is inconsistent or in conflict with any requirement of said subsection 15b(f).

[42 FR 40677, Aug. 11, 1977]

### § 27.4 Obligations and rights under Act: not affected by regulations.

Nothing in this subpart shall be construed as relieving any party to a basis grade contract of any obligation imposed upon the party, or as depriving the party of any right to which the party might be entitled under any provision of the contract or exchange rule made a part thereof which shall not be inconsistent with the act or the regulations made under the Act.

[48 FR 49210, Oct. 25, 1983]

### § 27.5 Effect of amendments.

Any amendment to this subpart, unless otherwise stated therein, shall apply to all tenders of cotton and settlements therefor made on and after the effective date of such amendment, under basis grade contracts entered into prior, as well as subsequent, to such effective date.

[22 FR 10923, Dec. 28, 1957, as amended at 42 FR 40677, Aug. 11, 1977]

ADMINISTRATION

### § 27.8 Director.

The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the provisions of the Act and this subpart.

### § 27.9 Classing Offices; Quality Assurance Division.

Classing Offices shall be maintained at points designated for the purpose by the Administrator. The Quality Assurance Division shall provide supervision of futures cotton classification and perform other duties as assigned by the Deputy Administrator.

[ 77 FR 5380, Feb. 3, 2012]

### § 27.10 Supervision of cotton inspection, weighing, sampling; and other duties.

Authorized employees of the Cotton Division will act, when necessary, as supervisors of cotton inspection to supervise the inspection, weighing, and sampling of cotton to be classified and will perform such other duties as may be required of them for the purposes of this subpart.

[26 FR 1656, Feb. 25, 1961]

### § 27.11 Area Director, Marketing Services Office; responsibility.

Subject to this subpart and the instructions of the Director, the Area Director of each Marketing Services Office shall be responsible for the proper performance of the duties imposed on such office and on the persons connected therewith.

[48 FR 49210, Oct. 25, 1983]

CLASSIFICATION REQUESTS

### § 27.12 Classification request for each lot of cotton.

For each lot or mark of cotton of which the applicant desires separate classification and certification, the applicant shall make a separate written request in a form prescribed or supplied

by the Cotton Division for that purpose.

[48 FR 49210, Oct. 25, 1983]

### § 27.13 Micronaire determination request incidental to classification request.

The classification request may include a request for Micronaire determination.

### § 27.14 Filing of classification requests.

Requests for futures classification shall be filed with the Quality Assurance Division within 10 days after sampling and before classification of the samples.

[77 FR 5380, Feb. 3, 2012]

### § 27.15 Withdrawal or rejection of classification or Micronaire determination requests.

Any request for classification or for Micronaire determination may be withdrawn by the applicant at any time before the classification or Micronaire determination of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed under §§ 27.80 to 27.92. Any request for classification or for Micronaire determination may be rejected for noncompliance with the act or this subpart.

INSPECTION AND SAMPLES

### § 27.16 Inspection; weighing; samples; supervision.

The inspection, weighing, and sampling of cotton for which classification is desired and the preparation and delivery of samples to the Marketing Services Office shall be (a) under the supervision of a supervisor of cotton inspection, or (b) by or under the direction of an exchange inspection agency and subject to the supervision of a supervisor of cotton inspection.

[48 FR 49210, Oct. 25, 1983]

### § 27.18 Persons not to be employed for inspection or sampling.

No person shall, after notice to the interested parties, be employed in any way in connection with any phase of the inspection and sampling of cotton or the preparation of the samples thereof, for the purposes of classification under this subpart, who for good cause is disapproved by the Director.

### § 27.20 Drawing and handling of samples of cotton; inspection of bales.

One sample shall be drawn from the top side of each bale and one from the bottom side. Each such sample shall weigh not less than 5 ounces, the two samples from each bale to weigh together not less than 10 ounces. The bale shall be inspected and any condition not fully indicated by the samples shall be explained by the supervisor of cotton inspection or exchange inspection agency in a written memorandum, which shall acompany the samples to the Marketing Services Office. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Any sample which does not meet the requirements of this section may be rejected by the supervisor of cotton inspection or the Area Director.

[48 FR 49210, Oct. 25, 1983]

### § 27.21 [Reserved]

### § 27.22 Wrapping and marking of samples of cotton.

The original sets of samples of the bales constituting a lot or mark to be classified separately shall be inclosed in one or more wrappers or containers, as the case may require. The wrappers or containers of original samples shall be so labeled or marked, or both, as to show that they contain original samples, together with the lot number, if any, the marks, and the number of bales, and such other information as may be necessary in accordance with the instructions of the Area Director of the Marketing Services Office to which the samples are to be delivered.

[48 FR 49210, Oct. 25, 1983]

### § 27.23 Duplicate sets of samples of cotton.

The duplicate sets of samples shall be inclosed in wrappers or containers separate and apart from the original sets in the manner prescribed or original samples in the foregoing section, except that the wrappers or containers

shall be labeled or marked, or both, so as to show that they contain duplicate samples and shall be delivered to the person requesting the classification of the cotton.

### § 27.24 Delivery of samples of cotton.

The original sample from each bale to be classified shall be delivered to the Marketing Services Office with which the classification request was filed, at its classification room. If there is no Marketing Services Office at the point where the cotton is sampled, the supervisor of cotton inspection or the exchange inspection agency shall forward the samples to the proper Marketing Services Office. No samples covered by pending classification requests which are ready for delivery as provided for herein shall be withheld from such delivery except as authorized in writing by the Area Director or the Director.

[48 FR 49210, Oct. 25, 1983]

### § 27.25 Additional samples of cotton; drawing.

In addition to the samples hereinbefore prescribed, separate samples, if desired, may be drawn and furnished to the owner of the cotton.

### § 27.28 Disposition of samples.

Samples submitted to a Marketing Services Office shall become the property of the Department and shall be disposed of in accordance with the property regulations of Department when no longer needed for classification or Micronaire determinations.

[48 FR 49211, Oct. 25, 1983]

## CLASSIFICATION AND MICRONAIRE DETERMINATIONS

### § 27.31 Classification of cotton.

For purposes of subsection 15b (f) of The Act, classification of cotton is the determination of the quality of a sample in accordance with the Universal Cotton Standards (the official cotton standards of the United States) for the color grade and leaf grade of American upland cotton, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except extraneous matter. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers authorized by the Cotton and Tobacco Programs will determine the presence of extraneous matter and authorized employees of the Cotton and Tobacco Programs will determine all fiber property measurements using High Volume Instruments.

[77 FR 20504, Apr. 5, 2012]

### § 27.32 Order of classification.

All cotton for which classifications requests shall be pending shall be classified as far as practicable in the order in which proper samples thereof, ready for such classification, shall have been delivered to the Marketing Services Office, except as otherwise provided in this subpart or when the Area Director or the Director shall find that an emergency exists and shall order otherwise.

[48 FR 49211, Oct. 25, 1983]

### § 27.33 Exposing of samples for classification.

Classification shall not proceed until the samples, after being delivered to the Marketing Services Office, shall have been exposed for such length of time as in the judgment of the Area Director shall be sufficient to put them in proper condition for the purpose.

[48 FR 49211, Oct. 25, 1983]

### § 27.34 Classification procedure.

Classification shall proceed as rapidly as possible, but not when light or other conditions make uncertain the accuracy of the results to be obtained.

### § 27.35 Lower class of two samples to prevail.

In case a sample drawn from one portion of a bale is lower in class than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower class.

### § 27.36 Classification determinations based on official standards.

All cotton shall be classified on the basis of the official cotton standards of

the United States in effect at the time of such classification.

[77 FR 5380, Feb. 3, 2012]

### § 27.37 Cotton reduced in grade.

If cotton be reduced in grade, by reason of the presence of extraneous matter or other irregularities or defects, below its grade according to the official cotton standards of the United States, the grade from which it is so reduced, and the condition or reason which so reduces its grade shall be determined and stated.

[25 FR 5872, June 25, 1960]

### § 27.38 Terms defined for purposes of classification.

For the purposes of classification the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has the strength of fiber as ordinarily found in cotton destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) [Reserved]

(c) *Gin cut cotton.* Cotton that shows damage in ginning, through cutting by the saws, to an extent that reduces its value more than two grades.

(d) *Reginned cotton.* Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) *Repacked cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales that are combined after the cotton leaves the gin.

(f) *False packed cotton.* Cotton in a bale (1) containing substances entirely foreign to cotton, (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior, (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination, or (4) containing pickings or linters worked into the bale.

(g) *Mixed packed cotton.* Cotton in a bale which, in the sample taken therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color groups, or (3) a difference in length of staple of one-eighth inch or more. For purposes of this paragraph, White Cotton (including the Plus grades), Light Gray Cotton, and Gray Cotton shall constitute one color group, and Light Spotted Cotton, Spotted Cotton, Tinged Cotton, and Yellow Stained Cotton shall each constitute a color group.

(h) *Water packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

[22 FR 10926, Dec. 28, 1957, as amended at 26 FR 5945, July 1, 1961; 32 FR 7011, May 9, 1967; 35 FR 17935, Nov. 21, 1970]

## COTTON CLASS CERTIFICATES

### § 27.39 Issuance of classification records.

Except as otherwise provided in this section, as soon as practicable after the classification of cotton has been completed by the Cotton and Tobacco Programs, the Quality Assurance Division shall issue an electronic cotton classification record showing the results of such classification. Each electronic record shall bear the date of its issuance. The electronic record shall show the identification of the cotton according to the information in the possession of the Cotton and Tobacco Programs, the classification of the cotton and such other facts as the Deputy Administrator may require.

[77 FR 5380, Feb. 3, 2012]

### § 27.40 New certificates; conditions of issuance.

For the business convenience of a holder of a cotton class certificate issued under this subpart a new certificate may be issued at the request of the holder, to take the place of the former certificate without the reclassification of the cotton and without a

new Micronaire determination for the cotton. In any case where a new certificate is issued in accordance with this section, the former certificate shall be surrendered for cancellation, and such new certificate shall bear a new number, the date of its issuance, and the date of original certification, and shall otherwise comply with this subpart.

### § 27.41 Lost certificate; duplicate.

Upon the written request of the last holder of a valid cotton class certificate and a showing to the satisfaction of the Area Director of the Marketing Services Office which issued such certificate, that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new certificate shall be issued without the reclassification of the cotton and without a new Micronaire determination for the cotton. Such new certificate shall bear the same number and date of issuance as the lost or destroyed certificate, and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

[48 FR 49211, Oct. 25, 1983]

### § 27.42 Surrender of certificate.

For good cause any certificate issued under this subpart shall be surrendered to a Marketing Services Office for correction or cancellation. If such certificate be not surrendered upon request it shall nevertheless be invalid under subsection 15b(f) of the Act and this subpart.

[48 FR 49211, Oct. 25, 1983]

### § 27.43 Validity of cotton class certificates.

Each cotton class certificate for cotton classified as tenderable shall be valid for use in the tender of such cotton on a basis grade contract made in accordance with the Act and this subpart and the rules of an exchange not inconsistent therewith.

[22 FR 10926, Dec. 28, 1957, as amended at 42 FR 40677, Aug. 11, 1977]

### § 27.44 Invalidity of cotton class certificates.

Any cotton class certificate shall become invalid for use in the tender or delivery of the cotton covered thereby on a basis grade contract whenever such cotton shall be removed from the place of storage specified therein, except when it is handled and re-stored or transferred to a different place of storage and restored under the supervision of an exchange inspection agency or a supervisor of cotton inspection.

(90 Stat. 1841–1846; (7 U.S.C. 15b))

[22 FR 10926, Dec. 28, 1957, as amended at 26 FR 1657, Feb. 25, 1961; 42 FR 40677, Aug. 11, 1977]

### § 27.45 No storage of cotton for classification at disapproved place.

No cotton submitted for classification under subsection 15b(f) of the Act shall be located or stored at a place disapproved for the purpose by the Area Director or the Director on account of being unsuitable for the safekeeping or proper storage of such cotton, or on account of the failure or refusal of the custodian thereof to comply or to permit compliance with the requirements of this subpart. Notice of such disapproval shall be given in such manner as the Director may direct. Thereafter every cotton class certificate previously issued for cotton located or stored at such place shall be invalid for the delivery of such cotton on a basis grade contract, unless the cotton shall be removed under the supervision of an exchange inspection agency, or a supervisor of cotton inspection, to a place which shall be suitable for the purpose. Upon such removal and the request of the holder of the cotton class certificate for such cotton a new certificate in lieu thereof, as provided elsewhere in this subpart, shall be issued.

[48 FR 49211, Oct. 25, 1983]

### § 27.46 Cotton withdrawn from storage.

The exchange inspection agency under the supervision or control of which any cotton classified pursuant to this subpart shall be held or stored shall furnish to the Marketing Services Office which classified such cotton, on the first business day of each week, a written statement of all cotton withdrawn from storage, or the lot number or other identification of which has

been changed, or which has otherwise been removed from the supervision or control of such exchange inspection agency during the next preceding week. Such statement shall show each lot number, and, if changed, the new lot number, and in case of the withdrawal or removal of a portion only of the lot, the tag numbers of the bales so withdrawn or removed. If such removal shall be to a different place of storage under the supervision or control of the exchange inspection agency, the statement shall show the new location.

[48 FR 49211, Oct. 25, 1983]

### § 27.47 Tender or delivery of cotton; conditions.

Subject to the provisions of §§ 27.52 through 27.55, no cotton shall be tendered or delivered on a basis grade contract unless on or prior to the date fixed for delivery under such contract, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a valid outstanding cotton classification record complying with the regulations in this subpart, showing such cotton to be tenderable on a basis grade contract.

[77 FR 5380, Feb. 3, 2012]

DELAYED CERTIFICATION

### § 27.52 Delivery without certification.

If upon the date fixed for delivery in accordance with subsection 15b(f) of the Act cotton class certificates shall not have been issued by a Marketing Services Office for cotton to be delivered pursuant to such notice, samples of which cotton shall have been in the custody of the Marketing Services Office for the time hereinafter prescribed, the delivery of such cotton may be made upon compliance with and subject to the conditions specified in §§ 27.52 through 27.55. Sections 27.52 through 27.55 shall not apply to cotton upon which a Marketing Services Office has already issued cotton class certificates pursuant to this subpart.

[48 FR 49212, Oct. 25, 1983, as amended at 50 FR 47707, Nov. 20, 1985]

### § 27.53 Notice for delayed certification; requirements.

On the date of giving the transferable notice of the delivery in accordance with subsection 15b(f) of the act the person issuing such notice or the person on whose behalf it was issued shall also give written notice to the Marketing Services Office with which the classification request was required to be filed, specifying the date of delivery and the number of bales so to be delivered which have not been certified. In such notice, or later in writing before the delivery of the samples to the Marketing Services Office the lot numbers of the cotton so to be delivered shall be specified.

[48 FR 49212, Oct. 25, 1983]

### § 27.54 Inspection and sampling for delayed certification.

Such cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must be delivered to the Marketing Services Office not later than the date of issuance of the transferable notice, except when the delivery day fixed by such transferable notice is the last delivery day in the month of delivery. In such case the cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must have been delivered to the Marketing Services Office in accordance with all regulations applicable and in readiness for classification not later than 8 p.m. of the second business day preceding such last delivery day.

[48 FR 49212, Oct. 25, 1983]

### § 27.55 Requirements in lieu of cotton class certificates on delivery day.

If on the morning of the delivery day specified in the transferable notice the cotton class certificates covering the cotton involved are not ready for delivery when called for, the tenderer of the cotton shall present to the receiver a receipt issued by an exchange inspection agency certifying that warehouse receipts, listed by lot numbers, representing cotton weighed and sampled

in an approved warehouse under the supervision of such agency, have been received by the exchange inspection agency and are in the custody of the Cotton Division Marketing Services Office where certification requests are required to be filed. The requirements of §§ 27.52–27.55 shall be complied with prior to delivery by the tenderer of the agency's receipt to the receiver. Upon issuance by Marketing Services Office, the tenderer shall furnish to the receiver the cotton class certificates complying with the regulations in this subpart, showing the cotton to be tenderable on a basis grade contract.

[50 FR 47707, Nov. 20, 1985]

POSTPONED CLASSIFICATION

### § 27.57 Request for postponement.

If the applicant desires the postponement of the classification of any cotton covered by a classification request filed pursuant to the regulations in this subpart until later notice, the original classification request must so state, or the applicant must so advise the Marketing Services Office in writing before the classification has been entered upon. Such request must show cause and that it is not made merely for dilatory reasons.

[48 FR 49212, Oct. 25, 1983]

### § 27.58 Postponed classification; must be within 30 days.

If thereafter the classification of the cotton be desired, notice thereof shall be filed not later than the expiration of 30 days after the date upon which the samples were drawn from the cotton, and the original samples must have remained continuously in the possession of the Marketing Services Office or under its control.

[48 FR 49212, Oct. 25, 1983]

### § 27.59 Postponed classification; interference.

Classification pursuant to such suspended request shall not be allowed to interfere with or delay the classification of other samples previously made ready for classification or which are otherwise entitled to priority.

### § 27.60 When original request deemed withdrawn.

If the period of 30 days specified in § 27.58 shall expire without the filing of the notice of desire for classification the applicant shall be deemed to have withdrawn the original request for the classification of such cotton.

### §§ 27.61–27.72 [Reserved]

### § 27.73 Supervision of transfers of cotton.

Whenever the owner of any cotton inspected and sampled for classification pursuant to this subpart and for which the owner holds valid cotton class certificates desires to transfer such cotton to a different delivery point, or to a different warehouse at the same delivery point, for the purpose of having it made available for delivery upon a basis grade contract, such transfer shall be effected under the supervision of an exchange inspection agency or a supervisor of cotton inspection.

[48 FR 49213, Oct. 25, 1983]

COSTS OF CLASSIFICATION AND MICRONAIRE

### § 27.80 Fees; review classification, futures classification and supervision.

For services rendered by the Cotton and Tobacco Programs pursuant to this subpart, whether the cotton involved is tenderable or not, the person requesting the services shall pay fees as follows:

(a) [Reserved]

(b) [Reserved]

(c) [Reserved]

(d) Futures classification—$3.50 per bale.

[77 FR 5380, Feb. 3, 2012]

### § 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for the purpose of business convenience, or when made necessary by the transfer of cotton under the supervision of any exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of $.70 cents for each certificate issued.

[55 FR 20440, May 17, 1990]

### § 27.83 No fees for certain certificates.

No fee shall be collected for a new cotton class certificate issued in lieu of a prior certificate solely for the purpose of correcting clerical errors therein or for the purpose of substituting a new form applicable to outstanding certificates, or without an application therefor.

### § 27.85 Fees; withdrawn requests or applications.

When the request for classification, or the application for review or classification, of any cotton or the request for Micronaire determination for any cotton shall be withdrawn after the service requested has been started pursuant to such request or application, the person making such request or application shall pay the fee prescribed by § 27.80 as to any service completed prior to such withdrawal.

### § 27.87 Fees; classification and Micronaire determination information.

Whenever the person who requests the classification of, or Micronaire determination for, any cotton, or the person on whose behalf such request is made, also requests the transmission by telegraph or telephone of information concerning such classification or Micronaire determination, the person making the request for such classification or determination shall pay, in addition to the applicable costs prescribed in this subpart, the cost of tolls incurred in such transmission.

### § 27.89 Expenses; inspection; sampling.

Expense of inspection and sampling, the preparation of the samples and the delivery of such samples in accordance with § 27.24, shall be borne by the party requesting the classification of the cotton involved. When a review of classification or a Micronaire determination is requested and samples of the cotton involved are not in possession of a Marketing Services Office, the expense of inspection, sampling, preparation of samples, and delivery of the samples to the Marketing Services Office shall be borne by the party requesting the service.

[48 FR 49213, Oct. 25, 1983]

### § 27.90 Bills for payment of fees and expenses.

The Cotton Division shall deliver bills to all persons from whom payment for fees or expenses on account of services under this subpart shall be due. Such bills shall be rendered as soon as practicable after the last day of each month for the amounts due and unpaid on such day. When necessary, in the discretion of the Area Director or the Director, any bill may be rendered at an earlier date for any fees and expenses then due by the person to whom such bill shall be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than 2 weeks after such rendition.

[48 FR 49213, Oct. 25, 1983]

### § 27.91 Advance deposit may be required.

If requested by the Area Director with whom the classification request is required to be filed or by the Director, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official requesting the same.

[48 FR 49213, Oct. 25, 1983]

### § 27.92 Method of payment; advance deposit.

Any payment or advance deposit under this subpart shall be by check, draft, or money order, payable to the order of ''Agricultural Marketing Service, USDA,'' and may not be made in cash except in cases where the total payment or deposit does not exceed $1.

## SPOT MARKETS

### § 27.93 Bona fide spot markets.

The following markets have been determined, after investigation, and are hereby designated to be bona fide spot markets within the meaning of the act:

Southeastern, North Delta, South Delta, East Texas and Oklahoma, West Texas, Desert Southwest and San Joaquin Valley. Such markets will comprise the following areas:

SOUTHEASTERN

All counties in the states of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia and all counties in the state of Tennessee east of and including Stewart, Houston, Humphreys, Perry, Wayne and Hardin counties.

NORTH DELTA

All counties in the states of Arkansas and Missouri and all counties in Tennessee west of and including the counties of Henry, Benton, Henderson, Decatur, Chester and McNairy counties and the Mississippi counties of Alcorn, Benton, Calhoun, Chickasaw, DeSoto, Grenada, Itawamba, Lafayette, Lee, Marshall, Monroe, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Union and Yalobusha.

SOUTH DELTA

All counties in the state of Louisiana and all counties in the state of Mississippi not included in the North Delta market.

EAST TEXAS AND OKLAHOMA

All counties in the states of Kansas and Oklahoma and the Texas counties east of and including Montague, Wise, Parker, Erath, Comanche, Mills, San Saba, Mason, Sutton, Edwards, Kinney, Maverick, Webb, Zapata, Star and Hidalgo counties.

WEST TEXAS

All Texas counties not included in the East Texas, Oklahoma and Desert Southwest Markets and the New Mexico counties of Union, Quay, Curry, Roosevelt and Lea.

DESERT SOUTHWEST

The Texas counties of Val Verde, Crockett, Terrell, Pecos, Brewster, Presidio, Jeff Davis, Culberson, Hudspeth and El Paso, all New Mexico counties except those included in the West Texas market, all counties in the state of Arizona and the California counties south of and including Riverside and Orange counties.

SAN JOAQUIN VALLEY

All California counties except those included in the Desert Southwest market.

[53 FR 29326, Aug. 4, 1988, as amended at 78 FR 25182, Apr. 30, 2013]

### § 27.94 Spot markets for contract settlement purposes.

The following are designated as spot markets for the purpose of determining as provided in paragraph 15b(f)(3) of the act, the differences above or below the contract price which the receiver shall pay for grades tendered or deliverable in settlement of a basis grade contract:

(a) For cotton delivered in settlement of any No. 2 contract on the Intercontinental Exchange (ICE); Southeastern, North and South Delta, Eastern Texas and Oklahoma, West Texas, and Desert Southwest.

(b) [Reserved]

[53 FR 29327, Aug. 4, 1988, as amended at 67 FR 77148, Dec. 17, 2002; 78 FR 25182, Apr. 30, 2013]

PRICE QUOTATIONS AND DIFFERENCES

### § 27.95 Spot markets to conform to Act and regulations.

Every bona fide spot market shall, as a condition of its designation and of the retention thereof, conform to the act and any applicable regulations.

[53 FR 29327, Aug. 4, 1988]

### § 27.96 Quotations in bona fide spot markets.

The price or value and differences between the price or value of grades and staple lengths of cotton shall be based solely upon the official cotton standards of the United States and shall be the actual commercial value or price and differences as determined by the sale of spot cotton in such spot market. Quotations shall be determined and maintained in each designated spot market by the Cotton Division, Agricultural Marketing Service, USDA, as follows:

(a) In spot markets designated to determine differences for the settlement of futures contracts, the Cotton Division will on each business day determine and quote by bale volume the prices or values of base qualities which are deliverable on any active futures contracts, as well as the differences for all other qualities deliverable on such contracts. The prices or differences for non-deliverable qualities will be determined and quoted by bale volume in each such spot market for those qualities normally produced or traded in that particular market.

(b) In spot markets not designated to determine differences for the settlement of futures contracts, the Cotton Division will on each business day determine and quote by bale volume the prices or differences for all qualities of

cotton normally produced or traded in each such spot market.

[53 FR 29327, Aug. 4, 1988]

### § 27.97 Ascertaining the accuracy of price quotations.

The buyers and sellers of cotton in each spot market shall be responsible for providing accurate and timely price, quality, and volume of purchases data by growth area to the Cotton Division. The Cotton Division is responsible for ascertaining the accuracy of the price quotations in each designated spot market. The Cotton Division will carry out this responsibility by performing the following duties and functions:

(a) The Cotton Division will collect and analyze pertinent information on the prices and values of spot cotton from each spot market.

(b) In the process of determining price quotations, the Cotton Division will contact a minimum of three buyers and sellers of cotton in each bona fide market at least two times per week during the active trading season and one time per week during the remainder of the year to obtain information on prices, qualities, volume, and terms of sales in sufficient detail to determine quotations.

(c) The Cotton Division will summarize the price and quality data and, based on analysis of this summary, make determinations regarding quotations of price, value and differences.

(d) Quotations for each spot market shall be reviewed and approved by the Cotton Division's Market News Branch Chief or Assistant Branch Chief prior to publication.

(e) The Cotton Division will publish the appropriate quotations by bale volume for grades, staple lengths, micronaire determinations, and other quality factors for each spot market on a daily basis.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under OMB control number 0581–0029)

[53 FR 29327, Aug. 4, 1988]

### § 27.98 Value of grade where no sale; determination.

As provided in § 27.96, whenever no sale of a particular grade of cotton shall have been made on a given day in a particular spot market, the value of such grade in the market on that day will be determined as follows:

(a) If on such given day there shall have been in such market both a sale of any higher grade and a sale of any lower grade, the average of the declines, or advances, or decline and advance, as the case may be, of the next higher grade and the next lower grade so sold shall be deducted from, or added to, as the case may be, the value, on the last preceding business day, of the grade the value of which on such given day is sought to be ascertained.

(b) If on such given day there shall have been in such market a sale of either a higher or a lower grade, but not sales of both, the decline or advance of the next higher or the next lower grade so sold shall be deducted from, or added to, as the case may be, the value on the last preceding business day of the grade the value of which on such given day is sought to be ascertained.

(c) If on such given day there shall have been in such market no sale of spot cotton of any grade, the value of each grade shall be deemed to be the same as its value therein on the last preceding business day, unless in the meantime there shall have been bona fide bids and offers, or sales of hedged cotton, or other sales of cotton, or changes in prices of futures contracts made subject to the act, which in the usual course of business would clearly establish a rise or fall in the value of spot cotton in such market, in which case such rise or fall may be calculated and added to or deducted from the value on the preceding business day of cotton of all grades affected thereby.

[53 FR 29327, Aug. 4, 1988]

### § 27.99 Values; expression.

For the purpose of this subpart values shall be expressed in terms of cents and hundredths of a cent. A fraction of a hundredth, when equal to, or greater than, the half thereof, shall be treated as a hundredth, and when less than a

half of a hundredth shall be disregarded.

[22 FR 10923, Dec. 28, 1957; 30 FR 7239, May 29, 1965. Redesignated at 53 FR 29328, Aug. 4, 1988]

### § 27.100 Administration.

The details of the method of carrying out the provisions of this subpart in each bona fide spot market shall be subject to the approval of the Director or shall be prescribed by the Director.

[48 FR 49214, Oct. 25, 1983. Redesignated at 53 FR 29328, Aug. 4, 1988]

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28.955 Disposition of samples.
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28.957 Special tests and fees.
28.958 Payment of fees.
28.959 Limitation of testing services.
28.960 Confidential information.
28.961 False and misleading information.

CROSS REFERENCE: For regulations relating to cotton classification under cotton futures legislation, and cottonseed sold or offered for sale for crushing purposes, see parts 27 and 61 of this chapter.

SOURCE: 22 FR 10930, Dec. 28, 1957, unless otherwise noted.

## Subpart A—Regulations Under the United States Cotton Standards Act

AUTHORITY: 7 U.S.C. 55 and 61.

DEFINITIONS

### § 28.1 Meaning of words.

Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

### § 28.2 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The Act*. The United States Cotton Standards Act, approved March 4, 1923 (42 Stat. 1517; 7 U.S.C. 51 *et seq*.) with such amendments as may be made from time to time.

(b) *Regulations*. Regulations mean the provisions in this subpart.

(c) *Department*. The United States Department of Agriculture.

(d) *Secretary*. The Secretary of Agriculture of the United States, or any officer or employee of the Department who has been delegated, or who mayhereafter be delegated the authority to act for the Secretary.

(e) *Service*. The Agricultural Marketing Service of the U.S. Department of Agriculture.

(f) *Administrator*. The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, who has been delegated, or who may hereafter be delegated the authority to act for the Administrator.

(g) *Division.* The Cotton Division of the Agricultural Marketing Service.

(h) *Director.* The Director of the Cotton Division, or any officer or employee of the Division who has been delegated, or who may hereafter be delegated the authority to act for the Director.

(i) *Classing Office.* A facility of the Cotton Division established under the act at any point.

(j) *Quality Control Section.* The national classing supervision office at Memphis, Tennessee performing final review of cotton classification.

(k) *Cotton classer.* An employee of the Department so designated by the Director after having passed the prescribed practical cotton classing examination.

(l) *License.* A license issued under the Act by the Secretary to sample cotton.

(m) *Licensed warehouse or gin.* A cotton warehouse or gin licensed under the United States Cotton Standards Act to sample cotton.

(n) *Cotton.* The word *cotton* means cotton of any variety produced within the continental United States. In this subpart, for administrative convenience the word ''cotton'' is used to signify vegetable hair removed from cottonseed in the usual process of ginning.

(o) *Upland Cotton.* All cotton grown anywhere within the continental United States including the growths sometimes referred to as Upland, Gulf, and Texas cotton, but excluding American Pima growths.

(p) Official Cotton Standards. Official Cotton Standards of the United States for the color grade and the leaf grade of American upland cotton, the color grade and the leaf grade of American Pima cotton, the length of staple, and fiber property measurements, adopted or established pursuant to the Act, or any change or replacement thereof.

(q) *Universal standards.* The official cotton standards of the United States for the grade of American upland cotton.

(r) *Person.* Individual, association, partnership, or corporation, or two or more individuals having a joint or common interest.

(s) *Owner.* Person who through financial interest, owns, controls, or has the disposition either of cotton or of samples.

(t) *Custodian.* Person who has possession or control of cotton or of samples, as agent, controller, broker, or factor, as the case may be.

(u) *State.* A State, Territory, or district of the United States.

(Sec. 2, Pub. Res. 72–73, 47 Stat. 1621 (7 U.S.C. 51b); sec. 3c, Pub. L. 75–28, 50 Stat. 62 (7 U.S.C. 473c))

[22 FR 10932, Dec. 28, 1957, as amended at 28 FR 10633, Oct. 3, 1963; 30 FR 6637, May 14, 1965; 42 FR 24711, May 16, 1977; 46 FR 24927, May 4, 1981; 52 FR 30880, Aug. 18, 1987; 58 FR 41993, Aug. 6, 1993; 65 FR 36600, June 9, 2000]

ADMINISTRATIVE AND GENERAL

### § 28.3 Director.

The Director shall perform for and under the supervision of the Secretary and the Administrator, such duties as the Secretary or the Administrator may require in enforcing the provisions of the Act and the regulations issued thereunder.

### § 28.4 Classing offices.

Classing Offices shall be maintained at points designated by the Administrator. Requests for the review of the classification and/or comparison of cotton performed by Classing Offices may be referred to the Quality Control Section.

[52 FR 30881, Aug. 18, 1987]

### §§ 28.5–28.6 [Reserved]

### § 28.7 Area Director, Classing Office; responsibility.

Subject to this subpart and the instructions of the Director, the Area Director of each Classing Office shall be responsible for the proper performance of the duties imposed on such office and on the persons connected therewith. The Area Director shall be responsible for receiving all correspondence relating to the classification of cotton under the act and for providing that all samples are prepared for classification and/or comparison in such manner that the name of the owner and/or the custodian shall be unknown

to the cotton classers until after the samples are classified.

[52 FR 30881, Aug. 18, 1987]

### § 28.8 Classification of cotton; determination.

For the purposes of The Act, the classification of any cotton shall be determined by the quality of a sample in accordance with Universal Cotton Standards (the official cotton standards of the United States) for the color grade and the leaf grade of American upland cotton, the length of staple, and fiber property measurements such as micronaire. High Volume Instruments will determine all fiber property measurements except extraneous matter, special conditions and remarks. High Volume Instrument colormeter measurements will be used for determining the official color grade. Cotton classers authorized by the Cotton and Tobacco Programs will determine the presence of extraneous matter, special conditions and remarks and authorized employees of the Cotton and Tobacco Programs will determine all fiber property measurements using High Volume Instruments. The classification record of a Classing Office or the Quality Control Division with respect to any cotton shall be deemed to be the classification record of the Department.

[77 FR 20505, Apr. 5, 2012]

### § 28.9 Inspection; sampling; classification.

The inspection, sampling, and classification of cotton in the United States pursuant to the Act shall be performed as prescribed in this subpart. Subject in general to the provisions of this subpart the Director may issue from time to time instructions for the sampling, classification, and issuance of classification memoranda for cotton classed for special programs and other Government agencies, including the review of any classification performed pursuant to §§ 28.901 through 28.919.

[58 FR 41993, Aug. 6, 1993]

REQUESTS FOR CLASSIFICATION AND COMPARISON

### § 28.15 Classification and comparison; requests.

All requests for classification and comparison shall be in writing on a form supplied by the Division and shall contain such information as the Director may require. For each lot or mark of cotton which the applicant desires classified or compared separately he shall specify which of the following forms of service is desired:

(a) *Form A determination.* The classification or comparison of samples freshly drawn and submitted to a Classing Office direct from a licensed warehouseman, at the request of the owner of the cotton or the owner's agent. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in § 28.66.

(b) *Form C determination.* The classification of bales of cotton inspected and sampled under the supervision of an employee of the Division. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in § 28.66.

(c) *Form D determination.* The classification or comparison of samples submitted by the owner of the cotton or the owner's agent. Such classification or comparison shall be evidenced by a Form D memorandum which shall be subject to review as provided in § 28.66.

(d) *Micronaire reading service.* Micronaire (mike) reading service is available under Forms A, C, and D determinations upon request from the applicant and subject to the fees specified in § 28.116 of this part 28.

[22 FR 10932, Dec. 28, 1957, as amended at 31 FR 7734, June 1, 1966; 52 FR 30881, Aug. 18, 1987]

### § 28.16 Request for return of samples.

Any applicant desiring return of the samples after classification or comparison is completed, at the applicant's expense, shall indicate this service on the form used for requesting such classification or comparison.

[52 FR 30881, Aug. 18, 1987]

### § 28.17 Filing of requests for classification or comparison.

All requests for classification or comparison leading to Form A, Form D memoranda or, Form C certificates shall be filed with the Classing Office which serves the territory in which the cotton is located. Samples which are submitted to any Classing Office for classification or comparison may be referred by such Classing Office to another Classing Office for classification or comparison.

[52 FR 30881, Aug. 18, 1987]

### § 28.18 One request only for classification.

Not more than one request for a Form A determination, or a Form C determination, or a Form D determination of the same cotton, except a request for a review determination, shall be filed by the same owner within any 30-day period. Any subsequent request shall be accomplished by redrawn samples and the Area Director may require that any Form A or Form D memoranda, Form C certificates, or other classification data previously issued by a Classing Office with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

[52 FR 30881, Aug. 18, 1987]

### § 28.19 Withdrawal or rejection of classification request.

Any classification request may be withdrawn by the applicant at any time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in these regulations. Any classification request may be rejected by the Area Director or the Head of the Quality Control Section for noncompliance with the act or this subpart.

[52 FR 30881, Aug. 18, 1987]

## LICENSING OF WAREHOUSES AND GINS FOR SAMPLING

AUTHORITY: Sections 28.20 to 28.24 issued under sec. 2, Pub. Res. 72–73, 47 Stat. 1621 (7 U.S.C. 51b); sec. 3c, Pub. L. 75–28, 50 Stat. 62 (7 U.S.C. 473c).

SOURCE: Sections 28.20 through 28.24 appear at 42 FR 24711, May 16, 1977, unless otherwise noted.

### § 28.20 When license is required.

Samples for Form A determination shall be accepted under this subpart from licensed warehousemen only. Samples for classification pursuant to §§ 28.901 through 28.917 shall be accepted from licensed gins or warehouses. No license is required to sample cotton for Form C or Form D determination.

### § 28.21 Eligibility and application.

Any cotton warehouse or gin which may desire to submit samples for determination or classification for which a license is required under § 28.20 shall be eligible for a license. Application for licenses to draw and submit samples shall be submitted by warehouses and gins on forms furnished by the Division.

### § 28.22 Authority granted by license.

Licenses issued by the Division shall authorize the warehouse to draw and submit samples from cotton stored in the warehouse for Form A determination or for classification pursuant to §§ 28.901 through 28.917. Licenses issued by the Division shall authorize gins to draw and submit samples from cotton ginned at the gin for classification pursuant to §§ 28.901 through 28.917. Licenses shall be valid for a period of five years.

### § 28.23 Suspension or revocation of license.

(a) Any license issued to a warehouse or gin to sample cotton may be suspended or revoked, following notice and opportunity for hearing, if the licensee has knowingly or carelessly sampled cotton improperly, or has submitted improper samples for classification, or has violated any provision of the Act or the regulations, or has used the license, or allowed it to be used, for any improper purpose.

(b) *Procedure.* (1) All cases arising under this paragraph shall be conducted under the Uniform Rules of Practice, 7 CFR 1.130 *et seq.*, and instituted upon a complaint filed by the Administrator.

(2) In all cases except those involving willfulness, or in which the public health, interest, or safety otherwise requires, prior to the institution of a formal proceeding, the Administrator shall give written notice to the licensee of facts or conduct which appear to warrant institution of such a proceeding and shall afford the licensee the opportunity, within a reasonable time, to demonstrate or achieve compliance with the Act and regulations.

(c) *Suspension pending adjudication.* In any situation where the integrity of sampling procedures would be seriously jeopardized if a license remained valid pending formal adjudication, the Administrator may temporarily suspend the license effective on or after the third day after mailing notice thereof to the licensee's last know address. Notice of temporary suspension may be made at or after the filing of a complaint and shall contain the reasons for the action.

(d) *Conditional suspension.* (1) The Administrator may temporarily suspend a license, without hearing, for a correctable cause. Such suspension, after appropriate corrective action is taken, will terminate.

(2) Written notice shall be given to the licensee in advance of a temporary suspension if practicable, or within 2 days of oral notice, stating the reasons and grounds for temporary suspension.

(3) A licensee may request a formal hearing procedure following receipt of oral or written notice of temporary suspension.

(e) During any period in which the cotton sampling license of a warehouse or gin is suspended or revoked, the Division will not accept any samples from the licensee for Form A determination, or for classification pursuant to §§ 28.901 through 28.917.

### § 28.24 Surrender of license certificate.

In the event of suspension or revocation of a license, the licensee shall promptly surrender the license to the Division.

DRAWING, SUBMISSION AND DISPOSITION OF SAMPLES

### § 28.25 Samples for Form A determination.

Samples for Form A determination shall be drawn, handled, identified, and shipped by a licensed warehouse according to the methods and procedures specified in this section. Any samples or set of samples which do not meet these specified requirements may be rejected by the Area Director.

(a) Samples shall be freshly drawn.

(b) Each sample shall consist of two portions, one drawn from each side of the bale. Each portion shall be at least six (6) inches wide and approximately twelve (12) inches long and shall weigh at least three (3) ounces.

(c) Where it is necessary to draw two sets of samples, a single cut should be made in each side of the bale, and the portion of cotton removed from each cut should be broken in half across the layers to provide two complete samples. In those cases where this method would result in samples of insufficient length, it will be acceptable to split the sample lengthwise along the layers provided the outside portion from each side is submitted for the official classification.

(d) Dressing, trimming, or discarding part of the sample is prohibited. No part of the cotton or pieces of bagging, leaf, grass, dirt, sand, or any other material shall be removed from either side of the sample.

(e) A coupon showing the correct warehouse bale number and name and address of warehouse shall be placed between the two portions of each sample.

(f) Samples shall be identified and sacked immediately after they are cut without further handling prior to shipment to the Classing Office.

(g) Samples shall be addressed to and mailed, shipped, or delivered direct to the Classing Office serving the territory in which the warehouse is located. Samples shall in no case be consigned or routed through the owner or custodian of the cotton. Samples mailed or shipped shall be prepaid.

(h) The Area Director may require that any licensed warehouse shall provide the crop year, gin name and gin

bale number for each sample submitted whenever the Area Director deems that such information is necessary in order to assure that each sample is properly identified with the correct bale of cotton.

(i) The licensed warehouse shall cooperate with employees of the Division making inspections of sampling procedures, and shall draw or permit the drawing of such additional samples, without charge as may be deemed necessary to appraise sampling procedures.

(Sec. 2, Pub. Res. 72–73, 47 Stat. 1621 (7 U.S.C. 51b); sec. 3c, Pub. L. 75–28, 50 Stat. 62 (7 U.S.C. 473c), sec. 10, 42 Stat. 1519, sec. 3c, 50 Stat. 62; 7 U.S.C. 61, 473c)

[28 FR 10633, Oct. 3, 1963, as amended at 42 FR 24712, May 16, 1977; 45 FR 46783, July 11, 1980; 52 FR 30881, Aug. 18, 1987]

### § 28.26 Samples for Form C determination.

Samples submitted for Form C determination shall be drawn under the supervision of a Division employee who shall retain custody or control of the samples until they are shipped prepaid or delivered at the applicant's expense to the Classing Office serving the territory in which the bales of cotton are located.

[52 FR 30881, Aug. 18, 1987]

### § 28.27 Samples for Form D determination.

Samples for Form D determination shall be shipped or delivered at the owner's expense to the Classing Office serving the territory in which the samples are located. A tag or coupon showing the bale number of the bale from which the sample was drawn, or other identification, shall be placed between the two portions of each sample.

[52 FR 30881, Aug. 18, 1987]

### § 28.28 Lost or damaged samples.

If any samples are lost, damaged, or mutilated, the Area Director shall inform the applicant.

[52 FR 30882, Aug. 18, 1987]

### § 28.29 Return of samples.

When so stipulated in the classification request for Form A, C or D detemination, the samples submitted shall be returned to the applicant at the applicant's expense, at the time the memorandum is issued or when the request for classification is withdrawn or rejected.

[52 FR 30882, Aug. 18, 1987]

### § 28.30 Samples not returned are property of Department.

Samples not returned in accordance with this subpart, and loose cotton separated from samples in the handling and classification thereof, shall become the property of the Department.

[28 FR 10633, Oct. 3, 1963]

VIOLATIONS

### § 28.31 Denial of service.

The Administrator may for good cause, including the acts or practices set forth in § 28.32, debar any person, including the agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period, after notice and opportunity for hearing has been afforded. Procedures outlined, or referred, in part 50 of this chapter (7 CFR 50.1 *et seq.*) shall govern proceedings under this section.

(Sec. 2, Pub. Res. 72–73, 47 Stat. 1621 (7 U.S.C. 51b); sec. 3c, Pub. L. 75–28, 50 Stat. 62 (7 U.S.C. 473c))

[42 FR 24712, May 16, 1977]

### § 28.32 Misrepresentation; deceptive or fraudulent acts or practices; violations.

Any of the following acts or practices may result in debarment from any or all benefits of the Act:

(a) Any knowing misrepresentation or deceptive or fraudulent act or practice made or committed, or attempted to be committed, by any person in connection with (1) any request for classification, (2) the drawing, handling, identifying, or submitting of any samples for classification, (3) the making, issuing, or using of any memorandum or certificate of classification issued by a Classing Office or the Quality Control or (4) the changing of any warehouse bale tags or numbers after the cotton has been sampled for classification.

(b) Any knowing violation of the regulations in this subpart or of the Act.

[28 FR 10634, Oct. 3, 1963, as amended at 52 FR 30882, Aug. 18, 1987]

CLASSIFICATION

### § 28.35 Method of classification.

All cotton samples shall be classified on the basis of the official cotton standards of the United States in effect at the time of classification.

### § 28.36 Order of classification.

All samples for which classification requests are pending shall be classified, as far as practicable, in the order in which the samples are delivered for classification. When in the opinion of the Area Director there is a need to deviate from this order of classification, the Area Director shall designate which samples will be given priority in classification.

[52 FR 30882, Aug. 18, 1987]

### § 28.37 Exposing of samples for classification.

Classification shall not proceed until the samples, after being delivered to the Classing Office, shall have been exposed for such length of time as in the judgment of the Area Director shall be sufficient to put them in proper condition for the purpose.

[52 FR 30882, Aug. 18, 1987]

### § 28.38 Lower grade (of two samples) to determine classification.

If a sample drawn from one portion of a bale is lower in grade or shorter in length than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower grade or shorter length.

### § 28.39 Cotton reduced in grade.

If cotton be reduced in grade, by reason of the presence of extraneous matter or other irregularities or defects, below its grade according to the official cotton standards of the United States, the grade from which it is so reduced, the grade to which it is so reduced, and the condition or reason which so reduces its grade shall be determined and stated.

[25 FR 5872, June 25, 1960]

### § 28.40 Terms defined; cotton classification.

For the purposes of classification of any cotton or of its comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has had the strength of fiber, as ordinarily found in cotton, destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) *Micronaire (mike) reading.* The measurement of the fiber fineness and maturity, in combination, of cotton as determined by an airflow instrument. For any cotton that has a micronaire reading of 2.6 or lower, the Classing Office will enter the micronaire reading on all classification memoranda issued for such cotton.

(c) *Gin-cut cotton.* Cotton that shows damage in ginning through cutting by the saws, to an extent that reduces its value more than two grades.

(d) *Reginned cotton.* Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) *Repacked cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales that are combined after the cotton leaves the gin.

(f) *False packed cotton.* Cotton in a bale (1) containing substances entirely foreign to cotton; (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior; (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination; or (4) containing pickings or linters worked into the bale.

(g) *Mixed packed cotton.* Cotton in a bale which, in the sample taken therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color groups, or (3) a difference in length of staple of one-eighth inch or more. For purposes of this paragraph, White Cotton (including the Plus grades), Light Gray Cotton, and Gray Cotton shall constitute one color group, and Light Spotted Cotton, Spotted Cotton, Tinged Cotton, and Yellow Stained Cotton shall each constitute a color group.

(h) *Water-packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

[22 FR 10933, Dec. 28, 1957, as amended at 26 FR 5945, July 1, 1961; 32 FR 7011, May 9, 1967; 52 FR 30882, Aug. 18, 1987]

SAMPLE OR TYPE COMPARISON

### § 28.45 Scope of comparison; requests.

A comparison of cotton samples with a type may be requested with respect to grade, or to staple, including any of the component qualities embodied in the grade, or to all these factors. The classification of the type and the samples in accordance with the official cotton standards of the United States may also be requested. The applicant must specify in a written request the scope of service desired.

[52 FR 30882, Aug. 18, 1987]

### § 28.46 Method of submitting samples and types.

The method of submitting samples and types for comparison shall be the same as that prescribed in this subpart for submitting samples for classification.

### § 28.47 Statement of finding of Classing Office in comparisons.

For each quality factor (grade, staple, etc.) of the samples that the applicant has requested to be compared to the type, the Classing Office shall state in its findings whether such quality factor for each sample is ''better,'' ''equal,'' or ''deficient'' in comparison with the type. When appropriate, the findings of the Classing Office may also show the amount of difference in grade and in length between the sample and the type as measured by the official cotton standards of the United States, and other explanatory notations as needed.

[52 FR 30882, Aug. 18, 1987]

CERTIFICATES AND MEMORANDA

### § 28.55 Issuance of memoranda and certificates.

As soon as practicable after the classification of cotton has been completed by a Classing Office, there shall be issued a cotton class memorandum or certificate of the appropriate kind showing the results of such classification. Upon request from an applicant, classification results may be issued in preliminary form on record sheets.

[52 FR 30882, Aug. 18, 1987]

### § 28.56 Form A and Form D memorandum.

(a) When a classification and/or comparison has been made of any samples submitted to a Classing Office direct from a public warehouse, the results of such classification and/or comparison may be stated in a Form A memorandum.

(b) When a classification and/or comparison has been made of any samples submitted by the owner of the cotton or the owner's agent, the results of such classification and/or comparison may be stated in a Form D memorandum.

(c) Form A and Form D memoranda shall not be deemed to be final certificates within the meaning of section 4 of the Act (42 Stat. 1517; 7 U.S.C. 54).

[22 FR 10930, Dec. 28, 1957, as amended at 52 FR 30882, Aug. 18, 1987]

### § 28.57 Form C certificate.

When classification has been made of cotton inspected and sampled under supervision of a Division employee there shall be issued a cotton class certificate known as a Form C certificate. Each Form C certificate shall show the true classification of the cotton in the respects specified in the request. Such

certificate, when it has been once reviewed in accordance with § 28.66, shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the Act (42 Stat. 1517; 7 U.S.C. 54), in all cases except when superseded by a certificate or award made as provided in § 28.161.

### § 28.58 New memorandum or certificate; issuance.

Upon the written request of a holder of a cotton class memorandum or certificate issued under this subpart, a new memorandum or certificate shall be issued, without the reclassification of the cotton, to take the place of the former memorandum or certificate for any cotton covered thereby, when necessary on account of the breaking or splitting of a lot or otherwise for the business convenience of such holder. In any case where a new memorandum or certificate is requested in accordance with this section the former memorandum or certificate shall be surrendered for cancellation, and such new memorandum or certificate shall bear a new number and the date of its issuance and the date of original classification and shall otherwise comply with this subpart.

### § 28.59 Lost memorandum or certificate may be replaced by duplicate.

Upon the written request of the last holder of a valid Form A or Form D memorandum, or Form C Certificate and a showing to the satisfaction of the Area Director of the Classing Office which issued such memorandum or certificate that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new memorandum or certificate shall be issued without the reclassification of the cotton. Such new memorandum or certificate shall bear the same number and date of issuance as the lost or destroyed memorandum or certificate and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

[52 FR 30882, Aug. 18, 1987]

### § 28.60 Surrender of memoranda or certificates.

For good cause, any memorandum or certificate issued under this subpart shall be surrendered to the Area Director of the Classing Office which issued it, upon the Area Director's request or upon the request of the Director. A new memorandum or certificate complying with this subpart may be issued in substitution therefor. If such memorandum or certificate be not surrendered upon such request, it shall nevertheless be invalid for the purposes of the act and this subpart.

[52 FR 30882, Aug. 18, 1987]

REVIEWS

### § 28.65 Provisions for reviews.

Reviews of classifications or comparisons represented by Form A or D memoranda or Form C certificates shall be governed by § 28.66.

### § 28.66 Review procedure.

A review of any Form A, C, or D determination may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such review shall cover all of the quality factors for which the original determination was made. Requests for reviews of Form A or D determinations may be filed with, and the review made by, the Classing Office which issued such memorandum or the Quality Control System. Requests for reviews of Form C determinations shall be filed with, and the reviews made by, the Quality Control System. Redrawn samples shall be required for reviews of Form A and Form C determinations except in cases where the original samples have remained, identity preserved, in the custody of the Division. When redrawn samples are necessary, they shall be drawn and submitted as prescribed in this subpart. As evidence of a review determination, a Form A or D memorandum or Form C certificate appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The applicant may be required by the Classing Office or the Quality Control Section issuing

such review determination to surrender the original classification memorandum or certificate. In any event the review determination shall supersede and invalidate the original determination.

[52 FR 30882, Aug. 18, 1987]

### § 28.68 Withdrawal of application for review.

Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be prescribed in this subpart.

PRACTICAL FORMS OF COTTON STANDARDS

### § 28.105 Practical forms of cotton standards.

(a) Practical forms of the cotton standards of the United States prepared in physical form, each certified under the seal of the U.S. Department of Agriculture and under the signature of the Administrator, thereto affixed by the Administrator or by some other official or employee of the Department duly authorized by the Administrator, and in the case of the standards for grade accompanied by photographs representing the cotton in such practical forms on the date of certification, are available for sale to any person requesting the same, subject to the other conditions of this section.

(b) Each application for practical forms of the cotton standards shall be upon an application form furnished by the Division, shall be signed by the applicant, and shall incorporate the following conditions:

(1) That no practical form of any of the cotton standards for the grade of American Upland cotton shall be considered or used as representing such standards after the date of its cancellation in accordance with this section or in any event after the expiration of 12 months following the date of its certification: Provided, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

(2) That said practical forms and the photographs accompanying them shall be subject to inspection on any business day, between the hours of 9 a.m. and 4 p.m., by the Administrator or by an officer or agent of the Department authorized by the Administrator for that purpose.

(3) That the signature of the Administrator certifying to any practical form, or any photograph of said practical form accompanying the same, or both, may be cancelled if it be found, upon such inspection, either that copy of said forms for any reason misrepresents the cotton standards or that any such photographs have been altered or mutilated.

[22 FR 10930, Dec. 28, 1975, as amended at 48 FR 37003, Aug. 16, 1983; 52 FR 30883, Aug. 18, 1987]

### § 28.106 Universal cotton standards.

Whenever any of the official cotton standards shall have been adopted as universal standards by an association or exchange located in a country other than the United States, the name of such association or exchange may be shown on the outside of the box or container.

### § 28.107 Original cotton standards and reserve sets.

(a) The containers of the original Universal Standards and other official cotton standards of the United States currently adopted, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishment, and shall be wrapped and sealed. After being so marked, wrapped and sealed, they shall be held in secure storage in the custody of the U.S. Department of Agriculture. The Director may authorize the temporary removal of such containers from storage and the transporting of the containers to other locations for purposes of Universal Cotton Standards Conferences and other purposes as deemed necessary by the Director. Such containers shall remain in the control and custody of the Director until the original standards contained therein are superseded by new or revised standards.

(b) At each Universal Cotton Standards Conference held for approving key

copies of the Universal Standards there shall be prepared two full sets of practical forms of copies of such standards, which shall be known as ''Reserve Sets'' and which, upon the certification and recommendation of qualified experts, shall be certified by such experts as true copies of the currently adopted standards as and when established. Such reserve sets shall be enclosed in metal-lined cases and sealed in the presence of a special committee duly authorized by the Director and composed of representatives from the associations attending the conference and the Department. The special committee shall deposit the set designated as the First Reserve Set in a vault in a bank in Memphis, Tenn. The Division shall keep the set designated as the Second Reserve Set in secure storage. These reserve sets shall remain sealed and deposited until such time as they shall be required for examination and use as set forth in paragraph (c) of this section.

(c) At the beginning of the next Universal Cotton Standards Conference, a special committee duly authorized by the Director and composed of representatives from the associations attending the conference and the Department shall deliver the First Reserve Set from its storage place to the site of the conference. This special committee shall witness the opening of the First Reserve Set for display at the conference. The Director shall arrange for removal of the Second Reserve Set from its storage place and for the transport of such set to the site of the conference. If upon examination of the First Reserve Set by representatives at the conference it should appear that such set has undergone any substantial change, the Second Reserve Set shall be opened and used in its stead.

(d) The First Reserve Set of each conference or the Second Reserve Set, if it has been used in place of the First Reserve Set, as provided in paragraph (c) of this section shall be retained by the Division until the currently adopted standards which they represent have been superseded by new or revised standards.

[30 FR 6637, May 14, 1965, as amended at 48 FR 16874, Apr. 20, 1983; 52 FR 30883, Aug. 18, 1987]

FEES AND COSTS

### § 28.115 Fees and costs; payment.

All charges for practical forms of cotton standards and all fees and expenses for services of inspection of bales and supervision of sampling, classification, comparison, or review by a Classing Office shall be paid at the time of filing the request for the service desired, except that in the discretion of the Director bills may be delivered to persons from whom payment or charges or fees may become due. Such bills shall be rendered as soon as practicable after the last day of each month for amounts due and unpaid on such dates. When necessary, in the discretion of the Area Director, any bill may be rendered at an earlier date for any charges or fees then due from the person to whom such bill may be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than the expiration of 2 weeks thereafter.

[52 FR 30883, Aug. 18, 1987]

### § 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the services shall pay a fee, as follows, subject to the additional fee provided by paragraph (c) of this section.

(1) For American Pima Cotton only—grade, staple and micronaire reading for $2.00 per sample; grade and staple only for $1.50 per sample; grade only or staple only for $1.20 per sample.

(2) High Volume Instrument (HVI) classification, including grade—$2.00 per sample.

(3) High Volume Instrument (HVI) classification, excluding grade—$1.75 per sample.

(b) When a comparison is requested of any samples with a type or with other samples, the fees prescribed in paragraph (a) (1) (2) and (3) of this section shall apply to every sample involved, including each of the samples of which the type is composed.

(c) An additional fee of 40 cents per sample shall be assessed for services described in paragraphs (a) (1), (2), and (3), and (b) of this section unless the request for service is so worded that the

samples become government property immediately after classification.

(d) For any review of classification or comparison of any cotton, the fees prescribed in paragraph (a) of this section shall apply. The additional fee prescribed in paragraph (c) of this section is not applicable to review of classification if made on the same sample as the original class or comparison.

[46 FR 48112, Oct. 1, 1981, as amended at 55 FR 20440, May 17, 1990; 56 FR 24673, May 31, 1991; 57 FR 27892, June 23, 1992]

### § 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of 15 cents per bale or a minimum fee of $5.00 per sheet. If the memorandum is provided by means of a computer diskette, the fee for each diskette shall be the higher of $10.00 or 10 cents per bale. The cost of any diskette not returned to the Division will be billed to the requestor.

[56 FR 24673, May 31, 1991]

### § 28.118 When no fee collected for new certificate or memorandum.

No fee shall be collected for a new cotton class certificate or memorandum issued in lieu of a prior certificate or memorandum solely for the purpose of correcting clerical errors therein, or for the purpose of substituting a new form applicable to outstanding certificates or memorandums, or without an application therefor.

### § 28.119 Fee when request for classification is withdrawn.

When the request for the classification or comparison of any cotton or an application for review shall be withdrawn after the classification of such cotton has been started pursuant thereto, the person filing the same shall pay the prescribed fee as to any such cotton already classified.

### § 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A, Form C, or Form D determinations, the expenses of inspecting and sampling, or supervising the sampling, and the preparation of the samples and delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting classification.

[56 FR 24673, May 31, 1991]

### § 28.121 Advance deposits.

Upon request, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official of the Division requesting the same.

### § 28.122 Fee for practical classing examination.

The fee for the practical classing examination for cotton shall be $105.00. Any applicant who passes the examination may be issued a certificate indicating this accomplishment. Any person who fails to pass the examination may be reexamined. The fee for this practical reexamination is $85.00.

[57 FR 27892, June 23, 1992, as amended at 58 FR 41993, Aug. 6, 1993]

### § 28.123 Costs of practical forms of cotton standards.

The costs of practical forms of the cotton standards of the United States are as follows:

| Effective date: July 1, 1992 | Dollars each box or roll | | | |
|---|---|---|---|---|
| | Domestic shipments | | Shipments delivered outside the continental United States | |
| | f.o.b. Memphis, TN | Surface delivery | Air freight collect | Air parcel post delivered |
| Grade Standards: | | | | |
| American Upland ... | $125 | $130 | $125 | $165 |
| American Pima ..... | 160 | 165 | 160 | 200 |
| Standards for length of staple: | | | | |
| American Upland (prepared in one pound rolls for each length) ..... | 19 | 22 | 19 | 33 |

| Effective date: July 1, 1992 | Dollars each box or roll | | | |
|---|---|---|---|---|
| | Domestic shipments | | Shipments delivered outside the continental United States | |
| | f.o.b. Memphis, TN | Surface delivery | Air freight collect | Air parcel post delivered |
| American Pima (prepared in one pound rolls for each length) ..... | 20 | 23 | 20 | 34 |

[57 FR 27892, June 23, 1992]

### § 28.124 Payments; procedure.

Any payment or advance deposit under §§ 28.115 through 28.123 shall be by check, draft, or money order, payable to the order of the ''Agricultural Marketing Service, USDA'', and may not be made in cash except in cases where the total payment or deposit does not exceed $1.

[22 FR 10937, Dec. 28, 1957, as amended at 30 FR 6637, May 14, 1965]

### § 28.125 No voiding or modifying claims for payment.

Nothing in this subpart shall be construed to void or modify any claim which a person or party requesting and paying for a service may have against any other person or party for the payment of part or all of such costs.

### § 28.126 Loaning of forms and exhibits.

In the discretion of the Director, limited numbers of copies of the practical forms of any of the official standards, or specially prepared exhibits illustrating any of such standards or cotton samples, may be loaned to governmental agencies for official purposes or to educational and other institutions or organizations for demonstration purposes.

ADJUSTMENT OF CONTRACT DISPUTES

### § 28.160 Cotton examiners on foreign exchanges.

Whenever any association or exchange in any country other than the United States shall adopt the universal standards and establish them as the basis of all transactions and contracts for American upland cotton, made and executed according to its rules, the Director may appoint certain members or officials of such exchanges as cotton examiners. Insofar as the administration of the act applies to cotton involved in contracts made in accordance with the rules of such exchange, the administration shall be as prescribed in §§ 28.161 through 28.162.

### § 28.161 Disputes involving contracts for shipment of cotton from United States.

When an association or exchange located in a country other than the United States shall adopt any of the official cotton standards of the United States and when the members of the committee of such association or exchange having final jurisdiction in the matter of appeals have been designated as cotton examiners by the Director, such committee may be constituted for the purposes of this act a Board of the Department and authorized to act as follows:

(a) Insofar as the exchange has adopted the universal standards the committee may pass upon the classification of cotton involved in a dispute between a party in the United States and a party without the United States to a contract made under the rules of the association or exchange.

(b) The submission of samples of cotton involved in such a dispute to such association or exchange or such committee in accordance with the rules of the association or exchange shall be deemed to be a submission to the Department.

(c) Determinations of classification made by the boards so constituted shall be final. When so provided in the articles, rules, or bylaws of the association or exchange, such determinations may be evidenced by awards. If an award is made which does not state the classification, such board will, upon request of the owner or custodian of the cotton and the payment of a reasonable additional fee, issue a certificate showing in detail the true classification for grade and color of such cotton, based upon a comparison of the samples with the universal standards or with a type or other samples on which the cotton has been sold, as the case may be.

### § 28.162 Procedure.

The manner of procedure in submitting and handling samples, in classification and in instituting and conducting arbitrations and appeals shall be as prescribed in the articles, bylaws, and rules of the association or exchange.

PUBLICATIONS MEDIA

### § 28.165 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements of the Office of Management and Budget contained in 7 CFR part 28 under the Paperwork Reduction Act of 1980.

(b) *Display.*

| 7 CFR sections where identified and described | Current OMB control No. |
|---|---|
| 28.15–28.19 | 0581–0008 |
| 28.20–28.24 | 0581–0008 |
| 28.25 | 0581–0009 |
| 28.66 | 0581–0008 |
| 28.105 | 0581–0008 |
| 28.115 | 0581–0008 |
| 28.120 | 0581–0008 |
| 28.122 | 0581–0008 |
| 28.139 | 0581–0008 |
| 28.146 | 0581–0008 |
| 28.177 | 0581–0008 |
| 28.181–28.184 | 0581–0008 |
| 28.904 | 0581–0009 |
| 28.906 | 0581–0009 |
| 28.911 | 0581–0008 |

[52 FR 30884, Aug. 18, 1987]

## Subpart B—Classification for Foreign Growth Cotton

AUTHORITY: Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624).

### § 28.175 Administrative and general.

Insofar as applicable, and not inconsistent with this subpart, the provisions of subpart A of this part shall likewise apply to the classification and comparison of cotton produced outside the continental United States.

[58 FR 41993, Aug. 6, 1993]

### § 28.176 Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said Act and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this subpart, the terms listed below shall have the respective meanings specified:

(a) *Official certificate* means any form of certification, either written or printed, used under this subpart to certify with respect to the inspection, sampling, class, grade, quality, quantity, or conditions of products (including the compliance of products with applicable specifications).

(b) *Official memorandum* means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling, pursuant to this subpart, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this subpart, and any report made by an authorized person of services performed pursuant to this subpart.

(c) *Official mark* means the grade mark, inspection mark, and any other mark, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U.S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this subpart.

(d) *Official identification* means any United States (U.S.) standard designation of class, grade, quality, quantity, or condition specified in this subpart or

any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, quantity, or condition of the product, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) *Official device* means a stamping appliance branding device, stencil, printed label or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

### § 28.177 Request for classification and comparison of cotton.

The applicant shall make a separate written request, on a form supplied by the Division, for each lot or mark of cotton which the applicant desires classified or compared separately. The same applicant shall not file more than one request for the classification or comparison of the same cotton within any 30-day period except for a review classification or comparison as provided in § 28.181. All requests for classification or comparison in the United States shall be filed with the Classing Office which serves the territory in which the samples are located. If the cotton is stored outside the United States the request shall be filed with the Classing Office designated by the Director. The Area Director of any Classing Office may refer any request and the samples submitted to another office or to the Quality Control Section for classification or comparison.

[52 FR 30884, Aug. 18, 1987]

### § 28.178 Submission of cotton samples.

Samples of cotton submitted to a Classing Office for classification and/or comparison shall be drawn from both sides of the bale and shall be delivered to the Classing Office with which the request was filed, as soon as possible after the filing of such request. All such samples shall be enclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples in each wrapper, and such other information as may be necessary in accordance with the instructions of the Area Director. All transportation charges incident to the submission of samples shall be prepaid by the party making the request or the requester's agent.

[52 FR 30884, Aug. 18, 1987]

### § 28.179 Methods of cotton classification and comparison.

The classification of samples from cotton produced outside the continental United States shall be on the basis of the official cotton standards of the United States in effect at the time of classification. When a comparison of such cotton samples with other actual samples or with a type is requested, the procedure and methods shall be as outlined in §§ 28.45 through 28.47.

### § 28.180 Issuance of cotton classification memoranda.

As soon as practicable after the classification or comparison of cotton has been completed by a Classing Office, there shall be issued a cotton classification memorandum which shall embody within its written or printed terms:

(a) The results of the classification or comparison.

(b) The name of the country in which the cotton was produced.

(c) The source from which the samples were received for classification.

(d) A statement that any classification made has been on the basis of the official cotton standards of the United States in effect at the time of such classification.

(e) The signature of the Area Director of the Classing Office, the location of the office, and the date of issuance of the memorandum.

[22 FR 10930, Dec. 28, 1957, as amended at 52 FR 30884, Aug. 18, 1987]

### § 28.181 Review of cotton classification.

A review of any classification or comparison made pursuant to this subpart may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after

the issuance of the original memorandum. Such request, accompanied by the original memorandum, may be filed with either the Classing Office which issued the original memorandum or the Quality Control Section. Redrawn samples shall be required except in cases where the original samples have remained, identity preserved, in the custody of the Classing Office which issued the original memorandum. As evidence of any review determination, a classification memorandum marked to indicate that it represents a review determination shall be issued to the applicant requesting the review.

[52 FR 30884, Aug. 18, 1987]

### § 28.182 Surrender of memoranda.

For good cause, any memorandum issued under this subpart shall be surrendered to the Area Director which issued it, upon the Area Director's request or upon the request of the Director, and a new memorandum complying with this subpart issued in substitution therefor. If the memorandum be not surrendered upon such request, it shall nevertheless be invalid for the purpose of this subpart.

[52 FR 30884, Aug. 18, 1987]

### § 28.183 Fees and costs; payment.

The provisions of §§ 28.115 through 28.126 relating to fees, costs, and method of payment shall apply to services performed with respect to cotton produced outside the continental United States.

## Subpart C—Standards

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR LENGTH OF STAPLE

AUTHORITY: Sections 28.301 to 28.307 issued under Sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 68A Stat. 580; 7 U.S.C. 56, 26 U.S.C. 4854.

### § 28.301 Measurement: humidity; temperature.

The length of staple of any cotton shall be the normal length by measurement, without regard to quality or value, of a typical portion of its fibers under a relative humidity of the atmosphere of 65 percent and a temperature of 70 °F.

### § 28.302 Terms of designation.

The length of staple of any cotton shall be designated by that one of the following terms which expresses its measurement in inches and fractions of an inch in accordance with § 28.301:

''Below 13/16; 7/8; 29/32; 15/16; 31/32; 1; 1 1/32; 1 1/16; 1 3/32; 1 1/8; 1 5/32; 1 3/16; 1 7/32; 1 1/4; 1 9/32; 1 5/16; 1 11/32; 1 3/8; 1 13/32; 1 7/16; 1 15/32; 1 1/2; 1 17/32; 1 9/16; 1 19/32; 1 5/8; 1 21/32; 1 11/16; 1 23/32; 1 3/4; and upward in like manner in gradations of thirty-seconds, disregarding any fraction less than a thirty-second.''

### § 28.303 Standards for length of staple for American upland cotton.

(a) Effective July 12, 1985, standards for the lengths of staple of American upland cotton shall be measurements as determined by the Suter-Webb Duplex Cotton Fiber Sorter in accordance with the test method prescribed in paragraph (c) of this section. Ranges for each official staple length are shown in the table below. Staple standards exceeding 1¼ inches, in graduations of thirty-second inches, will be expressed in increments of .041 inches.

[In inches]

| Staple length | Upper quartile length range |
|---|---|
| 13/16 | .827–.847 |
| 7/8 | .909–.929 |
| 29/32 | .950–.970 |
| 15/16 | .990–1.010 |
| 31/32 | 1.031–1.051 |
| 1 | 1.072–1.092 |
| 1 1/32 | 1.113–1.133 |
| 1 1/16 | 1.154–1.174 |
| 1 3/32 | 1.195–1.215 |
| 1 1/8 | 1.236–1.256 |
| 1 5/32 | 1.277–1.297 |
| 1 3/16 | 1.318–1.338 |
| 1 7/32 | 1.359–1.379 |
| 1 1/4 | 1.400–1.420 |

(b) Cotton selected for the preparation of practical forms of staple standards shall, to the extent practicable, measure at the mid-point of the appropriate staple range indicated in paragraph (a) of this section.

(c) Length measurements shall be performed in accordance with the ''Standard Test Method for Length and Length Distribution of Cotton Fibers (Array Method), ANSI/ASTM D 1440–77

(1982), which is incorporated by reference pursuant to the provisions of 5 U.S.C. 552(a). This standard test method has been adopted by the American Society for Testing and Materials (ASTM) and approved as an American National Standard by the American National Standards Institute. It is published in the ''Annual Book of ASTM Standards,'' Part 33, volume 07.02. Copies of the ASTM book and copies of ASTM standard D 1440–77 as a separate publication may be obtained from ASTM, Customer Service, 1916 Race Street, Philadelphia, PA 19103. A copy of the ASTM standard test method is also on file at the Office of the Federal Register. A notice of any change in the ASTM standard test method cited herein will be published in the FEDERAL REGISTER.

[49 FR 28391, July 12, 1984]

### § 28.304 Original representation of American Pima cotton staple lengths.

The following lengths of American Pima staple are represented by a quantity of cotton in the custody of the United States Department of Agriculture suitably contained and marked ''Original Representation of Official Cotton Standards of the United States'' followed in each instance by the name of growth, appropriate designation for staple length, and the effective date.

| Staple length (inches) | Effective date |
|---|---|
| 1 5/16 | Aug. 1, 1961. |
| 1 3/8 | Aug. 10, 1943. |
| 1 7/16 | Aug. 10, 1943. |
| 1 1/2 | Aug. 1, 1929. |

[49 FR 28391, July 12, 1984]

### § 28.306 Over 13/16 inch staple.

Cotton which is more than thirteen-sixteenths of an inch in length of staple but is not exactly one of the measurements specified in § 28.302, shall be designated by that one of such measurements which comes nearest under its true measurement.

[22 FR 10930, Dec. 28, 1957. Redesignated at 49 FR 28391, July 12, 1984]

### § 28.307 Bale of different staple lengths.

Whenever the length of staple of cotton taken from one part of a bale is different from that taken from another part of the same bale, the length of staple of the cotton in such bale shall be that of the part which is the shorter.

[22 FR 10930, Dec. 28, 1957. Redesignated at 49 FR 28391, July 12, 1984]

## OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE COLOR GRADE OF AMERICAN UPLAND COTTON

AUTHORITY: Section 28.401 to 28.451 issued under Sec. 10, 42 Stat. 1519; (7 U.S.C. 61). Interpret or apply Sec. 6, 42 Stat. 1518, as amended; (7 U.S.C. 56), unless otherwise noted.

SOURCE: 57 FR 34497, Aug. 5, 1992, unless otherwise noted.

### WHITE COTTON

### § 28.401 Good Middling Color.

Good Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Good Middling, effective July 1, 1987.''

### § 28.402 Strict Middling Color.

Strict Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Middling, effective July 1, 1987.''

### § 28.403 Middling Color.

Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Middling, effective July 1, 1987.''

### § 28.404 Strict Low Middling Color.

Strict Low Middling Color is color which is within the range represented by a set of samples in the custody of

the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Low Middling, effective July 1, 1987.''

### § 28.405 Low Middling Color.

Low Middling Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Low Middling, effective July 1, 1987.''

### § 28.406 Strict Good Ordinary Color.

Strict Good Ordinary Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary, effective July 1, 1987.''

### § 28.407 Good Ordinary Color.

Good Ordinary Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Good Ordinary, effective July 1, 1987.''

## LIGHT SPOTTED COTTON

SOURCE: 57 FR 34497, Aug. 5, 1992, unless otherwise noted.

### § 28.411 Good Middling Light Spotted Color.

Good Middling Light Spotted Color is color which in spot or color, or both, is between Good Middling Color and Good Middling Spotted Color.

### § 28.412 Strict Middling Light Spotted Color.

Strict Middling Light Spotted Color is color which in spot or color, or both, is between Strict Middling Color and Strict Middling Spotted Color.

### § 28.413 Middling Light Spotted Color.

Middling Light Spotted Color is color which in spot or color, or both, is between Middling Color and Middling Spotted Color.

### § 28.414 Strict Low Middling Light Spotted Color.

Strict Low Middling Light Spotted Color is color which in spot or color, or both, is between Strict Low Middling Color and Strict Low Middling Spotted Color.

### § 28.415 Low Middling Light Spotted Color.

Low Middling Light Spotted Color is color which in spot or color, or both, is between Low Middling Color and Low Middling Spotted Color.

### § 28.416 Strict Good Ordinary Light Spotted Color.

Strict Good Ordinary Light Spotted Color is color which in spot or color, or both, is between Strict Good Ordinary Color and Strict Good Ordinary Spotted Color.

## SPOTTED COTTON

SOURCE: 57 FR 34498, Aug. 5, 1992, unless otherwise noted.

### § 28.421 Good Middling Spotted Color.

Good Middling Spotted Color is color which is better than Strict Middling Spotted Color.

### § 28.422 Strict Middling Spotted Color.

Strict Middling Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Middling Spotted, effective July 1, 1987.''

### § 28.423 Middling Spotted Color.

Middling Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Middling Spotted, effective July 1, 1987.''

### § 28.424 Strict Low Middling Spotted Color.

Strict Low Middling Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Low Middling Spotted, effective July 1, 1987.''

### § 28.425 Low Middling Spotted Color.

Low Middling Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Low Middling Spotted, effective July 1, 1987.''

### § 28.426 Strict Good Ordinary Spotted Color.

Strict Good Ordinary Spotted Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary Spotted, effective July 1, 1987.''

TINGED COTTON

SOURCE: 57 FR 34498, Aug. 5, 1992, unless otherwise noted.

### § 28.431 Strict Middling Tinged Color.

Strict Middling Tinged Color is color which is better than Middling Tinged Color.

### § 28.432 Middling Tinged Color.

Middling Tinged Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Middling Tinged, effective July 1, 1987.''

### § 28.433 Strict Low Middling Tinged Color.

Strict Low Middling Tinged Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Low Middling Tinged, effective July 1, 1987.''

### § 28.434 Low Middling Tinged Color.

Low Middling Tinged Color is color which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Low Middling Tinged, effective July 1, 1987.''

YELLOW STAINED COTTON

### § 28.441 Strict Middling Yellow Stained Color.

Strict Middling Yellow Stained Color is color which is deeper than that of Strict Middling Tinged Color.

[57 FR 34498, Aug. 5, 1992]

### § 28.442 Middling Yellow Stained Color.

Middling Yellow Stained Color is American Upland cotton which in color is deeper than Middling Tinged Color.

[57 FR 34498, Aug. 5, 1992]

BELOW COLOR GRADE COTTON

### § 28.451 Below Color Grade Cotton.

Below color grade cotton is American Upland cotton which is lower in color grade than Good Ordinary, or Strict Good Ordinary Light Spotted, or Strict Good Ordinary Spotted, or Low Middling Tinged, or Middling Yellow Stained. In cotton classification, the official designation for such cotton is Below Color Grade. The term Below Good Ordinary Color, or Below Strict Good Ordinary Light Spotted Color, or Below Strict Good Ordinary Spotted Color, or Below Low Middling Tinged Color, or Below Middling Yellow Stained Color and other additional explanatory terms considered necessary to describe adequately the condition of the cotton may be entered on classification memorandums or certificates.

[57 FR 34498, Aug. 5, 1992]

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE LEAF GRADE OF AMERICAN UPLAND COTTON

AUTHORITY: Sections 28.461 to 28.482 issued under Sec. 10, 42 Stat. 1519; (7 U.S.C. 61). Section 28.482 also issued under Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c) and 90 Stat. 1841–1846 as amended (7 U.S.C. 15b). Interpret or apply Sec. 6, 42 Stat. 1518, as amended; (7 U.S.C. 56), unless otherwise noted.

LEAF GRADES

SOURCE: 57 FR 34498, Aug. 5, 1992, unless otherwise noted.

### § 28.461 Leaf Grade 1.

Leaf Grade 1 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Good Middling, effective July 1, 1987.''

### § 28.462 Leaf Grade 2.

Leaf Grade 2 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Middling, effective July 1, 1987.''

### § 28.463 Leaf Grade 3.

Leaf Grade 3 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Middling, effective July 1, 1987.''

### § 28.464 Leaf Grade 4.

Leaf Grade 4 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Low Middling, effective July 1, 1987.''

### § 28.465 Leaf Grade 5.

Leaf Grade 5 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Low Middling, effective July 1, 1987.''

### § 28.466 Leaf Grade 6.

Leaf Grade 6 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary, effective July 1, 1987.''

### § 28.467 Leaf Grade 7.

Leaf Grade 7 is leaf which is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Upland, Good Ordinary, effective July 1, 1987.''

BELOW LEAF GRADE COTTON

### § 28.471 Below Leaf Grade Cotton.

Below leaf grade cotton is American Upland cotton which is lower in leaf grade than Leaf Grade 7. In cotton classification, the official designation for such cotton is Below Leaf Grade. Other additional explanatory terms considered necessary to describe adequately the condition of the cotton may be entered on classification memorandums or certificates.

[57 FR 34499, Aug. 5, 1992]

GENERAL

### § 28.480 General.

(a) American Upland cotton which in color is within the range of the color standards established in this part shall be designated according to the color standard irrespective of the leaf content. American Upland cotton which in leaf is within the leaf standards established in this part shall be designated according to the leaf standard irrespective of the color.

(b) The term preparation is used to describe the degree of smoothness or roughness with which cotton is ginned and the relative neppiness or nappiness

of the ginned lint. Normal preparation for any color grade of American Upland cotton for which there is a physical color standard shall be that found in the physical color standard. Normal preparation for any color grade of American Upland cotton for which there is a descriptive color standard shall be that found in the physical standards for color used to define the descriptive color grade. Explanatory terms considered necessary to adequately describe the preparation of cotton may be entered on classification memorandums or certificates.

[57 FR 34499, Aug. 5, 1992]

### § 28.481 Alternate title for standards.

Since these standards have been agreed upon and accepted by the leading European cotton associations and exchanges, they may also be termed and referred to as the ''Universal Standards for American Cotton.''

[24 FR 5171, June 25, 1959]

### § 28.482 United States Cotton Futures Act.

The cotton standards contained in § 28.301 through § 28.603 of this part shall be effective for purposes of the United States Cotton Futures Act (7 U.S.C. 15b) and the regulations thereunder (7 CFR part 27).

[45 FR 46783, July 11, 1980]

## OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE COLORGRADE OF AMERICAN PIMA COTTON

AUTHORITY: Secs. 28.501 to 28.510 issued under Sec. 10, 42 Stat. 1519 (7 U.S.C. 61). Interpret or apply Sec. 6, 42 Stat. 1518, as amended (7 U.S.C. 56.)

### § 28.501 Color Grade No. 1.

Color grade No. 1 shall be American Pima cotton which in color is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Color Grade No. 1, effective July 1, 1986.''

[65 FR 36600, June 9, 2000]

### § 28.502 Color Grade No. 2.

Color grade No. 2 shall be American Pima cotton which in color is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Color Grade No. 2, effective July 1, 1986.''

[65 FR 36600, June 9, 2000]

### § 28.503 Color Grade No. 3.

Color grade No. 3 shall be American Pima cotton which in color is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Color Grade No. 3, effective July 1, 1986.''

[65 FR 36600, June 9, 2000]

### § 28.504 Color Grade No. 4.

Color grade No. 4 shall be American Pima cotton which in color is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Color Grade No. 4, effective July 1, 1986.''

[65 FR 36600, June 9, 2000]

### § 28.505 Color Grade No. 5.

Color grade No. 5 shall be American Pima cotton which in color is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Color Grade No. 5, effective July 1, 1986.''

[65 FR 36600, June 9, 2000]

### § 28.506 Color Grade No. 6.

Color grade No. 6 shall be American Pima cotton which in color is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton

Standards of the United States, American Pima, Color Grade No. 6, effective July 1, 1986.''

[65 FR 36600, June 9, 2000]

### § 28.507 Color Grade No. 7.

American Pima cotton which in color is inferior to Color Grade No. 6 shall be designated as ''Color Grade No. 7.''

[65 FR 36600, June 9, 2000]

### §§ 28.508–28.510 [Reserved]

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE LEAF GRADE OF AMERICAN PIMA COTTON

### § 28.511 Leaf Grade No. 1.

Leaf grade No. 1 shall be American Pima cotton which in leaf is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Leaf Grade No. 1, effective July 1, 1986.''

[65 FR 36601, June 9, 2000]

### § 28.512 Leaf Grade No. 2.

Leaf grade No. 2 shall be American Pima cotton which in leaf is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Leaf Grade No. 2, effective July 1, 1986.''

[65 FR 36601, June 9, 2000]

### § 28.513 Leaf Grade No. 3.

Leaf grade No. 3 shall be American Pima cotton which in leaf is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Leaf Grade No. 3, effective July 1, 1986.''

[65 FR 36601, June 9, 2000]

### § 28.514 Leaf Grade No. 4.

Leaf grade No. 4 shall be American Pima cotton which in leaf is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Leaf Grade No. 4, effective July 1, 2001.''

[65 FR 36601, June 9, 2000]

### § 28.515 Leaf Grade No. 5.

Leaf grade No. 5 shall be American Pima cotton which in leaf is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Leaf Grade No. 5, effective July 1, 2001.''

[65 FR 36601, June 9, 2000]

### § 28.516 Leaf Grade No. 6.

Leaf grade No. 6 shall be American Pima cotton which in leaf is within the range represented by a set of samples in the custody of the U.S. Department of Agriculture in a container marked ''Original Official Cotton Standards of the United States, American Pima, Leaf Grade No. 6, effective July 1, 2001.''

[65 FR 36601, June 9, 2000]

### § 28.517 Leaf Grade No. 7.

American Pima cotton which in leaf is inferior to Leaf Grade No. 6 shall be designated as ''Leaf Grade No. 7.''

[65 FR 36601, June 9, 2000]

APPLICATION OF STANDARDS AND EXPLANATORY TERMS

### § 28.521 Application of color and leaf grade standards.

American Pima cotton which in color is within the range of the color standards established in this part shall be designated according to the color standard irrespective of the leaf content. American Pima cotton which in leaf is within the range of the leaf standards established in this part shall be designated according to the leaf standard irrespective of the color content.

[65 FR 36601, June 9, 2000]

### § 28.522 Explanatory terms.

(a) The term preparation is used to describe the degree of smoothness or roughness of the ginned lint. Normal preparation for any color grade of American Pima cotton for which there is a physical color standard shall be that found in the physical color standard. If the preparation is other than normal, it shall be entered on the classification record.

(b) Explanatory terms considered necessary to adequately describe the presence of preparation, spindle twist, and extraneous matter such as bark, grass, seed coat fragments, oil, etc. in the sample, shall be part of the classification record.

[65 FR 36601, June 9, 2000]

## SYMBOLS AND CODE NUMBERS USED IN RECORDING COTTON CLASSIFICATION

AUTHORITY: Sec. 28.525 issued under Sec. 10, 42 Stat. 1519 (7 U.S.C. 61). Interpret or apply Sec. 6, 42 Stat. 1518, as amended (7 U.S.C. 56).

### § 28.525 Symbols and code numbers.

For administrative convenience, the symbols and code numbers prescribed in this section may be used in lieu of cotton grade names and staple length designations in inches.

(a) *Symbols and Code numbers used for Color Grades of American Upland Cotton.*

| Color grade | Symbol | Code No. |
|---|---|---|
| Good Middling | GM | 11 |
| Strict Middling | SM | 21 |
| Middling | Mid | 31 |
| Strict Low Middling | SLM | 41 |
| Low Middling | LM | 51 |
| Strict Good Ordinary | SGO | 61 |
| Good Ordinary | GO | 71 |
| Good Middling Light Spotted | GM Lt SP | 12 |
| Strict Middling Light Spotted | SM Lt Sp | 22 |
| Middling Light Spotted | Mid Lt Sp | 32 |
| Strict Low Middling Light Spotted. | SLM Lt Sp | 42 |
| Low Middling Light Spotted | LM Lt Sp | 52 |
| Stict Good Ordinary Light Spotted. | SGO Lt Sp | 62 |
| Good Middling Spotted | GM Sp | 13 |
| Strict Middling Spotted | SM Sp | 23 |
| Middling Spotted | Mid Sp | 33 |
| Strict Low Middling Spotted | SLM Sp | 43 |
| Low Middling Spotted | LM Sp | 53 |
| Strict Good Ordinary Spotted | SGO Sp | 63 |
| Strict Middling Tinged | SM Tg | 24 |
| Middling Tinged | Mid Tg | 34 |
| Strict Low Middling Tinged | SLM Tg | 44 |
| Low Middling Tinged | LM Tg | 54 |
| Strict Middling Yellow Stained | SM YS | 25 |
| Middling Yellow Stained | Mid YS | 35 |
| Below Grade—(Below Good Ordinary). | BG | 81 |
| Below Grade—(Below Strict Good Ordinary Light Spotted). | BG | 82 |
| Below Grade—(Below Strict Good Ordinary Spotted). | BG | 83 |
| Below Grade—(Below Low Middling Tinged). | BG | 84 |
| Below Grade—(Below Middling Yellow Stained). | BG | 85 |

(b) *Symbols and Code Numbers used for Leaf Grades of American Upland Cotton.*

| Leaf grade | Symbol | Code No. |
|---|---|---|
| Leaf Grade 1 | LG1 | 1 |
| Leaf Grade 2 | LG2 | 2 |
| Leaf Grade 3 | LG3 | 3 |
| Leaf Grade 4 | LG4 | 4 |
| Leaf Grade 5 | LG5 | 5 |
| Leaf Grade 6 | LG6 | 6 |
| Leaf Grade 7 | LG7 | 7 |
| Below Leaf Grade | BLG | 8 |

(c) Symbols and Code Numbers for Color Grades of American Pima Cotton.

| Full grade name | Symbol Code | No. |
|---|---|---|
| Color Grade No. 1 | AP C1 | 01 |
| Color Grade No. 2 | AP C2 | 02 |
| Color Grade No. 3 | AP C3 | 03 |
| Color Grade No. 4 | AP C4 | 04 |
| Color Grade No. 5 | AP C5 | 05 |
| Color Grade No. 6 | AP C6 | 06 |
| Color Grade No. 7 | AP C7 | 07 |

(d) Symbols and Code Numbers for Leaf Grades of American Pima Cotton.

| Full grade name | Symbol Code | No. |
|---|---|---|
| Leaf Grade No. 1 | AP L1 | 1 |
| Leaf Grade No. 2 | AP L2 | 2 |
| Leaf Grade No. 3 | AP L3 | 3 |
| Leaf Grade No. 4 | AP L4 | 4 |
| Leaf Grade No. 5 | AP L5 | 5 |
| Leaf Grade No. 6 | AP L6 | 6 |
| Leaf Grade No. 7 | AP L7 | 7 |

(e) *Code numbers for Length of Staple Designations.*

| Length of staple—inches | Code No. |
|---|---|
| Below 13/16 | 24 |
| 13/16 | 26 |
| 7/8 | 28 |
| 29/32 | 29 |
| 15/16 | 30 |
| 31/32 | 31 |
| 1 | 32 |
| 1 1/32 | 33 |
| 1 1/16 | 34 |

| Length of staple—inches | Code No. |
|---|---|
| 1 3/32 | 35 |
| 1 1/8 | 36 |
| 1 5/32 | 37 |
| 1 3/16 | 38 |
| 1 7/32 | 39 |
| 1 1/4 | 40 |
| 1 9/32 | 41 |
| 1 5/16 | 42 |
| 1 11/32 | 43 |
| 1 3/8 | 44 |
| 1 13/32 | 45 |
| 1 7/16 | 46 |
| 1 15/32 | 47 |
| 1 1/2 | 48 |
| 1 17/32 | 49 |
| 1 9/16 | 50 |
| 1 19/32 | 51 |
| 1 5/8 | 52 |
| 1 21/32 | 53 |
| 1 11/16 | 54 |
| 1 23/32 | 55 |
| 1 3/4 | 56 |

[32 FR 8760, June 20, 1967, as amended at 50 FR 25198, June 18, 1985; 51 FR 23039, June 25, 1986; 57 FR 34499, Aug. 5, 1992; 65 FR 36601, June 9, 2000]

## OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR FIBER FINENESS AND MATURITY

AUTHORITY: Sections 28.601 to 28.603 issued under secs. 6, 10, 42 Stat. 1518, 1519, sec. 4854, 68A Stat. 580; 7 U.S.C. 56, 61, 26 U.S.C. 4854.

SOURCE: Sections 28.601 through 28.603 appear at 30 FR 7239, May 29, 1965, unless otherwise noted.

### § 28.601 Official cotton standards for fiber fineness and maturity.

The official cotton standards of the United States for fiber fineness and maturity shall be the measure of such qualities, in combination, provided by air flow instrument tests in terms of micronaire readings in accordance with the procedure specified in § 28.603.

### § 28.602 Terms of designations.

The fiber fineness and maturity of any cotton shall be designated by the micronaire reading obtained from an air flow instrument test for a specimen of the cotton as determined under § 28.603, e.g., 4.1, 4.2, 4.3, etc. To simplify recording, the decimal point may be omitted, and the micronaire reading recorded as 41, 42, 43, etc.

### § 28.603 Procedures for air flow tests of micronaire reading.

In determining in terms of micronaire readings, the fiber fineness and maturity, in combination, of cotton, the following procedures shall apply:

(a) Facilities and equipment shall include:

(1) Air flow instrument complete with accessories to measure the fineness and maturity, in combination, of cotton in terms of micronaire reading on the curvilinear scale adopted in September 1950 by the Department of Agriculture, or its equivalent.

(2) A suitable supply of compressed air filtered to remove moisture and other impurities.

(3) Balance or scales suitable for accurately weighing the specimens required for the particular instrument.

(4) International Calibration Cotton Standards with established micronaire reading values for calibration of the air flow instrument.

(b) The instrument shall be calibrated each day before routine testing begins, as follows:

(1) The air shall be allowed to flow through the instrument until the indicator stabilizes.

(2) Specimens from at least two of the calibration cottons shall be tested to insure proper calibration of the instrument. The instrument shall be considered in calibration if the values obtained on the test specimens agree with the established values of the calibration cottons within 0.1 micronaire reading.

(c) Testing of the cotton specimen shall be performed as follows:

(1) Approximately the same amount of cotton shall be taken from each side of the sample for a test specimen. The weight of the test specimen shall be that weight prescribed for the air flow instrument being used.

(2) The weighed specimen shall be tested in a properly calibrated instrument.

(3) The specimen shall be inserted into the specimen holder of the instrument so that the mass of fibers is well distributed within the specimen holder.

(4) The air shall then be allowed to flow through the specimen in accordance with the method of operation of the instrument.

(5) The position of the instrument indicator shall be determined to the nearest 0.1 micronaire reading when it becomes stable.

(d) The accuracy of the instrument shall be checked at least every 2 hours during operation by testing appropriate calibration cottons. If the value obtained on a specimen from the calibration cotton is outside the established limits of 0.1 micronaire reading, or when successive readings show the results to be within the established limits, but consistently high or low, the instrument and technique shall be thoroughly checked to remedy the discrepancies. Additional tests using calibration cottons shall be made until acceptable results are obtained before routine testing is resumed.

## Subpart D—Cotton Classification and Market News Service for Producers

AUTHORITY: 7 U.S.C. 51–65; 7 U.S.C. 471–476.

SOURCE: 74 FR 26772, June 4, 2009, unless otherwise noted.

### DEFINITIONS

### § 28.901 Definitions.

When used in the regulations in this subpart:

(a) *Act* means the United States Cotton Standards Act of 1923, as amended (7 U.S.C. 51–65) and the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–476), unless otherwise noted.

(b) *Service* means the Agricultural Marketing Service of the United States Department of Agriculture.

(c) *Administrator* means the Administrator of the Agricultural Marketing Service, or any officer or employee of the Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act for the Administrator.

(d) *Division* means the Cotton Division of the Agricultural Marketing Service.

(e) *Director* means the Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act for the Director.

(f) *Producer* means any individual, partnership, corporation, association, trust, estate, or other legal entity, a State or political subdivision thereof, or any agency of such State or political subdivision producing American Upland or American Pima cotton in the capacity of landowner, landlord, tenant, or sharecropper.

### ADMINISTRATION

### § 28.902 Director.

The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

### CLASSIFICATION AND MARKET NEWS SERVICES

### § 28.903 Classification of samples.

The Director, or an authorized representative, upon the receipt of a producer's cotton sample which complies with the regulations in this subpart shall, as hereinafter provided, furnish to such producer or to an agent designated by the producer the classification in accordance with the official cotton standards of the United States.

### § 28.904 Market news.

The Director shall cause to be distributed to producers of cotton and to others on request, timely information on prices for various qualities of cotton.

### SAMPLING

### § 28.906 Sampling arrangements.

(a) Cotton must be sampled by a gin or warehouse that holds a valid license to sample cotton issued pursuant to §§ 28.20 through 28.22.

(b) The Director, or an authorized representative may direct that sampling be performed by employees of the Department of Agriculture for the purpose of appraising the sampling procedures at cotton gins or warehouses, or for the purpose of providing service to

producers in special cases where a licensed gin or warehouse is not available.

### § 28.907 Responsibilities of licensed gins or warehouses.

Each licensee shall be primarily responsible for drawing, identifying, handling, and shipping samples of cotton in accordance with this subpart and with instructions furnished by the Director or an authorized representative from time to time.

### § 28.908 Samples.

(a) *Only one sample to be submitted.* Only one sample from each bale of eligible cotton shall be submitted for classification under this subpart. This does not prohibit the submission of an additional sample from a bale for review classification if the producer so desires.

(b) *Drawing of samples manual.* (1) Each cut sample shall be drawn from the bale after it is tied out following the ginning process, and shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale: *Provided*, That each sample from a bale of American Pima cotton shall be approximately 10 ounces in weight, not less than 5 ounces of which are to be drawn from each side of the bale.

(2) Where it is necessary to draw two sets of samples, a single cut should be made in each side of the bale, and the portion of cotton removed from each cut should be broken in half across the layers to provide two complete samples. In those cases where this method would result in samples of insufficient length, it will be acceptable to split the sample lengthwise along the layers, provided the outside portion from each side is submitted for the official classification.

(c) *Mechanical sampling.* Samples may be drawn in gins equipped with mechanical samplers approved by the Division and operated according to sampling instructions furnished by the Director or an authorized representative. Such samples shall not be less than 6 ounces in weight.

(d) *Samples must be representative.* Each sample must be representative of the bale from which drawn.

(e) *Handling samples.* Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Samples shall be handled only by employees of the licensee prior to shipment or delivery to the cotton classing office of the Division.

(f) *Identifying and shipping samples.* Each sample shall be identified with a tag, supplied or approved by the Division, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the licensed gin or warehouse. The packages shall be shipped or delivered direct to the cotton classing office serving the territory in which the cotton is ginned. Samples that were drawn by a mechanical sampler at the gin may be transported with the bales to the warehouse and then shipped or delivered direct to the classing office by the warehouse.

(g) *Request for classification.* Samples received from a licensed gin or warehouse with the identification tag required in § 28.908(f) shall constitute a request for classification service by the producer.

### § 28.909 Costs.

(a) Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be assumed by the producer, but tags and containers for the shipment of samples and shipping charges via U.S. Postal Service or duly authorized common carrier will be furnished by the service. After classification the samples shall become the property of the Government. The proceeds of the sale of cotton samples shall be used to defray the costs of providing the services under this subpart.

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $2.20 per bale.

(c) The Division will periodically bill producers or the voluntary agents designated by producers for the cost of classification. A discount of 5 cents per sample will be granted for services provide under this section when billing is made to voluntary agents.

[74 FR 26772, June 4, 2009, as amended at 75 FR 34320, June 17, 2010; 76 FR 25534, May 5, 2011; 77 FR 33290, June 6, 2012; 78 FR 32068, May 29, 2013]

CLASSIFICATION

### § 28.910 Classification of samples and issuance of classification data.

(a)(1) The samples submitted as provided in the subpart shall be classified by employees of the Division and classification memoranda showing the official quality determination of each sample according to the official cotton standards of the United States shall be issued by any one of the following methods at no additional charge:

(i) Computer diskettes,

(ii) Computer tapes, or

(iii) Telecommunications, with all long distance telephone line charges paid by the receiver of data.

(2) When an additional copy of the classification memorandum is issued by any method listed in paragraph (a)(1) of this section, there will be a charge of five cents per bale. If provided as an additional method of data transfer, the minimum fee for each tape or diskette issued shall be $10.00.

(b) Owners of cotton, other than producers, may receive classification data showing the official quality determination of each sample by means of telecommunications from a central database to be maintained by the Division. The fee for this service shall be five cents per bale, with all long distance telephone line charges paid by the receiver of data. The minimum charge assessed for services obtained from the central database be $5.00 per monthly billing period.

(c) Upon request of an owner of cotton for which classification memoranda have been issued under the subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be 15 cents per bale or a minimum of $5.00 per sheet.

### § 28.911 Review classification.

(a) A producer may request one review classification for each bale of eligible cotton. The fee for review classification is $2.20 per bale.

(b) Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20 through 28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification, the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 50 cents per sample in addition to the fee established above in this section.

[74 FR 26772, June 4, 2009, as amended at 75 FR 34320, June 17, 2010; 76 FR 25534, May 5, 2011; 77 FR 33290, June 6, 2012; 78 FR 32068, May 29, 2013]

LIMITATIONS OF SERVICES

### § 28.917 Limitations of Services.

The Director, or an authorized representative, may suspend, terminate, or withhold cotton classing and market news services to any producer upon any failure of the producer to comply with the act or these regulations. Failure to remit fees for classification services shall result in loss of service.

## Subpart E—Cotton Fiber and Processing Tests

AUTHORITY: Sec. 3c, 50 Stat. 62; 7 U.S.C. 473c; sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

SOURCE: 35 FR 8532, June 3, 1970, unless otherwise noted.

DEFINITIONS

### § 28.950 Terms defined.

As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *Regulations*. Regulations mean the provisions in this subpart.

(b) *Service*. The Agricultural Marketing Service of the U.S. Department of Agriculture.

(c) *Administrator*. The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has been delegated to act for the Administrator.

(d) *Division*. The Cotton Division of the Agricultural Marketing Service.

(e) *Director*. The Director of the Cotton Division, or any officer or employee of the Division to whom authority has been delegated to act for the Director.

(f) *Laboratories*. Laboratories of the Cotton Division that perform the fiber and processing tests described in this subpart.

[35 FR 8532, June 3, 1970, as amended at 46 FR 30073, June 5, 1981; 46 FR 51593, Oct. 21, 1981]

ADMINISTRATION

### § 28.951 Director.

The Director shall perform, for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

FIBER AND PROCESSING TESTS

### § 28.952 Testing of samples.

The Director or an authorized representative, upon written requests, shall make fiber and processing tests of the properties of cotton samples and report the results thereof to the persons from whom such requests are received, subject to compliance by such persons with the regulations in this subpart and to the payment by them of fees as prescribed herein.

[46 FR 30073, June 5, 1981; 46 FR 51593, Oct. 21, 1981]

### § 28.953 Requirements as to samples.

Each sample of ginned cotton lint submitted for fiber and processing tests shall weigh approximately as shown below unless otherwise specified in the particular test item as prescribed herein:

1 ounce or more for fiber tests.
6 pounds or more for carded yarn spinning tests.
8 pounds or more for combed yarn spinning tests.
10 pounds or more for carded and combed yarn spinning tests.

Each individual sample submitted for testing shall contain a tag or coupon bearing a number or other identification symbol. Individually labeled samples may be sent in one or more parcels, each of which shall bear on the outside thereof the name and address of the person submitting it. Persons who submit samples to laboratories for testing shall comply with any Federal or State quarantine requirements applicable to counties from which such samples are shipped.

### § 28.954 Costs of submitting samples.

The transportation of samples to a laboratory for testing shall be without expense to the Government.

### § 28.955 Disposition of samples.

The remnants of samples accumulated in the making of tests under the regulations in this subpart shall become the property of the Government unless the applicant requests that such remnants be returned. Returns will be at the applicant's expense.

[46 FR 30073, June 5, 1981; 46 FR 51593, Oct. 21, 1981]

### § 28.956 Prescribed fees.

Fees for fiber and processing tests shall be assessed as listed below:

| Item number and kind of test | Fee per test |
|---|---|
| 1.0 Calibration cotton for use with High Volume Instruments, per 5 pound package: | |
| a. f.o.b. Memphis, Tennessee | $95.00 |
| b. By surface delivery within continental United States | 100.00 |
| c. By air freight collect outside continental United States | 95.00 |
| d. By air parcel post delivery outside continental United States | 135.00 |
| 1.1 High Volume Instrument (HVI) System Check Level. Furnishing two samples per month for HVI determinations, summarizing returned data, and reporting deviations for average of all laboratories for measurements taken, per 12 months: | |
| a. By surface delivery within continental United States | 168.00 |
| b. By air parcel post delivery outside continental United States | 324.00 |
| 2.0 Furnishing international calibration cotton standards with standard values for micronaire reading and fiber strength at zero and 1/8-inch gage and Fibrograph length: | |
| a. f.o.b. Memphis, Tennessee 1/2-lb. sample | 20.00 |
| b. By surface delivery within continental United States, 1/2-lb. sample | 22.00 |
| c. By air freight collect outside continental United States, 1/2-lb. sample | 20.00 |
| d. By air parcel post delivery, outside continental United States, 1/2-lb. sample | 30.00 |
| 2.1 Furnishing international calibration cotton standards with standard values for micronaire reading only: | |
| a. f.o.b. Memphis Tennessee, 1-lb. sample | 28.00 |
| b. Surface delivery within continental United States, 1-lb. sample | 31.00 |
| c. By air freight collect outside continental United States, 1-lb. sample | 28.00 |
| d. By air parcel post delivery outside continental United States, 1-lb. sample | 42.00 |
| 3.0 Furnishing standard color tiles for calibrating cotton colormeters, per set of five tiles including box: | |
| a. f.o.b. Memphis, Tennessee | 125.00 |
| b. Surface delivery within continental United States | 130.00 |
| c. By air freight collect outside continental United States | 125.00 |
| d. By air parcel post delivery outside continental United States | 165.00 |
| 3.1 Furnishing single color calibration tiles for use with specific instruments or as replacements in above sets, each tile: | |
| a. f.o.b. Memphis, Tennessee | 22.00 |
| b. Surface delivery within continental United States | 25.00 |
| c. By air freight collect outside continental United States | 22.00 |
| d. By air parcel post delivery outside continental United States | 35.00 |
| 3.2 Furnishing single trashmeter calibration standard, each: | |
| a. f.o.b. Memphis, Tennessee | 30.00 |
| b. Surface delivery within continental United States | 33.00 |
| c. By air freight collect outside continental United States | 30.00 |
| d. By air parcel post delivery outside continental United States | 44.00 |
| 3.3 Furnishing one set of standard color tiles for calibrating cotton colormeters and one trashmeter calibration standard, per set of five tiles and the standard including box: | |
| a. f.o.b. Memphis, Tennessee | 150.00 |
| b. Surface delivery within continental United States | 155.00 |
| c. By air freight collect outside continental United States | 150.00 |
| d. By air parcel post delivery outside continental United States | 190.00 |
| 3.4 Furnishing a single cotton sample of a designated leaf level mounted under glass, each: | |
| a. f.o.b. Memphis, Tennessee | 40.00 |
| b. Surface delivery within continental United States | 44.00 |
| c. By air freight collect outside continental United States | 40.00 |
| d. By air parcel post delivery outside continental United States | 54.00 |
| 3.5 Furnishing six cotton samples of six designated leaf levels each mounted under glass, per set of six samples: | |
| a. f.o.b. Memphis, Tennessee | 240.00 |
| b. Surface delivery within continental United States | 264.00 |
| c. By air freight collect outside continental United States | 240.00 |
| d. By air parcel post delivery outside continental United States | 300.00 |
| 4.0 Furnishing a colormeter calibration sample box containing six cotton samples with color values Rd and +b for each sample, per box: | |
| a. f.o.b. Memphis, Tennessee | 42.00 |
| b. Surface delivery within continental United States | 47.00 |
| c. By air freight collect outside continental United States | 42.00 |
| d. By air parcel post delivery outside continental United States | 82.00 |
| 4.1 Furnishing a trashmeter calibration sample box containing six cotton samples with trashmeter percent area reading for each sample, per box: | |
| a. f.o.b. Memphis, Tennessee | 42.00 |
| b. Surface delivery within continental United States | 47.00 |
| c. By air freight collect outside continental United States | 42.00 |
| d. By air parcel post delivery outside continental United States | 82.00 |
| 5.0 High Volume Instrument (HVI) measurement. Reporting Micronaire, length, length uniformity, 1/8-inch gage strength, color and trash content. Based on a 6 oz. (170 g.) sample, per sample | 1.75 |
| 6.0 Color of ginned cotton lint. Reporting data on the reflectance and yellowness in terms of Rd and +b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5 × 6 1/2 inches and weigh approximately 50 grams, per sample | 1.25 |
| 7.0 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sample, per sample | 9.50 |
| 7.1 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample | 6.00 |

| Item number and kind of test | Fee per test |
|---|---|
| 8.0 Pressley strength of ginned cotton lint by flat bundle method for either zero or 1/8-inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample | 9.75 |
| 8.1 Pressley strength of ginned cotton lint by flat bundle method for either zero or 1/8-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample | 6.00 |
| 9.0 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for 1/8-inch gage. Reporting the average strength and elongation: | |
| a. Based on 6 specimens from each blended sample, per sample | 9.75 |
| b. Based on 4 specimens from each blended sample, per sample | 7.50 |
| c. Based on 2 specimens from each blended sample, per sample | 6.00 |
| 10.0 Micronaire readings on ginned lint. Reporting the micronaire based on 2 specimens per sample | 0.70 |
| 10.1 Micronaire reading based on 1 specimen per sample | 0.40 |
| 11.0 Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and micronaire reading as based on 2 specimens from a blended sample, per sample | 16.00 |
| Minimum fee | 80.00 |
| 12.0 Fiber fineness and maturity of ginned cotton lint by the IIC-Shirley Fineness/Maturity Tester method, reporting the average micronaire, maturity ratio, percent mature fibers and fineness (linear density) based on 2 specimens from a blended sample, per sample | 7.50 |
| 13.0 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length and average length variability as based on 3 specimens from a blended sample: | |
| a. Ginned cotton lint, per sample | 78.00 |
| b. Cotton comber noils, per sample | 119.00 |
| c. Other cotton wastes, per sample | 143.00 |
| 13.1 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length, and average length variability as based on 2 specimens from a blended sample: | |
| a. Ginned cotton lint, per sample | 57.00 |
| b. Cotton comber noils, per sample | 82.00 |
| c. Other cotton wastes, per sample | 112.00 |
| 13.2 Fiber length array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers by weight in each 1/8-inch group, average length and average length variability as based on 3 specimens from a blended sample, per sample | 137.000 |
| 14.0 Fiber length and length distribution of cotton samples by the Almeter method. Reporting the upper 25 percent length, mean length, coefficient of variation, and short fiber percentages by weight, number or tuft in each 1/8-inch group, as based on 2 specimens from a blended sample: | |
| a. Report percentages of fiber by weight only | 28.00 |
| b. Report percentages of fiber by weight and number or tuft | 33.00 |
| c. Report percentages of fiber by weight, number and tuft | 38.00 |
| 15.0 Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley Analyzer separation of lint and foreign matter: | |
| a. For samples of ginned lint or comber noils, per 100-gram specimen | 8.50 |
| b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen | 15.00 |
| 16.0 Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample | 17.00 |
| 17.0 Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample | 5.50 |
| Minimum fee | 27.50 |
| 18.0 Miniature carded cotton spinning test. Reporting data on tenacity (centinewtons per tex) of 22's yarn and HVI data (see item 5.0). Based on the processing of 50 grams of cotton in accordance with special procedures, per sample | 27.00 |
| 19.0 Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps, and the classification and the fiber length of the cotton as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample | 88.00 |
| 20.0 Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification, and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6½, 9½, or 12½ pounds-per-hour into two of the standard carded yarn numbers of 8s, 14s, 36s, or 50s, employing a standard twist multiplier unless otherwise specified, per sample | 120.00 |
| 21.0 Spinning potentials test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test requires an additional 4 pounds of cotton, per sample | 110.00 |
| 22.0 Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4½, 6½, or 9½ pounds per hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample | 160.00 |
| 23.0 Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample | 232.00 |
| 24.0 Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 9 pounds of cotton into two of the standard and two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample | 252.00 |

| Item number and kind of test | Fee per test |
|---|---|
| 25.0 Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn | 35.00 |
| 25.1 Processing and finishing of additional yarn. Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn | 48.00 |
| 26.0 Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:. | |
| (a) Single yarns based on 40 specimens per lot of yarn | 88.00 |
| (b) Plied or cabled yarns based on 10 specimens, per lot of yarn | 26.00 |
| 27.0 Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant, per sample | 14.00 |
| 27.1 Single Strand Yarn Strength Test. Measuring 100 strands on a Statimat Tester and reporting yarn strength, elongation and coefficient of variation, per test | 6.50 |
| 28.0 Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin | 6.00 |
| 28.1 Furnishing yarn wound on boards in connection with yarn appearance tests | 9.50 |
| 28.2 Yarn Imperfections Test. Measuring yarn on the Uster Evenness Tester and reporting the yarn imperfections, thick places, thin places, and neps, and the present coefficient of variation, per sample | 6.50 |
| 29.0 Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on 5 breaks for both warp and filling of fabric furnished by the applicant, per sample | 20.00 |
| 29.1 Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and weight per yard of fabric based on at least three (3) 6 × 6 inch specimens of fabric which were processed or furnished by the applicant, per sample | 35.00 |
| 30.0 Chemical finishing tests on finished drawing silver. The Ahiba Texomat Dyer is used for scouring, bleaching and dyeing of a 3-gram sample. Color measurements are made on the unfinished, bleached and dyed cotton samples, using a Hunterlab Colorimeter, Model 25 M–3. The color values are reported in terms of reflectance (Rd), yellowness (+b) and blueness (-b) | 16.00 |
| Minimum fee | 48.00 |
| 32.0 Furnishing identified cotton samples. Includes samples of ginned lint stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample | 4.25 |
| 33.0 Furnishing additional copies of test reports. Including extra copies in addition to the two copies routinely furnished in connection with each test item, per additional sheet | 1.50 |
| Minimum fee | 6.00 |
| 33.1 Furnishing a certified relisting of test results. Includes samples of sub-samples selected from any previous tests, per sheet | 18.00 |
| 33.2 Sending copies of test reports for facsimile (FAX), per sheet: | |
| a. Within continental United States | 2.00 |
| b. Outside continental United States | 5.00 |
| 34.0 Classification of ginned cotton lint is available in connection with other fiber tests, under the provisions of 7 CFR part 28, § 28.56, Classification includes grade only based on a 6 oz. (170 g.) sample. | |

[57 FR 27893, June 23, 1992]

### § 28.957 Special tests and fees.

Tests may be performed for cooperating agencies and organizations to the extent that available facilities will permit, subject to the payment of fees as determined by the Director. Special tests and services not listed in § 28.956 may be performed to the extent that available facilities will permit, subject to the payment of fees determined by the Director.

### § 28.958 Payment of fees.

As soon as practicable after the last day of each calendar month, bills shall be rendered by officers in charge of testing laboratories to all persons from whom payment of fees and costs under the regulations in this subpart shall become due, provided that when desirable any bill may be rendered at an earlier date. Payment shall be by check or by draft or post office or express money order, payable to the order of ''Agricultural Marketing Service, USDA.''

[35 FR 8532, June 3, 1970. Redesignated at 46 FR 30075, June 5, 1981]

### § 28.959 Limitation of testing services.

If at any time funds available for services under the regulations in this subpart may be insufficient to provide for the testing of all samples that may be submitted for the purpose, the Director may place reasonable limitations upon the quantities of samples to be submitted by individuals during any one fiscal year or any one calendar month, and may direct that samples received from cotton breeders shall

take precedence over those received from other persons.

[35 FR 8532, June 3, 1970. Redesignated at 46 FR 30075, June 5, 1981]

### § 28.960 Confidential information.

No information concerning individual tests under the regulations in this subpart shall be published or communicated in such a way as to disclose to others the identity of the owners of cotton represented by samples submitted for testing, except with the written permission of such owners.

[35 FR 8532, June 3, 1970. Redesignated at 46 FR 30075, June 5, 1981]

### § 28.961 False and misleading information.

The publication or communication by any person of false or misleading information concerning the results of tests as reported by laboratories under the regulations in this subpart shall be deemed sufficient cause for denial of testing services to such persons.

[35 FR 8532, June 3, 1970. Redesignated at 46 FR 30075, June 5, 1981]

# PART 29—TOBACCO INSPECTION

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29.2 Policy statement.
29.3 Procedures for filing, hearing, and determination of applications.

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29.16 Division.
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29.28 Interested party.
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29.2439 Lugs (X Group).
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SUMMARY OF STANDARD GRADES

29.2461 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

29.2481 Key to standard grademarks.

**Official Standard Grades for Kentucky and Tennessee Fire-Cured and Foreign-Grown Fire-Cured Tobacco (U.S. Types 22, 23, and Foreign Type 96)**

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29.2502 Air-dried.
29.2503 Body.
29.2504 Brown colors.
29.2505 Class.
29.2506 Clean.
29.2507 Color.
29.2508 Color intensity.
29.2509 Color symbols.
29.2510 Condition.
29.2511 Crude.
29.2512 Cured.
29.2513 Damage.
29.2514 Dirty.
29.2515 Elasticity.
29.2516 Elements of quality.
29.2517 Fiber.
29.2518 Finish.
29.2519 Fire-cured.
29.2520 Foreign matter.
29.2521 Form.
29.2522 Grade.
29.2523 Grademark.
29.2524 Green (G).
29.2525 Greenish.
29.2526 Group.
29.2527 Injury.
29.2528 Leaf.
29.2529 Leaf scrap.
29.2530 Leaf structure.
29.2531 Length.
29.2532 Lot.
29.2533 Maturity.
29.2534 Mixed color or variegated (M).
29.2535 Nested.
29.2536 No grade.
29.2537 Offtype.
29.2538 Oil.
29.2539 Order (case).
29.2540 Package.
29.2541 Packing.
29.2542 Quality.
29.2543 Raw.
29.2544 Resweated.
29.2545 Rework.
29.2546 Semicured.
29.2547 Semifired (SF).
29.2548 Side.
29.2549 Size.
29.2550 Sound.
29.2551 Special factor.
29.2552 Steam-dried.
29.2553 Stem.
29.2554 Stemmed.
29.2555 Strength.
29.2556 Strips.
29.2557 Subgrade.
29.2558 Sweated.
29.2559 Sweating.
29.2560 Tobacco.
29.2561 Tobacco products.

29.2562 Type.
29.2563 Type 22.
29.2564 Type 23.
29.2565 Type 96.
29.2566 Undried.
29.2567 Uniformity.
29.2568 Unsound (U).
29.2569 Unstemmed.
29.2570 Wet (W).
29.2571 Width.

ELEMENTS OF QUALITY

29.2601 Elements of quality and degrees of each element.

SIZES

29.2606 Standard sizes.

RULES

29.2616 Rules.
29.2617 Rule 1.
29.2618 Rule 2.
29.2619 Rule 3.
29.2620 Rule 4.
29.2621 Rule 5.
29.2622 Rule 6.
29.2623 Rule 7.
29.2624 Rule 8.
29.2625 Rule 9.
29.2626 Rule 10.
29.2627 Rule 11.
29.2628 Rule 12.
29.2629 Rule 13.
29.2630 Rule 14.
29.2631 Rule 15.
29.2632 Rule 16.
29.2633 Rule 17.
29.2634 Rule 18.
29.2635 Rule 19.
29.2636 Rule 20.
29.2637 Rule 21.
29.2638 Rule 22.
29.2639 Rule 23.
29.2640 Rule 24.

GRADES

29.2661 Wrappers (A Group).
29.2662 Heavy Leaf (B Group).
29.2663 Thin Leaf (C Group).
29.2664 Lugs (X Group).
29.2665 Nondescript (N Group).
29.2666 Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.2686 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

29.2696 Key to standard grademarks.

**Official Standard Grades for Burley Tobacco (U.S. Type 31 and Foreign Type 93)**

DEFINITIONS

29.3001 Definitions.
29.3002 Air-cured.
29.3003 Air-dried.
29.3004 Body.
29.3005 Burley, Type 31.
29.3006 Burley, Type 93.
29.3007 Buff color (L).
29.3008 Class.
29.3009 Clean.
29.3010 Color.
29.3011 Color intensity.
29.3012 Color symbols.
29.3013 Combination color symbols.
29.3014 Condition.
29.3015 Crude.
29.3016 Cured.
29.3017 Damage.
29.3018 Dark red color (D).
29.3019 Dirty.
29.3020 Elements of quality.
29.3021 Fiber.
29.3022 Finish.
29.3023 Foreign matter.
29.3024 Form.
29.3025 General color.
29.3026 General quality.
29.3027 Grade.
29.3028 Grademark.
29.3029 Green (G).
29.3030 Greenish (V).
29.3031 Group.
29.3032 Injury.
29.3033 Leaf.
29.3034 Leaf scrap.
29.3035 Leaf structure.
29.3036 Leaf surface.
29.3037 Length.
29.3038 Lot.
29.3039 Maturity.
29.3040 Mixed color (M).
29.3041 Nested.
29.3042 No grade.
29.3043 No-G-Nested.
29.3044 Offtype.
29.3045 Order (case).
29.3046 Oriented.
29.3047 Package.
29.3048 Packing.
29.3049 Pink or pinkish.
29.3050 Quality.
29.3051 Raw.
29.3052 Red color (R).
29.3053 Rework.
29.3054 Semicured.
29.3055 Side.
29.3056 Sound.
29.3057 Special factor.
29.3058 Steam-dried.
29.3059 Stem.
29.3060 Stemmed.
29.3061 Strength (tensile).
29.3062 Strips.
29.3063 Subgrade.
29.3064 Sweated.
29.3065 Sweating.
29.3066 Tan color.
29.3067 Tannish-buff (FL).
29.3068 Tannish-red color (FR).
29.3069 Tobacco.

29.3070 Tobacco products.
29.3071 Type.
29.3072 Undried.
29.3073 Uniformity.
29.3074 Unsound (U).
29.3075 Unstemmed.
29.3076 Variegated (K).
29.3077 Wet (W).
29.3078 Width.

ELEMENTS OF QUALITY

29.3101 Elements of quality and degrees of each element.

RULES

29.3103 Rules.
29.3104 Rule 1.
29.3105 Rule 2.
29.3106 Rule 3.
29.3107 Rule 4.
29.3108 Rule 5.
29.3109 Rule 6.
29.3110 Rule 7.
29.3111 Rule 8.
29.3112 Rule 9.
29.3113 Rule 10.
29.3114 Rule 11.
29.3115 Rule 12.
29.3116 Rule 13.
29.3117 Rule 14.
29.3118 Rule 15.
29.3119 Rule 16.
29.3120 Rule 17.
29.3121 Rule 18.
29.3122 Rule 19.
29.3123 Rule 20.
29.3124 Rule 21.
29.3125 Rule 22.
29.3126 Rule 23.
29.3127 Rule 24.
29.3128 Rule 25.

GRADES

29.3151 Flyings (X Group).
29.3152 Lugs or Cutters (C Group).
29.3153 Leaf (B Group).
29.3154 Tips (T Group).
29.3155 Mixed (M Group).
29.3156 Nondescript (N Group).
29.3157 Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.3181 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

29.3182 Key to standard grademarks.

**Official Standard Grades for Dark Air-Cured Tobacco (U.S. Types 35, 36, 37 and Foreign Type 95)**

DEFINITIONS

29.3501 Definitions.
29.3502 Air-cured.
29.3503 Air-dried.
29.3504 Body.
29.3505 Brown colors.
29.3506 Class.
29.3507 Clean.
29.3508 Color.
29.3509 Color intensity.
29.3510 Color symbols.
29.3511 Condition.
29.3512 Crude.
29.3513 Cured.
29.3514 Damage.
29.3515 Dirty.
29.3516 Elasticity.
29.3517 Finish.
29.3518 Foreign matter.
29.3519 Form.
29.3520 Grade.
29.3521 Grademark.
29.3522 Green (G).
29.3523 Group.
29.3524 Injury.
29.3525 Leaf.
29.3526 Leaf scrap.
29.3527 Leaf structure.
29.3528 Leaf surface.
29.3529 Length.
29.3530 Lot.
29.3531 Maturity.
29.3532 Mixed (M).
29.3533 Nested.
29.3534 No grade.
29.3535 Offtype.
29.3536 Order (case).
29.3537 Package.
29.3538 Packing.
29.3539 Quality.
29.3540 Raw.
29.3541 Resweated.
29.3542 Rework.
29.3543 Semicured.
29.3544 Side.
29.3545 Size.
29.3546 Sound.
29.3547 Special factor.
29.3548 Steam-dried.
29.3549 Stem.
29.3550 Stemmed.
29.3551 Strips.
29.3552 Subgrade.
29.3553 Sweated.
29.3554 Sweating.
29.3555 Tobacco.
29.3556 Tobacco products.
29.3557 Type.
29.3558 Type 35.
29.3559 Type 36.
29.3560 Type 37.
29.3561 Type 95.
29.3562 Undried.
29.3563 Uniformity.
29.3564 Unsound (U).
29.3565 Unstemmed.
29.3566 Variegated.
29.3567 Wet (W).
29.3568 Width.

ELEMENTS OF QUALITY

29.3586 Elements of quality and degrees of each element.

SIZES

29.3591 Standard tobacco sizes.

RULES

29.3601 Rules.
29.3602 Rule 1.
29.3603 Rule 2.
29.3604 Rule 3.
29.3605 Rule 4.
29.3606 Rule 5.
29.3607 Rule 6.
29.3608 Rule 7.
29.3609 Rule 8.
29.3610 Rule 9.
29.3611 Rule 10.
29.3612 Rule 11.
29.3613 Rule 12.
29.3614 Rule 13.
29.3615 Rule 14.
29.3616 Rule 15.
29.3617 Rule 16.
29.3618 Rule 17.
29.3619 Rule 18.
29.3620 Rule 19.
29.3621 Rule 20.
29.3622 Rule 21.
29.3623 Rule 22.
29.3624 Rule 23.
29.3625 Rule 24.
29.3626 Rule 25.

GRADES

29.3646 Wrappers (A Group).
29.3647 Heavy Leaf (B Group).
29.3648 Thin Leaf (C Group).
29.3649 [Reserved]
29.3650 Lugs (X Group).
29.3651 Nondescript (N Group).
29.3652 Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.3676 Summary of standard grades.

APPLICABLE STANDARD SIZES

29.3681 Applicable standard sizes.

KEY TO STANDARD GRADEMARKS

29.3686 Key to standard grademarks.

**Official Standard Grades for Wisconsin Cigar-Binder Tobacco (U.S. Types 54 and 55)**

DEFINITIONS

29.6001 Definitions.
29.6002 Air-cured.
29.6003 Body.
29.6004 Burn.
29.6005 Case (order).
29.6006 Class.
29.6007 Clean.
29.6008 Condition.
29.6009 Crude.
29.6010 Cured.
29.6011 Damage.
29.6012 Dirty.
29.6013 Elasticity.
29.6014 Elements of quality.
29.6015 Foreign matter.
29.6016 Form.
29.6017 General quality.
29.6018 Grade.
29.6019 Grademark.
29.6020 Group.
29.6021 Injury.
29.6022 Leaf scrap.
29.6023 Leaf structure.
29.6024 Length.
29.6025 Lot.
29.6026 Maturity.
29.6027 Nested.
29.6028 No Grade.
29.6029 Offtype.
29.6030 Package.
29.6031 Packing.
29.6032 Quality.
29.6033 Raw.
29.6034 Semicured.
29.6035 Side.
29.6036 Sound.
29.6037 Stem.
29.6038 Stemmed.
29.6039 Stem rot.
29.6040 Strength (tensile).
29.6041 Strips.
29.6042 Sweated.
29.6043 Tobacco.
29.6044 Tobacco products.
29.6045 Type.
29.6046 Type 53.
29.6047 Type 54.
29.6048 Type 55.
29.6049 Undried.
29.6050 Uniformity.
29.6051 Unstemmed.
29.6052 Unsweated.
29.6053 Wet (high-case).
29.6054 Width.

ELEMENTS OF QUALITY

29.6081 Elements of quality and degrees of each element.

RULES

29.6086 Rules.
29.6087 Rule 1.
29.6088 Rule 2.
29.6089 Rule 3.
29.6090 Rule 4.
29.6091 Rule 5.
29.6092 Rule 6.
29.6093 Rule 7.
29.6094 Rule 8.
29.6095 Rule 9.
29.6096 Rule 10.
29.6097 Rule 11.
29.6098 Rule 12.
29.6099 Rule 13.

29.6100 Rule 14.
29.6101 Rule 15.
29.6102 Rule 16.
29.6103 Rule 17.
29.6104 Rule 18.

GRADES

29.6126 Binder (B Group).
29.6127 Stripper (C Group).
29.6128 Straight Stripped (X Group).
29.6129 Farm Filler (Y Group).
29.6130 Nondescript (N Group).
29.6131 Scrap (S Group).

SUMMARY OF STANDARD GRADES

29.6155 Summary of standard grades.

KEY TO STANDARD GRADEMARKS

29.6161 Key to standard grademarks.

**Subpart D—Orders of Designation of Tobacco Markets**

29.8001 Designation of tobacco markets.

**Subpart E [Reserved]**

**Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Tobacco Produced and Marketed in a Quota Area**

DEFINITIONS

29.9201 Terms defined.
29.9202 Approved receiving station.
29.9203 Certification.
29.9204 Crop-lot.
29.9205 Identification number (farm serial number).
29.9206 Inspection.
29.9207 Nonquota tobacco.
29.9208 Permissible inspection.
29.9209 Lot.
29.9210 Office of inspection.

POLICY STATEMENT

29.9221 Policy statement.

ADMINISTRATION

29.9231 Administration.
29.9232 Where certification is available.
29.9233 When certification will be made.
29.9234 Who may obtain certification.
29.9235 How to make application.
29.9236 Form of application.
29.9237 When application deemed filed.
29.9238 When application may be rejected.
29.9239 When application may be withdrawn.
29.9240 Responsibilities of applicant.
29.9241 Accessibility of tobacco.

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29.9251 Fees and charges.

CERTIFYING PROCEDURES

29.9261 Procedure to be followed.
29.9262 Issuance of certificates.
29.9263 Tobacco classification certificate.
29.9264 Forms.
29.9265 Disposition of certificate.
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29.9281 Preclusion.

**Subpart G—Policy Statement and Regulations Governing Availability of Tobacco Inspection and Price Support Services to Flue-Cured Tobacco on Designated Markets**

29.9401 Definitions.
29.9402 Policy statement.
29.9403 Flue-Cured Tobacco Advisory Committee.
29.9404 Marketing area opening dates and marketing schedules.
29.9405 Issuance of marketing area opening date and selling schedules by the Secretary.
29.9406 Failure of warehouse to comply with opening and selling schedule.
29.9407 Records and reports.

AUTHORITY: 7 U.S.C. 511b, 511r.

CROSS REFERENCE: For regulations with respect to tobacco warehouses, see part 737 of chapter VII.

# Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets

AUTHORITY: Sec. 14, 49 Stat. 734, as amended; sec. 4, 62 Stat. 1070, as amended, 7 U.S.C. 511m, 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072 secs. 101, 401, 403, 63 Stat. 1051, as amended, 1054 as amended, 15 U.S.C. 714c, 7 U.S.C. 1441, 1421, 1423.

## § 29.1 Definitions.

For purposes of this subpart A, the following terms shall have the following meanings:

(a) *Additional sale* means an additional auction sale proposed to be conducted on a designated market.

(b) *Adequate set of buyers* means 5 or more buyers representing 5 or more companies or buying organizations which either will use the tobacco in the manufacture of tobacco products in

this country or in foreign countries, or will pack and sell the tobacco later for use by manufacturers in this country or foreign countries, and who could reasonably be expected to purchase at least two-thirds of the total U.S. production of the kind of tobacco for which the additional services are requested.

(c) *Auction market* means a marketing center containing one or more warehouses where tobacco is delivered by producers thereof, or their agents, for sale by the auction process. There may be one or more auction sales on an auction market.

(d) *Bona fide auction sale* and *auction sale* mean the buying and selling of tobacco offered by producers by the auction process which customarily and usually consists of an adequate set of buyers; an auctioneer who takes each buyer's bid; a sales starter who makes the opening bid on each lot; and a ticket marker who records the applicable sales data on each lot.

(e) *Designated market* means an auction market designated by the Secretary under section 5 of the Tobacco Inspection Act including the town or city which is the population center of the market and whose name the market bears and all of the geographical area within 5 road miles of the boundaries of said city or town as they are constituted on January 1, 1993. *Provided,* That any warehouse beyond those boundaries which received tobacco inspection and price support services during the 1992 marketing season shall continue to receive such services at the same location regardless of any prohibition contained herein: *And further provided,* That this geographical limitation may be waived by the Secretary after a hearing held pursuant to §§ 29.2 and 29.3.

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

(g) *Hearing Officer* means any administrative law judge appointed pursuant to 5 U.S.C. 3105, and assigned to the proceeding involved, or such other employee of the Department of Agriculture as the Secretary may designate to act as hearing officer at such hearing.

(h) *New market* means an auction market, other than a designated market, at which inspection service under the tobacco Inspection Act was not provided on a regular basis during the preceding marketing season.

(i) *Hearing Clerk* means the Hearing Clerk of the U.S. Department of Agriculture, Washington, DC 20250.

(j) *Kind of tobacco* means any one of the following: Flue-cured, Burley, Fire-cured, Dark air-cured, Maryland or Virginia sun-cured.

[37 FR 7765, Apr. 20, 1972, as amended at 39 FR 3548, Jan. 28, 1974; 42 FR 17097, Mar. 31, 1977; 58 FR 21343, Apr. 21, 1993]

### § 29.2 Policy statement.

Inspection and price support services currently provided in auction marketing areas are adequate and the lack of these services is not a limiting factor to accelerated marketings or the extension of price support to producers. Consequently, the extension of inspection and price support services, without limitation even though the cost of such service is paid by the seller, would not contribute to the effectuation of the purposes of either of these services. The additional cost incident to the unlimited extension of these services would be unjustifiable and excessive in relation to the total quantity of tobacco available for market. Accordingly, inspection and price support services shall be made available on new markets at warehouses which are located beyond the geographical limitation for ''designated markets'' set forth in § 29.1(e), and additional sales for other than flue-cured tobacco only as hereinafter provided. With regard to flue-cured tobacco, allocation of inspection services is based on producer designation, as provided for in 7 CFR 1464.2(e)(2)(iii), see subpart G. Also, since these services shall be made available to new markets to warehouses which are located beyond the geographical limitation for ''designated markets'' set forth in § 29.1(e), and additional sales only as herein provided, referenda incident to market designations shall not be conducted

until auction markets seeking designation have qualified for inspection and price support services as herein provided.

(a) *Reasonable inspection and price support services.* The extension of tobacco inspection and price support services to new markets to warehouses which are located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), and additional sales will be conditioned upon the reasonableness of such services existing in the marketing area of the proposed new market or additional sale. Transactions in tobacco as conducted at auction markets customarily involve the sale of tobacco at a bona fide auction sale. Determination with respect to reasonableness, and consequently with respect to granting or denying additional services, will be based on evidence (1) that the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale will function as a bona fide auction sale, and (2) that additional services are justifiable in relation to other market data, including the volume of tobacco produced in the area surrounding the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale; the roads and road distances involved in moving tobacco to the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale in relation to other tobacco marketing centers; the relative availability or congestion of all facilities for redrying and packing tobacco handled or to be handled in the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale; the location of other auction markets on which tobacco produced in the marketing area of the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale may be marketed; the number of tobacco growers to be affected by the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale; the volume of tobacco likely to be sold in the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale; the relationship of sales in the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale to sales in other auction markets in the producing area for that kind of tobacco; other economic factors affecting the marketing of tobacco, by growers, in the marketing area of the proposed new market, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), or additional sale and in the producing area for that kind of tobacco, including limitations on sales imposed by any marketing agreement and/or order, or by any other means; and also, as to flue-cured tobacco, data with regard to producer designations which shall include, but not be limited to, the markets and warehouses currently available for the producers, who would be eligible to designate the new market or, warehouse located beyond the geographical limitation for ''designated markets'' set forth in §29.1(e), who already designate and who desire to designate the new market.

(b) *Order of priority.* If the Secretary finds that there are insufficient qualified tobacco inspectors available to service adequately all applicants otherwise found to be qualified for additional inspection service pursuant to this subpart for a kind of tobacco, those applicants found to be eligible for additional services on auction markets designated for mandatory inspection shall be given priority over applicants for additional inspection service on other auction markets. If it becomes necessary to determine which of several qualified applicants having an equal order of priority under the preceding sentence shall receive additional inspection and price support services, those auction sales or auction markets where the greatest number of growers needing such service may be served with the qualified inspectors

shall have priority. If an application for an additional sale on a designated market is denied for lack of qualified inspectors, the Secretary, on application from such market, may temporarily suspend the requirement of inspection and certification on such market pursuant to section 5 of the Tobacco Inspection Act.

(c) *Price support services to be through warehouses.* Price support services on any auction market will be offered through tobacco auction warehouses operating in such market, and, notwithstanding any provision of this subpart, the offering of price support services through any auction warehouse located on any auction market will be conditioned upon a qualified, responsible warehouseman entering into an approved auction warehouse contract under the provisions of the applicable tobacco price support program, published at part 1464 of this title.

[37 FR 7765, Aug. 20, 1972, as amended at 42 FR 17097, Mar. 31, 1977; 46 FR 62393, Dec. 24, 1981]

### § 29.3 Procedures for filing, hearing, and determination of applications.

(a) *Time and place of filing.* Applications for the extension of tobacco inspection and price support services to new markets, to warehouses located beyond the geographical limitation for ''designated markets'' set forth in § 29.1(e) and to additional sales on designated markets shall be filed, in triplicate, with the Hearing Clerk not later than September 15 in the case of flue-cured tobacco, December 1 in the case of Maryland tobacco, and July 15 in the case of burley and all other kinds of tobacco. Applications should be addressed to the Hearing Clerk, U.S. Department of Agriculture, Washington, DC 20250. Applications which are not received by the Hearing Clerk on or before the foregoing cutoff date for the kind of tobacco shall be rejected as untimely filed. After denial of an application for additional inspection and price support services for a marketing season, no application from the same auction market or proposed new market shall be considered for the next consecutive marketing season, unless the application contains a statement by the applicant setting forth new facts that constitute evidence of such a substantial change in conditions since the previous hearing as the review committee as specified in paragraph (h) of this section deems would warrant such further hearing.

(b) *Form and content of application.* The application shall be in writing, shall set forth the grounds for the application and shall be signed by the applicant or applicants. If an applicant is a corporation, the application shall be executed by a responsible officer of such corporation. The application shall include a statement of the name, address and form of business organization of each party to the application and the location of the proposed new market or additional sale.

(c) *Hearings on applications.* Following the closing date for filing applications for each kind of tobacco, a hearing or hearings shall be held on the applications, if any, filed for additional inspection and price support services for the kind of tobacco in question. Such hearing or hearings shall be scheduled to begin within 60 days following the closing date for such applications. Notice of hearing shall be issued by the Secretary, filed with the Hearing Clerk, and published in the FEDERAL REGISTER, and a copy shall be mailed by the Hearing Clerk to each applicant. Such publication and mailing shall be not less than 5 days prior to the opening of the hearing.

(d) *Hearing officer.* A hearing officer shall preside over each such hearing. The hearing officer shall determine the order of procedure at the hearing, shall have power to administer oaths and affirmations, to rule on and admit evidence, and, following the opening of the hearing, to recess the hearing to such other times and places as he deems desirable or necessary.

(e) *Scope of hearing and burden of proof.* Each applicant shall have the burden of presenting evidence relative to the factors specified in § 29.2(a).

(f) *Record and evidence.* The proceedings at each such hearing shall be transcribed verbatim. All oral testimony shall be under oath or affirmation. All documentary exhibits shall be submitted in triplicate by the person offering the same. The Hearing Officer

shall, insofar as possible, exclude testimony and exhibits which are irrelevant, immaterial, or not of the sort upon which responsible persons are accustomed to rely. Cross-examination shall be allowed only to the extent that the Hearing Officer in his discretion deems it desirable or necessary to develop the material facts.

(g) *Briefs.* If requested at the hearing, the presiding officer shall fix a time, not to exceed 20 days from the close of the hearing, within which interested persons may mail briefs to the Hearing Clerk.

(h) *Certification and referral.* As soon as practicable following the close of the hearing, the Hearing Officer shall certify the transcript of the proceedings at the hearing together with all exhibits and shall transmit the same to the Hearing Clerk for referral to a review committee comprised of the Administrator, Agricultural Marketing Service, the Administrator, Agricultural Stabilization and Conservation Service, and a representative of the Office of the Secretary to be designated by the Secretary.

(i) *Recommended action.* The review committee shall review and consider the applications, hearing record, including exhibits, and all other available information and data relating to applications for each kind of tobacco and shall submit a recommendation thereon to the Secretary.

(j) *Final decision.* The Secretary shall issue the decision on each application and such decision shall be final: *Provided*, That any determination that additional services will be provided may be reconsidered and may be vacated if it is subsequently found that any material fact upon which such determination was based was materially erroneous or false, or that the new market or additional sale in question is not functioning as a bona fide auction sale. Such decision shall be filed with the Hearing Clerk who shall mail a true copy thereof, by certified mail, to the applicant.

[37 FR 7765, Apr. 20, 1972, as amended at 39 FR 3548, Jan. 28, 1974; 41 FR 24693, June 18, 1976; 42 FR 17098, Mar. 31, 1977; 46 FR 62393, Dec. 24, 1981]

## Subpart B—Regulations

AUTHORITY: 7 U.S.C. 511m, 511r, and 511s.

SOURCE: 13 FR 9474, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, unless otherwise noted.

DEFINITIONS

### § 29.12 Terms defined.

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases hereinafter defined shall have the indicated meanings so assigned unless the context or subject matter otherwise requires.

### § 29.13 The act.

The Tobacco Inspection Act, approved August 23, 1935. (7 U.S.C. 511 *et seq.*)

### § 29.14 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.

### § 29.15 Department.

The U.S. Department of Agriculture.

### § 29.16 Division.

Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture.

### § 29.17 Director.

Director or Acting Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture.

### § 29.18 Person.

Individual, association, partnership, or corporation.

### § 29.19 Inspector.

Person employed, licensed, or authorized by the Secretary to determine and certify the type, grade, condition, or other characteristics of tobacco.

### § 29.20 Sampler.

Person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

**§ 29.21 Weigher.**

Person employed, licensed, or authorized by the Secretary to weigh and certify the weight of tobacco.

**§ 29.22 Appeal inspector.**

An inspector or other person designated or authorized by the Division to hear appeals under the Act and the regulations in this subpart.

**§ 29.23 Tobacco.**

Tobacco in its unmanufactured forms as it appears between the time it is cured and stripped from the stalk, or primed and cured and the time it enters a manufacturing process. Conditioning, sweating, and stemming are not regarded as manufacturing processes.

**§ 29.24 Official standards.**

Standards for tobacco promulgated by the Secretary under the Act.

**§ 29.25 Tentative standards.**

Standards for tobacco prepared by the Division for trial purposes and limited use pending promulgation by the Secretary of Official Standards.

**§ 29.26 Office of inspection.**

A field office of the tobacco inspection service of the Division.

**§ 29.27 Certificate.**

A certificate issued under the Act and the regulations in this subpart.

**§ 29.28 Interested party.**

The owner or other financially interested person; including the warehouseman, commission merchant, association, and other person who has the tobacco in his custody for sale; the authorized agent of the owner; and persons to whom or by whom the tobacco has been sold on the basis of a certificate issued, or sample prepared, under the Act, but not including a person who is negotiating for its purchase.

**§ 29.29 Regulations.**

Rules and regulations of the Secretary under the Act.

**§ 29.30 Package.**

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

**§ 29.31 Lot.**

A pile, basket, bulk, package, or other definite unit.

**§ 29.32 Identification number.**

A number or a combination of letters and numbers in a design or mark approved by the Director, stamped, printed, or stenciled on a lot of tobacco or attached thereto by an inspector, sampler, or weigher for the purpose of identifying the lot covered by a certificate issued under the Act.

**§ 29.33 Official sample.**

A sample selected, tagged, and signed by an inspector or sampler under the Act.

**§ 29.34 Sample seal.**

A seal approved by the Director for sealing official samples.

**§ 29.35 Lot seal.**

A seal approved by the Director for sealing lots of tobacco certificated under the Act.

**§ 29.36 Auction market.**

A place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

**§ 29.37 Designated market.**

An auction market designated by the Secretary, under section 5 of the Act.

**§ 29.38 Public notice.**

A proclamation by the Secretary under the Act (a) stating that an auction market is designated under the Act; (b) giving notice of such fact; (c) specifying a date when the requirement of inspection and certification under the act shall become effective; and (d) released to the press, mailed to the tobacco board of trade or warehouse association of such market, and mailed to the postmaster at such market for posting.

### § 29.39 Permissive inspection.

Inspection authorized under section 6 of the Act.

### § 29.40 Mandatory inspection.

Inspection authorized or required under section 5 of the Act or section 759 of the Appropriations Act.

[67 FR 36080, May 23, 2002]

DEFINITIONS

### § 29.41 The Appropriations Act.

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for 2002 (Pub. L. 107–76).

[67 FR 36080, May 23, 2002]

### § 29.42 Receiving station.

Points at which producer tobacco is offered for marketing (other than sale at auction on a designated market), including tobacco auction warehouses, packing houses, prizeries, or places where tobacco is handled or stored.

[67 FR 36080, May 23, 2002]

ADMINISTRATION

### § 29.51 Administration.

The Director is charged with the supervision of the Division and the performance of all duties assigned thereto in the administration of the Act. Information concerning such administration may be obtained by addressing: The Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250.

PERMISSIVE INSPECTION

### § 29.56 Permissive inspection.

Permissive inspection consists of inspection, including sampling and weighing, and certificating tobacco upon the request of an interested party. Upon such request, the Director may authorize and require an inspector, as a part of his duties, to supervise the preparation of tobacco to be inspected under the Act, including the sorting, handling, conditioning, or packing of such tobacco. Special tests and services may be performed for interested persons to the extent that available facilities will permit, subject to the payment of fees as provided in § 29.123.

[13 FR 9474, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, as amended at 64 FR 67470, Dec. 2, 1999; 65 FR 36782, June 12, 2000]

### § 29.57 Where inspection is offered.

Tobacco may be inspected, sampled, or weighed for the purposes of the Act, upon request of an interested party, at points indicated in paragraphs (a), (b), and (c) of this section whenever official inspectors, samplers, or weighers are available and the tobacco is offered under conditions that permit of its proper examination.

(a) Points at which tobacco enters, or is offered for, interstate or foreign shipment, including packing houses, prizeries, warehouses, and other places where tobacco is handled, packed, or stored.

(b) The stations or the headquarters of inspectors, samplers, or weighers. An official station may be any town, city, or place having a market, receiving station, or other facilities for handling, packing, or storing tobacco and where there is a sufficient volume of work to justify the stationing of an inspector, sampler, or weigher.

(c) Points near an official station, to the extent permitted by the time of the inspector, sampler, or weigher at such official station.

### § 29.58 Who may obtain inspection.

Inspection, sampling, or weighing as described in § 29.56 may be requested by an interested party, or his authorized agent, by filing an application in accordance with §§ 29.59 and 29.60.

### § 29.59 How to make application.

Application for inspection, sampling, or weighing of tobacco shall be made to the Division, the office of inspection, or as the case may be, to an official inspector, sampler, or weigher. It may be made orally or in writing and delivered in person, by mail, by telegraph, or otherwise. If made orally, the Division or the official receiving it may require a written confirmation.

### § 29.60 Form of application.

Application for inspection, sampling, or weighing tobacco shall include the following information:

(a) The date of the application;

(b) The designation of the tobacco and the crop year of its production;

(c) The name and post-office address of the applicant and of the person, if any, making the application as agent;

(d) The financial interest of the applicant in the tobacco;

(e) The exact nature of the service desired as (1) inspection, (2) inspection and sealing packages, (3) sampling, or (4) weighing;

(f) A statement that the tobacco (1) is in commerce, as defined in the act, or (2) is to be inspected, sampled, or weighed in connection with its entering such commerce;

(g) If the tobacco has been officially inspected, sampled, or weighed previously, the application must have the previous certificate attached, or show with respect to such previous service (1) by whom, (2) the date, (3) previous determinations as certificated;

(h) The reason for requesting reinspection, resampling, or reweighing; and

(i) Such other necessary information as the Director may require.

### § 29.61 When application deemed filed.

An application shall be deemed filed when delivered to the Division, the office of inspection, or according to the nature of the service requested, to an official inspector, sampler, or weigher. When an application is filed, the date and time of filing shall be recorded by the official receiving it.

### § 29.62 When application may be rejected.

An application may be rejected (a) for noncompliance with the Act or the regulations in this subpart, or (b) when it is not practicable to provide the service. All expenses incurred in connection with an application rejected for noncompliance with the Act or the regulations in this subpart shall be paid by the applicant as provided in § 29.124.

### § 29.63 When application may be withdrawn.

An application may be withdrawn at any time before the requested service is rendered upon payment of expenses incurred in connection therewith as provided in § 29.124.

### § 29.64 Authority of agent.

Proof of authority of any person making an application as agent may be required in the discretion of the official receiving the application.

### § 29.65 Accessibility of tobacco.

All tobacco to be inspected, sampled, or weighed upon application shall be made accessible by the applicant for proper examination, including any necessary display in proper light for determination of grade or other characteristics or for drawing of samples. In the case of tobacco in packages, the coverings shall be removed by the applicant in such manner as may be prescribed by the inspector, sampler, or weigher.

### § 29.66 Certificates.

(a) *Forms.* Each certificate issued under this regulation shall (1) show that it was issued under The Tobacco Inspection Act; (2) be in a form approved for the purpose by the Director and (3) embody within its written or printed terms, with respect to the particular kind of service, all applicable information required by paragraphs (b), (c), (d), (e), and (f) of this section. Each certificate may also contain any information, not inconsistent with the act and the regulations in this subpart, as may be approved or required by the Director. The Director may, in his discretion, specify or limit the period in which a certificate shall be valid.

(b) *Inspection certificate.* Each inspection certificate shall show (1) the caption ''Tobacco Inspection Certificate''; (2) whether it is an original, first, second, or other copy; (3) the number of the certificate; (4) the identification number and private identification marks on the lot; (5) the date and number of the official sample, if any; (6) the location of the tobacco at the time of inspection or sampling; (7) the date of inspection; (8) the type and grade of the tobacco; (9) the kind of lot or package; and (10) the signature of the official inspector; also such additional information as may be required by the Director. An inspection certificate covering a package of tobacco shall also

show the form and condition of the tobacco.

(c) *Sample inspection certificate.* Each sample inspection certificate shall carry the caption ''Tobacco Sample Inspection Certificate'' and shall otherwise comply with the requirements of an inspection certificate, and in addition include a clearly worded statement that the type, grade, or other tobacco characteristics, shown therein, apply only to the tobacco contained in the sample inspected.

(d) *Weight certificate.* Each weight certificate shall show (1) the caption ''Tobacco Weight Certificate''; (2) whether it is an original, first, second, or other copy; (3) the number of the certificate; (4) the identification number or private identification marks on the lot; (5) the location of the tobacco at the time of weighing; (6) the date of weighing; (7) the weight of each lot; (8) the kind of lot or package; and (9) the signature of the official weigher.

(e) *Official sample tag.* Each official sample drawn and prepared shall have attached thereto, a certificate or tag showing (1) the caption ''Official Tobacco Sample''; (2) the date of sampling; (3) the location of the tobacco at the time of sampling; (4) the kind of lot or package; (5) the condition of the tobacco; (6) the identification number and private identification marks on the lot; and (7) when a lot is found to be damaged, nested, or in doubtful keeping order, a statement of such fact.

(f) *Combination certificate.* A combination certificate of inspection and weight may be issued under the Act, if such certificate carries the caption ''Tobacco Inspection and Weight Certificate'' and otherwise meets all of the requirements of paragraphs (b) and (d) of this section.

### § 29.67 Disposition of certificates.

When a certificate of inspection or weight is issued under the Act upon the request of an interested party, the original certificate and one copy shall be delivered or mailed to the applicant or a person designated by him, and one copy shall be mailed or delivered to the Division or local office of inspection. Charges may be made for additional copies furnished the interested party upon request as provided in § 29.128.

### § 29.68 Advance information.

Upon the request of an applicant for whom tobacco has been inspected, sampled, or weighed and certificated under the Act, all or any part of the contents of such certificate may be telegraphed or telephoned to him as his expense. Information relative to grade or other determinations contained or to be contained in a certificate shall not be divulged by an inspector, sampler, or weigher to any person other than an interested party or his agent without the approval of the Director, and such information shall not be furnished an interested party before the certificate is issued.

### § 29.69 Weighing apparatus.

A scale used for determination of weight to be certificated under the Act shall be subject to examination for accuracy according to the regulations of the State or municipality in which located. No disapproved scale shall be used to determine weight of tobacco for the purposes of the Act and the regulations in this subpart.

MANDATORY INSPECTION

### § 29.71 Mandatory inspection.

Mandatory inspection consists of:

(a) Inspecting and certifying tobacco under the Act on designated markets before it is offered for sale at auction; or

(b) Inspecting and certifying tobacco at receiving stations under the Appropriations Act at the time the tobacco is delivered for sale.

[67 FR 36080, May 23, 2002]

### § 29.72 Where mandatory inspection is required.

(a) *Auction.* All tobacco offered for sale at auction on a market designated in accordance with the Act and § 29.73 shall be inspected and certificated under the Act upon the date specified by the Secretary in public notice of such designation, and thereafter, except when the requirement of such inspection and certification is temporarily suspended by the Deputy Administrator in accordance with the Act and the regulations in this subpart.

(b) *Other.* Tobacco of the kinds specified below offered for sale by the producers thereof at receiving stations shall be inspected and certificated under the Appropriations Act at the time of delivery and prior to change of ownership. The specified kinds are fluecured tobacco, types 11, 12, 13, and 14; burley tobacco, type 31; Kentucky-Tennessee fire-cured tobacco, types 22 and 23; Virginia fire-cured tobacco, type 21; Virginia sun-cured tobacco, type 37; and dark air-cured tobacco, types 35 and 36.

[67 FR 36080, May 23, 2002]

### § 29.73 Designation of markets; termination of designation.

An auction market where tobacco bought or sold thereon at auction or the products customarily manufactured therefrom move in commerce may be designated under the Act by the Secretary after the Director has advised the Secretary that two-thirds of the growers voting in the referendum held in accordance with § 29.74 favored the designation of such market. When a market is designated by the Secretary, he shall give public notice of the fact and in such public notice he shall specify the date on which the requirement of inspection and certification of tobacco sold at auction on such market shall become effective. The Director may temporarily suspend the requirement of inspection and certification on a designated market when it is found impracticable to provide such services because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service. A designation shall terminate automatically at the end of any two consecutive marketing seasons during which a designated market does not conduct any sales of tobacco at auction. A market whose designation is terminated under this section shall be considered as a new market, as defined in § 29.1, and any future application for services shall be filed and determined in accordance with the provisions of §§ 29.3 and 29.2.

[38 FR 27599, Oct. 5, 1973]

### § 29.74 Growers' referendum.

(a) *Method of conducting.* Any referendum held as provided in section 5 of the Act shall be conducted by the Division in accordance with this section. The Director shall determine (1) the market or group of markets to be covered by a referendum; (2) when a referendum is to be held; and (3) the period during which growers, entitled to vote therein, may cast their ballots. When a referendum is held for a group of markets, the result of such referendum may be construed to apply either individually or collectively to such markets. Before holding a referendum, the Division shall establish from the records of the collectors of internal revenue for the preceding marketing season, or in the absence of such records then from such other reliable sources of information as are available, a list showing the names of all growers who are entitled to vote in the referendum, and from the list so established the eligibility of growers to vote in a referendum shall be determined by the Division: *Provided*, That if a grower, whose name appears on such lists for two or more markets selling the same class of tobacco, votes in one referendum for a market selling such type, he shall not be eligible to vote in a referendum for any other market selling such type. If no growers sold tobacco at auction on a proposed new market during the preceding marketing season, then the list of growers entitled to vote in the referendum shall be comprised of the growers residing in the county where the pRoposed new market is located and in the adjacent counties.

(b) *Form of ballot.* Ballots to be used for voting in a referendum held under the Act shall be in a form approved for the purpose by the Director.

(c) *Distribution of ballots.* Ballots to be used by growers in a referendum under the act may be distributed by mail or otherwise as the Director may select. The Director may establish and publish a list of voting places for the purpose of any referendum and distribute ballots therefrom. When ballots are not

mailed directly to growers who are entitled to vote, insofar as their addresses are known, the Director shall announce the voting places at which ballots can be secured, and copies of such announcement shall be given to the press and mailed, for posting and distribution, to the post offices of the market or group of markets covered by the referendum and to post offices in the vicinity of such markets or group of markets. Any explanatory statement with reference to a referendum, provisions of the Act and these regulations, or the operation and benefits of the services authorized by the act may be attached to or supplied with ballots.

(d) *Filing and tabulation of votes.* Each ballot, when filled in and signed by a grower entitled to vote in a referendum, shall be mailed or delivered by him as specified in the ballot. Persons authorized by the Director to receive votes in any referendum shall promptly file all votes received or collected by them with the Division. All ballots filed in a referendum shall be examined to verify the eligibility of the voter and the Director shall have compiled the result of the referendum and furnish the Secretary a statement showing whether or not two-thirds of the growers voting favored the designation of the market or group of markets covered by the referendum. In verifying votes, ballots which do not show the desire of the voter, or ballots which are defective or illegible, or ballots on which the signature or other identification does not correspond with the established list shall not be counted. The choice of any individual voter shall not be divulged by any official of the Division, except to the Secretary when requested. Votes, ballots, and other documents pertaining to a referendum shall be preserved in the Division for a period of 2 years from the closing date of such referendum, and may be destroyed thereafter.

[13 FR 9474, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, as amended at 55 FR 21738, May 29, 1990]

### § 29.74a Producer referenda on mandatory grading.

(a)(1) *Method of conducting.* Referenda shall be conducted among producers who were engaged in the production of the following types of tobacco harvested in the immediately preceding crop year: flue-cured tobacco, types 11, 12, 13, 14; Kentucky-Tennessee fire-cured tobacco, types 22 and 23; Virginia fire-cured tobacco, type 21; Virginia sun-cured tobacco, type 37; dark air-cured tobacco, types 35 and 36; burley tobacco, type 31; and cigar filler and binder tobacco, types 42, 43, 53, 54, and 55. A referendum will be conducted for each kind of tobacco and the results will apply to each individual kind. A producer is eligible to vote in referenda for each kind of tobacco they produce.

(2) *Farmers engaged in the production of tobacco.* For purposes of the referenda, persons engaged in the production of tobacco includes any person who is entitled to share in a crop of the tobacco or the proceeds thereof because he or she shares in the risks of production of the crop as an owner, landlord, tenant, or sharecropper (a landlord whose return from the crop is fixed regardless of the amount of the crop produced is excluded) on a farm on which such crop is planted in a workmanlike manner for harvest: Provided, That any failure to harvest the crop because of conditions beyond the control of such person shall not affect his or her status as a person engaged in the production of the crop. In addition, persons engaged in the production of tobacco also includes each person who it is determined would have had an interest as a producer in the crop on a farm for which a farm allotment under the quota program (7 CFR part 723, subpart B) for the crop was established and no acreage of the crop was planted but an acreage of the crop was regarded as planted for history acreage purposes under the applicable Farm Service Agency commodity regulations of the Department of Agriculture.

(3) *One vote limitation.* Each person eligible to vote in a particular referendum shall be entitled to only one vote in such referendum regardless of the number of farms in which such person is interested or the number of communities, counties, or States in which farms are located in which farms such person is interested: Provided, That:

(i) The individual members of a partnership shall each be entitled to one vote, but the partnership as an entity shall not be entitled to vote;

(ii) An individual eligible voter shall be entitled to one vote even though he or she is interested in an entity (including but not limited to a corporation) which entity is also eligible to vote;

(iii) A person shall also be entitled to vote in each instance of his or her capacity as a fiduciary (including but not limited to a guardian, administrator, executor or trustee) if in such fiduciary capacity he or she is eligible to vote but the person for whom he or she acts as a fiduciary shall not be eligible to vote.

(4) *Joint and family interest.* Where several persons, such as members of a family, have participated or will participate in the production of tobacco under the same lease or cropping agreement, only the person or persons who signed the lease or agreement, or agreed to an oral lease or agreement, shall be eligible to vote. Where two or more persons have produced or will produce tobacco as joint tenants, tenants in common, or owners of community property, each such person shall be entitled to one vote if otherwise eligible. The eligibility of one spouse does not affect the eligibility of the other spouse.

(5) *Minors.* A minor shall be entitled to one vote if he or she is otherwise eligible and is 18 years of age or older when he or she votes.

(6) *Interpretation.* In the case of tobacco on a farm where no acreage of tobacco is actually planted but an acreage of the commodity is regarded as planted under applicable regulations of the Department of Agriculture, persons on the farm who it is determined would have had an interest in the commodity as a producer if an acreage of the commodity had been actually planted shall be eligible to vote in the referendum.

(b) *Referenda procedures.* See part 717 of chapter VII of this title for eligibility criteria and the procedures to be used in carrying out mandatory grading referenda. Where not inconsistent with this part, the definitions contained in parts 717, 718 and 723 of this title will govern administration of these referenda. A copy of the regulations in parts 717, 718, and 723 of this title, a referendum ballot, and voting procedures are available for review in any USDA Service Center.

[67 FR 9896, Mar. 5, 2002]

### § 29.75 Accessibility of tobacco.

(a) All tobacco subject to mandatory inspection shall be made readily accessible for inspection.

(b)(1) Each warehouse operator shall block off in his warehouse adequate space for each basket of flue-cured tobacco offered for sale on the auction market, and shall prominently number each 10th basket space. The blocking and numbering arrangement shall follow the order of sale; that is, down one row and back on the adjacent row.

(2) Each warehouse shall display a plainly visible sign with the total number of baskets of flue-cured tobacco allotted to be sold each day. Each warehouse operator shall designate to the inspector the number of the starting space for each day's sale and grading will begin at this designated space. All spaces, whether empty or full, shall be counted. No tobacco will be graded beyond the numbered space corresponding with the number of baskets allotted for each day's sale. The grading shall proceed from the beginning point of the sale to the closing point of the sale in an orderly sequence. An inspector shall not go back and grade any basket of tobacco placed in a space which was empty when grading for the day's sales passed such sales space.

(c) Before starting inspection of the day's sale of flue-cured tobacco in each warehouse, the head grader or market supervisor grader shall determine if there is compliance with the requirements of paragraph (b) of this section. If he determines that the prescribed system has not been followed, the inspectors shall proceed to the next scheduled warehouse and shall return to the noncomplying warehouse on the next sales day for such warehouse when the head grader or market supervisor grader shall again determine if the prescribed system has been followed before starting the inspection.

(d) A reduction in daily sales for any warehouse resulting from noncompliance with this section, including empty spaces, shall not prevent the maximum number of baskets allotted per day per

set of buyers from being sold in the market.

(e) Each receiving station operator shall make tobacco accessible to the inspector for proper examination including any necessary display in adequate light for determination of grade, class, type, or other characteristics.

[13 FR 9477, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, as amended at 28 FR 6211, June 18, 1963; 67 FR 36081, May 23, 2002]

### § 29.75a Display of burley tobacco on auction warehouse floors in designated markets.

(a)(1) Each lot of burley tobacco displayed for sale on auction warehouse floors shall have a minimum space of 24 inches from butts to butts between the rows. Distances between lots of tobacco within the row shall be no less than 8 inches between immediately adjacent lots.

(2) The number of bales on a pallet shall not exceed eight. Tobacco packed in bales shall have the stems turned toward the aisle.

(3) Each warehouse operator shall display a plainly visible sign showing the total number of lots of burley tobacco allotted to be sold each day. Such sign shall be displayed at the point of lots where the days' sales will conclude and no additional tobacco shall be graded beyond that point.

(4) Each warehouse operator shall arrange his entire day's sale in a continuous and orderly arrayed sequence of lots and rows of tobacco. Any arrangement of tobacco in rows of progressively varying lengths, or any deviations from an orderly arrayed sequence of lots and rows of tobacco, shall have prior approval of the Set Work Leader or Circuit Supervisor.

(5) Each warehouse operator shall designate to the Set Work Leader or Circuit Supervisor the starting point or lot for each day's sale, and counting and grading will begin at this designated point and proceed to the closing point of the sale in an orderly sequence. All lot spaces, containing or not containing a lot of tobacco, and all lots of tobacco, covered or uncovered, shall be counted and included in the daily sales allotment. Lots of tobacco shall not be removed, added, rearranged, or substituted between the time they are counted for the day's sale and the time they are graded for the day's sale, provided, however, that with prior approval of the Set Work Leader or Circuit Supervisor compensating lots of tobacco may be substituted for empty spaces and covered lots included in a daily sales count.

(6) Each operator of a warehouse at which baled burley tobacco is offered for sale shall open the particular bale, in a lot of tobacco, chosen by a grader for inspection and reseal that bale after inspection.

(7) Each seller, by offering burley tobacco for sale, certifies that the lot inspected by a grader is representative of the grade of all the tobacco in that lot, that the leaf was stalk-cured, that the bales do not contain any foreign matter or material, and are not nested.

(b) Before starting inspection of the day's sale of burley tobacco in each warehouse, the Set Work Leader or Circuit Supervisor shall determine if there is compliance with the requirements of paragraph (a) of this section. If he determines that the prescribed requirements have not been followed, the inspector shall proceed to the next sale or sales as originally scheduled for that day and grade the number of lots of tobacco scheduled for such sale or sales, and shall return to the noncomplying warehouse on the next regularly scheduled sales day for such warehouse, at which time the Set Work Leader or Circuit Supervisor shall again determine if the prescribed system has been followed before starting the inspection. If noncompliance or failure to observe requirements of paragraph (a) of this section are discovered after inspection for the day's sale has started, the inspector shall discontinue inspection and proceed to the next sale or sales scheduled for that day and shall return to the noncomplying warehouse on the next regularly scheduled sales day for such warehouse.

(c) The provisions of this section shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the Act.

[30 FR 12627, Oct. 2, 1965, as amended at 47 FR 51721, Nov. 17, 1982; 56 FR 31534, July 11, 1991]

### § 29.75b Display of baled flue-cured tobacco on auction warehouse floors in designated markets.

Each lot of baled flue-cured tobacco displayed for sale on auction warehouse floors shall have a minimum of 30 inches from side to side between rows with the open side of the bale facing the aisles. Distance between lots of baled tobacco within the row shall be no less than 18 inches between immediately adjacent lots.

[65 FR 46086, July 27, 2000]

### § 29.75c Display of tobacco at receiving stations.

Each lot of tobacco delivered for sale at receiving stations and transferred to a conveyor system for unloading shall maintain a distance between adjacent lots of not less than 18 inches during the inspection process. The platform area used for examination with a conveyor system shall be a minimum of 4 × 4 feet. Any lots of tobacco displayed in a manner other than a conveyor system shall maintain a minimum clearance of 18 inches on all sides. If the tobacco is inspected or graded by the recipient, it shall be made available for mandatory inspection at the same time and location within the receiving station.

[67 FR 36081, May 23, 2002]

### § 29.76 Mandatory inspection ticket.

A mandatory inspection ticket shall consist of a Tobacco Inspection Certificate made and issued in combination with an auction warehouse ticket in a form approved by the Director.

### § 29.77 Warehousemen to provide tickets.

A mandatory inspection ticket, in the form required by § 29.76 shall be provided by each auction warehouseman on a designated market to cover each lot of tobacco offered for sale at auction by him on such market.

### § 29.78 Changes or alterations.

No change or alteration shall be made, in the weight or other identification of the lot, on a mandatory inspection ticket after the certification of type and grade by an official inspector, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the Act.

### § 29.79 Disposition of ticket.

One copy of the mandatory inspection ticket shall be attached to, or placed on, the tobacco certificated as a further identification of the lot and all copies of such ticket shall become null and void when such identifying copy is removed from the lot. When and as requested by the Director, one copy of such ticket, showing (a) the certification of type and grade; (b) the weight and other identification; and (c) the details of the sale at auction, shall be delivered by the warehouseman to the Division or the head inspector of the market.

### § 29.80 Announcing grades.

The grade of each lot of tobacco as certified by an official inspector on a designated market shall be clearly announced by the warehouseman or his representative at the time the lot is offered in the auction: *Provided*, That the Director may waive the requirement of announcing grades in the auction if he finds it impractical for the warehouseman to render this service.

### § 29.81 Interference with inspectors.

(a) *Auction.* (1) No person, including the owner, producer, warehouseman, purchaser, agent, or employee thereof shall attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or impede, in any manner, an inspector while the inspector is in the process of grading tobacco on the warehouse auction floor, or ask any question or discuss any matter pertaining to the grading of tobacco while the inspector is grading any tobacco on the warehouse auction floor. While inspectors are engaged in grading the day's sale, all requests for information concerning the grade designation on or requests to review the grade of any lot of tobacco shall be made only to the head grader or to the market supervisor grader.

(2) In the event that the head grader or market supervisor grader determines that a person has violated any provision of this section, inspection ticket(s) if already issued on the lot(s)

of unsold tobacco involved shall be null and void and no further inspection shall be performed on such lot(s) offered for sale by the warehouseman in whose premises the violation occurred until the next regularly-scheduled sale for such warehouse: Provided, That if violation consists of talking to the inspector while he/she is grading the tobacco, a warning shall be given on first offense and penalty provisions shall apply on any subsequent offense. A reduction in daily sales for any warehouse resulting from a violation of this section shall not prevent the maximum number of lots or pounds allotted per day per set of buyers from being sold in a designated market.

(b) *Other*. No person, including the owner, producer, receiving station operator, purchaser, agent, or employee thereof shall attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or impede, in any manner, an inspector while the inspector is in the process of grading tobacco.

(c) *Administrative Remedies*. The provisions of this section shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the Act.

[67 FR 36081, May 23, 2002]

APPEAL

### § 29.90 When appeal may be taken.

Whenever an interested party believes that a certificate issued or a sample prepared under the act is not correct he may file an appeal: *Provided*, That (a) the period for which such certificate was issued or sample was prepared, if any specified, has not expired; (b) all tobacco covered by such certificate or sample is accessible to an appeal inspector for making a proper reinspection, resampling, or reweighing, and can be definitely identified by him as the tobacco covered by such certificate or sample; and (c) the tobacco has not deteriorated or undergone any material change.

### § 29.91 How to obtain an appeal.

An appeal shall be made in writing and filed with the Division or the office of inspection for the type of tobacco involved. Such appeal shall show:

(a) The date; (b) the name and post office address of the appellant and of the person, if any, making the appeal in his behalf; (c) the financial interest of the appellant in the tobacco; (d) the reasons for making the appeal; and such other information as may be required by the Director. The appeal shall be accompanied by the certificate or sample from which the appeal is taken, unless such requirement is waived by the Division when it is impracticable for the appellant to furnish such certificate. The appeal inspector may require the appellant to furnish any other relevant and necessary information for the proper consideration of the appeal.

### § 29.92 Record of filing time.

When an appeal is filed, the date and time of filing shall be recorded by the officer receiving it.

### § 29.93 When appeal may be refused.

If it shall appear that the reasons stated in an appeal are frivolous or unsubstantial or that the act or this subpart have not been complied with, the appeal may be denied or dismissed. When an appeal is denied or dismissed, the appeal inspector shall (a) notify the appellant by telegraph or in writing giving the reason for such denial or dismissal; (b) mail a copy of such notification to the Division; and (c) return or release to the appellant, or other person designated by him, any certificate or sample which was filed with the appeal. All expenses incurred in connection with an appeal prior to its refusal or dismissal shall be paid by the appellant, as provided in § 29.126.

### § 29.94 When appeal may be withdrawn.

An appeal may be withdrawn by the appellant at any time before an appeal certificate is issued or an appeal sample is prepared, upon the payment of any expenses incurred in connection with the appeal as provided in § 29.126.

### § 29.95 Review or second inspection not an appeal.

A review or investigation made in accordance with § 29.132, or a second inspection, sampling, or weighing made upon the request of an interested party for the purpose of securing new or later information when the correctness of an old certificate or sample is not questioned, shall not be considered an appeal.

### § 29.96 Order in which made.

Appeals shall be heard and passed upon, so far as practicable, in the order in which they are filed.

### § 29.97 Who shall pass upon appeals.

Appeals shall be passed upon by an appeal inspector designated for the purpose by the Director. When authorized, by the Director, two or more appeal inspectors may jointly pass upon an appeal. The Division may authorize an inspector, supervising inspector, or other person to act as an appeal inspector, but no appeal inspector shall pass upon an appeal involving the correctness of a certificate issued or sample prepared by him.

### § 29.98 Appeal findings.

Immediately after an appeal has been heard and the tobacco involved therein has been reexamined, an appeal certificate shall be issued or an appeal sample prepared by the appeal inspector. Such certificate or sample shall show the finding of the appeal inspector and shall be labeled ''Appeal Certificate'' or ''Appeal Sample'', as the case may be, over the signature of the appeal inspector. An appeal certificate or sample shall supersede all other certificates or samples for the same lot of tobacco and shall refer specifically to the certificate or sample from which the appeal was made. In all other respects the provisions of this subpart relative to certificates or samples shall apply to an appeal certificate or sample. The findings of the appeal inspector as certificated shall be final, unless the Director shall direct a review of such findings.

### § 29.99 Superseded certificate or sample.

When superseded under this subpart by an appeal certificate or an appeal sample, such superseded certificate or sample shall become null and void and shall not thereafter be used to represent the tobacco described therein. If the original and the copies of the old certificate were not delivered to the appeal inspector for cancellation, the appeal inspector shall notify such persons or firms as he may consider necessary to prevent fraudulent use of any such null and void certificate.

## INSPECTORS, SAMPLERS, AND WEIGHERS

### § 29.106 Who may be employed, licensed, or authorized.

Any persons who is not financially interested directly or indirectly in merchandising tobacco, except as a grower or except in disposing of tobacco previously acquired, and who has demonstrated his competency may be employed, licensed, or authorized to inspect, sample, or weigh tobacco. Licenses issued by the Secretary shall be countersigned by a supervising official of the Division. Licenses to inspect or to sample shall specify the type or types of tobacco which the licensee is authorized to inspect or sample.

### § 29.107 Order of providing service.

When tobacco is to be inspected, sampled, or weighed upon request, such services shall be rendered as far as practicable in the order in which applications were received. In conducting mandatory inspection, the inspection shall start at the beginning of the ''break'' in the auction warehouse where the sale is scheduled to start and the inspection shall continue in the order of sale on each warehouse floor and from warehouse to warehouse.

### § 29.108 Certificate issuance.

A certificate shall be issued as soon as practicable after any tobacco has been inspected or weighed for the purpose of the Act. A separate certificate shall be issued for each lot of tobacco inspected or weighed, except when a certificate covering two or more lots is specifically authorized by the Director. In case of a lost or destroyed certificate, a duplicate thereof may be issued under the same number, date, and name by an authorized supervising official. Any such duplicate certificate

shall be plainly marked ''Duplicate'' above the signature of the supervising official who issued it.

### § 29.109 Inspection determinations.

The determination of type, grade, size, form, condition, or other tobacco characteristics shall be based upon a thorough examination of the lot of tobacco to be certificated or an official sample of such lot. The certification of a lot of tobacco shall be a true representation of the lot, or of the official sample, at the time of inspection.

### § 29.110 Method of sampling.

In sampling tobacco under the Act, at least three breaks shall be made at different points in the lot, and in the discretion of the sampler as many more breaks shall be made as seem necessary to show the range of the entire lot. From the breaks so made tobacco to be used in the official sample shall be selected. The official shall, so far as practicable, include tobacco of each quality, color, length, and other characteristics found in the lot in such proportions as would truly represent the lot. In case a lot is found to be damaged, nested, or in doubtful keeping order, the official sample tag shall be so marked. Official sample tags shall be attached to the sample, in a manner prescribed by the Director.

### § 29.111 Weight determinations.

Daily before weighing any tobacco for the purposes of the Act, a weigher shall verify the accuracy of the scales to be used by him. Except as may be otherwise specified by the Director, all weights certificated shall be within an accuracy of 1 pound.

### § 29.112 Proper light.

Tobacco shall not be inspected or sampled for the purposes of the Act except when displayed in proper light for correct determination of grade or other characteristics of tobacco. No tobacco shall be inspected or sampled for the purposes of the Act in the direct rays of the sun or by any artificial light which does not permit the inspector correctly to determine the grade or other characteristics of tobacco.

### § 29.113 Suspension and termination.

The license of an inspector, sampler, or weigher may be suspended, pending final action by the Secretary, by any official authorized to countersign licenses whenever he considers such action to be for the best interest of the service. The designation of an appeal inspector may be withdrawn at any time by the Division. Before the license of an inspector, sampler, or weigher is terminated or revoked pursuant to the Act and the regulations in this subpart, such appointee or licensee shall be furnished by the Secretary, or his designated representative, with a written statement specifying the charges, and within 7 days after his suspension, the licensee may file an appeal in writing with the Secretary supported by any evidence he may wish to offer in connection therewith.

FEES AND CHARGES

### § 29.123 Fees and charges.

Fees and charges for tobacco inspection and certification service shall be collected by the Director to cover, insofar as practicable, all costs of the services, including establishment of standards, administrative, and supervisory costs, as follows:

(a) *Mandatory inspection.* The inspection and certification fee is $0.009 per pound. The fee shall be paid by sellers of tobacco and assessed against the warehouse or receiving station operator irrespective of ownership or interest in the tobacco. When the warehouse or receiving station operator pays the Department, it is presumed the fee was collected from the seller. Inspection and related services shall be suspended or denied if the warehouse or receiving station operator fails to pay the fees and charges imposed under this section. The fee shall be based on total poundage of tobacco inspected and sold during each calendar month. The fee shall be due and payable on the first day of the immediately following month and on the day immediately following the last sale each marketing year. Mandatory inspection and certification services shall take precedence over permissive inspections, other than reinspections.

(b) *Domestic permissive inspection and certification.* (1) Fees and charges for inspection at redrying plants shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for the actual time required to render the service calculated to the nearest 30-minute period. The hourly rate shall be $47.40 per hour. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $53.70 per hour. The rate of $64.45 per hour shall be charged for work performed on Sundays and holidays. These same fees shall be applicable for hogshead, bale, cases or sample inspections. (2) Fees and charges for inspection of tobacco performed at receiving points is $.01 per pound.

(c) *Export permissive inspection and certification.* The inspection and certification fee for export tobacco is $.0025 per pound.

(d) Fees and charges fixed in accordance with this subpart shall be paid by the applicant or person obtaining the service in accordance with a statement rendered by the Division. A deposit to cover all, or a part of, fees and charges for services to be rendered may be required by the Division. Fees for services rendered shall be remitted by check or draft made payable to ''Agricultural Marketing Service'', United States Department of Agriculture.

(e) Fees for special tests and services will be determined by agreement between the Deputy Administrator, Tobacco Programs, and the applicant or applicants for service.

[46 FR 62393, Dec. 24, 1981, as amended at 47 FR 27058, June 23, 1982; 47 FR 51723, Nov. 17, 1982; 50 FR 45805, Nov. 4, 1985; 54 FR 3406, Jan. 24, 1989; 54 FR 27856, July 3, 1989; 54 FR 47756, Nov. 17, 1989; 56 FR 31534, July 11, 1991; 56 FR 41921, Aug. 26, 1991; 60 FR 33100, June 27, 1995; 64 FR 67470, Dec. 2, 1999; 65 FR 34040, May 26, 2000; 65 FR 36782, June 12, 2000; 66 FR 28361, May 23, 2001; 67 FR 36081, May 23, 2002]

### § 29.124 When application rejected or withdrawn.

When an application for inspection, sampling, or weighing is rejected in accordance with § 29.62, or withdrawn in accordance with § 29.63, the applicant may be required to pay a reasonable charge for the time used by an inspector, sampler, or weigher, and other expenses incurred in connection with such application prior to its rejection or withdrawal.

### § 29.125 Charge for appeals.

A charge of $5 shall be made for each appeal filed under § 29.90 and the fee for an appeal inspection, sampling, or weighing shall equal the fee for the original inspection, sampling, or weighing from which the appeal is taken, plus any charges for travel or other expenses incurred in hearing the appeal: *Provided*, That when a material error in the certificate or sample from which the appeal is taken is found by the appeal inspector the charge and fee shall be waived.

[13 FR 9474, Dec. 31, 1948; 19 FR 57, Jan. 6, 1954, as amended at 46 FR 62394, Dec. 24, 1981]

### § 29.126 When appeal refused or withdrawn.

When an appeal is refused in accordance with § 29.93 or withdrawn in accordance with § 29.94, the appellant may be required to pay a reasonable charge for the time used by the appeal inspector and other expenses incurred in connection with such appeal prior to its denial, dismissal, or withdrawal.

### § 29.127 Demonstrations and courses of instruction.

Charges, not in excess of the cost thereof, as may be approved by the Director, may be made for demonstrations, samples, or courses of instruction when such are furnished upon request.

[46 FR 62394, Dec. 24, 1981]

### § 29.128 For certificates.

A charge may be made, in the discretion of the Director, for copies of certificates other than those required to be distributed in § 29.67, and for the issuance of a duplicate certificate in accordance with § 29.108.

### § 29.129 National Advisory Committee for Inspection Services.

(a) To assist the Secretary in determining the level of inspection and related services and the fees and charges therefore, a National Advisory Committee of tobacco producers shall be

appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. appendix I).

(b) The committee shall consist of 14 members and 14 alternates. There will be a flue-cured subcommittee, a burley subcommittee, and a fire and dark air-cured subcommittee.

(c) Recommendations to the Secretary for membership on the committee will be received from the following organizations: One from the Georgia Farm Bureau, one from the South Carolina Farm Bureau, one from the Virginia Farm Bureau, three from the North Carolina Farm Bureau, two from the North Carolina Grange, one from the Tennessee Farm Bureau, three from the Kentucky Farm Bureau, one from the Florida, Indiana, Missouri, West Virginia, or Maryland Farm Bureau, and one from the Wisconsin or Ohio Farm Bureau.

(d) The committee and/or subcommittees shall meet at the call of the Secretary.

[46 FR 62394, Dec. 24, 1981]

MISCELLANEOUS

### § 29.131 [Reserved]

### § 29.132 Division investigations.

An inspector, sampler, or weigher, when authorized by the Division, may of his own initiative, or upon the request of an interested party, review for the purpose of verification or confirmation any tobacco which he has certificated, and any supervising official may review the work of any inspector, sampler, or weigher: *Provided,* That such review shall not be made if the ownership of the tobacco involved has changed since the date of certification, unless there is intimation or evidence of deterioration or of irregularities or fraud in connection with the certification or sampling. When such review discloses an error in the certification, the inspector, sampler, or weigher concerned, or supervising official shall immediately correct the error by making an appropriate change in the certificate or by canceling the certificate and issuing a new certificate in lieu thereof. Any correction made on a certificate shall be initialed by the issuing official or by the supervising official. When a new certificate is issued for a lot of tobacco, the old certificate and copies thereof shall become null and void and shall not thereafter be used to represent the tobacco described therein.

### § 29.133 Identification number.

The Director may require the use of official identification numbers in connection with tobacco certificated or sampled under the Act. When identification numbers are required, they shall be specified by the Director, and shall be attached to, or stamped, printed, or stenciled on, the lots of tobacco certificated or sampled, in a manner specified by the Director.

### § 29.400 Inspection, certification, and testing of imported tobacco.

(a) All tobacco offered for importation into the United States, including tobacco entering foreign trade zones, but excluding transshipped tobacco, oriental and cigar tobacco, shall be inspected for grade and quality. Tobacco subject to inspection shall be inspected at the point of entry.

(b) All flue-cured or burley tobacco, including stems, offered for importation into the United States, including tobacco entering foreign trade zones, but excluding transshipped tobacco, shall be accompanied by a pesticide and end user certification completed by the importer. Any flue-cured or burley tobacco that is not certified as being free of prohibited pesticide residues shall not be permitted entry into the United States until the Secretary has determined that the tobacco meets the pesticide residue requirements in these regulations.

[49 FR 27467, July 3, 1984, as amended at 51 FR 30198, Aug. 22, 1986]

### § 29.401 Definitions.

As used in §§ 29.400 through 29.500, the words and phrases hereinafter defined shall have the following meanings:

(a) *Importation*. Arriving within the territorial limits of the United States with the intent to unload.

(b) *Importer*. The owner of the tobacco at the time of importation or the owner's successor in interest if the tobacco is sold prior to the completion of the requirements of §§ 29.400 through 29.500.

(c) *Inspection certificate.* An official written representation of a lot of tobacco made by an inspector and issued to an importer.

(d) *Invoice.* A writing on behalf of the importer that is used in commercial transactions of tobacco for selling, purchasing, shipping, or consigning.

(e) *Lot.* A unit of shipment of tobacco encompassed by a single invoice.

(f) *Package.* A hogshead, carton, case, bale, or other securely enclosed parcel or bundle.

(g) *Packing list.* A document itemizing each package covered by a single invoice listing, among other things, the kind of tobacco in each package, the net weight, and the marks and numbers identifying each package.

(h) *Point of entry.* The place at the port of entry or foreign trade zone where tobacco is unloaded from a carrier or unpacked from a container for the purpose of warehousing, manipulation, or manufacturing.

(i) *Port of entry.* Any place designated by Executive order of the President, by order of the Secretary of the Treasury, or by Act of Congress, at which a customs officer is authorized to accept entries of merchandise, to collect duties, and to enforce the various provisions of the Customs and Navigation Laws. The term ''port of entry'' incorporates the geographical area under the jurisdiction of the port director when such port is one other than a district headquarters port.

(j) *Tobacco.* Tobacco between the time it is cured and stripped from the stalk or primed and cured, in whole leaf or unmanufactured form, and the time it is utilized in product manufacturing. Conditioning, sweating, stemming, and threshing are not considered manufacturing.

(k) *Transshipped tobacco.* Tobacco that arrives within the territorial limits of the United States for the purpose of continuous transportation without being unloaded for warehousing, manipulation, or manufacturing, to a destination outside the territorial limits of the United States.

(l) *Unload.* To remove from a carrier at the port of entry or at a foreign trade zone.

(m) *End user certification.* A document issued by the Tobacco Division in a form approved by the Director containing a certification by the importer or subsequent purchaser to identify any and all end users of imported flue-cured or burley tobacco.

(n) *Pesticide.* Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(o) *Pesticide certification.* A document issued by the Tobacco Division in a form approved by the Director containing a certification by the importer that flue-cured and burley tobacco offered for importation does not exceed the maximum allowable residue levels of any banned pesticide.

(p) *Prohibited pesticide residue.* The maximum concentration of residue allowable for a specific pesticide or combination of pesticides as set forth in § 29.427.

(q) *Stems.* The midribs or large central veins of tobacco leaves.

(r) *Pesticide test sample.* An official sample or samples, collected from a lot of tobacco by the Secretary of Agriculture for analysis by a certified chemist to ascertain the residue levels of banned pesticides.

(s) *Sample Identification Form.* A document approved by the Director that identifies and accompanies the sample to the testing facility on which the test results will be certified by a chemist in charge of testing.

(t) *Subsequent purchaser.* Any entity that acquires ownership of tobacco after importation.

(u) *Testing.* The chemical analysis of a pesticide test sample to determine levels of pesticide residues.

(v) *End user.* A domestic manufacturer of cigarettes or other tobacco products; an entity that mixes, blends, processes, alters in any manner, or stores imported tobacco for export; or any individual that the Secretary may identify as making use of imported tobacco for the manufacture of tobacco products.

(w) *Reexported.* Any imported tobacco not used to manufacture tobacco products that is subsequently exported.

(x) *Blended.* Tobacco that is combined or mixed into a uniform product.

(y) *Leaves*. Whole, undivided tobacco leaves containing lamina and stem.

(z) *Strips*. The sides (including portions of sides) of tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

[49 FR 27467, July 3, 1984, as amended at 51 FR 30198, Aug. 22, 1986; 54 FR 24663, June 9, 1989]

### § 29.402 Advance notice.

The importer shall notify, orally or in writing, the Raleigh Regional Office, USDA, AMS, Tobacco Division, P.O. Box 27846, Raleigh, North Carolina 27611, or the Lexington Regional Office, USDA, AMS, Tobacco Division, 333 Waller Avenue, Lexington, Kentucky 40504, of the date and location that tobacco subject to inspection under § 29.400 will be unloaded for warehousing, manipulation, or manufacturing. This notice shall be received at the Regional Office at least five working days prior to unloading the tobacco for warehousing, manipulation, or manufacturing.

[49 FR 27468, July 3, 1984]

### § 29.403 Accessibility of tobacco.

All tobacco subject to inspection under § 29.400 shall be made accessible by the importer for examination in a manner prescribed by the inspector. This includes providing proper lighting, removal of package coverings, and such other provisions as the inspector may deem necessary for inspection.

[49 FR 27468, July 3, 1984]

### § 29.404 Inspection.

The inspector shall review each lot of tobacco through a process of selective sampling in sufficient detail to allow an accurate determination of the types and grades contained in each lot.

[49 FR 27468, July 3, 1984]

### § 29.405 Inspection by submitted samples.

The Director, in lieu of onsite inspection, may approve submission by the importer of samples where time, geographical distance, or availability of inspectors prevent a timely onsite inspection, or where tobacco is classified as a ''temporary importation under bond'' as defined in 19 CFR 10.31 *et seq*. The importer shall certify that sampling was conducted in accordance with procedures approved by the Director. All tobacco inspected by submitted sample is subject to spot-checking at the discretion of the Director. Submitted samples shall be disposed of in a manner approved by the Director unless return of the sample is requested by the importer at the time of submission. Samples will only be returned at the importer's expense.

[49 FR 27468, July 13, 1984]

### § 29.406 Import inspection certificate.

An import inspection certificate shall consist of a certificate issued by the Tobacco Division in a form approved by the Director. A certificate shall be issued to the importer as soon as practicable following the completion of inspection. A separate certificate shall be issued for each lot of tobacco. In case of a lost or destroyed certificate, a duplicate may be issued under the same number, date, and name by an authorized official. Duplicate certificates shall be plainly marked ''Duplicate'' above the signature of the supervising official who issued it.

[49 FR 27468, July 3, 1984]

### § 29.407 Disposition of import inspection certificate.

The inspector shall provide the importer with the original portion of the certificate and forward the first copy to the Director and the second copy to the appropriate Regional Office. The importer shall retain the original inspection certificate until the lot inspected has been sold, manufactured into products or exported from the United States.

[49 FR 27468, July 3, 1984]

### § 29.425 Submission and disposition of pesticide residues and end user(s) certification.

(a) Completion of certification: The importer shall complete a pesticide residue and end user(s) certification on a form approved by the Director for each lot of flue-cured or burley tobacco, including stems, offered for importation. If the importer is unable to identify the end user(s) or purchasers

at the time of importation, an amended certification shall be executed within 30 days or at such time as the end user(s) or subsequent purchasers can be identified for any portion of the lot. Subsequent purchasers or end users so identified shall also complete an end user(s) certification until the tobacco is used in the manufacture of tobacco products or is reexported.

(b) Disposition of copies: The importer shall deliver the original and first copy to the inspector at the time the tobacco is inspected under the provisions of §§ 29.400 through 29.407. Subsequent purchasers or end users and importers submitting amended forms shall mail the original and first copy to Director, Tobacco Division, AMS, USDA, Washington, DC 20250.

(c) The information collection and recordkeeping requirements contained in this section have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0581–0056.

[51 FR 30198, Aug. 22, 1986]

### § 29.426 Collection of pesticide test samples.

Any lot of tobacco not certified by the importer as being free of prohibited pesticide residues shall be sampled in sufficient detail to determine whether the lot conforms with the pesticide residue standards. Lots of imported tobacco certified by the importer shall be sampled on a random basis and tested to determine whether they conform with the pesticide residue standards.

[51 FR 30199, Aug. 22, 1986]

### § 29.427 Pesticide residue standards.

The maximum concentration of residues of the following pesticides allowed in flue-cured or burley tobacco, expressed as parts by weight of the residue per one million parts by weight of the tobacco (ppm) are:

| | |
|---|---|
| CHLORDANE | 3.0 |
| DIBROMOCHLOROPROPANE (DBCP) | 1.0 |
| DICAMBA (Temporary) | 5.0 |
| ENDRIN | 0.1 |
| ETHYLENE DIBROMIDE (EDB) | 0.1 |
| FORMOTHION | 0.5 |
| HEXACHLOROBENZENE (HCB) | 0.1 |
| METHOXYCHLOR | 0.1 |
| TOXAPHENE | 0.3 |
| 2,4-D (Temporary) | 5.0 |
| 2,4,5-T | 0.1 |
| Sum of ALDRIN and DIELDRIN | 0.1 |
| Sum of CYPERMETHRIN and PERMETHRIN (Temporary) | 3.0 |
| Sum of DDT, TDE (DDD), and DDE | 0.4 |
| Sum of HEPTACHLOR and HEPTACHLOR EPOXIDE | 0.1 |

[54 FR 24663, June 9, 1989; 54 FR 27855, July 3, 1989]

### § 29.428 Identification of sample for testing.

Samples of imported tobacco shall be identified by the inspector on a form approved by the Director. The original and first two copies shall accompany the sample to the designated testing facility. The remaining copy of the identification form will be sent to the Director. Upon the completion of testing the designated facility will complete the form and mail the original and one copy to the Director and retain one copy for their records.

[51 FR 30199, Aug. 22, 1986]

### § 29.429 Disposition of imported tobacco exceeding pesticide residue standards.

Within 10 days of the receipt of test results from pesticide test samples, the Director shall notify the importer or entity responsible for the lot of tobacco of the test results. If the test results indicate that the lot or any portion of the lot contains prohibited pesticide residues, the Director will notify the importer or entity responsible for the affected tobacco and the appropriate U.S. Customs officials that the tobacco cannot enter the United States. The importer or other entity shall notify the Director in writing of the methods by which the tobacco will be disposed of and provide 5 days advance notice of time and place of final disposition. The Department will monitor the disposition procedures to verify that the tobacco has been accurately identified as to lot, kind, type, and grade.

[54 FR 24663, June 9, 1989]

### § 29.430 Appeals.

Appeals of test results for imported tobacco must be made in writing to the Director within 30 days from the receipt of notification. The statement

must specify in detail the relief requested. The importer or entity requesting the appeal will bear the cost of any subsequent sampling and testing. Subsequent samples will be selected only from tobacco which is in the original package and from tobacco which has not been mixed, blended, or altered in any manner since the initial sampling.

[51 FR 30199, Aug. 22, 1986]

### § 29.431 Handling of imported tobacco pending test results.

After an individual shipment of imported flue-cured or burley tobacco has been sampled, regardless of whether it is certified as being free from prohibited peticide residues, it must be kept in the original packages, and not be mixed, blended, manipulated, or altered in any manner, or moved, shipped, or transported from the point of entry until it has been determined that the tobacco does not contain prohibited pesticide residues.

[54 FR 24663, June 9, 1989]

### § 29.500 Fees and charges for inspection and acceptance of imported tobacco.

(a) The fee for inspection of imported tobacco is $.0099 per kilogram and shall be paid by the importer. This inspection fee applies to all tobacco imported into the United States except as provided in § 29.400. Fees for services rendered shall be remitted by check or draft in accordance with a statement issued by the Director, and shall be made payable to ''Agricultural Marketing Service.''

(b) The fee for sampling, accepting, and certification of imported flue-cured and burley tobacco for prohibited pesticide residues is $.0077 per kilogram and shall be paid by the importer.

(c) The fee for accepting imported flue-cured and burley tobacco not accompanied by a certification that it is free of prohibited pesticide residues shall be an additional $.0077 per kilogram. The minimum fee assessed pursuant to this paragraph shall be $162.00 per lot. Fees for services rendered shall be remitted by check or draft in accordance with a statement issued by the Director, and shall be made payable to ''Agricultural Marketing Service.''

[56 FR 34003, July 25, 1991, as amended at 58 FR 42413, Aug. 9, 1993]

## Subpart C—Standards

OFFICIAL STANDARD GRADES FOR FLUE-CURED TOBACCO (U.S. TYPES 11, 12, 13, 14 AND FOREIGN TYPE 92)

AUTHORITY: 7 U.S.C. 511b, 511m, and 511r.

SOURCE: 42 FR 21092, Apr. 25, 1977, unless otherwise noted.

DEFINITIONS

### § 29.1001 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

### § 29.1002 Body.

The thickness and density of a leaf or the weight per unit of surface. (See Elements of Quality Chart.)

### § 29.1003 Class.

A major division of tobacco based on method of cure or principal usage.

### § 29.1004 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower position of the stalk normally contain more sand or dirt than those from higher stalk positions. (See Rule 4.)

### § 29.1005 Color.

The third factor of a grade based on the relative hues, saturations or chromas, and color values common to the type.

### § 29.1006 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. (See Elements of Quality Chart.)

### § 29.1007 Color symbols.

As applied to flue-cured tobacco, color symbols are L—lemon, F—orange, FR—orange red, R—red, V—

greenish, K—variegated, KR—variegated red or scorched, G—green, GR—green red, GK—green variegated (may be scorched), GG—gray green, KL—variegated lemon, KF—variegated orange, KV—variegated greenish, KM—variegated (scorched) mixed, KD—variegated dark red, and LL—whitish-lemon.

[48 FR 29670, June 28, 1983]

### § 29.1008 Combination symbols.

A color or group symbol used with another symbol to form the third factor of a grademark to denote a particular side or characteristic of the tobacco. As applied to flue-cured tobacco, the combination symbols are XL—lug side, PO—oxidized primings, XO—oxidized lugs or cutters, BO—oxidized leaf or smoking leaf, GL—thin-bodied nondescript, GF—medium-bodied nondescript, LP—lemon (primings side), and FP—orange (primings side), KK-excessively scorched.

[48 FR 29671, June 28, 1983, as amended at 51 FR 25027, July 10, 1986]

### § 29.1009 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

### § 29.1010 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from fire-kill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its surface may be described as crude. (See Rule 20.)

### § 29.1011 Cured.

Tobacco dried of its sap by either natural or artificial processes.

### § 29.1012 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See Rule 21.)

### § 29.1013 Dirty.

The state of tobacco containing moderate to excessive amounts of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See Rule 24.)

### § 29.1014 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched.

### § 29.1015 Elements of quality.

Elements of quality and the degrees used in the specifications of the Official Standard Grades for Flue-cured, U.S. Types 11–14, and Foreign Type 92 are shown in chart form. Words have been selected to describe the degrees of each element.

[42 FR 21092, Apr. 25, 1977, as amended at 49 FR 16755, Apr. 20, 1984]

### § 29.1016 Excessively scorched.

As applied to flue-cured tobacco, the combination symbol ''KK'' when used as the third factor of a grademark denotes that a lot contains over 50 percent of unripe tobacco.

[51 FR 25027, July 10, 1986]

### § 29.1017 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf.

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1018 Fire-killed.

Any leaf of which 5 percent or more of its surface has a set green color caused by excessive heat in the curing process. Any lot containing 5 percent or more of such tobacco may be described as fire-killed. (See Rule 23.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1019 Flue-cured.

Tobacco cured under artificial atmospheric conditions by a process of regulating the heat and ventilation without allowing smoke or fumes from the fuel to come in contact with the tobacco; or tobacco cured by some other

process which accomplishes the same results.

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1020 Foreign matter.

Any extraneous substance or material such as straw, strings, rubber bands, grass, weeds, or an excessive amount of dirt or sand. (See Rule 24.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1021 Form.

The stage or preparation of tobacco such as stemmed or unstemmed.

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1022 Grade.

A subdivision of a type according to group, quality, and color.

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1023 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3F means Leaf, good quality, orange color.

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1024 Green (G).

A color term applied to immature or crude tobacco. Any leaf which has a green color affecting 20 percent or more of its surface may be described as green. (See Rule 19.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1025 Greenish (V).

A color term applied to greenish-tinged tobacco. Any leaf which has a greenish tinge or a pale green color affecting 20 percent or more of its surface may be described as greenish. (See Rule 18.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1026 Group.

A division of a type covering closely related grades based on certain characteristics which are related to stalk position, body, or the general quality of the tobacco. Groups in Flue-cured, U.S. Types 11–14, and Foreign Type 92 are: Leaf (B), Smoking Leaf (H), Cutters (C), Lugs (X), Primings (P) Mixed (M), Nondescript (N), and Scrap (S).

[52 FR 28533, July 31, 1987]

### § 29.1027 Injury.

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state, but which is not serious enough to be classified as waste. (See definitions of Damage and Waste; see also Rule 14.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1028 Leaf.

Whole, unstemmed leaf. Leaf, when applied to tobacco in strip form, shall describe the divided unit of a whole leaf.

[49 FR 16755, Apr. 20, 1984. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1029 Leaf scrap.

A byproduct of stemmed and unstemmed tobacco.

[42 FR 21092, Apr. 25, 1977. Redesignated at 49 FR 16755, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1030 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See Elements of Quality Chart.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 49 FR 16755, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1031 Lemon (L).

Yellow.

[42 FR 21092, Apr. 25, 1977. Redesignated at 49 FR 16755, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1032 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip. Length, as an

element of quality, does not apply to tobacco in strip form.

[42 FR 21092, Apr. 25, 1977. Redesignated and amended at 49 FR 16755, Apr. 20, 1984, and further redesignated at 51 FR 25027, July 10, 1986]

### § 29.1033 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

[42 FR 21092, Apr. 25, 1977. Redesignated at 49 FR 16755, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1034 Maturity.

The degree of ripeness. (See Elements of Quality Chart.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 49 FR 16755, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1035 Mixed color (KM).

Distinctly different colors of the type mingled together. (See Rule 16.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 49 FR 16755, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1036 Mixed Group (M).

This group consists of tobacco from three or more groups or two distinctly different groups which are mixed together in various combinations.

[49 FR 16755, Apr. 20, 1984. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1037 Nested.

Any lot of Types 11–14 tobacco which has been loaded, packed or arranged to conceal tobacco of inferior grade, quality or condition. Nested includes: (a) Any lot of tobacco which contains injured or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged; (b) Any lot of tobacco which consists of distinctly different grades, qualities or conditions and which is stacked or arranged with the same kinds together so that the tobacco in the lower portions of the lot is distinctly inferior in grade, quality or condition from the tobacco in the top portion of the lot.

[52 FR 28534, July 31, 1987]

### § 29.1038 No-G.

A designation applied to a lot of tobacco which is offtype, semicured, firekilled, smoked, oxidized over 10 percent, or has an odor foreign to the type. (See Rule 23.)

[47 FR 51721, Nov. 17, 1982. Redesignated at 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1039 No-G-F.

A designation applied to a lot of tobacco that contains stalks, suckers, or foreign matter. (See Rule 24.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1040 No-G-Nested.

A designation applied to a lot of Types 11–14 tobacco which is classified as nested. (See Rule 27.)

[47 FR 51721, Nov. 17, 1982. Redesignated at 48 FR 29671, June 28, 1983. Redesignated and amended at 49 FR 16756, Apr. 20, 1984, and further redesignated at 51 FR 25027, July 10, 1986]

### § 29.1041 Oil.

A soft, semifluid constituent of tobacco. (See Elements of Quality Chart.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1042 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Flue-cured, U.S. Types 11–14 or Foreign Type 92. (See Rule 23.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, and at 48 FR 29671, June 28, 1983. Redesignated and amended at 49 FR 16756, Apr. 20, 1984, and further redesignated at 51 FR 25027, July 10, 1986]

### § 29.1043 Orange (F).

A reddish yellow.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1044 Orange Red (FR).**

A yellowish red.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1045 Order (case).**

The state of tobacco with respect to its moisture content.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1046 Oxidized (O).**

A term applied to tobacco that has deteriorated and turned black during the curing process. Any leaf of which 10 percent or more of its surface has been blackened during the curing process may be described as oxidized. Oxidized tobacco is also known as barn scald or barn rot. (See Rules 23 and 25.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1047 Package.**

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1048 Packing.**

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspecting. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1049 Papery.**

A term used to describe thin-bodied, oilless tobacco usually associated with whitish-lemon color.

[51 FR 25027, July 10, 1986; 51 FR 28687, Aug. 11, 1986]

**§ 29.1050 Prematurity.**

A condition of growth and development characteristic of the lower leaves of the tobacco plant. Premature leaves have some appearance of ripeness due to a process of starvation caused by translocation of plant food elements from these leaves to other leaves higher on the stalk.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1051 Quality.**

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1052 Raw.**

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1053 Red (R).**

A brownish red.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1054 Semicured.**

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, swelled stems, frozen tobacco, frozen stems, or stems that have not been thoroughly dried in the curing process. (See Rule 23.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

**§ 29.1055 Side.**

A certain phase of quality, color, or length as contrasted with some other

phase of quality, color, or length; or any peculiar characteristic of tobacco.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1056 Slick.

A term used to denote tobacco having a close or tight leaf structure. Any leaf of lemon or orange color of which 20 percent or more of its surface is close or tight may be described as slick. (See Rule 17.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1057 Smoked.

Any tobacco affected by smoke or fumes in the curing process. (See Rule 23.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1058 Sound.

Free of damage.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1059 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but which has a peculiar side or characteristic which tends to modify the grade. (See Rules 10, 21, 22, 26, 28, 29, and 30.)

[60 FR 36027, July 13, 1995, as amended at 65 FR 46086, July 27, 2000]

### § 29.1060 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1061 Stem.

The midrib or large central vein of a tobacco leaf.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1062 Stemmed.

A form of tobacco, including strips or strip scrap, from which the stems or midribs have been removed.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1063 Strips.

The sides of a tobacco leaf from which the stem has been removed from a lot of tobacco composed of strips.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1064 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition sometimes is described as aged.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1065 Sweating.

The condition of tobacco in the process of fermentation.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1066 Symbol (S).

As applied to Flue-cured tobacco the symbol (S) when used (a) as the third factor of a grademark, denotes slick, unripe tobacco in lemon or orange color, and (b) when used preceding a grademark, denotes tobacco in strip form. (See Rules 17 and 28.)

[49 FR 16756, Apr. 20, 1984. Redesignated at 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1067 Tobacco.

Tobacco as it appears between the time it is primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, threshing, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semi-manufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, and at 48 FR 29671, June 28, 1983. Redesignated and amended at 49 FR 16756, Apr. 20, 1984, and further redesignated at 51 FR 25027, July 10, 1986]

### § 29.1068 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1069 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1070 Type 11.

That type of flue-cured tobacco commonly known as Western Flue-cured or Old Belt and Middle Belt Flue-cured, produced principally in the Piedmont sections of Virginia and North Carolina and the district extending eastward to the coastal plains region. That portion of this type known as Old Belt Flue-cured, normally characterized by a heavier body and darker color shade and produced principally in the Piedmont sections of Virginia and North Carolina, may be classified as Type 11a; and that portion of the type known as Middle Belt Flue-cured, normally characterized by a thinner body and lighter color shade and produced principally in a section lying between the Piedmont and coastal plains regions of Virginia and North Carolina, may be classified as Type 11b.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1071 Type 12.

That type of flue-cured tobacco commonly known as Eastern Flue-cured or Eastern Carolina Flue-cured, produced principally in the coastal plains section of North Carolina, north of the South River.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1072 Type 13.

That type of flue-cured tobacco commonly known as Southeastern Flue-cured or South Carolina Flue-cured, produced principally in the coastal plains section of South Carolina and the southeastern counties of North Carolina, south of the South River.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1073 Type 14.

That type of flue-cured tobacco commonly known as Southern Flue-cured, produced principally in the southern section of Georgia, in northern Florida, and to some extent in Alabama.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1074 Type 92.

That type of flue-cured tobacco commonly known as Foreign-grown Flue-cured, produced in countries other than the United States.

[49 FR 16756, Apr. 20, 1984. Redesignated at 51 FR 25027, July 10, 1986]

### § 29.1075 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1076 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as a percentage in grade specifications. (See Rule 13.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1077 Unsound (U).

Damaged. (See Rule 21.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1078 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1079 Variegated (K).

Any tobacco that does not blend with the normal colors of the types; any leaf of which 20 percent or more of its surface is grayish, mottled, bleached, doty-faced, scalded, or sunbaked. (See Rule 15.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 48 FR 29671, June 28, 1983, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1080 Variegated dark red (KD).

A dark brownish-red discoloration which usually results from excessive sunbaking during the growing process or from storing cured tobacco over extended periods of time. Any leaf of which 20 percent or more of its surface is dark brownish-red may be described as variegated dark red.

[48 FR 29671, June 28, 1983. Redesignated at 49 FR 16756, Apr. 20, 1984 and 51 FR 25027, July 10, 1986]

### § 29.1081 Variegated red or scorched (KR).

A red discoloration which usually results from excessive heat in the curing process. Any leaf of which 20 percent or more of its surface has been reddened in the curing process may be described as variegated red or scorched. (See Rule 16.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1082 Waste.

The portion or portions of the web of tobacco leaves which have been lost or rendered less serviceable for use in tobacco products, including:

(a) Portions which have decomposed or largely decomposed by field diseases and field-firing, pole-burning, bulk-burning; (b) portions which are dead, lifeless, and do not have sufficient strength or stability to hold together in the normal manufacturing process due to excessive injury of any kind.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1083 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 22.)

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, 49 FR 16756, Apr. 20, 1984, and 51 FR 25027, July 10, 1986]

### § 29.1084 Whitish-lemon (LL).

A whitish-yellow color which usually results during wet growing seasons when rain leaches or washes out the yellow color from the leaf. Any leaf of

which 20 percent or more of its leaf surface has whitish-yellow color may be described as whitish-lemon.

[48 FR 29671, June 28, 1983. Redesignated at 49 FR 16756, Apr. 20, 1984 and 51 FR 25027, July 10, 1986]

### § 29.1085 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. Width, as an element of quality, does not apply to tobacco in strip form. (See Elements of Quality Chart.)

| Elements | | | Degrees | | |
|---|---|---|---|---|---|
| Maturity | Immature | Unripe | Mature | Ripe | Mellow. |
| Leaf structure | Tight | Close | Firm | Open. | |
| Body | Heavy | Fleshy | Medium | Thin. | |
| Oil | Lean | Oily | Rich. | | |
| Color intensity | Pale | Weak | Moderate | Strong | Deep. |
| Width | Stringy | Narrow | Normal | Spready. | |
| Length | | [1] | [1] | [1]. | |
| Uniformity | | [2] | [2] | [2]. | |
| Injury tolerance | | [2] | [2] | [2]. | |
| Waste tolerance | | [2] | [2] | [2]. | |

[1] Expressed in inches.
[2] Expressed in percentage.

[42 FR 21092, Apr. 25, 1977. Redesignated at 47 FR 51721, Nov. 17, 1982, and at 48 FR 29671, June 28, 1983. Redesignated and amended at 49 FR 16756, Apr. 20, 1984, and further redesignated at 51 FR 25027, July 10, 1986]

ELEMENTS OF QUALITY

### § 29.1101 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These several degrees are arranged to show their relative value, but the actual value of each degree varies with group.

RULES

### § 29.1106 Rules.

The application of these official standard grades shall be in accordance with the following rules.

### § 29.1107 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

### § 29.1108 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

### § 29.1109 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, three or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler, except for baled tobacco that is not opened for inspection (see Rule 30). Tobacco shall be drawn from at least three breaks from which a representative sample shall be selected. The sample shall include tobacco of each different group, quality, color, length, and kind found in the lot in proportion to the quantities of each contained in the lot.

[65 FR 46086, July 27, 2000]

**§ 29.1110 Rule 4.**

All standard grades must be clean unless otherwise noted by a special factor.

**§ 29.1111 Rule 5.**

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

**§ 29.1112 Rule 6.**

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

**§ 29.1113 Rule 7.**

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

**§ 29.1114 Rule 8.**

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

**§ 29.1115 Rule 9.**

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

**§ 29.1116 Rule 10.**

Any special factor approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

[42 FR 21092, Apr. 25, 1977, as amended at 49 FR 16756, Apr. 20, 1984]

**§ 29.1117 Rule 11.**

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Marketing Programs Branch and approved by the Director.

**§ 29.1118 Rule 12.**

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

**§ 29.1119 Rule 13.**

Degrees of uniformity shall be expressed in terms of percentages. The percentages shall govern the portion of a lot which must meet the specifications of the grade. (These percentages shall not affect limitations established by other rules.) The minor portion must be closely related, but may be of a different group, quality, and color from the major portion.

**§ 29.1120 Rule 14.**

The application of injury tolerance as an element of quality shall be expressed in terms of a percentage. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group as related to injury.

**§ 29.1121 Rule 15.**

Any lot of tobacco containing 20 percent or more of variegated tobacco other than variegated red or scorched shall be described as variegated and designated by the color symbol ''K,'' ''KL,'' ''KF,'' ''KD,'' or ''KV.''

[42 FR 21092, Apr. 25, 1977, as amended at 48 FR 29671, June 28, 1983]

**§ 29.1122 Rule 16.**

Any lot of ripe tobacco which contains 20 percent or more of variegated red or scorched tobacco shall be designated by the color symbol ''KR.'' Any lot of unripe tobacco which is under 20 percent greenish or green but which contains 20 percent or more of scorched tobacco, or any lot of tobacco which contains 20 percent or more of a color distinctly different from the major color shall be classified as mixed color and designated by the color symbol

''KM''. Any lot of unripe tobacco in the C, or B groups which is under 20 percent greenish or green but which contains 50 percent or more of scorched tobacco shall be classified as excessively scorched and designated by the combination symbol ''KK''.

[42 FR 21092, Apr. 25, 1977, as amended at 51 FR 25028, July 10, 1986]

**§ 29.1123 Rule 17.**

Any lot of lemon, or orange colored tobacco containing over 20 percent of slick tobacco shall be designated by the symbol ''S'' in the X, C, or B groups.

**§ 29.1124 Rule 18.**

Any lot of mature tobacco in lemon or orange color containing 20 percent or more of greenish tobacco, or any lot which is not green but which contains 20 percent or more of greenish and green tobacco combined shall be designated by the color symbol ''V.''

**§ 29.1125 Rule 19.**

Any lot of tobacco containing 20 percent or more of green tobacco, or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbols ''G,'' ''GR,'' ''GK,'' ''GG,'' or the combination symbols ''GL,'' or ''GF.''

**§ 29.1126 Rule 20.**

Crude tobacco shall not be included in any grade of any color except green, green red, green variegated, gray green, or the combination symbols ''GL,'' or ''GF'' in the nondescript group. Any lot containing 20 percent or more of crude tobacco shall be classified as nondescript.

**§ 29.1127 Rule 21.**

Damaged tobacco which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor ''U'' after the grademark.

**§ 29.1128 Rule 22.**

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor ''W'' after the grademark.

**§ 29.1129 Rule 23.**

Tobacco shall be designated by the grademark ''No-G,'' when it is offtype, semicured, fire-killed, smoked, oxidized over 10 percent, has an odor foreign to the type, or is packed in bales which are not approximately 42 inches wide × 42 inches high × 40 inches long.

[65 FR 46086, July 27, 2000]

**§ 29.1130 Rule 24.**

Tobacco shall be designated by the grademark, ''No-G-F,'' when it contains stalks, suckers, or foreign matter such as straw, strings, rubber bands, grass, weeds, or an excessive amount of dirt or sand.

**§ 29.1131 Rule 25.**

Any lot of tobacco containing 10 percent or less of oxidized tobacco, except as provided in rule 12, shall be designated by the combination symbols ''PO,'' ''XO,'' or ''BO.'' Crude or green tobacco containing 10 percent or less of oxidized shall be grade ''N2.''

**§ 29.1132 Rule 26.**

Tobacco that contains a moderate amount of dirt or sand, but which otherwise meets the specifications of any Primings grade, including the first quality Nondescript from the Primings group, shall be designated by placing the special factor, ''dirt'' or ''sand'' after the grademark.

**§ 29.1133 Rule 27.**

Tobacco in Types 11–14 shall be designated by the grademark ''No-G-Nested'' when it is nested.

[47 FR 51721, Nov. 17, 1982, as amended at 49 FR 16756, Apr. 20, 1984]

**§ 29.1134 Rule 28.**

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor ''S'' preceding the grademark.

[49 FR 16756, Apr. 20, 1984]

### § 29.1135 Rule 29.

Any lot of tobacco containing 25 percent or more of an adjacent group, which otherwise meets the specifications of a grade shall be treated as a special factor grade by placing the special factor ''M'' preceding the grademark.

[60 FR 36028, July 13, 1995]

### § 29.1136 Rule 30.

Any lot of baled tobacco that is not opened for inspection but which otherwise meets the specifications of a grade shall be graded by the exterior only.

[65 FR 46086, July 27, 2000]

GRADES

### § 29.1161 [Reserved]

### § 29.1162 Leaf (B Group).

This group consists of leaves normally grown at or above the midportion of the stalk. Leaves of the B group have a pointed tip, tend to fold, usually are heavier in body than the other groups, and show little or no ground injury.

*Grades, Grade Names, Minimum Specifications, and Tolerances*

B1L—Choice Quality Lemon Leaf

Ripe, firm leaf structure, medium body, rich in oil, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2L—Fine Quality Lemon Leaf

Ripe, firm leaf structure, medium body, rich in oil, deep color intensity, normal width, 18 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3L—Good Quality Lemon Leaf

Ripe, firm leaf structure, medium body, oily, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4L—Fair Quality Lemon Leaf

Ripe, firm leaf structure, medium body, only, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5L—Low Quality Lemon Leaf

Ripe, firm leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6L—Poor Quality Lemon Leaf

Ripe, firm leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B1F—Choice Quality Orange Leaf

Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2F—Fine Quality Orange Leaf

Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, normal width, 18 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3F—Good Quality Orange Leaf

Ripe, firm leaf structure, fleshy, oily, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4F—Fair Quality Orange Leaf

Ripe, firm leaf structure, fleshy, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5F—Low Quality Orange Leaf

Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6F—Poor Quality Orange Leaf

Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B1FR—Choice Quality Orange Red Leaf

Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

B2FR—Fine Quality Orange Red Leaf

Ripe, firm leaf structure, fleshy, rich in oil, deep color intensity, normal width, 18 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

B3FR—Good Quality Orange Red Leaf

Ripe, firm leaf structure, fleshy, oily, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4FR—Fair Quality Orange Red Leaf

Ripe, firm leaf structure, fleshy, oily, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5FR—Low Quality Orange Red Leaf

Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6FR—Poor Quality Orange Red Leaf

Ripe, firm leaf structure, fleshy, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B5R—Low Quality Red Leaf

Ripe, firm leaf structure, heavy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B3K—Good Quality Variegated Leaf

Ripe, firm leaf structure, fleshy, oily, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4K—Fair Quality Variegated Leaf

Ripe, firm leaf structure, fleshy, lean in oil, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5K—Low Quality Variegated Leaf

Ripe, firm leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6K—Poor Quality Variegated Leaf

Ripe, firm leaf structure, fleshy, lean in oil, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B3KR—Good Quality Variegated Red or Scorched Leaf

Ripe, firm leaf structure, fleshy, oily, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance 15 percent.

B4KR—Fair Quality Variegated Red or Scorched Leaf

Ripe, firm leaf structure, fleshy, lean in oil, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5KR—Low Quality Variegated Red or Scorched Leaf

Ripe, firm leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B3V—Good Quality Greenish Leaf

Mature, firm leaf structure, fleshy, oily, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance 15 percent.

B4V—Fair Quality Greenish Leaf

Mature, firm leaf structure, fleshy, oily, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5V—Low Quality Greenish Leaf

Mature, firm leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B3KL—Good Quality Variegated Lemon Leaf

Unripe, close leaf structure, heavy, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KL—Fair Quality Variegated Lemon Leaf

Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent of which not over 5 percent may be waste.

B5KL—Low Quality Variegated Lemon Leaf

Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6KL—Poor Quality Variegated Lemon Leaf

Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B3KF—Good Quality Variegated Orange Leaf

Unripe, close leaf structure, heavy, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KF—Fair Quality Variegated Orange Leaf

Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5KF—Low Quality Variegated Orange Leaf

Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6KF—Poor Quality Variegated Orange Leaf

Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B3KD—Good Quality Variegated Dark Red Leaf

Unripe, close leaf structure, heavy, normal width, 16 inches (40.6 cm) or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KD—Quality Variegated Dark Red Leaf

Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5KD—Low Quality Variegated Dark Red Leaf

Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6KD—Poor Quality Variegated Dark Red Leaf

Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B3KM—Good Quality Variegated Mixed Leaf

Unripe, close leaf structure, heavy, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KM—Fair Quality Variegated Mixed Leaf

Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5KM—Low Quality Variegated Mixed Leaf

Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6KM—Poor Quality Variegated Mixed Leaf

Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B3KK Good Quality Excessively Scorched Leaf

Unripe, close leaf structure, heavy, normal width, 16 inches (40.6 cm) or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4KK Fair Quality Excessively Scorched Leaf

Unripe, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5KK Low Quality Excessively Scorched Leaf

Unripe, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6KK Poor Quality Excessively Scorched Leaf

Unripe, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B4KV—Fair Quality Variegated Greenish Leaf

Unripe, firm leaf structure, medium body, normal width. Uniformity, 70 percent; tolerance, 25 percent waste.

B5KV—Low Quality Variegated Greenish Leaf

Unripe, firm leaf structure, medium body, narrow. Uniformity, 70 percent; tolerance, 30 percent waste.

B6KV—Poor Quality Variegated Greenish Leaf

Unripe, firm leaf structure, medium body, stringy. Uniformity, 70 percent; tolerance, 40 percent waste.

B3S—Good Quality Slick Leaf

Unripe, close leaf structure, fleshy, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

B4S—Fair Quality Slick Leaf

Unripe, close leaf structure, fleshy, normal width. Uniformity, 70 percent; injury tolerance, 20 percent, of which not over 5 percent may be waste.

B5S—Low Quality Slick Leaf

Unripe, tight leaf structure, fleshy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B4G—Fair Quality Green Leaf

Immature, close leaf structure, fleshy, oily, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5G—Low Quality Green Leaf

Immature, tight leaf structure, fleshy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6G—Poor Quality Green Leaf

Immature, tight leaf structure, fleshy, lean in oil, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B5GR—Low Quality Green Red Leaf

Immature, tight leaf structure, heavy, lean in oil, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B4GK—Fair Quality Green Variegated Leaf

Immature, close leaf structure, heavy, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

B5GK—Low Quality Green Variegated Leaf

Immature, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

B6GK—Poor Quality Green Variegated Leaf

Immature, tight leaf structure, heavy, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

B5GG—Low Quality Gray Green Leaf

Immature, tight leaf structure, heavy, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

[42 FR 21092, Apr. 25, 1977, as amended at 48 FR 29671, June 28, 1983; 49 FR 16756, Apr. 20, 1984; 51 FR 25028, July 10, 1986]

### § 29.1163 Smoking Leaf (H Group).

This group consists of leaves normally grown at or above the midportion of the stalk. Leaves of the H group show a high degree of maturity, more open leaf structure in relation to the B Group, and a material amount of injury characteristic of very ripe leaf tobacco.

*Grades, Grade Names, Minimum Specifications, and Tolerances*

H3F—Good Quality Orange Smoking Leaf

Mellow, open leaf structure, medium body, lean in oil, strong color intensity, normal width, 16 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

H4F—Fair Quality Orange Smoking Leaf

Mellow, open leaf structure, medium body, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

H5F—Low Quality Orange Smoking Leaf

Mellow, open leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

H6F—Poor Quality Orange Smoking Leaf

Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

H4FR—Fair Quality Orange Red Smoking Leaf

Mellow, open leaf structure, fleshy, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

H5FR—Low Quality Orange Red Smoking Leaf

Mellow, open leaf structure, fleshy, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

H6FR—Poor Quality Orange Red Smoking Leaf

Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

H4K—Fair Quality Variegated Smoking Leaf

Mellow, open leaf structure, medium body, lean in oil, moderate color intensity, normal width. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

H5K—Low Quality Variegated Smoking Leaf

Mellow, open leaf structure, medium body, lean in oil, weak color intensity, narrow. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

H6K—Poor Quality Variegated Smoking Leaf

Mellow, open leaf structure, medium body, lean in oil, weak color intensity, stringy. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

[42 FR 21092, Apr. 25, 1977, as amended at 48 FR 29671, June 28, 1983; 49 FR 16756, Apr. 20, 1984; 51 FR 25028, July 10, 1986]

### § 29.1164 Cutters (C Group).

This group consists of leaves normally grown at or just below the midportion of the stalk. Leaves of the C group have a tendency to roll concealing the stem or midrib. Cutters usually have a rounded tip, are thin to medium in body, and show some ground injury.

*Grades, Grade Names, Minimum Specifications, and Tolerances*

C1L—Choice Quality Lemon Cutters

Ripe, open leaf structure, medium body, oily, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent, injury tolerance, 5 percent.

C2L—Fine Quality Lemon Cutters

Ripe, open leaf structure, thin, oily, deep color intensity, spready, 20 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

C3L—Good Quality Lemon Cutters

Ripe, open leaf structure, thin, oily, strong color intensity, spready, 18 inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

C4L—Fair Quality Lemon Cutters

Ripe, open leaf structure, thin, lean in oil, moderate color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C5L—Low Quality Lemon Cutters

Ripe, open leaf structure, thin, lean in oil, weak color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

C4LL—Fair Quality Whitish-Lemon Cutters

Unripe, firm leaf structure, thin (papery), lean in oil, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C5LL Low Quality Whitish-Lemon Cutters

Unripe, firm leaf structure, thin (papery), lean in oil, normal width, 16 inches (40.6 cm) or over in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

C5LP—Low Quality Lemon Cutters (Primings Side)

Prematurely ripe, open leaf structure, thin, lean in oil, pale color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

C1F—Choice Quality Orange Cutters

Ripe, open leaf structure, medium body, oily, deep color intensity, spready, 20 inches or over in length. Uniformity, 90 percent; injury tolerance, 5 percent.

C2F—Fine Quality Orange Cutters

Ripe, open leaf structure, medium body, oily, deep color intensity, spready, 20 inches or over in length. Uniformity, 85 percent; injury tolerance, 10 percent.

C3F—Good Quality Orange Cutters

Ripe, open leaf structure, medium body, oily, strong color intensity, spready, 18

inches or over in length. Uniformity, 80 percent; injury tolerance, 15 percent.

C4F—Fair Quality Orange Cutters

Ripe, open leaf structure, medium body, lean in oil, moderate color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C5F—Low Quality Orange Cutters

Ripe, open leaf structure, medium body, lean in oil, weak color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 30 percent, of which not over 10 percent may be waste.

C5FP—Low Quality Orange Cutters (Primings Side)

Prematurely ripe, open leaf structure, medium body, lean in oil, pale color intensity, normal width, 16 inches or over length. Uniformity, 70 percent; injury tolerance 30 percent, or which not over 10 percent may be waste.

C4KR—Fair Quality Variegated Red or Scorched Cutters

Ripe, open leaf structure, medium body, lean in oil, moderate color intensity, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4V—Fair Quality Greenish Cutters

Mature, open leaf structure, medium body, lean in oil, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4KL—Fair Quality Variegated Lemon Cutters

Unripe, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4KF—Fair Quality Variegated Orange Cutters

Unripe, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4KM—Fair Quality Variegated Mixed Cutters

Unripe, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4KK Fair Quality Excessively Scorched Cutters

Unripe, close leaf structure, medium body, normal width, 16 inches (40.6 cm) or over in length. Uniformity, 70 percent; injury tolerance, 20 percent, of which not over 5 percent may be waste.

C4S—Fair Quality Slick Cutters

Unripe, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4G—Fair Quality Green Cutters

Immature, close leaf structure, medium body, lean in oil, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

C4GK—Fair Quality Green Variegated Cutters

Immature, close leaf structure, medium body, normal width, 16 inches or over in length. Uniformity, 70 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

[42 FR 21092, Apr. 25, 1977, as amended at 48 FR 29671, June 28, 1983; 49 FR 16756, Apr. 20, 1984; 51 FR 25028, July 10, 1986]

### § 29.1165 Lugs (X Group).

This group consists of leaves normally grown near the bottom of the stalk. Leaves of the X group usually have a blunt tip and open face; they show some ground injury characteristic of the group.

*Grades, Grade Names, Minimum Specifications, and Tolerances*

X1L—Choice Quality Lemon Lugs

Ripe, open leaf structure, thin, oily, strong color intensity. Uniformity, 80 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

X2L—Fine Quality Lemon Lugs

Ripe, open leaf structure, thin, oily, strong color intensity. Uniformity, 75 percent; injury tolerance 25 percent, of which not over 10 percent may be waste.

X3L—Good Quality Lemon Lugs

Ripe, open leaf structure, thin, lean in oil, moderate color intensity. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

X4L—Fair Quality Lemon Lugs

Ripe, open leaf structure, thin, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

X5L—Low Quality Lemon Lugs

Ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.

X3LL Good Quality Whitish-Lemon Lugs

Unripe, firm leaf structure, thin (papery), lean in oil. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

X4LL—Fair Quality Whitish-Lemon Lugs

Unripe, firm leaf structure, thin (papery), lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.

X1F—Choice Quality Orange Lugs

Ripe, open leaf structure, medium body, oily, strong color intensity. Uniformity, 80 percent; injury tolerance 20 percent, of which not over 5 percent may be waste.

X2F—Fine Quality Orange Lugs

Ripe, open leaf structure, medium body, oily, strong color intensity. Uniformity, 75 percent; injury tolerance 25 percent, of which not over 10 percent may be waste.

X3F—Good Quality Orange Lugs

Ripe, open leaf structure, medium body, lean in oil, moderate color intensity. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

X4F—Fair Quality Orange Lugs

Ripe, open leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

X5F—Low Quality Orange Lugs

Ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.

X3KR—Good Quality Variegated Red or Scorched Lugs

Ripe, open leaf structure, medium body, lean in oil, moderate color intensity. Uniformity, 70 percent, injury tolerance 40 percent, of which not over 20 percent may be waste.

X4KR—Fair Quality Variegated Red or Scorched Lugs

Ripe, open leaf structure, medium body, lean in oil, weak color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

X3V—Good Quality Greenish Lugs

Mature, open leaf structure, medium body, lean in oil. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

X4V—Fair Quality Greenish Lugs

Mature, open leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.

X4KL—Fair Quality Variegated Lemon Lugs

Unripe, close leaf structure, thin. Uniformity, 70 percent; tolerance, 30 percent waste.

X4KF—Fair Quality Variegated Orange Lugs

Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.

X4KV—Fair Quality Variegated Greenish Lugs

Unripe, firm leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.

X3KM—Good Quality Variegated Mixed Lugs

Unripe, close leaf structure, medium body. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

X4KM—Fair Quality Variegated Mixed Lugs

Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.

X3S—Good Quality Slick Lugs

Unripe, close leaf structure, medium body. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

X4S—Fair Quality Slick Lugs

Unripe, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.

X4G—Fair Quality Green Lugs

Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.

X5G—Low Quality Green Lugs

Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 40 percent waste.

X4GK—Fair Quality Green Variegated Lugs

Immature, close leaf structure, medium body. Uniformity, 70 percent; tolerance, 30 percent waste.

[42 FR 21092, Apr. 25, 1977, as amended at 48 FR 29671, June 28, 1983; 49 FR 16756, Apr. 20, 1984; 51 FR 25028, July 10, 1986]

### § 29.1166 Primings (P Group).

This group consists of round-tipped leaves from the lowest portion of the stalk. Leaves of the P group ripen prematurely as a result of starvation and show a material amount of injury characteristic of leaves grown close to the ground.

*Grades, Grade Names, Minimum Specifications, and Tolerances*

P2L—Fine Quality Lemon Primings

Prematurely ripe, open leaf structure, thin, oily, moderate color intensity. Uniformity, 75 percent; injury tolerance 25 percent, of which not over 10 percent may be waste.

P3L—Good Quality Lemon Primings

Prematurely ripe, open leaf structure, thin, lean in oil, weak color intensity. Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

P4L—Fair Quality Lemon Primings

Prematurely ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

P5L—Low Quality Lemon Primings

Prematurely ripe, open leaf structure, thin, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.

P2F—Fine Quality Orange Primings

Prematurely ripe, open leaf structure, medium body, oily, moderate color intensity. Uniformity, 75 percent; injury tolerance 25 percent, of which not over 10 percent may be waste.

P3F—Good Quality Orange Primings

Prematurely ripe, open leaf structure, medium body, lean in oil, weak color intensity.

Uniformity, 70 percent; injury tolerance 40 percent, of which not over 20 percent may be waste.

P4F—Fair Quality Orange Primings

Prematurely ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 30 percent waste.

P5F—Low Quality Orange Primings

Prematurely ripe, open leaf structure, medium body, lean in oil, pale color intensity. Uniformity, 70 percent; tolerance, 40 percent waste.

P4G—Fair Quality Green Primings

Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 30 percent waste.

P5G—Low Quality Green Primings

Immature, firm leaf structure, medium body, lean in oil. Uniformity, 70 percent; tolerance, 40 percent waste.

[42 FR 21092, Apr. 25, 1977, as amended at 49 FR 16756, Apr. 20, 1984]

### § 29.1167 Mixed (M Group).

This group consists of tobacco from three or more groups or two distinctly different groups which are mixed together in various combinations.

*Grades, Grade Names, Minimum Specifications, and Tolerances*

M4F—Fair Quality Mixed Groups

Ripe, firm leaf structure, heavy, lean in oil. Injury tolerance 30 percent, of which not over 10 percent may be waste.

M5F—Low Quality Mixed Groups

Ripe, firm leaf structure, heavy, lean in oil. Injury tolerance 40 percent, of which not over 20 percent may be waste.

M4KR—Fair Quality Variegated Red or Scorched Mixed Groups

Ripe, firm leaf structure, fleshy, lean in oil. Injury tolerance 30 percent, of which not over 10 percent may be waste.

M4KM—Fair Quality Variegated Mixed Groups

Unripe, close leaf structure, heavy. Injury tolerance 30 percent, of which not over 10 percent may be waste.

M5KM—Low Quality Variegated Mixed Groups

Unripe, tight leaf structure, heavy. Injury tolerance 40 percent, of which not over 20 percent may be waste.

M4GK—Fair Quality Green Variegated Mixed Groups

Immature, close leaf structure, heavy. Injury tolerance 30 percent, of which not over 10 percent may be waste.

M5GK—Low Quality Green Variegated Mixed Groups

Immature, tight leaf structure, heavy. Injury tolerance, 40 percent, of which not over 20 percent may be waste.

[49 FR 16756, Apr. 20, 1984]

### § 29.1168 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except Scrap.

*Grades, Grade Names, Minimum Specifications, and Tolerances*

N1L—

Best Nondescript from the P Group

Tolerance: 50 percent waste.

N1XL—

Best Nondescript from the X Group

Tolerance: 50 percent waste.

N1K—

Best Nondescript from the B or H Groups

Tolerance: 50 percent injury or waste.

N1R—

Best, Heavy, Dark-colored Nondescript from the B Group

Tolerance: 50 percent injury or waste.

N1KV—

Best, Variegated, Medium-bodied Greenish Nondescript from the B Group

Tolerance: 50 percent waste.

N1GL—

Best, Thin, Crude Green Nondescript from the P or X Groups

Tolerance: 50 percent crude or waste.

N1GF—

Best, Fleshy, Medium-colored, Crude Green Nondescript from the B Group

Tolerance: 50 percent crude, injury or waste.

N1GR—

Best, Heavy, Dark-colored, Crude Green Nondescript from the B Group

Tolerance: 50 percent crude, injury or waste.

N1GG—

Best, Crude, Gray Green Nondescript from the B Group

Tolerance: 50 percent crude, injury or waste.

N1PO—

Oxidized Tobacco from the P Group

Tolerance: 50 percent waste.

N1XO—

Oxidized Tobacco from the X or C Groups

Tolerance: 50 percent waste.

N1BO—

Oxidized Tobacco from the B or H Groups

Tolerance: 50 percent injury or waste.

N2—

Poorest Nondescript of any Group or Color

Tolerance: Over 50 percent crude, injury or waste.

Pursuant to Rule 25, this grade also includes crude or green tobacco containing 10 percent or less of oxidized.

[54 FR 7926, Feb. 24, 1989]

### § 29.1169 Scrap (S Group).

A byproduct of stemmed and unstemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

*Grade, Grade Name and Specifications*

S—Scrap. Loose, whole, or broken unstemmed leaves; or the web portion of tobacco leaves reduced to scrap by any process.

[42 FR 21092, Apr. 25, 1977, as amended at 49 FR 16756, Apr. 20, 1984]

SUMMARY OF STANDARD GRADES

### § 29.1181 Summary of standard grades.

23 GRADES OF LEAF

| | | | | |
|---|---|---|---|---|
| B1L | B1F | B1FR | | |
| B2L | B2F | B2FR | | |
| B3L | B3F | B3FR | | B3K |
| B4L | B4F | B4FR | | B4K |
| B5L | B5F | B5FR | B5R | B5K |
| B6L | B6F | B6FR | | B6K |

10 GRADES OF SMOKING LEAF

| | | | |
|---|---|---|---|
| H3F | | | |
| H4F | H4FR | H4K | |
| H5F | H5FR | H5K | |

10 GRADES OF SMOKING LEAF—Continued

| | | |
|---|---|---|
| H6F | H6FR | H6K |

10 GRADES OF CUTTERS

| | |
|---|---|
| C1L | C1F |
| C2L | C2F |
| C3L | C3F |
| C4L | C4F |
| C5L | C5F |

10 GRADES OF LUGS

| | |
|---|---|
| X1L | X1F |
| X2L | X2F |
| X3L | X3F |
| X4L | X4F |
| X5L | X5F |

8 GRADES OF PRIMINGS

| | |
|---|---|
| P2L | P2F |
| P3L | P3F |
| P4L | P4F |
| P5L | P5F |

6 GRADES OF GREENISH

| | | |
|---|---|---|
| B3V | | X3V |
| B4V | C4V | X4V |
| B5V | | |

20 GRADES OF VARIEGATED

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| B3KL | B3KF | B3KD | | | | | | |
| B4KL | B4KF | B4KD | B4KV | C4KL | C4KF | X4KL | X4KF | X4KV |
| B5KL | B5KF | B5KD | B5KV | | | | | |
| B6KL | B6KF | B6KD | B6KV | | | | | |

7 MIXED GRADES

| | | | |
|---|---|---|---|
| M4F | M4KR | M4KM | M4GK |

7 MIXED GRADES—Continued

| | | |
|---|---|---|
| M5F | M5KM | M5GK |

15 GRADES OF GREEN

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| B4G | | B4GK | | C4G | C4GK | X4G | X4GK | P4G |
| B5G | B5GR | B5GK | B5GG | | | X5G | | P5G |
| B6G | | B6GK | | | | | | |

7 GRADES OF VARIEGATED MIXED

| | | |
|---|---|---|
| B3KM | | X3KM |
| B4KM | C4KM | X4KM |
| B5KM | | |
| B6KM | | |

6 GRADES OF VARIEGATED RED OR SCORCHED

| | | |
|---|---|---|
| B3KR | | X3KR |
| B4KR | C4KR | X4KR |
| B5KR | | |

5 GRADES OF EXCESSIVELY SCORCHED

B3KK

5 GRADES OF EXCESSIVELY SCORCHED—Continued

B4KK
B5KK
B6KK
C4KK

6 GRADES OF SLICK

| | | |
|---|---|---|
| B3S | | X3S |
| B4S | C4S | X4S |
| B5S | | |

| 4 GRADES OF WHITISH-LEMON | |
|---|---|
| X3LL | C4LL |
| X4LL | C5LL |

| 2 GRADES OF CUTTERS (PRIMINGS SIDE) | |
|---|---|
| C5LP | C5FP |

| 13 GRADES OF NONDESCRIPT | | |
|---|---|---|
| N1L | N1KV | N1GG |
| N1XL | N1GL | N1PO |
| N1K | N1GF | N1XO |
| N1R | N1GR | N1BO |
| | | N2 |

| 1 GRADE OF SCRAP |
|---|
| S |

Special factors ''U'' (unsound), ''W'' (doubtful-keeping order), ''S'' (strip), and ''M'' (mixed) may be applied to all grades. The special factors ''dirt'' or ''sand'' may be applied to any grade in the Primings group, including first quality Nondescript from the Primings group. Tobacco not covered by the standard grades is designated ''No-G,'' ''No-G-F,'' or ''No-G-Nested.''

[48 FR 29671, June 28, 1983, as amended at 49 FR 16756, Apr. 20, 1984; 51 FR 25028, July 10, 1986; 52 FR 28534, July 31, 1987; 60 FR 36028, July 13, 1995]

KEY TO STANDARD GRADEMARKS

### § 29.1225 Key to standard grademarks.

*Groups*

B—Leaf. H—Smoking Leaf. C—Cutters. X—Lugs. P—Primings. M—Mixed Group. N—Nondescript. S—Scrap.

*Qualities*

1—Choice. 2—Fine. 3—Good. 4—Fair. 5—Low. 6—Poor.

*Color Symbols*

L—Lemon. LL—Whitish-lemon. F—Orange. FR—Orange red. R—Red. K—Variegated. KR—Variegated red or scorched. G—Green. V—Greenish. GR—Green red. GK—Green variegated. GG—Gray green. KL—Variegated lemon. KF—Variegated orange. KV—Variegated greenish. KM—Variegated mixed. KD—Variegated dark red. LL—Whitish-lemon.

*Combination Symbols*

XL—Lug side. PO—Oxidized primings, XO—Oxidized lugs or cutters. BO—Oxidized leaf or smoking leaf. GL—Thin-bodied nondescript. GF—Medium-bodied nondescript. LP—Lemon (primings side). FP—Orange (primings side). KK—Excessively scorched.

*Special Symbol*

S—Slick.

[42 FR 21092, Apr. 25, 1977, as amended at 48 FR 29672, June 28, 1983; 49 FR 16757, Apr. 20, 1984; 51 FR 25028, July 10, 1986; 52 FR 28534, July 31, 1987]

## OFFICIAL STANDARD GRADES FOR VIRGINIA FIRE-CURED TOBACCO (U.S. TYPE 21)

AUTHORITY: Sections 29.2251 to 29.2481, issued under 7 U.S.C. 511m and 511r.

SOURCE: Sections 29.2251 through 29.2481 appear at 37 FR 13521, July 11, 1972, unless otherwise noted.

DEFINITIONS

### § 29.2251 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

### § 29.2252 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

### § 29.2253 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.2351.)

### § 29.2254 Brown colors.

A group of colors ranging from a reddish brown to yellowish brown. These colors vary from low to medium saturation and from very low to medium brilliance. As used in these standards, the range is expressed as light brown (L), medium brown (F), and dark brown (D).

### § 29.2255 Class.

A major division of tobacco based on method of cure or principal usage.

### § 29.2256 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally

contain more dirt or sand than those from higher stalk positions. (See Rule 4, § 29.2395.)

**§ 29.2257 Color.**

The third factor of a grade based on the relative hues, saturation or chroma, and color values common to the type.

**§ 29.2258 Color intensity.**

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to brown colors. (See chart, § 29.2351.)

**§ 29.2259 Color symbols.**

As applied to this type, color symbols are: L—light brown, F—medium brown, D—dark brown, M—mixed or variegated, G—green, GL—light green, and GD—dark green.

[45 FR 47115, July 14, 1980]

**§ 29.2260 Condition.**

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are undried, air-dried, steam-dried, sweating, sweated, and aged.

**§ 29.2261 Crude.**

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from fire-kill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its surface may be described as crude. (See Rule 19, § 29.2410.)

**§ 29.2262 Cured.**

Tobacco dried of its sap by either natural or artificial processes.

**§ 29.2263 Damage.**

The effect of mold, must, rot, black rot, or other fungous or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See Rule 20, § 29.2411.)

**§ 29.2264 Dirty.**

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See Rule 22, § 29.2413.)

**§ 29.2265 Elasticity.**

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See chart, § 29.2351.)

**§ 29.2266 Elements of quality.**

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.2351.

**§ 29.2267 Fiber.**

The term applied to the veins in a tobacco leaf. The large central vein is called the midrib or stem. The smaller lateral and cross veins are considered from the standpoint of size and color.

**§ 29.2268 Finish.**

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. (See chart, § 29.2351.)

**§ 29.2269 Fire-cured.**

Tobacco cured under artificial atmospheric conditions by the use of open fires from which the smoke and fumes of burning wood are partly absorbed by the tobacco.

**§ 29.2270 Foreign matter.**

Any extraneous substance or material such as stalks, suckers, straw, strings, rubber bands, and abnormal amounts of dirt or sand. (See Rule 22, § 29.2413.)

**§ 29.2271 Form.**

The stage of preparation of tobacco such as unstemmed or stemmed.

**§ 29.2272 Grade.**

A subdivision of a type according to group, quality, and color.

**§ 29.2273 Grademark.**

A grademark normally consists of three symbols which indicate group,

quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3D means Heavy Leaf, good quality, and dark-brown color.

**§ 29.2274 Green (G).**

A term applied to green-colored tobacco. Any leaf which has a green color affecting 20 percent or more of its surface may be described as green. (See Rule 18, § 29.2409.)

**§ 29.2275 Group.**

A division of a type covering closely related grades based on certain characteristics which are usually related to stalk position, body, or the general quality of the tobacco. Groups in this type are Wrappers (A), Heavy Leaf (B), Thin Leaf (C), Lugs (X), Nondescript (N), and Scrap (S).

**§ 29.2276 Injury.**

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state. (See Rule 16, § 29.2407.)

**§ 29.2277 Leaf scrap.**

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of tangled whole or broken leaves.

**§ 29.2278 Leaf structure.**

The cell development of a leaf as indicated by its porosity. (See chart, § 29.2351.)

**§ 29.2279 Length.**

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

**§ 29.2280 Lot.**

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

**§ 29.2281 Maturity.**

The degree of ripeness. (See chart, § 29.2351.)

**§ 29.2282 Mixed color or variegated (M).**

Distinctly different colors of the type mingled together, or any leaf of which 20 percent or more of its surface is off brown, grayish, mottled, or bleached and does not blend with the normal colors of the type or group. (See Rule 17, § 29.2408.)

**§ 29.2283 Nested.**

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. (See Rule 22, § 29.2413.)

**§ 29.2284 No grade.**

A designation applied to a lot of tobacco classified as nested, offtype, rework, semicured, or premature primings; tobacco that is damaged 20 percent or more, abnormally dirty, extremely wet or watered, contains foreign matter, or has an odor foreign to the type. (See Rule 22, § 29.2413.)

**§ 29.2285 Offtype.**

Tobacco of distinctly different characteristics which cannot be classified as Fire-cured, U.S. Type 21. (See Rule 22, § 29.2413.)

**§ 29.2286 Oil.**

A soft, semifluid constituent of tobacco. (See chart, § 29.2351.)

**§ 29.2287 Order (case).**

The state of tobacco with respect to its moisture content.

**§ 29.2288 Package.**

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

**§ 29.2289 Packing.**

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

**§ 29.2290 Premature primings.**

Ground leaves harvested before reaching complete growth and development. These leaves lack body and strength. (See Rule 22, § 29.2413.)

**§ 29.2291 Quality.**

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

**§ 29.2292 Resweated.**

The condition of tobacco which has passed through a second fermentation under abnormally high temperatures or refermented with a relatively high percentage of moisture. Resweated includes tobacco which has been dipped or reconditioned after its first fermentation and put through a forced or artificial sweat.

**§ 29.2293 Rework.**

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not packed straight or otherwise not properly prepared for market. (See Rule 22, § 29.2413.)

**§ 29.2294 Semicured.**

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, or stems that have not been thoroughly dried in the curing process. (See Rule 22, § 29.2413.)

**§ 29.2295 Semifired (SF).**

Tobacco that is partially or lightly smoked or has not received the amount of smoke that is characteristic of fire-cured tobacco.

[51 FR 40406, Nov. 7, 1986]

**§ 29.2296 Side.**

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristics of tobacco.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2297 Size.**

The length of tobacco leaves. (See chart, § 29.2371.)

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2298 Sound.**

Free of damage.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2299 Special factor.**

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See Rule 10, § 29.2401.)

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2300 Steam-dried.**

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2301 Stem.**

The midrib or large central vein of a tobacco leaf.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2302 Stemmed.**

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2303 Strength.**

The stress a tobacco leaf can bear without tearing. (See chart, § 29.2351.)

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2304 Strips.**

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2305 Subgrade.**

Any grade modified by a special factor symbol.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2306 Sweated.**

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2307 Sweating.**

The condition of tobacco in the process of fermentation.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2308 Tobacco.**

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2309 Tobacco products.**

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2310 Type.**

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2311 Type 21.**

That type of fire-cured tobacco, known as Virginia Fire-cured or Dark-fired, produced principally in the Piedmont and mountain sections of Virginia.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2312 Undried.**

The condition of unfermented tobacco which has not been air-dried or steam-dried.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2313 Uniformity.**

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as a percentage in grade specifications. (See Rule 15, § 29.2406.)

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2314 Unsound (U).**

Damaged under 20 percent. (See Rule 20, § 29.2411.)

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2315 Unstemmed.**

A form of tobacco, including whole leaf and leaf scrap, from which the

stems or midribs have not been removed.

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

### § 29.2316 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 21, § 29.2412.) (For extremely wet or watered tobacco, see Rule 22, § 29.2413.)

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

### § 29.2317 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart, § 29.2351.)

[37 FR 13521, July 11, 1972. Redesignated at 51 FR 40406, Nov. 7, 1986]

ELEMENTS OF QUALITY

### § 29.2351 Elements of quality and degrees of each element.

Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by words or terms designated as degrees. These degrees are arranged to show their relative value and are used in determining the quality of tobacco. The actual value of each degree varies with group.

| Elements | | Degrees | |
|---|---|---|---|
| Body | Thin | Medium | Heavy. |
| Maturity | Immature | Mature | Ripe. |
| Leaf structure | Close | Firm | Open. |
| Oil | Lean | Oily | Rich. |
| Elasticity | Inelastic | Semielastic | Elastic. |
| Strength | Weak | Normal | Strong. |
| Finish | Dull | Clear | Bright. |
| Color Intensity | Pale | Moderate | Deep. |
| Width | Narrow | Normal | Spready<br>Broad. |

Uniformity. Expressed in percentages.
Injury tolerance. Expressed in percentages.

SIZES

### § 29.2371 Standard sizes.[1]

| Inches | Size |
|---|---|
| 12–20 | 1 |
| 20–28 | 2 |
| Over 28 | 3 |

[1] The application of sizes is governed by the major portion of the lot or package.

[51 FR 40406, Nov. 7, 1986]

RULES

### § 29.2391 Rules.

The application of these official standard grades shall be in accordance with the following rules.

### § 29.2392 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

### § 29.2393 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

### § 29.2394 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, two or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least two breaks from which a representative sample shall be selected.

### § 29.2395 Rule 4.

All standard grades must be clean.

### § 29.2396 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned it shall not thereafter be represented as such grade.

**§ 29.2397 Rule 6.**

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

**§ 29.2398 Rule 7.**

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

**§ 29.2399 Rule 8.**

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

**§ 29.2400 Rule 9.**

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over 1 percent of the tobacco shall be overlooked.

**§ 29.2401 Rule 10.**

Any special factor symbol approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

**§ 29.2402 Rule 11.**

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

**§ 29.2403 Rule 12.**

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

**§ 29.2404 Rule 13.**

Length shall be stated in connection with each grade of the A, B and C groups and may be stated in connection with the grades of other groups. The standard tobacco sizes shall be used.

[51 FR 40406, Nov. 7, 1986]

**§ 29.2405 Rule 14.**

The standard tobacco size 2 shall be used to designate X group tobacco of M or G color when such tobacco is 20 inches or over in length.

[51 FR 40406, Nov. 7, 1986]

**§ 29.2406 Rule 15.**

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. Specified percentages of uniformity shall not affect limitations established by other rules.

**§ 29.2407 Rule 16.**

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group.

**§ 29.2408 Rule 17.**

Any lot of tobacco of the B, C, or X groups containing over 30 percent of mixed color or variegated leaves or over 30 percent of mixed color and variegated leaves combined shall be classified as ''mixed'' and designated by the color symbol ''M.''

**§ 29.2409 Rule 18.**

Any lot of tobacco containing 20 percent or more of green leaves or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbols ''G'', ''GL'', or ''GD''.

[45 FR 47115, July 14, 1980]

**§ 29.2410 Rule 19.**

Crude leaves shall not be included in any grade of any color except green,

light green, or dark green. Any lot containing 20 percent or more of crude leaves shall be designated nondescript.

[45 FR 47115, July 14, 1980]

### § 29.2411 Rule 20.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''U'' after the grademark. Tobacco damaged 20 percent or more shall be designated ''No-G.''

### § 29.2412 Rule 21.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''W'' after the grademark. This special factor does not apply to tobacco designated ''No-G.''

### § 29.2413 Rule 22.

Tobacco shall be designated No Grade, using the grademark ''No-G,'' when it is classified as dirty, nested, offtype, semicured, premature primings, damaged 20 percent or more, extremely wet or watered or when it needs to be reworked, contains foreign matter, or has an odor foreign to type.

### § 29.2414 Rule 23.

Tobacco that is semifired but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''SF'' after the grademark. This factor does not apply to tobacco designated ''No-G''.

[51 FR 40406, Nov. 7, 1986]

GRADES

### § 29.2436 Wrappers (A Group).

This group consists of leaves usually grown at or above the center portion of the stalk. Cured leaves of the A group show a low percentage of injury affecting wrapper yield. Wrappers are high in oil, very elastic, and have a smooth leaf surface.

| U.S. grades | Grade names and specifications |
|---|---|
| A1F | Choice Medium-brown Wrappers. Medium body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance. |
| A2F | Fine Medium-brown Wrappers. Medium body, ripe, firm, rich in oil, elastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance. |
| A1D | Choice Dark-brown Wrappers. Heavy, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance. |
| A2D | Fine Dark-brown Wrappers. Heavy, ripe, firm, rich in oil, elastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance. |

### § 29.2437 Heavy Leaf (B Group).

This group consists of leaves usually grown at or above the center portion of the stalk. These leaves have a pointed tip, tend to fold, are heavier in body than those of the X or C groups, and show no ground injury. Choice- and fine-quality leaves of this group have a distinctive, smooth leaf surface.

| U.S. grades | Grade names and specifications |
|---|---|
| B1F | Choice Medium-brown Heavy Leaf. Medium body, ripe, firm, oily, semi-elastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance. |
| B2F | Fine Medium-brown Heavy Leaf. Medium body, ripe, firm, oily, semi-elastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance. |
| B3F | Good Medium-brown Heavy Leaf. Medium body, mature, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4F | Fair Medium-brown Heavy Leaf. Medium body, mature, close, lean in oil, inelastic, weak, dull-finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5F | Low Medium-brown Heavy Leaf. Medium body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B1D | Choice Dark-brown Heavy Leaf. Heavy, ripe, firm, oily, semielastic, strong, bright finish, deep color intensity, spready, 95 percent uniform, and 5 percent injury tolerance. |
| B2D | Fine Dark-brown Heavy Leaf. Heavy, ripe, firm, oily, semielastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance. |
| B3D | Good Dark-brown Heavy Leaf. |

| U.S. grades | Grade names and specifications |
|---|---|
| | Heavy, mature, firm, oily, semi-elastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4D | Fair Dark-brown Heavy Leaf. Heavy, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5D | Low Dark-brown Heavy Leaf. Heavy, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B3M | Good Mixed Color Heavy Leaf. Medium to heavy body, mature, firm, oily, semielastic, normal strength and width, 80 percent uniform, and 20 percent injury tolerance. |
| B4M | Fair Mixed Color Heavy Leaf. Medium to heavy body, mature, close, lean in oil, inelastic, weak, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5M | Low Mixed Color Heavy Leaf. Medium to heavy body, mature, close, lean in oil, inelastic, weak, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B3G | Good Green Heavy Leaf. Medium to heavy body, mature, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4G | Fair Green Heavy Leaf. Medium to heavy body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5G | Low Green Heavy Leaf. Medium to heavy body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance. |

### § 29.2438 Thin Leaf (C Group).

This group consists of leaves usually grown at the center portion of the stalk. These leaves normally have a rounded tip, are thinner in body than those of the B group, and show little or no ground injury. Choice- and fine-quality tobacco of this group has a distinctive, smooth leaf surface.

| U.S. grades | Grade names and specifications |
|---|---|
| C1L | Choice Light-brown Thin Leaf. Thin to medium body, mature to ripe, firm, oily, semielastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance. |
| | Fine Light-brown Thin Leaf. Thin to medium body, mature to ripe, firm, oily, semielastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance. |
| | Good Light-brown Thin Leaf. Thin to medium body, mature to ripe, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4L | Fair Light-brown Thin Leaf. Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| | Low Light-brown Thin Leaf. Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| | Choice Medium-brown Thin Leaf. Thin to medium body, mature to ripe, firm, oily, semielastic, strong, bright finish, deep color intensity, broad, 95 percent uniform, and 5 percent injury tolerance. |
| C2F | Fine Medium-brown Thin Leaf. Thin to medium body, mature to ripe, firm, oily, semielastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance. |
| C3F | Good Medium-brown Thin Leaf. Thin to medium body, mature to ripe, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4F | Fair Medium-brown Thin Leaf. Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5F | Low Medium-brown Thin Leaf. Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C2D | Fine Dark-brown Thin Leaf. Thin to medium body, mature to ripe, firm, oily, semielastic, strong, clear finish, deep color intensity, spready, 90 percent uniform, and 10 percent injury tolerance. |
| C3D | Good Dark-brown Thin Leaf. Thin to medium body, mature to ripe, firm, lean in oil, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4D | Fair Dark-brown Thin Leaf. Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5D | Low Dark-brown Thin Leaf. Thin to medium body, mature to ripe, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C3M | Good Mixed Color Thin Leaf. Thin to medium body, mature, firm, oily, semielastic, normal strength and width, 80 percent uniform, and 20 percent injury tolerance. |
| C4M | Fair Mixed Color Thin Leaf. Thin to medium body, mature, close, lean in oil, inelastic, weak, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5M | Low Mixed Color Thin Leaf. |

| U.S. grades | Grade names and specifications |
|---|---|
| | Thin to medium body, immature, close, lean in oil, inelastic, weak, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C3G | Good Green Thin Leaf. Thin to medium body, mature, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4G | Fair Green Thin Leaf. Thin to medium body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5G | Low Green Thin Leaf. Thin to medium body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform and 40 percent injury tolerance. |

### § 29.2439 Lugs (X Group).

This group consists of leaves that normally grow near the bottom of the stalk. These leaves usually have a blunt tip, tend to roll, and show ground injury.

| U.S. grades | Grade names and specifications |
|---|---|
| X1L | Choice Light-brown Lugs. Thin to medium body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance. |
| X2L | Fine Light-brown Lugs. Thin to medium body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance. |
| X3L | Good Light-brown Lugs. Thin to medium body, ripe, open, lean in oil, normal strength, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance. |
| X4L | Fair Light-brown Lugs. Thin to medium body, mature open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5L | Low Light-brown Lugs. Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X1F | Choice Medium-brown Lugs. Medium body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance. |
| X2F | Fine Medium-brown Lugs. Medium body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance. |
| X3F | Good Medium-brown Lugs. Medium body, ripe, open, lean in oil, normal strength, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance. |
| X4F | Fair Medium-brown Lugs. Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5F | Low Medium-brown Lugs. Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X1D | Choice Dark-brown Lugs. Medium to heavy body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance. |
| X2D | Fine Dark-brown Lugs. Medium to heavy body, ripe, firm to open, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance. |
| X3D | Good Dark-brown Lugs. Medium to heavy body, ripe, open, lean in oil, normal strength, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance. |
| X4D | Fair Dark-brown Lugs. Medium to heavy body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5D | Low Dark-brown Lugs. Medium to heavy body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X3M | Good Mixed Color Lugs. Medium to heavy body, mature, open, lean in oil, normal strength, 80 percent uniform, and 20 percent injury tolerance. |
| X4M | Fair Mixed Color Lugs. Thin to medium body, mature, open, lean in oil, weak, 70 percent uniform, and 30 percent injury tolerance. |
| X5M | Low Mixed Color Lugs. Thin to medium body, mature, open, lean in oil, weak, 60 percent uniform, and 40 percent injury tolerance. |
| X3G | Good Green Lugs. Medium to heavy body, mature, firm, lean in oil, normal strength, dull finish, 80 percent uniform, and 20 percent injury tolerance. |
| X4G | Fair Green Lugs. Medium to heavy body, immature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance. |
| X5G | Low Green Lugs. Thin to medium body, immature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance. |

### § 29.2440 (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except scrap.

| U.S. grades | Grade names and specifications |
|---|---|
| N1L | First quality light colored nondescript, thin to medium body and 50 percent injury tolerance. |

| U.S. grades | Grade names and specifications |
|---|---|
| N1D | First quality dark colored nondescript, medium to heavy body and 50 percent injury tolerance. |
| N1GL | First quality light colored crude green nondescript, thin to medium body and 50 percent crude leaves or injury tolerance. |
| N1GD | First quality dark colored crude green nondescript, medium to heavy body and 50 percent crude leaves or injury tolerance. |
| N2 | Substandard Nondescript—Nondescript of any group or color, over 50 percent crude leaves or injury tolerance. |

[45 FR 47115, July 14, 1980]

### § 29.2441 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

| U.S. grade | Grade name and specifications |
|---|---|
| S | Scrap. Tangled, whole, or broken unstemmed leaves, or the web portions of tobacco leaves reduced to scrap by any process. |

SUMMARY OF STANDARD GRADES

### § 29.2461 Summary of standard grades.

*4 Grades of wrappers*

| | | | | |
|---|---|---|---|---|
| A1F | A2F | A1D | A2D | |

*20 Grades of thin leaf*

| | | | | |
|---|---|---|---|---|
| C1L | C1F | | | |
| C2L | C2F | C2D | | |
| C3L | C3F | C3D | C3M | C3G |
| C4L | C4F | C4D | C4M | C4G |
| C5L | C5F | C5D | C5M | C5G |

*5 Grades of nondescript*

| | | | | |
|---|---|---|---|---|
| N1L | N1D | N1GL | N1GD | |
| N2 | | | | |

*16 Grades of heavy leaf*

| | | | | |
|---|---|---|---|---|
| B1F | B1D | | | |
| B2F | B2D | | | |
| B3F | B3D | B3M | B3G | |
| B4F | B4D | B4M | B4G | |
| B5F | B5D | B5M | B5G | |

*21 Grades of lugs*

| | | | | |
|---|---|---|---|---|
| X1L | X1F | X1D | | |
| X2L | X2F | X2D | | |
| X3L | X3F | X3D | X3M | X3G |
| X4L | X4F | X4D | X4M | X4G |
| X5L | X5F | X5D | X5M | X5G |

*1 Grade of scrap*

S

Special factors ''U'', ''W'' and ''SF'' may be applied to all grades. Tobacco not covered by the standard grades is designated ''No-G.''

*Standard sizes applicable.*

| | |
|---|---|
| A1, A2 | 2, 3 |
| B1 | 2, 3 |
| B2, B3, B4, B5 | 1, 2, 3 |
| C1 | 2, 3 |
| C2, C3, C4, C5 | 1, 2, 3 |
| X3, X4, X5, M and G [1] | 2 |

[1] No size is applied to these grades if tobacco is under size 2.

[45 FR 44293, July 1, 1980, as amended at 51 FR 40406, Nov. 7, 1986]

KEY TO STANDARD GRADEMARKS

### § 29.2481 Key to standard grademarks.

*Groups*

A—Wrappers.
B—Heavy Leaf.
C—Thin Leaf.
X—Lugs.
N—Nondescript.
S—Scrap.

*Qualities*

1—Choice.
2—Fine.
3—Good.
4—Fair.
5—Low.

*Colors*

L—Light brown.
F—Medium brown.
D—Dark brown.
M—Mixed or variegated.
G—Green.
GL—Light green.
GD—Dark green.

[45 FR 44293, July 1, 1980]

## OFFICIAL STANDARD GRADES FOR KENTUCKY AND TENNESSEE FIRE-CURED AND FOREIGN-GROWN FIRE-CURED TOBACCO (U.S. TYPES 22, 23, AND FOREIGN TYPE 96)

SOURCE: Sections 29.2501 through 29.2696 appear at 37 FR 13626, July 12, 1972, unless otherwise noted.

DEFINITIONS

### § 29.2501 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

### § 29.2502 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

**§ 29.2503 Body.**

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.2601.)

**§ 29.2504 Brown colors.**

A group of colors ranging from a reddish brown to yellowish brown. These colors vary from low to medium saturation and from very low to medium brilliance. As used in these standards, the range is expressed as light brown (L), medium brown (F), and dark brown (D).

**§ 29.2505 Class.**

A major division of tobacco based on method of cure or principal usage.

**§ 29.2506 Clean.**

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See Rule 4, § 29.2620.)

**§ 29.2507 Color.**

The third factor of a grade based on the relative hues, saturation or chroma, and color values common to the type.

**§ 29.2508 Color intensity.**

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to brown colors. (See chart, § 29.2601.)

**§ 29.2509 Color symbols.**

As applied to these types, color symbols are L—light brown, F—medium brown, D—dark brown, M—mixed or variegated VF—greenish medium brown, and G—green.

**§ 29.2510 Condition.**

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are undried, air-dried, steam-dried, sweating, sweated, and aged.

**§ 29.2511 Crude.**

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from firekill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its surface may be described as crude. (See Rule 19, § 29.2635.)

**§ 29.2512 Cured.**

Tobacco dried of its sap by either natural or artificial processes.

**§ 29.2513 Damage.**

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See Rule 20, § 29.2636.)

**§ 29.2514 Dirty.**

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See Rule 22, § 29.2638.)

**§ 29.2515 Elasticity.**

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See chart, § 29.2601.)

**§ 29.2516 Elements of quality.**

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.2601.

**§ 29.2517 Fiber.**

The term applied to the veins in a tobacco leaf. The large central vein is called the midrib or stem. The smaller lateral and cross veins are considered from the standpoint of size and color.

**§ 29.2518 Finish.**

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. (See chart, § 29.2601.)

**§ 29.2519 Fire-cured.**

Tobacco cured under artificial atmospheric conditions by the use of

open fires from which the smoke and fumes of burning wood are partly absorbed by the tobacco.

### § 29.2520 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, rubber bands, and abnormal amounts of dirt or sand. (See Rule 22, § 29.2638.)

### § 29.2521 Form.

The stage of preparation of tobacco such as unstemmed or stemmed.

### § 29.2522 Grade.

A subdivision of a type according to group, quality, and color.

### § 29.2523 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3D means Heavy Leaf, good quality, and dark-brown color.

### § 29.2524 Green (G).

A term applied to green-colored tobacco. Any leaf which has a green color affecting 20 percent or more of its surface may be described as green. (See Rule 18, § 29.2634.)

### § 29.2525 Greenish.

A term applied to greenish-tinged tobacco. Any leaf which has a greenish tinge or a pale green color affecting 20 percent or more of its surface may be described as greenish. (See Rule 17, § 29.2633.)

### § 29.2526 Group.

A division of a type covering closely related grades based on certain characteristics which are usually related to stalk position, body, or the general quality of the tobacco. Groups in these types are Wrappers (A), Heavy Leaf (B), Thin Leaf (C), Lugs (X), Nondescript (N), and Scrap (S).

### § 29.2527 Injury.

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state. (See Rule 15, § 29.2631.)

### § 29.2528 Leaf.

Whole, unstemmed leaf. Leaf, when applied to tobacco in strip form, shall describe the divided unit of a whole leaf.

[49 FR 16757, Apr. 20, 1984]

### § 29.2529 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2530 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See chart, § 29.2601.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2531 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2532 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2533 Maturity.

The degree of ripeness. (See chart, § 29.2601.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2534 Mixed color or variegated (M).

Distinctly different colors of the type mingled together, or any leaf of which 20 percent or more of its surface is off brown, grayish, mottled, or bleached and does not blend with the normal

colors of the type or group. (See Rule 16, § 29.2632.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2535 Nested.

Any lots of Types 22 and 23 tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. (See Rule 22, § 29.2638.)

[37 FR 13626, July 12, 1972. Redesignated and amended at 49 FR 16757, Apr. 20, 1984]

### § 29.2536 No grade.

A designation applied to a lot of tobacco classified as nested, offtype, rework, or semicured; tobacco that is damaged 20 percent or more, abnormally dirty, extremely wet or watered, contains foreign matter, or has an odor foreign to the type. (See Rule 22, § 29.2638.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2537 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Fire-cured, U.S. Types 22, 23, or Foreign Type 96. (See Rule 22, § 29.2638.)

[37 FR 13626, July 12, 1972. Redesignated and amended at 49 FR 16757, Apr. 20, 1984]

### § 29.2538 Oil.

A soft, semifluid constituent of tobacco. (See chart, § 29.2601.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2539 Order (case).

The state of tobacco with respect to its moisture content.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2540 Package.

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2541 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2542 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2543 Raw.

Freshly harvested tobacco or tobacco as it appears between the time of harvesting and the beginning of the curing process.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2544 Resweated.

The condition of tobacco which has passed through a second fermentation under abnormally high temperatures or refermented with a relatively high percentage of moisture. Resweated includes tobacco which has been dipped or reconditioned after its first fermentation and put through a forced or artificial sweat.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.2545 Rework.

Any lot of Types 22 and 23 tobacco which needs to be resorted or otherwise reworked to prepare it properly for market, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not packed straight or otherwise not properly prepared for market. (See Rule 22, § 29.2638.)

[37 FR 13626, July 12, 1972. Redesignated and amended at 49 FR 16757, Apr. 20, 1984]

**§ 29.2546 Semicured.**

Tobacco in the process of being cured or which is partially but not thoroughly cured. (See Rule 22, § 29.2638.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984]

**§ 29.2547 Semifired (SF).**

Tobacco that is partially or lightly smoked or has not received the amount of smoke that is characteristic of fire-cured tobacco.

[51 FR 40406, Nov. 7, 1986]

**§ 29.2548 Side.**

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2549 Size.**

The length of tobacco leaves. Size does not apply to tobacco in strip form. (See chart, § 29.2606.)

[37 FR 13626, July 12, 1972. Redesignated and amended at 49 FR 16757, Apr. 20, 1984 and further redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2550 Sound.**

Free of damage.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2551 Special factor.**

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See Rule 10, § 29.2626.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2552 Steam-dried.**

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2553 Stem.**

The midrib or large central vein of a tobacco leaf.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2554 Stemmed.**

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2555 Strength.**

The stress a tobacco leaf can bear without tearing. (See chart, § 29.2601.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2556 Strips.**

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2557 Subgrade.**

Any grade modified by a special factor symbol.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2558 Sweated.**

The condition of tobacco, which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2559 Sweating.**

The condition of tobacco in the process of fermentation.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2560 Tobacco.**

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, threshing, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cutting, clippings, trimmings, siftings, or dust.

[37 FR 13626, July 12, 1972. Redesignated and amended at 49 FR 16757, Apr. 20, 1984, and further redesignated 51 FR 40406, Nov. 7, 1986]

**§ 29.2561 Tobacco products.**

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2562 Type.**

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2563 Type 22.**

That type of Fire-cured tobacco, known as Eastern District Fire-cured, produced principally in a section east of the Tennessee River in southern Kentucky and northern Tennessee.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2564 Type 23.**

That type of Fire-cured tobacco, known as Western District Fire-cured or Dark-fired, produced principally in a section west of the Tennessee River in Kentucky and extending into Tennessee.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2565 Type 96.**

That type of fire-cured tobacco known as Foreign-grown Fire-cured produced in countries other than the United States.

[49 FR 16757, Apr. 20, 1984. Redesignated at 51 FR 40406, Nov. 7, 1986]

**§ 29.2566 Undried.**

The condition of unfermented tobacco which has not been air-dried or steam-dried.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2567 Uniformity.**

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as a percentage in grade specifications. (See Rule 14, § 29.2630.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2568 Unsound (U).**

Damaged under 20 percent. (See Rule 20, § 29.2636.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2569 Unstemmed.**

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

**§ 29.2570 Wet (W).**

Any sound tobacco containing excessive moisture to the extent that it is in

unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 21, § 29.2637.) (For extremely wet or watered tobacco, see rule 22, § 29.2638.)

[37 FR 13626, July 12, 1972. Redesignated at 49 FR 16757, Apr. 20, 1984 and 51 FR 40406, Nov. 7, 1986]

### § 29.2571 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. Width, as an element of quality, does not apply to tobacco in strip form. (See chart, § 29.2601.)

[37 FR 13626, July 12, 1972. Redesignated and amended at 49 FR 16757, Apr. 20, 1984 and further redesignated at 51 FR 40406, Nov. 7, 1986]

ELEMENTS OF QUALITY

### § 29.2601 Elements of quality and degrees of each element.

Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by words or terms designated as degrees. These degrees are arranged to show their relative value and are used in determining the quality of tobacco. The actual value of each degree varies with group.

| Elements | | Degrees | |
|---|---|---|---|
| Body | Thin | Medium | Heavy. |
| Maturity | Immature | Mature | Ripe. |
| Leaf structure | Close | Firm | Open. |
| Oil | Lean | Oily | Rich. |
| Elasticity | Inelastic | Semielastic | Elastic. |
| Strength | Weak | Normal | Strong. |
| Finish | Dull | Clear | Bright. |
| Color intensity. | Pale | Moderate | Deep. |
| Width | Narrow | Normal | Spready. |
| Uniformity.....Expressed in percentages. | | | |
| Injury tolerance...Expressed in percentages. | | | |

SIZES

### § 29.2606 Standard sizes. [1]

| Inches | Size |
|---|---|
| 12–20 | 1 |
| 20–28 | 2 |
| Over 28 | 3 |

[1] The application of sizes is governed by the major portion of the lot or package.

[51 FR 40406, Nov. 7, 1986]

RULES

### § 29.2616 Rules.

The application of these official standard grades shall be in accordance with §§ 29.2617 through 29.2639.

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984]

### § 29.2617 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

### § 29.2618 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

### § 29.2619 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, two or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least two breaks from which a representative sample shall be selected.

### § 29.2620 Rule 4.

All standard grades must be clean.

### § 29.2621 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned it shall not thereafter be represented as such grade.

### § 29.2622 Rule 6.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

**§ 29.2623 Rule 7.**

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

**§ 29.2624 Rule 8.**

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

**§ 29.2625 Rule 9.**

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

**§ 29.2626 Rule 10.**

Any special factor approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984]

**§ 29.2627 Rule 11.**

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

**§ 29.2628 Rule 12.**

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

**§ 29.2629 Rule 13.**

Length shall be stated in connection with each grade of the A, B, and C groups, except strip grades, and may be stated in connection with the grades of other groups. The standard tobacco sizes shall be used.

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984; 51 FR 40406, Nov. 7, 1986]

**§ 29.2630 Rule 14.**

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. Specified percentages of uniformity shall not affect limitations established by other rules.

**§ 29.2631 Rule 15.**

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group.

**§ 29.2632 Rule 16.**

Any lot of tobacco of the B, C, or X groups containing over 30 percent of mixed color or variegated leaves or over 30 percent of mixed color and variegated leaves combined shall be classified as ''mixed'' and designated by the color symbol ''M.''

**§ 29.2633 Rule 17.**

Any lot of tobacco containing 20 percent or more of greenish leaves or any lot which contains 20 percent of greenish and green leaves combined shall be designated by the color symbol ''VF.''

**§ 29.2634 Rule 18.**

Any lot of tobacco containing 20 percent or more of green leaves or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbol ''G.''

**§ 29.2635 Rule 19.**

In the B, C, and X groups crude leaves shall be restricted to the fourth and fifth qualities of green grades. Any lot containing 20 percent or more of crude leaves shall be classified as Nondescript.

**§ 29.2636 Rule 20.**

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor

''U'' after the grademark. Tobacco damaged 20 percent or more shall be designated ''No-G.''

### § 29.2637 Rule 21.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''W'' after the grademark. This special factor does not apply to tobacco designated ''No-G.''

### § 29.2638 Rule 22.

Tobacco shall be designated No Grade, using the grademark ''No-G,'' when it is dirty, nested, offtype, semicured, damaged 20 percent or more, extremely wet or watered, or when it needs to be reworked, contains foreign matter, or has an odor foreign to type.

### § 29.2639 Rule 23.

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''S'' preceding the grademark.

[49 FR 16757, Apr. 20, 1984]

### § 29.2640 Rule 24.

Tobacco that is semifired but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''SF'' after the grademark. This factor does not apply to tobacco designated ''No-G''.

[51 FR 40406, Nov. 7, 1986]

GRADES

### § 29.2661 Wrappers (A Group).

This group consists of leaves usually grown at or above the center portion of the stalk. Cured leaves of this group are elastic and show a low percentage of injury affecting wrapper yield.

| Grades | Grade names and specifications |
|---|---|
| A1F | Choice Medium-brown Wrappers. Thin to medium body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 90 percent uniform, and 10 percent of leaves not lower than B1 or C1. |
| A2F | Fine Medium-brown Wrappers. Thin to medium body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 75 percent uniform, and 25 percent of leaves not lower than B2 or C2. |
| A3F | Good Medium-brown Wrappers. Thin to medium body, ripe, firm oily, elastic, strong, clear finish, moderate color intensity, spready, 60 percent uniform, and 40 percent of leaves not lower than B3 or C3. |
| A1D | Choice Dark-brown Wrappers. Thin to heavy body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 90 percent uniform, and 10 percent of leaves not lower than B1 or C1. |
| A2D | Fine Dark-brown Wrappers. Thin to heavy body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 75 percent uniform, and 25 percent of leaves not lower than B2 or C2. |
| A3D | Good Dark-brown Wrappers. Thin to heavy body, ripe, firm, oily, elastic, strong, clear finish, moderate color intensity, spready, 60 percent uniform, and 40 percent of leaves not lower than B3 or C3. |

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984]

### § 29.2662 Heavy Leaf (B Group).

This group consists of leaves which are medium to heavy in body.

| Grades | Grade names and specifications |
|---|---|
| B1F | Choice Medium-brown Heavy Leaf. Medium body, ripe, firm, oily, elastic, strong, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance. |
| B2F | Fine Medium-brown Heavy Leaf. Medium body, ripe, firm, oily, elastic, strong, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance. |
| B3F | Good Medium-brown Heavy Leaf. Medium body, ripe, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4F | Fair Medium-brown Heavy Leaf. Medium body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5F | Low Medium-brown Heavy Leaf. Medium body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 30 percent injury tolerance. |
| B1D | Choice Dark-brown Heavy Leaf. Medium to heavy body, ripe, firm, oily, elastic, strong, bright finish, deep color intensity, normal width, 95 percent uniform and 5 percent injury tolerance. |
| B2D | Fine Dark-brown Heavy Leaf. Medium to heavy body, ripe, firm, oily, elastic, strong, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance. |
| B3D | Good Dark-brown Heavy Leaf. |

| Grades | Grade names and specifications |
|---|---|
| | Medium to heavy body, ripe, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4D | Fair Dark-brown Heavy Leaf. Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5D | Low Dark-brown Heavy Leaf. Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B3M | Good Mixed Color or Variegated Heavy Leaf. Medium to heavy body, ripe, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4M | Fair Mixed Color or Variegated Heavy Leaf. Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5M | Low Mixed Color or Variegated Heavy Leaf. Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B3VF | Good Greenish Medium-brown Heavy Leaf. Medium body, mature, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4VF | Fair Greenish Medium-brown Heavy Leaf. Medium body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5VF | Low Greenish Medium-brown Heavy Leaf. Medium body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B3G | Good Green Heavy Leaf. Medium to heavy body, mature, firm, oily, semi- elastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4G | Fair Green Heavy Leaf. Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5G | Low Green Heavy Leaf. Medium to heavy body, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance. |

[37 FR 13626, July 12, 1972; 37 FR 15501, Aug. 3, 1972, as amended at 49 FR 16757, Apr. 20, 1984; 51 FR 40407, Nov. 7, 1986]

### § 29.2663 Thin Leaf (C Group).

This group consists of leaves that are thin in body.

| Grades | Grade names and specifications |
|---|---|
| C1L | Choice Light-brown Thin Leaf. Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance. |
| C2L | Fine Light-brown Thin Leaf. Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance. |
| C3L | Good Light-brown Thin Leaf. Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4L | Fair Light-brown Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5L | Low Light-brown Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C1F | Choice Medium-brown Thin Leaf. Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance. |
| C2F | Fine Medium-brown Thin Leaf. Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance. |
| C3F | Good Medium-brown Thin Leaf. Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4F | Fair Medium-brown Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5F | Low Medium-brown Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C1D | Choice Dark-brown Thin Leaf. Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance. |
| C2D | Fine Dark-brown Thin Leaf. Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance. |
| C3D | Good Dark-brown Thin Leaf. Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4D | Fair Dark-brown Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5D | Low Dark-brown Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance. |

| Grades | Grade names and specifications |
|---|---|
| C3M | Good Mixed Color or Variegated Thin Leaf. Thin, ripe, firm, oily, inelastic, normal strength, clear finish, normal, width, 80 percent uniform, and 20 percent injury tolerance. |
| C4M | Fair Mixed Color or Variegated Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5M | Low Mixed Color or Variegated Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C3VF | Good Greenish Medium-brown Thin Leaf. Thin, mature, firm, oily, inelastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4VF | Fair Greenish Medium-brown Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5VF | Low Greenish Medium-brown Thin Leaf. Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C3G | Good Green Thin Leaf. Thin, mature, firm, oily, inelastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4G | Fair Green Thin Leaf. Thin, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5G | Low Green Thin Leaf. Thin, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance. |

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984]

### § 29.2664 Lugs (X Group).

This group consists of leaves that normally grow near the bottom of the stalk. Leaves of the X group usually have a high degree of maturity and show ground injury.

| Grades | Grade names and specifications |
|---|---|
| X1L | Choice Light-brown Lugs. Thin, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance. |
| X2L | Fine Light-brown Lugs. Thin, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance. |
| X3L | Good Light-brown Lugs. Thin, ripe, firm, oily, normal dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance. |
| X4L | Fair Light-brown Lugs. Thin, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5L | Low Light-brown Lugs. Thin, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X1F | Choice Medium-brown Lugs. Medium body, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance. |
| X2F | Fine Medium-brown Lugs. Medium body, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance. |
| X3F | Good Medium-brown Lugs. Medium body, ripe, firm, lean in oil, weak, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance. |
| X4F | Fair Medium-brown Lugs. Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5F | Low Medium-brown Lugs. Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X1D | Choice Dark-brown Lugs. Medium to heavy body, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance. |
| X2D | Fine Dark-brown Lugs. Medium to heavy body, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance. |
| X3D | Good Dark-brown Lugs. Medium to heavy body, ripe, firm, lean in oil, weak, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance. |
| X4D | Fair Dark-brown Lugs. Medium to heavy body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5D | Low Dark-brown Lugs. Thin to heavy, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X3M | Good Mixed Color or Variegated Lugs. Thin to heavy, ripe, firm, lean in oil, weak, dull finish, 80 percent uniform, and 20 percent injury tolerance. |
| X4M | Fair Mixed Color or Variegated Lugs. Thin to heavy, mature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance. |
| X5M | Low Mixed Color or Variegated Lugs. Thin to heavy, mature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance. |
| X3VF | Good Greenish Medium-brown Lugs. Medium body, mature, firm, lean in oil, weak, dull finish, 80 percent uniform, and 20 percent injury tolerance. |
| X4VF | Fair Greenish Medium-brown Lugs. Thin to medium body, mature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance. |
| X5VF | Low Greenish Medium-brown Lugs. |

| Grades | Grade names and specifications |
|---|---|
| | Thin to medium body, mature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance. |
| X3G | Good Green Lugs. Medium to heavy body, mature, firm, weak, lean in oil, dull finish, 80 percent uniform, and 20 percent injury tolerance. |
| X4G | Fair Green Lugs. Thin to medium body, immature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance. |
| X5G | Low Green Lugs. Thin to medium body, immature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance. |

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984; 51 FR 40407, Nov. 7, 1986]

### § 29.2665 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except Scrap.

| Grades | Grade names and specifications |
|---|---|
| N1L | First Quality Light Colored Nondescript. Thin to medium body and 60 percent injury tolerance. |
| N1D | First Quality Dark Colored Nondescript. Medium to heavy body and 60 percent injury tolerance. |
| N1GL | First Quality Crude Green Nondescript from the C or B Groups 60 percent crude leaves or injury tolerance. |
| N1GX | First Quality Crude Green Nondescript from the X Group 60 percent crude leaves or injury tolerance. |
| N2 | Substandard Nondescript. Nondescript of any group or color; over 60 percent crude leaves or injury tolerance. |

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984; 51 FR 40407, Nov. 7, 1986]

### § 29.2666 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

| Grades | Grade names and specifications |
|---|---|
| S | Scrap. Tangled, whole, or broken unstemmed leaves, or the web portions of tobacco leaves reduced to scrap by any process. |

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984]

## SUMMARY OF STANDARD GRADES

### § 29.2686 Summary of standard grades.

| 6 Grades of Wrappers | | | |
|---|---|---|---|
| A1F | A3F | A2D | A3D |
| A2F | A1D | | |
| **19 Grades of Heavy Leaf** | | | |
| B1F | B1D | B3M | B5VF |
| B2F | B2D | B4M | B3G |
| B3F | B3D | B5M | B4G |
| B4F | B4D | B3VF | B5G |
| B5F | B5D | B4VF | |
| **24 Grades of Thin Leaf** | | | |
| C1L | C2F | C3D | C3VF |
| C2L | C3F | C4D | C4VF |
| C3L | C4F | C5D | C5VF |
| C4L | C5F | C3M | C3G |
| C5L | C1D | C4M | C4G |
| C1F | C2D | C5M | C5G |
| **24 Grades of Lugs** | | | |
| X1L | X2F | X3D | X3VF |
| X2L | X3F | X4D | X4VF |
| X3L | X4F | X5D | X5VF |
| X4L | X5F | X3M | X3G |
| X5L | X1D | X4M | X4G |
| X1F | X2D | X5M | X5G |

| 5 Grades of Nondescript | | | | |
|---|---|---|---|---|
| N1L | N1D | N1GL | N1GX | N2 |
| **1 Grade of Scrap** | | | | |
| S | | | | |

Special factors ''U'', ''W'', ''S'' and ''SF'' may be applied to all grades. Tobacco not covered by the standard grades is designated ''No-G.''

| Standard Sizes Applicable | |
|---|---|
| A1, A2, A3 | 2, 3 |
| B1, B2, B3, B4, B5 | 1, 2, 3 |
| C1, C2, C3, C4, C5 | 1, 2, 3 |

[37 FR 13626, July 12, 1972, as amended at 49 FR 16757, Apr. 20, 1984; 51 FR 40407, Nov. 7, 1986]

## KEY TO STANDARD GRADEMARKS

### § 29.2696 Key to standard grademarks.

*Groups*

A—Wrappers.
B—Heavy Leaf.
C—Thin Leaf.
X—Lugs.
N—Nondescript.
S—Scrap.

*Qualities*

1—Choice.
2—Fine.
3—Good.

4—Fair.
5—Low.

*Colors*

L—Light brown.
F—Medium brown.
D—Dark brown.
M—Mixed or variegates.
VF—Greenish medium brown.
G—Green.

OFFICIAL STANDARD GRADES FOR BURLEY TOBACCO (U.S. TYPE 31 AND FOREIGN TYPE 93)

SOURCE: Sections 29.3001 through 29.3182 appear at 24 FR 8771, Oct. 29, 1959, unless otherwise noted.

DEFINITIONS

### § 29.3001 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

### § 29.3002 Air-cured.

Tobacco cured under natural atmospheric conditions. Artificial heat is sometimes used to control excess humidity during the curing period to prevent house-burn and barn-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

### § 29.3003 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

### § 29.3004 Body.

The thickness and density of a leaf or the weight per unit of surface. (See Elements of quality.)

### § 29.3005 Burley, Type 31.

That type of air-cured tobacco, commonly known as Burley, produced principally in Kentucky, Tennessee, Virginia, North Carolina, Ohio, Indiana, West Virginia, and Missouri.

### § 29.3006 Burley, Type 93.

That type of air-cured tobacco commonly known as Foreign-grown Burley, produced in countries other than the United States.

[49 FR 16757, Apr. 20, 1984]

### § 29.3007 Buff color (L).

A light yellow slightly shaded toward red.

[24 FR 8771, Oct. 29, 1959; 24 FR 9121, Nov. 10, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3008 Class.

A major division of tobacco based on method of cure or principal usage.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3009 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See Rule 20.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3010 Color.

The third factor of a grade, based on the relative hues, saturations or chroma, and color values common to the type.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3011 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to all colors except variegated. Color intensity is reversed in its application to grades of greenish and green tobaccos and is omitted from these grade specifications. (See Elements of quality.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3012 Color symbols.

As applied to Burley, single color symbols are as follows: L—buff, F—tan, R—red, D—dark red, K—variegated,

M—mixed color, V—greenish, and G—green.

[24 FR 8771, Oct. 29, 1959, as amended at 35 FR 10490, June 27, 1970. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3013 Combination color symbols.

As applied to Burley, combination color symbols are as follows: FL—tannish buff, FR—tannish red, VF—greenish tan, VR—greenish red, GF—green tan, and GR—green red. (See rules 17 and 18.)

[51 FR 40407, Nov. 7, 1986]

### § 29.3014 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are as follows: Undried, air-dried, steam-dried, sweating, sweated, and aged. Burley is air-dried or steam-dried for storage and aging.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3015 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from sunburn or sunscald. Any leaf which is crude to the extent of 20 percent of its leaf surface may be described as crude. (See Rule 19.)

[24 FR 8771, Oct. 29, 1959; 24 FR 9121, Nov. 10, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3016 Cured.

Tobacco dried of its sap by either natural or artificial processes.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3017 Damage.

The effect of mold, must, rot, black rot, or other fungous or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See Rule 23.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3018 Dark red color (D).

A dark reddish brown.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3019 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See Rule 23.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3020 Elements of quality.

Elements of quality and the degrees used in the specifications of the official standard grades of Burley, Types 31 and 93, are shown in § 29.3101. Words have been selected to describe the degrees of each element. Some of the words are almost synonymous in their meaning, yet, they are sufficiently different to represent steps within the range of the elements of quality to which they are applied.

[24 FR 8771, Oct. 29, 1959. Redesignated and amended at 49 FR 16757, Apr. 20, 1984]

### § 29.3021 Fiber.

The term applied to the veins in a tobacco leaf. The large central vein is called the midrib or stem. The smaller lateral and cross veins are considered from the standpoint of size and color and in some types are treated as elements of quality. In Burley, fiber size and color are not of great importance, except where a fine distinction must be made between several lots of high quality or between sides of the same lot.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3022 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. Descriptive terms range from bright to dingy. (See Elements of quality.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3023 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw,

strings, rubber bands, et cetera. Abnormal amounts of dirt or sand also are included. (See Rule 23.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3024 Form.

The stage of preparation of tobacco such as unstemmed or stemmed.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3025 General color.

The color of tobacco considered in relation to the type as a whole. General color is distinguished from the restricted use of the term ''color'' within a group. It is basically related to body and other overall characteristics of the type.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3026 General quality.

The quality of tobacco considered in relation to the type as a whole. General quality is distinguished from the restricted use of the term ''quality'' within a group.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3027 Grade.

A subdivision of a type according to group, quality, and color.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3028 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, C2F means Lugs, second quality, and tan color.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3029 Green (G).

A color term applied to immature or crude tobacco. Any leaf which has a green color affecting 20 percent or more of its leaf surface may be described as green. (See Rule 18.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3030 Greenish (V).

A color term applied to greenish-tinged tobacco. Any leaf which has a greenish tinge or a pale green color affecting 20 percent or more of its surface may be described as greenish. (See Rule 17.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3031 Group.

A division of a type covering closely related grades based on certain characteristics which are related to stalk position or the general quality of the tobacco. Groups in Burley, Types 31 and 93, are as follows: Flyings (X), Lugs or Cutters (C), Leaf (B), Tips (T), Mixed (M), Nondescript (N), and Scrap (S).

[24 FR 8771, Oct. 29, 1959. Redesignated and amended at 49 FR 16757, Apr. 20, 1984]

### § 29.3032 Injury.

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state. (See definition of Damage.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilizing, harvesting, curing, or handling. Injured tobacco includes dead, burnt, hail-cut, torn, broken, frost-bitten, sunburned, sunscalded, scorched, fire-killed, bulk-burnt, steam-burnt, barn-burnt, house-burnt, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frog- eye, mosaic, root rot, wilt, black shank, or other diseases. (See Elements of quality and Rule 14.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16757, Apr. 20, 1984]

### § 29.3033 Leaf.

Whole, unstemmed leaf. Leaf, when applied to tobacco in strip form, shall

describe the divided unit of a whole leaf.

[49 FR 16758, Apr. 20, 1984]

### § 29.3034 Leaf scrap.

A by-product of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16758, Apr. 20, 1984]

### § 29.3035 Leaf structure.

The cell development of a leaf as indicated by its porosity or solidity. (See Elements of quality.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16758, Apr. 20, 1984]

### § 29.3036 Leaf surface.

The smoothness or roughness of the web or lamina of a tobacco leaf. Leaf surface is affected to some extent by the size and shrinkage of the veins or fibers. (See Elements of quality.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16758, Apr. 20, 1984]

### § 29.3037 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip. Length, as an element of quality, does not apply to tobacco in strip form. (See Elements of quality.)

[24 FR 8771, Oct. 29, 1959. Redesignated and amended at 49 FR 16757, 16758, Apr. 20, 1984]

### § 29.3038 Lot.

A pile, basket, bulk, bale or bales, sheet, case hogshead, tierce, package, or other definite package unit.

[48 FR 40366, Sept. 7, 1983. Redesignated at 49 FR 16758, Apr. 20, 1984]

### § 29.3039 Maturity.

The degree of ripeness. Tobacco is mature when it reaches its prime state of development. The extremes are expressed as immature and mellow. (See Elements of quality.)

[24 FR 8771, Oct. 29, 1959; 24 FR 9121, Nov. 10, 1959. Redesignated at 49 FR 16758, Apr. 20, 1984]

### § 29.3040 Mixed color (M).

Distinctly different colors of the type mingled together. (See Rule 16.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16758, Apr. 20, 1984]

### § 29.3041 Nested.

Any lot of Type 31 tobacco which as has been loaded, packed or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes:

(a) Any lot of tobacco which contains foreign matter, is damaged, injured, or tangled, or contains other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged;

(b) Any lot of tobacco which consists of distinctly different grades, qualities or conditions and which is stacked or arranged with the same kinds together so that the tobacco in the lower portions of the lot is distinctly inferior in grade, quality or condition from the tobacco in the top portion of the lot.

[47 FR 51721, Nov. 17, 1982. Redesignated and amended at 49 FR 16757, 16758, Apr. 20, 1984]

### § 29.3042 No grade.

A designation applied to a lot of tobacco which is classified as offtype, rework, semicured, damaged 20 percent or more, abnormally dirty, contains foreign matter, and/or having an odor foreign to the type.

[47 FR 51721, Nov. 17, 1982. Redesignated at 49 FR 16758, Apr. 20, 1984]

### § 29.3043 No-G-Nested.

A designation applied to a lot of Type 31 tobacco which is classified as nested.

[47 FR 51721, Nov. 17, 1982. Redesignated and amended at 49 FR 16757, 16758, Apr. 20, 1984]

### § 29.3044 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Burley, Type 31 or 93. (See Rule 23.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51721, Nov. 17, 1982. Redesignated and amended at 49 FR 16757, 16758, Apr. 20, 1984]

**§ 29.3045 Order (case).**

The state of tobacco with respect to its moisture content.

[24 FR 8771, Oct. 29, 1959. Redesignated at 49 FR 16758, Apr. 20, 1984]

**§ 29.3046 Oriented.**

A term applied to Type 31 untied tobacco which denotes the arrangement of leaves in a straight and orderly manner. Oriented includes:

(a) Any lot of baled tobacco in which the leaves are packed parallel to the length of the bale with the butts to the outside and the tips of the leaves overlapping sufficiently to make a level, solid and uniform package;

(b) Any lot of sheeted tobacco in which the leaves are arranged in a circular pattern with the butts to the outside.

[48 FR 40366, Sept. 7, 1983. Redesignated and amended at 49 FR 16758, Apr. 20, 1984]

**§ 29.3047 Package.**

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

**§ 29.3048 Packing.**

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

**§ 29.3049 Pink or pinkish.**

A color term applied to pink or pinkish tobacco. Any leaf which has a pink or pinkish color affecting 20 percent or more of its leaf surface is considered as mixed color. (See Rule 16.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

**§ 29.3050 Quality.**

A division of a group or the second factor of a grade, based on the relative degree of one or more elements of quality in tobacco.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

**§ 29.3051 Raw.**

Freshly harvested tobacco or tobacco as it appears between the time of harvesting and the beginning of the curing process.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

**§ 29.3052 Red color (R).**

A brownish red.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

**§ 29.3053 Rework.**

Any lot of Type 31 tobacco which needs to be restored or otherwise rearranged to prepare it properly for market, including:

(a) Tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed;

(b) Tobacco not properly tied in hands, not packed in bales approximately $1 \times 2 \times 3$ feet, not oriented, not packed straight, bales not opened for inspection when chosen by a grader, or otherwise not properly prepared for market.

[47 FR 51722, Nov. 17, 1982. Redesignated and amended at 49 FR 16758, Apr. 20, 1984; 60 FR 7429, Feb. 8, 1995; 62 FR 60156, Nov. 7, 1997]

**§ 29.3054 Semicured.**

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swell stems, frozen tobacco, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See Rule 23.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

**§ 29.3055 Side.**

A certain phase of quality, color, or length as contrasted with some other

phase of quality, color, or length; or any peculiar characteristic of tobacco.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3056 Sound.

Free of damage.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3057 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See Rule 9.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3058 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3059 Stem.

The midrib or large central vein of a tobacco leaf.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3060 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3061 Strength (tensile).

The stress a tobacco leaf can bear without tearing. Tensile strength is not an important element of quality in Burley tobacco.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3062 Strips.

The sides of a tobacco leaf from which the stem has been removed; or a lot of tobacco composed of strips.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3063 Subgrade.

Any grade modified by a special factor symbol.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3064 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3065 Sweating.

The condition of tobacco in the process of fermentation.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3066 Tan color.

A light red-yellow.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, and at 49 FR 16758, Apr. 20, 1984]

### § 29.3067 Tannish-buff (FL).

A light red-yellow shaded toward buff.

[51 FR 40407, Nov. 7, 1986]

### § 29.3068 Tannish-red color (FR).

A light red shaded toward tan.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984 and 51 FR 40407, Nov. 7, 1986]

### § 29.3069 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the

time it enters into the different manufacturing processes. The acts of stemming, threshing and sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982. Redesignated and amended at 49 FR 16758, Apr. 20, 1984, and further redesignated at 51 FR 40407, Nov. 7, 1986]

### § 29.3070 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984, and 51 FR 40407, Nov. 7, 1986]

### § 29.3071 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984, and 51 FR 40407, Nov. 7, 1986]

### § 29.3072 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984, and 51 FR 40407, Nov. 7, 1986]

### § 29.3073 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed in grade specifications as a percentage. The percentage is applicable to group, quality, and color. (See Rule 13.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984, and 51 FR 40407, Nov. 7, 1986]

### § 29.3074 Unsound (U).

Damaged under 20 percent. (See Rule 21.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984, and 51 FR 40407, Nov. 7, 1986]

### § 29.3075 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984, and 51 FR 40407, Nov. 7, 1986]

### § 29.3076 Variegated (K).

Any leaf of which 20 percent or more of its surface is yellow, grayish, mottled, or bleached, and does not blend with the normal colors of the type or group and is generally characterized by a lower degree of leaf structure and maturity than tobacco of the corresponding group and quality. (See Rule 15.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984, and 51 FR 40407, Nov. 7, 1986]

### § 29.3077 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in an unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 22.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982, 49 FR 16758, Apr. 20, 1984, and 51 FR 40407, Nov. 7, 1986]

### § 29.3078 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. Width as an element of quality, does not apply to tobacco in strip form. (See Elements of quality.)

[24 FR 8771, Oct. 29, 1959. Redesignated at 47 FR 51722, Nov. 17, 1982. Redesignated and amended at 49 FR 16758, Apr. 20, 1984, and further redesignated at 51 FR 40407, Nov. 7, 1986]

ELEMENTS OF QUALITY

### § 29.3101 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These several degrees are arranged to show their relative value, but the actual value of each degree varies with type, group, and grade. In each case the first and last degrees represent the full range for the element, and the intermediate degrees show gradual steps between them.

| Elements | | | Degrees | | |
|---|---|---|---|---|---|
| 1 Body ..... | Tissuey. | Thin ... | Medium. | Fleshy | Heavy. |
| 2 Maturity .. | Mellow | Ripe ... | Mature | Underripe. | Immature. |
| 3 Leaf structure (porosity and solidity).. | Porous | Open | Firm ... | Close | Solid. |
| 4 Leaf surface (smoothness). | Smooth. | Even .. | Wavy | Wrinkly | Rough. |
| 5 Finish ..... | Bright | Clear .. | Moderate. | Dull .... | Dingy. |
| 6 Color intensity. | Deep .. | Strong | do | Weak | Pale. |
| 7 Width ..... | Broad | Spready. | Normal | Narrow | Stringy. |
| 8 Length .... | (1) ..... | (1) ..... | (1) ..... | (1) ..... | (1) |
| 9 Uniformity | (2) ..... | (2) ..... | (2) ..... | (2) ..... | (2) |
| 10 Injury tolerance. | (2) ..... | (2) ..... | (2) ..... | (2) ..... | (2) |

[1] Expressed in inches.
[2] Expressed in percentage.

RULES

### § 29.3103 Rules.

The application of these official standard grades shall be in accordance with the following rules.

### § 29.3104 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

### § 29.3105 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

### § 29.3106 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, three or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. One break shall be made not more than six inches from the top of the package and one not more than six inches from the bottom. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least three breaks from which a representative sample shall be selected. The sample shall include tobacco of each different group, quality, color, length, and kind found in the lot in proportion to the quantities of each contained in the lot.

[24 FR 8771, Oct. 29, 1959, as amended at 49 FR 16758, Apr. 20, 1984]

### § 29.3107 Rule 4.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

### § 29.3108 Rule 5.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

### § 29.3109 Rule 6.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

**§ 29.3110 Rule 7.**

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

**§ 29.3111 Rule 8.**

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

**§ 29.3112 Rule 9.**

Any special factor symbol, approved by the Director of the Tobacco Division of the Agricultural Marketing Service, may be used to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

[24 FR 8771, Oct. 29, 1959, as amended at 49 FR 16758, Apr. 20, 1984]

**§ 29.3113 Rule 10.**

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standards Branch and approved by the Director.

**§ 29.3114 Rule 11.**

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

**§ 29.3115 Rule 12.**

Any lot, except strip form, of Leaf (B Group) tobacco in which 20 percent or more of its leaves are under 16 inches in length shall be designated as Tips (T Group).

[49 FR 16758, Apr. 20, 1984]

**§ 29.3116 Rule 13.**

Degrees of uniformity shall be expressed in terms of percentages. The percentages shall govern the portion of a lot which must meet the specifications of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. These percentages shall not affect limitations established by other rules.

**§ 29.3117 Rule 14.**

The application of injury as an element of quality shall be expressed in terms of a percentage of tolerance. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group as related to injury.

**§ 29.3118 Rule 15.**

Any lot of tobacco containing over 20 percent of variegated leaves shall be described as ''variegated'' and designated by the color symbol ''K.''

[51 FR 40407, Nov. 7, 1986]

**§ 29.3119 Rule 16.**

Any lot of tobacco of B, C, or X groups which contains 30 percent or more of pink or pinkish leaves or contains 30 percent or more of a color distinctly different from the major color shall be classified as ''mixed'' and designated by the color symbol ''M.''

**§ 29.3120 Rule 17.**

Any lot of tobacco containing 20 percent or more of greenish leaves, or any lot which contains 20 percent of greenish and green leaves combined, shall be designated by the color symbol ''V'' in the C group and the combination color symbols ''VF'' or ''VR'' in the B and T groups.

**§ 29.3121 Rule 18.**

Any lot of tobacco containing 20 percent or more of green leaves, or any lot which is not crude but contains 20 percent or more of green and crude combined, shall be designated by the color symbol ''G'' in the X, C, and M groups and the combination color symbol ''GF'' and ''GR'' in the B and T groups.

[55 FR 40645, Oct. 4, 1990]

**§ 29.3122 Rule 19.**

Crude leaves shall not be included in any grade of any color except green, green tan, and green red. Any lot containing 20 percent or more of crude leaves shall be designated as Nondescript.

### § 29.3123 Rule 20.

All standard grades must be clean.

### § 29.3124 Rule 21.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''U'' after the grademark. Tobacco damaged 20 percent or more shall be designated as ''No-G.''

### § 29.3125 Rule 22.

Sound tobacco that is wet or is doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''W'' after the grademark. This special factor does not apply to tobacco designated as ''No-G.''

### § 29.3126 Rule 23.

Tobacco shall be designated as No Grade, using the grademark, ''No-G,'' when it is dirty, offtype, semicured, needs to be reworked, damaged 20 percent or more, contains foreign matter, or has an odor foreign to the type.

[47 FR 51722, Nov. 17, 1982]

### § 29.3127 Rule 24.

Tobacco in Type 31 shall be designated by the grademark ''No-G-Nested'' when it is nested.

[47 FR 51722, Nov. 17, 1982, as amended at 49 FR 16758, Apr. 20, 1984]

### § 29.3128 Rule 25.

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''S'' preceding the grademark.

[49 FR 16758, Apr. 20, 1984]

GRADES

### § 29.3151 Flyings (X Group).

This group consists of leaves normally grown at the bottom of the stalk. These leaves are flat and open-faced and have a blunt or oblate tip. Compared with other groups on the stalk, Flyings consist of relatively thin to tissuey leaves which show the highest degree of maturity and the most open leaf structure. Flyings show a material amount of injury characteristic of leaves grown near the ground. (See Rule 14.)

| Grades | Grade names and specifications |
|---|---|
| X1L | Choice Buff Flyings. Tissuey, mellow, open to porous, even, clear finish, strong color intensity, 95 percent uniform, and 5 percent injury tolerance. |
| X2L | Fine Buff Flyings. Tissuey, mellow, open to porous, even, moderate finish and color intensity, 90 percent uniform, and 10 percent injury tolerance. |
| X3L | Good Buff Flyings. Tissuey, ripe to mellow, open to porous, wavy, dull finish, weak color intensity, 80 percent uniform, and 20 percent injury tolerance. |
| X4L | Fair Buff Flyings. Tissuey, mature to ripe, open to porous, wrinkly to wavy, dingy finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5L | Low Buff Flyings. Tissuey, mature to ripe, open to porous, wrinkly, dingy finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X1F | Choice Tan Flyings. Thin, mellow, open to porous, even, clear finish, strong color intensity, 95 percent uniform, and 5 percent injury tolerance. |
| X2F | Fine Tan Flyings. Thin, mellow, open to porous, even, moderate finish and color intensity, 90 percent uniform, and 10 percent injury tolerance. |
| X3F | Good Tan Flyings. Thin, ripe to mellow, open to porous, wavy, dull finish, weak color intensity, 80 percent uniform, and 20 percent injury tolerance. |
| X4F | Fair Tan Flyings. Thin, mature to ripe, open to porous, wrinkly to wavy, dingy finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5F | Low Tan Flyings. Thin, mature to ripe, open to porous, wrinkly, dingy finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X4M | Fair Mixed Color Flyings. Medium to tissuey body, mature to ripe, firm to porous, wrinkly to wavy, dingy finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance. |
| X5M | Low Mixed Color Flyings. Medium to tissuey body, mature to ripe, firm to porous, wrinkly, dingy finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance. |
| X4G | Fair Green Flyings. Medium to tissuey body, immature, firm, wrinkly to wavy, dingy finish, 70 percent uniform, and 30 percent injury tolerance. |
| X5G | Low Green Flyings. Medium to tissuey body, immature, firm, wrinkly, dingy finish, 60 percent uniform, and 40 percent injury tolerance. |

[24 FR 8771, Oct. 29, 1959, as amended at 35 FR 10490, June 27, 1970; 49 FR 16758, Apr. 20, 1984]

### § 29.3152 Lugs or Cutters (C Group).

This group consists of leaves normally grown at the midportion of the stalk. Cured leaves from this stalk position have a tendency to roll, concealing the stem or midrib. Lugs or Cutters have an oblate to rounded tip and are usually thin to medium in body. The leaves are spready in relation to their length and show little or no ground injury.

| Grades | Grade names and specifications |
|---|---|
| C1L | Choice Buff Lugs. Thin, ripe, open, smooth, bright finish, deep color intensity, broad, 20″ or over in length, 95 percent uniform and 5 percent injury tolerance. |
| C2L | Fine Buff Lugs. Thin, ripe, open, smooth, bright finish, strong color intensity, spready, 20″ or over in length, 90 percent uniform, and 10 percent injury tolerance. |
| C3L | Good Buff Lugs. Thin, ripe, open, even, clear finish, moderate color intensity, normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| C4L | Fair Buff Lugs. Thin, mature to ripe, firm to open, wavy to even, moderate finish, weak color intensity, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C5L | Low Buff Lugs. Thin, mature, firm to open, wavy dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C1F | Choice Tan Lugs. Medium to thin body, ripe, open, smooth, bright finish, deep color intensity, broad, 20″ or over in length, 95 percent uniform, and 5 percent injury tolerance. |
| C2F | Fine Tan Lugs. Medium to thin body, ripe, open, smooth, bright finish, strong color intensity, spready, 20″ or over in length, 90 percent uniform, and 10 percent injury tolerance. |
| C3F | Good Tan Lugs. Medium to thin body, ripe, open, even, clear finish, moderate color intensity, normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| C4F | Fair Tan Lugs. Medium to thin body, mature to ripe, firm to open, wavy to even, moderate finish, weak color intensity, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C5F | Low Tan Lugs. Medium to thin body, mature, firm to open, wavy, dull finish, pale color intensity, narrow, 70 percent uniform and 30 percent injury tolerance. |
| C3K | Good Variegated Lugs. Medium body, ripe, open, even, normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| C4K | Fair Variegated Lugs. Medium body, mature to ripe, firm to open, wavy to even, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C5K | Low Variegated Lugs. Medium body, mature, close to firm, wavy, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C3M | Good Mixed Color Lugs. Medium to tissuey body, mature to ripe, firm to open, even, moderate finish and color intensity, normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| C4M | Fair Mixed Color Lugs. Medium to tissuey body, mature to ripe, firm to open, wavy to even, dull finish, weak color intensity, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C5M | Low Mixed Color Lugs. Medium to tissuey body, mature to ripe, firm to open, wavy, dingy finish pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C3V | Good Greenish Lugs. Medium to thin body, underripe open, even, clear finish, normal width 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| C4V | Fair Greenish Lugs. Medium to thin body, underripe, firm to open, wavy to even, moderate finish, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C5V | Low Greenish Lugs. Medium to thin body, underripe firm to open, wavy, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C4G | Fair Green Lugs. Medium body, immature, close to firm, wavy to even, moderate finish, narrow to normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C5G | Low Green Lugs. Medium body, immature, close to firm, wavy, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance. |

[24 FR 8771, Oct. 29, 1959, as amended at 35 FR 10490, June 27, 1970; 49 FR 16758, Apr. 20, 1984]

### § 29.3153 Leaf (B Group).

This group consists of leaves normally grown above the midpoint of the stalk. Cured leaves from the upper stalk position have a tendency to fold, concealing the face of the leaf and exposing the stem or midrib. These leaves have a pointed tip and generally are medium to heavy in body. They are narrower in relation to their length than corresponding qualities of the C Group.

| Grades | Grade names and specifications |
|---|---|
| B1F | Choice Tan Leaf. |

| Grades | Grade names and specifications |
|---|---|
| | Medium body, ripe, open, smooth, clear finish, deep color intensity, spready, 20″ or over in length, 95 percent uniform, and 5 percent injury tolerance. |
| B2F | Fine Tan Leaf. Medium body ripe, open, even, clear finish, deep color intensity, spready, 20″ or over in length, 90 percent uniform, and 10 percent injury tolerance. |
| B3F | Good Tan Leaf. Medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| B4F | Fair Tan Leaf. Medium body, mature, firm, wavy, dull finish, weak color intensity, narrow, 16″ or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B5F | Low Tan Leaf. Medium body, mature, firm, wrinkly, dingy finish, pale color intensity, stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B2FL | Fine Tannish-buff Leaf. Medium body, ripe, open, even, clear finish, strong color intensity, spready, 20'' or over in length, 90 percent uniform, and 10 percent injury tolerance. |
| B3FL | Good Tannish-buff Leaf Medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, 18'' or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| B4FL | Fair Tannish-buff Leaf. Medium body, mature, firm, wavy, dull finish, weak color intensity, narrow, 16'' or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B1FR | Choice Tannish-red Leaf. Fleshy to medium body, ripe, open, smooth, clear finish, deep color intensity, spready, 20″ or over in length, 95 percent uniform, and 5 percent injury tolerance. |
| B2FR | Fine Tannish-red Leaf. Fleshy to medium body, ripe, open, even, clear finish, strong color intensity, spready, 20″ or over in length, 90 percent uniform, and 10 percent injury tolerance. |
| B3FR | Good Tannish-red Leaf. Fleshy to medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| B4FR | Fair Tannish-red Leaf. Fleshy to medium body, mature firm, wavy, dull finish, weak color intensity, narrow, 16″ or over in length 80 percent uniform, and 20 percent injury tolerance. |
| B5FR | Low Tannish-red Leaf. Fleshy to medium body, mature, firm, wrinkly, dingy finish, pale color intensity, stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B1R | Choice Red Leaf. Heavy to fleshy, ripe, firm to open, even, clear finish, deep color intensity, spready, 20″ or over in length 95 percent uniform, and 5 percent injury tolerance. |
| B2R | Fine Red Leaf. Heavy to fleshy, ripe, firm to open wavy, clear finish, strong color intensity, spready, 20″ or over in length 90 percent uniform, and 10 percent injury tolerance. |
| B3R | Good Red Leaf. Heavy to fleshy, mature to ripe, firm, wrinkly to wavy, moderate finish and color intensity, narrow to normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| B4R | Fair Red Leaf. Heavy to fleshy, mature, close to firm, wrinkly, dull finish, weak color intensity, narrow, 16″ or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B5R | Low red Leaf. Heavy to fleshy, mature, close, rough, dingy finish, pale color intensity, stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B4D | Fair Dark-red Leaf. Heavy to fleshy, mature, close, wrinkly, dull finish, weak color intensity, narrow, 16″ or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B5D | Low Dark-red Leaf. Heavy to fleshy, underripe to mature, solid, rough, dingy finish, pale color intensity, stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B3K | Good Variegated Leaf. Fleshy to medium body, mature to ripe, firm to open, wrinkly to wavy, narrow to normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| B4K | Fair Variegated Leaf. Fleshy, mature, close to firm, wrinkly, narrow, 16″ or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B5K | Low Variegated Leaf. Heavy to fleshy, underripe to mature, solid to close, rough, stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B2M | Fine Mixed Color Leaf. Fleshy to medium body, ripe, open, even, clear finish, strong color intensity, 20'' or over in length, 90 percent uniform, and 10 percent injury tolerance. |
| B3M | Good Mixed Color Leaf. Fleshy to medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| B4M | Fair Mixed Color Leaf. Fleshy to medium body, mature to ripe, firm to open, wavy, dull finish, weak color intensity, narrow, 16″ or over in length, 80 percent uniform and 20 percent injury tolerance. |
| B5M | Low Mixed Color Leaf. Fleshy to medium body, underripe to mature, firm to open, wrinkly, dingy finish, pale color intensity stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B3VF | Good Greenish-tan Leaf. Medium body, underripe, firm to open, wavy to even, moderate finish, narrow to normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |

| Grades | Grade names and specifications |
|---|---|
| B4VF | Fair Greenish-tan Leaf. Medium body, underripe, close to firm, wavy, dull finish, narrow, 16″ or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B5VF | Low Greenish-tan Leaf. Medium body, underripe, close, wrinkly, dingy finish, stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B3VR | Good Greenish-red Leaf. Heavy to fleshy, underripe, firm, wrinkly to wavy, moderate finish, narrow to normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| B4VR | Fair Greenish-red Leaf. Heavy to fleshy, underripe, close to firm, wrinkly, dull finish, narrow, 16″ or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B5VR | Low Greenish-red Leaf. Heavy to fleshy, underripe, close, rough, dingy finish, stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B3GF | Good Green-tan Leaf. Fleshy to medium body, immature, firm to open, wrinkly to wavy, moderate finish, narrow to normal width, 18″ or over in length, 85 percent uniform, and 15 percent injury tolerance. |
| B4GF | Fair Green-tan Leaf. Fleshy to medium body, immature, close to firm, wrinkly, dull finish, narrow, 16″ or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B5GF | Low Green-tan Leaf. Fleshy to medium body, immature, close, rough, dingy finish, stringy, 16″ or over in length, 70 percent uniform, and 30 percent injury tolerance. |
| B3GR | Good Green-red Leaf. Heavy to fleshy, immature, close to firm, wrinkly to wavy, moderate finish, narrow to formal width, 18″ or over in length, 85 percent uniform and 15 percent injury tolerance. |
| B4GR | Fair Green-red Leaf. Heavy to fleshy, immature, solid to close, wrinkly, dull finish, narrow width, 16″ or over in length, 80 percent uniform, and 20 percent injury tolerance. |
| B5GR | Low Green-red Leaf. Heavy to fleshy, immature, solid, rough, dingy finish, stringy, 16″ or over in length, 70 percent uniform and 30 percent injury tolerance. |

[24 FR 8771, Oct. 29, 1959, as amended at 49 FR 16758, Apr. 20, 1984; 51 FR 40407, Nov. 7, 1986]

### § 29.3154 Tips (T Group).

This group consists of leaves usually grown at the top of the stalk. These relatively narrow and sharp-pointed leaves have the general characteristics of B-Group tobacco. Tips have a slightly lower degree of maturity and leaf structure than other leaves on the stalk. (See Rule 12.)

| Grades | Grade names and specifications |
|---|---|
| T3F | Good Tan Tips. Medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, under 16″ in length, 85 percent uniform, and 15 percent injury tolerance. |
| T4F | Fair Tan Tips. Medium body, mature, firm, wavy dull finish, weak color intensity, narrow, under 16″ in length, 80 percent uniform, and 20 percent injury tolerance. |
| T5F | Low Tan Tips. Medium body, mature, firm, wrinkly, dingy finish, pale color intensity, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |
| T3FR | Good Tannish-red Tips. Fleshy to medium body, mature to ripe, firm to open, wavy to even, moderate finish and color intensity, narrow to normal width, under 16″ in length, 85 percent uniform, and 15 percent injury tolerance. |
| T4FR | Fair Tannish-red Tips. Fleshy to medium body, mature, firm, wavy, dull finish, weak color intensity, narrow, under 16″ in length, 80 percent uniform, and 20 percent injury tolerance. |
| T5FR | Low Tannish-red Tips. Fleshy to medium body, mature, firm, wrinkly, dingy finish, pale color intensity, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |
| T3R | Good Red Tips. Heavy to fleshy, mature to ripe, firm, wrinkly to wavy, moderate finish and color intensity, narrow to normal width, under 16″ in length, 85 percent uniform, and 15 percent injury tolerance. |
| T4R | Fair Red Tips. Heavy to fleshy, mature, close to firm, wrinkly, dull finish, weak color intensity, narrow, under 16″ in length, 80 percent uniform, and 20 percent injury tolerance. |
| T5R | Low Red Tips. Heavy to fleshy, mature, close, rough, dingy finish, pale color intensity, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |
| T4D | Fair Dark-red Tips. Heavy to fleshy, mature, close, wrinkly, dull finish, weak color intensity, narrow, under 16″ in length, 80 percent uniform, and 20 percent injury tolerance. |
| T5D | Low Dark-red Tips. Heavy to fleshy, underripe to mature, solid, rough, dingy finish, pale color intensity, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |
| T4K | Fair Variegated Tips. Fleshy, mature, close to firm, wrinkly, narrow, under 16″ in length, 80 percent uniform, and 20 percent injury tolerance. |
| T5K | Low Variegated Tips. Heavy to fleshy, underripe to mature, solid to close, rough, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |
| T4VF | Fair Greenish-tan Tips. Medium body, underripe, close to firm, wavy, dull finish, narrow, under 16″ in length, 80 percent uniform and 20 percent injury tolerance. |
| T5VF | Low Greenish-tan Tips. |

| Grades | Grade names and specifications |
|---|---|
| | Medium body, underripe, close, wrinkly, dingy finish, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |
| T4VR ..... | Fair Greenish-red Tips. Heavy to fleshy, underripe, close to firm, wrinkly, dull finish, narrow, under 16″ in length, 80 percent uniform, and 20 percent injury tolerance. |
| T5VR ..... | Low Greenish-red Tips. Heavy to fleshy, underripe, close, rough, dingy finish, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |
| T4GF ..... | Fair Green-tan Tips. Fleshy to medium body, immature, close to firm, wrinkly, dull finish, narrow, under 16″ in length, 80 percent uniform, and 20 percent injury tolerance. |
| T5GF ..... | Low Green-tan Tips. Fleshy to medium body, immature, close, rough, dingy finish, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |
| T4GR ..... | Fair Green-red Tips. Heavy to fleshy, immature, solid to close, wrinkly, dull finish, narrow, under 16″ in length, 80 percent uniform, and 20 percent injury tolerance. |
| T5GR ..... | Low Green-red Tips. Heavy to fleshy, immature, solid, rough, dingy finish, stringy, under 16″ in length, 70 percent uniform, and 30 percent injury tolerance. |

[24 FR 8771, Oct. 29, 1959, as amended at 49 FR 16758, Apr. 20, 1984]

### § 29.3155 Mixed (M Group).

This group consists of tobacco of distinctly different groups which are mixed together in various combinations.

| Grades | Grade names and specifications |
|---|---|
| M3F ..... | Good Light Mixed. General quality of X3, C3, B3, T3, medium to tissuey body, light general color, under 20 percent greenish, and 15 percent injury tolerance. |
| M4F ..... | Fair Light Mixed. General quality of X4, C4, B4, T4, medium to tissuey body, light general color under 20 percent greenish, and 20 percent injury tolerance. |
| M5F ..... | Low Light Mixed. General quality of X5, C5, B5, T5, medium to tissuey body, light general color, under 20 percent greenish, and 30 percent injury tolerance. |
| M3FR ..... | Good Dark Mixed. General quality of X3, C3, B3, T3, heavy to medium body, dark general color, under 20 percent greenish, and 15 percent injury tolerance. |
| M4FR ..... | Fair Dark Mixed. General quality of X4, C4, B4, T4, heavy to medium body, dark general color, under 20 percent greenish, and 20 percent injury tolerance. |
| M5FR ..... | Low Dark Mixed. General quality of X5, C5, B5, T5, heavy to medium body, dark general color, under 20 percent greenish, and 30 percent injury tolerance. |
| M4K ..... | Fair Variegated Mixed. General quality of X4, C4, B4, T4, fleshy to thin body, under 20 percent greenish, and 20 percent injury tolerance. |
| M5K ..... | Low Variegated Mixed. General quality of X5, C5, B5, T5, fleshy to thin body, under 20 percent greenish, and 30 percent injury tolerance. |
| M4G ..... | Fair Green Mixed. General quality of X4, C4, B4, and T4, heavy to tissuey body, immature, and 20 percent injury tolerance. |
| M5G ..... | Low Green Mixed. General quality of X5, C5, B5, and T5, heavy to tissuey body, immature, and 30 percent injury tolerance. |

[35 FR 10490, June 27, 1970, as amended at 49 FR 16758, Apr. 20, 1984; 51 FR 40407, Nov. 7, 1986; 55 FR 40645, Oct. 4, 1990]

### § 29.3156 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group.

| Grades | Grade names and specifications |
|---|---|
| N1L ..... | First Quality Light Colored Nondescript Thin to tissuey body and 60 percent injury tolerance. |
| N1F ..... | First Quality Medium Colored Nondescript Fleshy to medium body and 60 percent injury tolerance. |
| N1R ..... | First Quality Dark Colored Nondescript Heavy to fleshy body and 60 percent injury tolerance. |
| N1G ..... | First Quality Crude Green Nondescript 60 percent crude leaves or injury tolerance. |
| N2L ..... | Second Quality Light to Medium Colored Nondescript Medium to tissuey body and over 60 percent injury tolerance. |
| N2R ..... | Second Quality Medium to Dark Colored Nondescript Heavy to medium body and over 60 percent injury tolerance. |
| N2G ..... | Second Quality Crude Green Nondescript Over 60 percent crude leaves or injury tolerance. |

[24 FR 8771, Oct. 29, 1959, as amended at 49 FR 16758, Apr. 20, 1984]

### § 29.3157 Scrap (S Group).

A by-product of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

| Grades | Grade names and specifications |
|---|---|
| S | Scrap. Loose, tangled, whole, or broken unstemmed leaves, or web portions of tobacco leaves reduced to scrap by any process. |

[24 FR 8771, Oct. 29, 1959, as amended at 49 FR 16758, Apr. 20, 1984]

SUMMARY OF STANDARD GRADES

## § 29.3181 Summary of standard grades.

*14 Grades of Flying*

| | | | |
|---|---|---|---|
| X1L | X5L | X4F | X4G |
| X2L | X1F | X5F | X5G |
| X3L | X2F | X4M | |
| X4L | X3F | X5M | |

*21 Grades of Lugs or Cutters*

| | | | |
|---|---|---|---|
| C1L | C2F | C5K | C5V |
| C2L | C3F | C3M | C4G |
| C3L | C4F | C4M | C5G |
| C4L | C5F | C5M | |
| C5L | C3K | C3V | |
| C1F | C4K | C4V | |

*39 Grades of Leaf*

| | | | |
|---|---|---|---|
| B1F | B3FR | B3K | B3VR |
| B2F | B4FR | B4K | B4VR |
| B3F | B5FR | B5K | B5VR |
| B4F | B1R | B2M | B3GF |
| B5F | B2R | B3M | B4GF |
| B2FL | B3R | B4M | B5GF |
| B3FL | B4R | B5M | B3GR |
| B4FL | B5R | B3VF | B4GR |
| B1FR | B4D | B4VF | B5GR |
| B2FR | B5D | B5VF | |

*21 Grades of Tips*

| | | | |
|---|---|---|---|
| T3F | T3R | T5K | T5GF |
| T4F | T4R | T4VF | T4GR |
| T5F | T5R | T5VF | T5GR |
| T3FR | T4D | T4VR | |
| T4FR | T5D | T5VR | |
| T5FR | T4K | T4GF | |

*8 Grades of Mixed Group*

| | | | |
|---|---|---|---|
| M3F | M5F | M4FR | M4K |
| M4F | M3FR | M5FR | M5K |

*7 Grades of Nondescript*

| | | | |
|---|---|---|---|
| N1L | N1R | N2L | N2G |
| N1F | N1G | N2R | |

*1 Grade of Scrap*

S

Special factors ''U'', ''W'' and ''S'' may be applied to all grades. Tobacco not covered by the standard grades is designated by No-G or No-G-Nested.

[24 FR 8771, Oct. 29, 1959, as amended at 35 FR 10490, June 27, 1970; 47 FR 51722, Nov. 17, 1982; 49 FR 16758, Apr. 20, 1984; 51 FR 40407, Nov. 7, 1986]

KEY TO STANDARD GRADEMARKS

## § 29.3182 Key to standard grademarks.

*Groups*

X—Flyings.
C—Lugs or Cutters
B—Leaf.
T—Tips.
M—Mixed.
N—Nondescript.
S—Scrap.

*Qualities*

1—Choice.
2—Fine.
3—Good.
4—Fair.
5—Low.

*Colors*

L—Buff.
F—Tan.
FL—Tannish buff.
FR—Tannish red.
R—Red.
D—Dark red.
K—Variegated.
M—Mixed.
V—Greenish.
VF—Greenish tan.
VR—Greenish red.
G—Green.
GF—Green tan.
GR—Green red.

[24 FR 8771, Oct. 29, 1959, as amended at 51 FR 40407, Nov. 7, 1986]

# OFFICIAL STANDARD GRADES FOR DARK AIR-CURED TOBACCO (U.S. TYPES 35, 36, 37 AND FOREIGN TYPE 95)

AUTHORITY: Sections 29.3501 to 29.3686 issued under 7 U.S.C. 511m and 511r.

SOURCE: Sections 29.3501 through 29.3686 appear at 30 FR 9207, July 23, 1965, unless otherwise noted.

DEFINITIONS

## § 29.3501 Definitions.

As used in §§ 29.3501 to 29.3686, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

## § 29.3502 Air-cured.

Tobacco cured under natural atmospheric conditions without the use of fire, except for the purpose of preventing pole-burn in damp weather.

**§ 29.3503 Air-dried.**

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

**§ 29.3504 Body.**

The thickness and density of a leaf or the weight per unit of surface. (See Elements of Quality, § 29.3586.)

**§ 29.3505 Brown colors.**

A group of colors ranging from a light brown to a dark brown. These colors vary from medium to low saturation and from medium to very low brillance. As used in these standards, the colors are expressed as light brown (L), medium brown (F), reddish brown (R), and dark brown (D).

**§ 29.3506 Class.**

A major division of tobacco based on method of cure or principal usage.

**§ 29.3507 Clean.**

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See Rule 4, § 29.3605.)

**§ 29.3508 Color.**

The third factor of a grade based on the relative hues, saturations or chromas, and color values common to the type.

**§ 29.3509 Color intensity.**

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to all colors except green. (See Elements of Quality, § 29.3586.)

**§ 29.3510 Color symbols.**

As applied to Dark Air-cured tobacco, color symbols are L—light brown, F—medium brown, R—reddish brown, D—dark brown, M—mixed, and G—green.

**§ 29.3511 Condition.**

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are: Undried, air-dried, steam-dried, sweating, sweated, and aged.

**§ 29.3512 Crude.**

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from firekill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its leaf surface may be described as crude. (See Rule 20, § 29.3621.)

**§ 29.3513 Cured.**

Tobacco dried of its sap by either natural or artificial processes.

**§ 29.3514 Damage.**

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See Rule 24, § 29.3625.)

**§ 29.3515 Dirty.**

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See Rule 24, § 29.3625.)

**§ 29.3516 Elasticity.**

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See Elements of Quality, § 29.3586.)

**§ 29.3517 Finish.**

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. (See Elements of Quality, § 29.3586.)

**§ 29.3518 Foreign matter.**

Any extraneous substance or material such as stalks, suckers, straw, strings, and rubber bands. Abnormal amounts of dirt or sand are also included. (See Rule 24, § 29.3625.)

**§ 29.3519 Form.**

The stage of preparation of tobacco such as unstemmed or stemmed.

**§ 29.3520 Grade.**

A subdivision of a type according to group, quality, and color.

**§ 29.3521 Grademark.**

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3D means Heavy Leaf, third quality, and dark-brown color.

**§ 29.3522 Green (G).**

A term applied to green-colored, immature, or crude tobacco. Any leaf which has a green color affecting 20 percent or more of its leaf surface may be described as green. (See Rule 19, § 29.3620.)

**§ 29.3523 Group.**

A division of a type covering closely related grades based on certain characteristics which are related to stalk position, body, or the general quality of the tobacco. Groups in Dark Air-cured types are: Wrappers (A), Heavy Leaf (B), Thin Leaf (C), Lugs (X), Nondescript (N), and Scrap (S).

[51 FR 40408, Nov. 7, 1986]

**§ 29.3524 Injury.**

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state. (See definition of Damage, § 29.3514.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or cesses; or improper fertilizing, harvesting, curing, or handling. Injured tobacco includes dead, burned, hail-cut torn, broken, frostbitten, sunburned, sunscalded, scorched, fire-killed, bulk-burnt, steam-burnt, house-burnt bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire rust, frogeye, mosaic, root rot, wilt, black shank, or other diseases. (See Rule 15, § 29.3616.)

**§ 29.3525 Leaf.**

Whole, unstemmed leaf. Leaf, when applied to tobacco in strip form, shall describe the divided unit of a whole leaf.

[49 FR 16759, Apr. 20, 1984]

**§ 29.3526 Leaf scrap.**

A byproduct of unstemmed tobacco Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3527 Leaf structure.**

The cell development of a leaf as indicated by its porosity. (See Elements of Quality, § 29.3586.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3528 Leaf surface.**

The roughness or smoothness of the web or lamina of a tobacco leaf. Leaf surface is affected to some extent by the size and shrinkage of the veins or fibers (See Elements of Quality, § 29.3586.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3529 Length.**

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip. (See Standard Tobacco Sizes, § 29.3591.)

[51 FR 40408, Nov. 7, 1986]

**§ 29.3530 Lot.**

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3531 Maturity.**

The degree of ripeness. (See Elements of Quality, § 29.3586, and Rule 16, § 29.3617.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3532 Mixed (M).**

Variegated or distinctly different colors of the type mingled together. (See Rules 17, § 29.3618; 18, § 29.3619.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3533 Nested.**

Any lot of Types 35, 36 and 37 tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes:

(a) Any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged; (b) any lot of tied tobacco which contains foreign matter in the inner portions of the hands or which contains foreign matter in the heads under the tie leaves; (c) any lot of tied tobacco in which the leaves on the outside of the hands are placed or arranged to conceal inferior quality leaves on the inside of the hands or which contains wet tobacco or tobacco of lower quality in the heads under the tie leaves; and (d) any lot of tobacco which consists of distinctly different grades, qualities, or conditions and which is stacked or arranged in layers with the same kinds together so that the tobacco in the lower layer or layers is distinctly inferior in grade, quality, or condition from the tobacco in the top or upper layers. (See Rule 24, § 29.3625.)

[30 FR 9207, July 23, 1965. Redesignated and amended at 49 FR 16759, Apr. 20, 1984]

**§ 29.3534 No grade.**

A designation applied to a lot of tobacco classified as nested, offtype, rework, or semicured; tobacco that is damaged 20 percent or more, abnormally dirty, extremely wet or watered, contains foreign matter, or has an odor foreign to the type. (See Rule 24, § 29.3625.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3535 Offtype.**

Tobacco of distinctly different characteristics which cannot be classified as Dark Air-cured, U.S. Type 35, 36, 37, or Foreign Type 95. (See Rule 24, § 29.3625.)

[30 FR 9207, July 23, 1965. Redesignated and amended at 49 FR 16759, Apr. 20, 1984]

**§ 29.3536 Order (case).**

The state of tobacco with respect to its moisture content.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3537 Package.**

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3538 Packing.**

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspecting. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3539 Quality.**

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality in tobacco.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3540 Raw.**

Freshly harvested tobacco or tobacco as it appears between the time of harvesting and the beginning of the curing process.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

**§ 29.3541 Resweated.**

The condition of tobacco which has passed through a second fermentation under abnormally high temperatures or refermented with a relatively high percentage of moisture. Resweated includes tobacco which has been dipped

or reconditioned after its first fermentation and put through a forced or artificial sweat.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3542 Rework.

Any lot of Types 35, 36, and 37 tobacco which needs to be resorted or otherwise reworked to prepare it properly for market in the manner which is customary in the type area, including:

(a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting;

(b) Tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and

(c) Tobacco not tied in hands, not packed straight, not properly tied, or otherwise not properly prepared for market. (See Rule 24, § 29.3625.)

[30 FR 9207, July 23, 1965. Redesignated and amended at 49 FR 16759, Apr. 20, 1984]

### § 29.3543 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, frozen tobacco, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See Rule 24, § 29.3625.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3544 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3545 Size.

The length of tobacco leaves. Size does not apply to tobacco in strip form. (See Standard Tobacco Sizes § 29.3591.)

[51 FR 40408, Nov. 7, 1986]

### § 29.3546 Sound.

Free of damage.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3547 Special factor.

A symbol or term authorized to designate a peculiar side or characteristic which tends to modify a grade. (See Rules 21, § 29.3622; 22, § 29.3623; 23, § 29.3624.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3548 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3549 Stem.

The midrib or large central vein of a tobacco leaf.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3550 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3551 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3552 Subgrade.

Any grade modified by a special factor symbol.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3553 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This

condition is sometimes described as aged.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3554 Sweating.

The condition of tobacco in the process of fermentation.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3555 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, threshing, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cuttings, clippings, trimmings, siftings, or dust.

[30 FR 9207, July 23, 1965. Redesignated and amended at 49 FR 16759, Apr. 20, 1984]

### § 29.3556 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3557 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3558 Type 35.

That type of air-cured tobacco commonly known as One Sucker Air-cured, Kentucky-Tennessee-Indiana One Sucker, or Dark Air-cured One Sucker, including the upper Cumberland District One Sucker, and produced principally in northern Tennessee, south central Kentucky, and southern Indiana.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3559 Type 36.

That type of air-cured tobacco commonly known as Green River, Green River Air-cured, or Dark Air-cured of the Henderson and Owensboro Districts, and produced principally in the Green River section of Kentucky.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3560 Type 37.

That type of air-cured or sun-cured tobacco commonly known as Virginia Sun-cured, Virginia Sun and Air-cured, or Dark Air-cured of Virginia, and produced principally in the central section of Virginia north of the James River.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3561 Type 95.

That type of air-cured tobacco commonly known as Foreign-grown Dark Air-cured produced in countries other than the United States.

[49 FR 16759, Apr. 20, 1984]

### § 29.3562 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3563 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed in grade specifications as a percentage. The percentage is applicable to group, quality, and color. (See Rule 14, § 29.3615.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3564 Unsound (U).

Damaged under 20 percent. (See Rule 21, § 29.3622.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3565 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3566 Variegated.

Any leaf of which 20 percent or more of its leaf surface is off brown, grayish, mottled, or bleached and does not blend with the normal colors of the type. (See Rules 17, § 29.3618; 18, § 29.3619.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3567 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe- or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 22, § 29.3623.) (For extremely wet or watered tobacco, see rule 24, § 29.3625.)

[30 FR 9207, July 23, 1965. Redesignated at 49 FR 16759, Apr. 20, 1984]

### § 29.3568 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. Width, as an element of quality, does not apply to tobacco in strip form. (See Elements of Quality, § 29.3586.)

[30 FR 9207, July 23, 1965. Redesignated and amended at 49 FR 16759, Apr. 20, 1984]

ELEMENTS OF QUALITY

### § 29.3586 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These several degrees are arranged to show their relative value, but the actual value of each degree varies with type, group, and grade.

| Elements | | | Degrees | |
|---|---|---|---|---|
| Maturity | Immature. | Underripe. | Mature | Ripe. |
| Body | ..... | Thin ..... | Medium | Heavy. |
| Leaf structure | ..... | Close ... | Firm ..... | Open. |
| Leaf surface | ..... | Rough .. | Crepy ... | Smooth. |
| Oil | ..... | Lean .... | Oily ..... | Rich. |
| Finish | ..... | Dull ..... | Normal | Clear. |
| Color intensity | ..... | Pale ..... | Moderate. | Deep. |
| Elasticity | ..... | Inelastic | Semielastic. | Elastic. |
| Width | ..... | Narrow | Normal | Spready. |
| Uniformity | ..... | [1] ..... | [1] ..... | [1]. |
| Injury tolerance | ..... | [1] ..... | [1] ..... | [1]. |

[1] Expressed in percentage.

SIZES

### § 29.3591 Standard tobacco sizes. [1]

| Inches | Sizes |
|---|---|
| 12–20 | 1 |
| 20–28 | 2 |
| Over 28 | 3 |

[1] The application of sizes is governed by the major portion of the lot or package.

[51 FR 40408, Nov. 7, 1986]

RULES

### § 29.3601 Rules.

The application of §§ 29.3501 to 29.3568, § 29.3591, §§ 29.3646 to 29.3648, §§ 29.3650 to 29.3652 and 29.3681 shall be in accordance with the following rules.

[51 FR 40408, Nov. 7, 1986]

**§ 29.3602 Rule 1.**

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

**§ 29.3603 Rule 2.**

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

**§ 29.3604 Rule 3.**

In drawing an official sample from a hogshead or other package of tobacco, three or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least three breaks from which a representative sample shall be selected. The sample shall include tobacco of each different group, quality, color, length, and kind found in the lot in proportion to the quantities of each contained in the lot.

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984]

**§ 29.3605 Rule 4.**

All standard grades must be clean.

**§ 29.3606 Rule 5.**

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned it shall not thereafter be represented as such grade.

**§ 29.3607 Rule 6.**

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

**§ 29.3608 Rule 7.**

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

**§ 29.3609 Rule 8.**

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

**§ 29.3610 Rule 9.**

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

**§ 29.3611 Rule 10.**

Any special factor approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984]

**§ 29.3612 Rule 11.**

Interpretations, the use of specifications, and the meaning of the terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

**§ 29.3613 Rule 12.**

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

**§ 29.3614 Rule 13.**

Length shall be stated in connection with each grade of the A, B, and C groups, except strip grades, and may be stated in connection with grades of other groups. For this purpose, the standard tobacco sizes shall be used. (See Applicable Standard Sizes, § 29.3681.)

[51 FR 40408, Nov. 7, 1986]

**§ 29.3615 Rule 14.**

Degrees of uniformity shall be expressed in terms of percentages. The percentages shall govern the portion of a lot which must meet the specifications of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. These percentages shall not affect limitations established by other rules.

**§ 29.3616 Rule 15.**

The application of injury as an element of quality shall be expressed in terms of a percentage of tolerance. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group as related to injury.

**§ 29.3617 Rule 16.**

Normal injury associated with ripeness shall be excluded from injury tolerance except when such injury is considered detrimental to the quality of the tobacco.

**§ 29.3618 Rule 17.**

Any lot of tobacco which is not green but contains over 30 percent of variegated leaves shall be described as ''variegated'' and designated by the color symbol ''M.'' Variegated leaves may be included in any group to the following extent: In the third quality, 10 percent; in the fourth quality, 20 percent; and in the fifth quality, 30 percent.

**§ 29.3619 Rule 18.**

Any lot of tobacco of the B, C, or X groups shall be classified as ''mixed'' and designated by the color symbol ''M'' when it is not green but contains (a) over 30 percent of colors distinctly different from the major color or (b) over 30 percent of a combination of variegated and colors distinctly different from the major color mingled together.

[51 FR 40408, Nov. 7, 1986]

**§ 29.3620 Rule 19.**

Any lot of tobacco containing 20 percent or more of green leaves or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbol ''G.''

**§ 29.3621 Rule 20.**

Crude leaves shall not be included in any grade of any color except the fourth and fifth qualities of the B, C, and X groups in green color. Any lot containing 20 percent or more of crude leaves shall be designated as Nondescript.

[51 FR 40408, Nov. 7, 1986]

**§ 29.3622 Rule 21.**

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''U'' after the grademark. Tobacco damaged 20 percent or more shall be designated ''No-G.''

**§ 29.3623 Rule 22.**

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''W'' after the grademark. This special factor does not apply to tobacco designated ''No-G.''

**§ 29.3624 Rule 23.**

Special factors ''BH'' (big heads) and ''BL'' (broad leaf) shall be used as follows: ''BH'' in types 35 and 36 to designate tobacco tied in extremely big hands and ''BL'' in type 35 to designate broad leaf tobacco.

**§ 29.3625 Rule 24.**

Tobacco shall be designated as No Grade, using the grademark ''No-G,'' when it is dirty, nested, offtype, semicured, damaged 20 percent or more, extremely wet or watered, or when it needs to be reworked, contains foreign matter, or has an odor foreign to the type.

**§ 29.3626 Rule 25.**

Tobacco in strip form which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor ''S'' preceding the grademark.

[49 FR 16759, Apr. 20, 1984]

GRADES

## § 29.3646 Wrappers (A Group).

This group consists of leaves from the Heavy Leaf and the Thin Leaf groups. Cured leaves of the A group are very elastic, have small- to medium-sized and blending fibers, and show a low percentage of injury affecting wrapper yield.

| Grades | Grade names, minimum specifications, and tolerances |
|---|---|
| A1F | Choice Quality Medium-brown Wrappers. Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity elastic, spready, and 20 percent of leaves not lower than B2 or C2. |
| A2F | Fine Quality Medium-brown Wrappers Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, elastic, spready and 30 percent of leaves not lower than B2 or C2. |
| A3F | Good Quality Medium-brown Wrappers. Ripe, medium body, open leaf structure, smooth, oily, clear finish, deep color intensity, elastic, normal width, and 40 percent of leaves not lower than B3 or C3. |
| A1R | Choice Quality Reddish-brown Wrappers. Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, elastic, spready, and 20 percent of leaves not lower than B2 or C2. |
| A2R | Fine Quality Reddish-brown Wrappers. Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, elastic, spready and 30 percent of leaves not lower than B2 or C2. |
| A3R | Good Quality Reddish-brown Wrappers. Ripe, medium body, open leaf structure, smooth, oily, clear finish, deep color intensity, elastic, normal width, and 40 percent of leaves not lower than B3 or C3. |

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984]

## § 29.3647 Heavy Leaf (B Group).

This group consists of leaves which are medium to heavy in body and show little or no ground injury.

| Grades | Grade names, minimum specifications, and tolerances |
|---|---|
| B1F | Choice Quality Medium-brown Heavy Leaf. Ripe medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance. |
| B2F | Fine Quality Medium-brown Heavy Leaf. Ripe, medium body, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 85 percent uniform, and 15 percent injury tolerance. |
| B3F | Good Quality Medium-brown Heavy Leaf. Mature, medium body, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width 80 percent uniform, and 20 percent injury toleance. |
| B4F | Fair Quality Medium-brown Heavy Leaf. Mature, medium body, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5F | Low Quality Medium-brown Heavy Leaf. Underripe, medium body, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B1R | Choice Quality Reddish-brown Heavy Leaf. Ripe, heavy, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance. |
| B2R | Fine Quality Reddish-brown Heavy Leaf. Ripe, heavy, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semi-elastic, spready, 85 percent uniform, and 15 percent injury tolerance. |
| B3R | Good Quality Reddish-brown Heavy Leaf. Mature, heavy, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4R | Fair Quality Reddish-brown Heavy Leaf. Mature, heavy, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5R | Low Quality Reddish-brown Heavy Leaf. Underripe, heavy, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B1D | Choice Quality Dark-brown Heavy Leaf. Ripe, heavy, open leaf structure, smooth, rich in oil, normal finish, deep color intensity, semi-elastic, spready, 90 percent uniform, and 10 percent injury tolerance. |
| B2D | Fine Quality Dark-brown Heavy Leaf. Ripe, heavy, open leaf structure, smooth, rich in oil, normal finish, deep color intensity, semielastic, spready 85 percent uniform, and 15 percent injury tolerance. |
| B3D | Good Quality Dark-brown Heavy Leaf. Mature, heavy, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4D | Fair Quality Dark-brown Heavy Leaf. Mature, heavy, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5D | Low Quality Dark-brown Heavy Leaf. Underripe, heavy, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B3M | Good Quality Mixed Heavy Leaf. Mature, medium body, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4M | Fair Quality Mixed Heavy Leaf. Mature, medium body, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5M | Low Quality Mixed Heavy Leaf. |

| Grades | Grade names, minimum specifications, and tolerances |
|---|---|
| | Underripe, medium body, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| B3G | Good Quality Green Heavy Leaf. Underripe, heavy, firm leaf structure crepy, oily, normal finish, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| B4G | Fair Quality Green Heavy Leaf. Immature, medium body, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| B5G | Low Quality Green Heavy Leaf. Immature, medium body, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984]

### § 29.3648 Thin Leaf (C Group).

This group consists of leaves that are thin to medium in body and show little or no ground injury.

| Grades | Grade names, minimum specifications, and tolerances |
|---|---|
| C1L | Choice Quality Light-brown Thin Leaf. Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, spready, 90 percent uniform, and 10 percent injury tolerance. |
| C2L | Fine Quality Light-brown Thin Leaf. Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, spready, 85 percent uniform, and 15 percent injury tolerance. |
| C3L | Good Quality Light-brown Thin Leaf. Mature, thin, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4L | Fair Quality Light-brown Thin Leaf. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5L | Low Quality Light-brown Thin Leaf Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C1F | Choice Quality Medium-brown Thin Leaf. Ripe, thin, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semi-elastic, spready, 90 percent uniform, and 10 percent injury tolerance. |
| C2F | Fine Quality Medium-brown Thin Leaf. Ripe, thin, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semi-elastic, spready, 85 percent uniform, and 15 percent injury tolerance. |
| C3F | Good Quality Medium-brown Thin Leaf. Mature, thin, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4F | Fair Quality Medium-brown Thin Leaf. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5F | Low Quality Medium-brown Thin Leaf. Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C1R | Choice Quality Reddish-brown Thin Leaf. Ripe, thin, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semi-elastic, spready, 90 percent uniform, and 10 percent injury tolerance. |
| C2R | Fine Quality Reddish-brown Thin Leaf. Ripe, thin, open leaf structure, smooth, rich in oil, clear finish, deep color intensity, semi-elastic, spready, 85 percent uniform, and 15 percent injury tolerance. |
| C3R | Good Quality Reddish-brown Thin Leaf. Mature, thin, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4R | Fair Quality Reddish-brown Thin Leaf. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5R | Low Quality Reddish-brown Thin Leaf. Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C3M | Good Quality Mixed Thin Leaf. Mature, thin, firm leaf structure, crepy, oily, normal finish, moderate color intensity, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4M | Fair Quality Mixed Thin Leaf. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5M | Low Quality Mixed Thin Leaf. Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| C3G | Good Quality Green Thin Leaf. Underripe, medium body, firm leaf structure, crepy, oily, normal finish, semielastic, normal width, 80 percent uniform, and 20 percent injury tolerance. |
| C4G | Fair Quality Green Thin Leaf. Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| C5G | Low Quality Green Thin Leaf. Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984]

### § 29.3649 [Reserved]

### § 29.3650 Lugs (X Group).

This group consists of leaves that normally grow on the lower portions of the stalk. Leaves of the X group usually have a high degree of maturity and show ground and other injury characteristic of the group.

| Grades | Grade names, minimum specifications, and tolerances |
|---|---|
| X1L | Choice Quality Light-brown Lugs. Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 90 percent uniform, and 10 percent injury tolerance. |
| X2L | Fine Quality Light-brown Lugs. Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 85 percent uniform, and 15 percent injury tolerance. |
| X3L | Good Quality Light-brown Lugs. Mature, thin, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance. |
| X4L | Fair Quality Light-brown Lugs. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| X5L | Low Quality Light-brown Lugs. Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| X1F | Choice Quality Medium-brown Lugs. Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 90 percent uniform, and 10 percent injury tolerance. |
| X2F | Fine Quality Medium-brown Lugs. Ripe, thin, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 85 percent uniform, and 15 percent injury tolerance. |
| X3F | Good Quality Medium-brown Lugs. Mature, thin, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow 80 percent uniform, and 20 percent injury tolerance. |
| X4F | Fair Quality Medium-brown Lugs. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| X5F | Low Quality Medium-brown Lugs. Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| X1R | Choice Quality Reddish-brown Lugs. Ripe, medium body, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 90 percent uniform, and 10 percent injury tolerance. |
| X2R | Fine Quality Reddish-brown Lugs. Ripe, medium body, open leaf structure, smooth, oily, clear finish, deep color intensity, semielastic, normal width, 85 percent uniform, and 15 percent injury tolerance. |
| X3R | Good Quality Reddish-brown Lugs. Mature, medium body, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance. |
| X4R | Fair Quality Reddish-brown Lugs. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| X5R | Low Quality Reddish-brown Lugs. Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| X3D | Good Quality Dark-brown Lugs. Mature, medium body, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance. |
| X4D | Fair Quality Dark-brown Lugs. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| X5D | Low Quality Dark-brown Lugs. Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| X3M | Good Quality Mixed Lugs. Mature, thin, firm leaf structure, crepy, lean in oil, normal finish, moderate color intensity, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance. |
| X4M | Fair Quality Mixed Lugs. Mature, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| X5M | Low Quality Mixed Lugs. Underripe, thin, close leaf structure, rough, lean in oil, dull finish, pale color intensity, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |
| X3G | Good Quality Green Lugs. Underripe, medium body, firm leaf structure, crepy, lean in oil, normal finish, inelastic, narrow, 80 percent uniform, and 20 percent injury tolerance. |
| X4G | Fair Quality Green Lugs. Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 70 percent uniform, and 30 percent injury tolerance. |
| X5G | Low Quality Green Lugs. Immature, thin, close leaf structure, rough, lean in oil, dull finish, inelastic, narrow, 60 percent uniform, and 40 percent injury tolerance. |

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984]

### § 29.3651 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lower grade of any other group except Scrap.

| Grades | Grade names, minimum specifications, and tolerances |
|---|---|
| N1L | First Quality Light-colored Nondescript. Thin to medium body and 60 percent injury tolerance. |
| N2L | Second Quality Light-colored Nondescript. Thin to medium body and over 60 percent injury tolerance. |
| N1R | First Quality Dark-colored Nondescript. Thin to heavy body and 60 percent injury tolerance. |
| N2R | Second Quality Dark-colored Nondescript. Thin to heavy body and over 60 percent injury tolerance. |
| N1G | First Quality Crude Green Nondescript 60 percent crude leaves or injury tolerance. |
| N2G | Second Quality Crude Green Nondescript. Over 60 percent crude leaves or injury tolerance. |

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984]

### § 29.3652 Scrap (S Group).

A byproduct of stemmed and unstemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

| Grades | Grade name and specifications |
|---|---|
| S | Scrap. Loose, tangled, whole, or broken unstemmed leaves; or the web portions of tobacco leaves reduced to scrap by any process. |

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984]

## SUMMARY OF STANDARD GRADES

### § 29.3676 Summary of standard grades.

*6 Grades of Wrappers*

| | | | | |
|---|---|---|---|---|
| | A1F | A1R | | |
| | A2F | A2R | | |
| | A3F | A3R | | |

*21 Grades of Heavy Leaf*

| | | | | |
|---|---|---|---|---|
| B1F | B1R | B1D | | |
| B2F | B2R | B2D | | |
| B3F | B3R | B3D | B3M | B3G |
| B4F | B4R | B4D | B4M | B4G |
| B5F | B5R | B5D | B5M | B5G |

*21 Grades of Thin Leaf*

| | | | | |
|---|---|---|---|---|
| C1L | C1F | C1R | | |
| C2L | C2F | C2R | | |
| C3L | C3F | C3R | C3M | C3G |
| C4L | C4F | C4R | C4M | C4G |
| C5L | C5F | C5R | C5M | C5G |

*24 Grades of Lugs*

| | | | | | |
|---|---|---|---|---|---|
| X1L | X1F | X1R | | | |
| X2L | X2F | X2R | | | |
| X3L | X3F | X3R | X3D | X3M | X3G |
| X4L | X4F | X4R | X4D | X4M | X4G |
| X5L | X5F | X5R | X5D | X5M | X5G |

*6 Grades of Nondescript*

| | | |
|---|---|---|
| N1L | N1R | N1G |
| N2L | N2R | N2G |

*1 Grade of Scrap*

S

Special factors ''U'', ''W'', and ''S'' may be applied to all grades in all types, ''BH'' to grades in types 35 and 36, and ''BL'' to type 35. Tobacco not covered by the standard grades is designated ''No-G.''

[30 FR 9207, July 23, 1965, as amended at 49 FR 16759, Apr. 20, 1984; 51 FR 40408, Nov. 7, 1986]

## APPLICABLE STANDARD SIZES

### § 29.3681 Applicable standard sizes.

Types 35, 36, 37 and 95

| | |
|---|---|
| A1, A2, A3 | 2, 3 |
| B1, B2, B3, B4, B5 | 1, 2, 3 |
| C1, C2, C3, C4, C5 | 1, 2, 3 |

[51 FR 40408, Nov. 7, 1986]

## KEY TO STANDARD GRADEMARKS

### § 29.3686 Key to standard grademarks.

| Group | Qualities | Colors |
|---|---|---|
| A—Wrappers | 1—Choice. | L—Light brown |
| B—Heavy Leaf | 2—Fine | F—Medium brown |
| C—Thin Leaf | 3—Good | R—Reddish brown |
| X—Lugs | 4—Fair | D—Dark brown |
| N—Nondescript | 5—Low | M—Mixed |
| S—Scrap | | G—Green |

[30 FR 9207, July 23, 1965, as amended at 51 FR 40408, Nov. 7, 1986]

## OFFICIAL STANDARD GRADES FOR WISCONSIN CIGAR-BINDER TOBACCO (U.S. TYPES 54 AND 55)[1]

## DEFINITIONS

### § 29.6001 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

[1] These standards also apply to Type 53 Havana seed tobacco.

**§ 29.6002 Air-cured.**

Tobacco cured under natural atmospheric conditions. Artificial heat sometimes is used to control excess humidity during the curing period to prevent pole-sweat, pole-burn, and shed-burn in damp weather. Air-cured tobacco should not carry the odor of smoke or fumes resulting from the application of artificial heat.

**§ 29.6003 Body.**

The thickness and density of a leaf or the weight per unit of surface. (See chart.)

**§ 29.6004 Burn.**

The duration of combustion or length of time that a tobacco leaf will hold fire after ignition. (See Rule 18.)

**§ 29.6005 Case (order).**

The state of tobacco with respect to its moisture content.

**§ 29.6006 Class.**

A major division of tobacco based on method of cure or principal usage.

**§ 29.6007 Clean.**

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more sand or dirt than those from higher stalk positions. (See Rule 4.)

**§ 29.6008 Condition.**

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are Undried, air-dried, steam-dried, sweating, sweated, and aged.

**§ 29.6009 Crude.**

A subdegree of maturity. (See Rule 15.)

**§ 29.6010 Cured.**

Tobacco dried of its sap by either natural or artificial processes.

**§ 29.6011 Damage.**

The effect of mold, must, rot, black rot or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must or rot is considered damaged. (See Rule 17.)

**§ 29.6012 Dirty.**

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See Rule 17.)

**§ 29.6013 Elasticity.**

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See chart.)

**§ 29.6014 Elements of quality.**

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.6081.

**§ 29.6015 Foreign matter.**

Any extraneous substance or material such as stalks, suckers, straw, strings, and rubber bands. (See Rule 17.)

**§ 29.6016 Form.**

The stage of preparation of tobacco such as stemmed or unstemmed.

**§ 29.6017 General quality.**

The quality of tobacco considered in relation to the type as a whole. General quality is distinguished from the restricted use of the term ''quality'' within a group.

**§ 29.6018 Grade.**

A subdivision of a type according to group and quality and to other characteristics when they are of sufficient importance to be treated separately.

**§ 29.6019 Grademark.**

In these types a grademark normally consists of a letter to indicate group and a number to indicate quality. For example, B2 means Binder, fair quality.

**§ 29.6020 Group.**

A type division consisting of one or more grades based on the general quality of tobacco. Groups in these types are: Binder (B), Stripper (C), Straight

Stripped (X), Farm Filler (Y), Nondescript (N), and Scrap (S).

**§ 29.6021 Injury.**

Hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state. (See definition of Damage.) Injury to tobacco may be caused by field diseases, insects, or weather conditions; insecticides, fungicides, or cell growth inhibitors; nutritional deficiencies or excesses; or improper fertilization, harvesting, curing, or handling. Injured tobacco includes dead, burnt, hail-cut, torn, broken, frostbitten, frozen (see Rule 16), sunburned, sun-scalded, bulk-burnt, pole-burnt, shed-burnt, pole-sweated, stem-rotted, bleached, bruised, discolored, or deformed leaves; or tobacco affected by wildfire, rust, frogeye, mosaic, root rot, wilt, black shank, or other diseases. (See Rule 13.)

**§ 29.6022 Leaf scrap.**

A byproduct of unstemmed tobacco Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

**§ 29.6023 Leaf structure.**

The cell development of a leaf as indicated by its porosity. The degrees range from close (slick and tight) to open (porous). (See chart.)

**§ 29.6024 Length.**

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

**§ 29.6025 Lot.**

A pile, basket, bulk, package, or other definite unit.

**§ 29.6026 Maturity.**

The degree of ripeness. (See chart.)

**§ 29.6027 Nested.**

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. Nested includes any lot of tobacco which contains foreign matter or damaged, injured, tangled, or other inferior tobacco, any of which cannot be readily detected upon inspection because of the way the lot is packed or arranged. (See Rule 17.)

**§ 29.6028 No Grade.**

A designation applied to a lot of tobacco classified as damaged, dirty, nested, offtype, semicured, or wet; tobacco that is improperly packed, contains foreign matter, or has an odor foreign to the type. (See Rules 5 and 17.)

**§ 29.6029 Offtype.**

Tobacco of distinctly different characteristics which cannot be classified as Type 53, 54, or 55. (See Rule 17.)

**§ 29.6030 Package.**

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

**§ 29.6031 Packing.**

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

**§ 29.6032 Quality.**

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

**§ 29.6033 Raw.**

Tobacco as it appears between the time of harvesting and the beginning of the curing process.

**§ 29.6034 Semicured.**

Tobacco in the process of being cured or which is partially but not thoroughly cured. Semicured includes tobacco which contains fat stems, wet butts, swelled stems, and tobacco having frozen stems or stems that have not been thoroughly dried in the curing process. (See definition of No Grade and Rule 17.)

**§ 29.6035 Side.**

A certain phase of quality as contrasted with some other phase of quality or any peculiar characteristic of tobacco.

**§ 29.6036 Sound.**

Free of damage. (See Rule 4.)

**§ 29.6037 Stem.**

The midrib or large central vein of a tobacco leaf.

**§ 29.6038 Stemmed.**

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

**§ 29.6039 Stem rot.**

The deterioration of an uncured or frozen stem resulting from bacterial action. Although stem rot results from bacterial action, it is inactive in cured tobacco and is treated as a kind of injury in these types. (See Rule 14.)

**§ 29.6040 Strength (tensile).**

The stress a tobacco leaf can bear without tearing. (See chart.)

**§ 29.6041 Strips.**

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

**§ 29.6042 Sweated.**

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition sometimes is described as aged.

**§ 29.6043 Tobacco.**

Tobacco in its unmanufactured forms as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters a manufacturing process. Conditioning, sweating, and stemming are not regarded as manufacturing processes.

**§ 29.6044 Tobacco products.**

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff, which is subject to Internal Revenue tax.

**§ 29.6045 Type.**

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

**§ 29.6046 Type 53.**

That type of cigar-leaf tobacco commonly known as York State or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats and Onondaga sections of New York and extending into Pennsylvania.

**§ 29.6047 Type 54.**

That type of cigar-leaf tobacco commonly known as Southern Wisconsin Cigar-leaf or Southern Wisconsin Binder-type, produced principally south and east of the Wisconsin River.

**§ 29.6048 Type 55.**

That type of cigar-leaf tobacco commonly known as Northern Wisconsin Cigar-leaf or Northern Wisconsin Binder-type, produced principally north and west of the Wisconsin River and extending into Minnesota.

**§ 29.6049 Undried.**

The condition of unfermented tobacco which has not been air-dried or steam-dried.

**§ 29.6050 Uniformity.**

A grade requirement designating the percentage of a lot which must meet the specified degree of each element of quality. (See Rule 12.)

**§ 29.6051 Unstemmed.**

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

**§ 29.6052 Unsweated.**

The condition of cured tobacco which has not been sweated.

### § 29.6053 Wet (high-case).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See Rule 17.)

### § 29.6054 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart.)

ELEMENTS OF QUALITY

### § 29.6081 Elements of quality and degrees of each element.

These standardized words or terms are used to describe tobacco quality and to assist in interpreting grade specifications. Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by the use of words or terms designated as degrees. These degrees are arranged to show their relative value, but the actual value of each degree varies with type and group.

| Elements | Degrees | | |
|---|---|---|---|
| Body | Heavy | Medium | Thin. |
| Maturity | Immature | Mature | Ripe. |
| Leaf structure | Close | Firm | Open. |
| Elasticity | Inelastic | Semielastic | Elastic. |
| Strength (tensile) | Weak | Normal | Strong. |
| Width | Narrow | .....do | Spready. |
| Length | (1) | (1) | (1) |
| Uniformity | (2) | (2) | (2) |
| Injury tolerance | (2) | (2) | (2) |

[1] Expressed in inches.
[2] Expressed in percentages.

RULES

### § 29.6086 Rules.

The application of these official standard grades shall be in accordance with the following rules.

### § 29.6087 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

### § 29.6088 Rule 2.

The determination of grade shall be based upon a representative sample or a thorough examination of a packing of tobacco.

### § 29.6089 Rule 3.

The grade of unsorted tobacco shall be based upon a representative sample of the packing. A minimum of 10 percent of the bundles or bales shall be selected at random for sampling; a higher percentage may be sampled at the discretion of the inspector. To obtain the sample, a sufficient amount of tobacco shall be drawn to be representative of each selected bale. In determining the grade, the inspector shall consider the quality of all samples. The grade assigned shall represent the quality of the lot as a whole.

### § 29.6090 Rule 4.

Standard grades shall be assigned to clean and sound tobacco only.

### § 29.6091 Rule 5.

Tobacco leaves shall be placed straight in bundles or bales of normal weight, size, and shape with the butts out and tips overlapping from 6 to 8 inches or sufficiently to make a level, solid, and uniform pack. The sides of the bundles shall be completely covered with paper, or other suitable protective material, and tightly bound with not less than three large twines spaced so that the tobacco will be held securely together. Improperly packed tobacco shall be designated as ''No—G.''

### § 29.6092 Rule 6.

The grade assigned to any lot of tobacco shall be a true representation of

the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned, it shall not thereafter be represented as such grade.

**§ 29.6093 Rule 7.**

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

**§ 29.6094 Rule 8.**

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

**§ 29.6095 Rule 9.**

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

**§ 29.6096 Rule 10.**

Interpretations, the use of specifications, and the meaning of terms shall be in accordance with determinations or clarifications made by the Chief of the Standardization Branch and approved by the Director of the Tobacco Division, Agricultural Marketing Service.

**§ 29.6097 Rule 11.**

The use of any grade may be restricted by the Director during any marketing season when it is found that the grade is not needed or appears in insufficient volume to justify its use.

**§ 29.6098 Rule 12.**

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade; the remaining portion must be related. Grade specifications state the minimum acceptable degree of each element of quality. Specified percentages of uniformity shall not affect limitations established by other rules.

**§ 29.6099 Rule 13.**

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury, and consideration shall be given to the kinds of injury normal to the group or grade.

**§ 29.6100 Rule 14.**

Stem rot shall not exceed 40 percent of the specified injury tolerance for any grade.

**§ 29.6101 Rule 15.**

In grade specifications the tolerance of crude shall apply to the entire leaf surface of the lot.

**§ 29.6102 Rule 16.**

In grade specifications frozen shall be treated as a separate kind of injury and the tolerance shall apply to the entire leaf surface of the lot.

**§ 29.6103 Rule 17.**

Tobacco shall be designated as No Grade, using the grademark ''No—G,'' when it is damaged, dirty, nested, offtype, semicured, wet, improperly packed, contains foreign matter, or has an odor foreign to the type.

**§ 29.6104 Rule 18.**

Burn shall be determined as the average burning time of leaves selected at random from the sample. A minimum of 10 leaves shall be selected as representative regardless of the number of bundles or bales in the lot. All burn tests shall be made in the bindercutting area on the same side of the leaf. The leaf shall be punctured to permit quick ignition when placed over a candle, alcohol lamp, or electrical-lighting device. Good burn shall average 6 seconds or longer; fair burn, 3 to 5 seconds; and poor burn, under 3 seconds. B1 and B2 shall require good burn and B3, fair burn.

GRADES

### § 29.6126 Binder (B Group).

Tobacco of this group is of cigar-binder quality from which trash and trashy Farm Fillers have been removed.

| U.S. grades | Grade names, minimum specifications, and tolerances |
|---|---|
| B1 | Fine Quality Binder. Thin, ripe, open, elastic, strong, spready, and 19 inches or over in length. Uniformity, 90 percent; injury tolerance, 10 percent. |
| B2 | Fair Quality Binder. Medium body, ripe, open, semielastic, strong, normal width, and 19 inches or over in length. Uniformity, 80 percent; injury tolerance, 20 percent. |
| B3 | Low Quality Binder. Medium, ripe, firm, semielastic, normal strength and width, and 17 inches or over in length. Uniformity, 70 percent; injury tolerance, 30 percent. |

### § 29.6127 Stripper (C Group).

This group consists of tobacco from which the trash and trashy Farm Fillers have been removed but does not meet the specifications of the Binder group.

| U.S. grades | Grade names, minimum specifications, and tolerances |
|---|---|
| C1 | Fine Quality Stripper. Heavy, ripe, firm, semielastic, normal strength and width, and 16 inches or over in length. Uniformity, 90 percent; injury tolerance, 10 percent. |
| C2 | Fair Quality Stripper. Heavy, mature, close, inelastic, normal strength, narrow, and 16 inches or over in length. Uniformity, 80 percent. Tolerances: 5 percent crude, 5 percent frozen, and 20 percent injury. |
| C3 | Low Quality Stripper. Heavy, immature, close, inelastic, weak, and narrow. Uniformity, 70 percent. Tolerances: 10 percent crude, 10 percent frozen, and 30 percent injury. |

### § 29.6128 Straight Stripped (X Group).

This group consists of unsorted tobacco from which the trash has been removed.

| U.S. grades | Grade names, minimum specifications, and tolerances |
|---|---|
| X1 | Fine Quality Straight Stripped. Heavy, ripe, firm, semielastic, normal strength and width, and 16 inches or over in length. Uniformity, 85 percent; injury tolerance, 15 percent. |
| X2 | Fair Quality Straight Stripped. Heavy mature, close, inelastic, normal strength, narrow, and 16 inches or over in length. Uniformity, 75 percent. Tolerances: 5 percent crude, 5 percent frozen, and 25 percent injury. |
| X3 | Low Quality Straight Stripped. Heavy, immature, close, inelastic, weak, and narrow. Uniformity, 60 percent. Tolerances: 10 percent crude, 10 percent frozen, and 40 percent injury. |

### § 29.6129 Farm Filler (Y Group).

This group consists of tobacco from the lower portion of the stalk and may include throw out leaves from the Binder and Stripper groups.

| U.S. grades | Grade names, minimum specifications, and tolerances |
|---|---|
| Y1 | Fine Quality Farm Filler. Thin, ripe, open, semielastic, normal strength and width, and 12 inches or over in length. Uniformity, 85 percent; injury tolerance, 15 percent. |
| Y2 | Fair Quality Farm Filler. Thin, ripe, firm, inelastic, normal strength, and narrow. Uniformity, 75 percent. Tolerances: 5 percent crude, 5 percent frozen, and 25 percent injury. |
| Y3 | Low Quality Farm Filler. Thin, mature, close, inelastic, weak, and narrow. Uniformity, 60 percent. Tolerances: 10 percent crude, 10 percent frozen, and 40 percent injury. |

### § 29.6130 Nondescript (N Group).

Tobacco which does not meet the minimum specifications or exceeds the tolerance of the lowest grade of any other group.

| U.S. grades | Grade names, minimum specifications, and tolerances |
|---|---|
| N1 | First Quality Nondescript. Tolerances: 20 percent crude, 20 percent frozen, and 60 percent injury. |
| N2 | Second Quality Nondescript. Over 20 percent crude, over 20 percent frozen, or over 60 percent injury. |

### § 29.6131 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

| U.S. grades | Grade names and specifications |
|---|---|
| S | Loose, tangled, whole, or broken unstemmed leaves, or the web portion of tobacco leaves reduced to scrap by any process. |

SUMMARY OF STANDARD GRADES

### § 29.6155 Summary of standard grades.

| Three grades of binder | Three grades of stripper |
|---|---|
| B1 | C1 |
| B2 | C2 |
| B3 | C3 |

| Three grades of straight stripped | Three grades of farm filler |
|---|---|
| X1 | Y1 |
| X2 | Y2 |
| X3 | Y3 |

| Two grades of nondescript | One grades of scrap |
|---|---|
| N1 | S |
| N2 | |

Tobacco not covered by standard grades is designated as "No-G."

KEY TO STANDARD GRADEMARKS

### § 29.6161 Key to standard grademarks.

| Groups | Qualities |
|---|---|
| B—Binder | 1—Fine. |
| C—Stripper | 2—Fair. |
| X—Straight Stripped | 3—Low. |
| Y—Farm Filler | |
| N—Nondescript | |
| S—Scrap | |

## Subpart D—Orders of Designation of Tobacco Markets

AUTHORITY: Sec. 5, 49 Stat. 732, as amended by sec. 157(a)(1), 95 Stat. 374 (7 U.S.C. 511d).

### § 29.8001 Designation of tobacco markets.

The Act of Congress approved August 23, 1935 (49 Stat. 731; 7 U.S.C., Chapter 21A) entitled ''The Tobacco Inspection Act'' contains the following provisions:

Sec. 2. That transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; that such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; that the classification of tobacco according to type, grade, and other characteristics affects the prices received therefor by producers; that without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; that such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interested therein. * * *

Sec. 5. That the Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this Act, except that the Secretary may temporarily suspend the requirement of inspection and certification at any

designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this Act shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market.

*Designated Tobacco Markets*

| Territory | Types of tobaccos | Auction markets | Order of designation | Citation |
|---|---|---|---|---|
| (a) Kentucky-Tennessee | Fire-cured, and Green River Dark Air-cured—Types 22, 23, 24 and 36. | Clarksville, Tenn.<br>Springfield, Tenn.<br>Hopkinsville, Ky.<br>Paducah, Ky.<br>Mayfield, Ky.<br>Murray Ky.<br>Madisonville, Ky.<br>Henderson, Ky. | June 18, 1936. | 1 FR 757. |
| (b) Virginia | Fire-cured—Type 21 | Lynchburg, Va<br>Bedford, Va.<br>Farmville, Va.<br>Blackstone, Va.<br>Drakes Branch, Va. | ....do | Do. |
| (c) South Carolina | Flue-cured—Type 13 | Lake City, S. C<br>Darlington, S. C.<br>Pamplico, S. C. | July 1, 1936; as amended July 15, 1936. | 1 FR 842, 968. |
| (d) North Carolina | Flue-cured—Type 12 | Farmville, N. C<br>Goldsboro, N. C. | July 13, 1936. | 1 FR 921. |
| (e) North Carolina | Flue-cured—Type 11(b). | Oxford, N. C | Aug. 26, 1936. | 1 FR 1416. |
| (f) Kentucky | Burley—Type 31 | Bowling Green, Ky<br>Cynthiana, Ky.<br>Horse Cave, Ky.<br>Mt. Sterling, Ky. | Nov. 14, 1936. | 1 FR 2266. |
| (g) North Carolina | Flue-cured | Wendell, N. C | Sept. 14, 1937. | 2 FR 2169. |
| (h) Kentucky | Burley—Type 31 | Danville, Ky | Dec. 3, 1937 | 2 FR 3102. |
| (i) Virginia | Flue-cured | South Hill, Va | Aug. 23, 1938. | 3 FR 2074. |
| (j) Kentucky | Green River and One-Sucker. | Owensboro, Ky | Sept. 9, 1938. | 3 FR 2208. |
| (k) Virginia | Burley | Abingdon, Va | Nov. 16, 1938 | 3 FR 2734. |
| West Virginia | | Huntington, W. Va. | | |
| Tennessee | | Knoxville, Tenn.. | | |
| Kentucky | | Maysville, Ky.<br>Paris, Ky.<br>Springfield, Ky. | | |
| Ohio | | Ripley, Ohio. | | |
| (l) Georgia | Flue-cured | Adel, Ga<br>Douglas, Ga.<br>Nashville, Ga. | June 22, 1939 | 4 FR 2476. |
| (m) North Carolina | Flue-cured | Greenville, N. C | July 24, 1939 | 4 FR 3421. |
| (n) Tennessee | Fire-cured | Paris, Tenn | Nov. 7, 1939 | 4 FR 4537. |
| Kentucky | Burley | Lebanon, Ky.<br>Columbia, Tenn.<br>Mt. Pleasant, Tenn. | | |
| (o) Florida | | Live Oak, Fla. | ....do | Do. |
| (p) Kentucky | All | Shelbyville, Ky | July 17, 1940 | 5 FR 2607. |
| (q) Georgia | Flue-cured | Danville, Va | Aug. 16, 1941 | 6 FR 4111. |
| North Carolina | | Dillon, S.C. | | |
| South Carolina | | Fuquay Springs-Varina, N.C. | | |
| Virginia | | Loris, S.C.<br>Reidsville, N.C.<br>Robersonville, N.C.<br>Statesboro, Ga.<br>Tarboro, N.C.<br>Timmonsville, S.C.<br>Williamston, N.C. | | |
| (r) Kentucky | One-sucker | Franklin, Ky | Oct. 9, 1941 | 6 FR 5147. |
| Tennessee | | Mayfield, Ky. | | |

*Designated Tobacco Markets*—Continued

| Territory | Types of tobaccos | Auction markets | Order of designation | Citation |
|---|---|---|---|---|
| | | Russellville, Ky.<br>Westmoreland, Tenn. | | |
| (s) Indiana | Burley | Asheville, N.C | Oct. 25, 1941 | 6 FR 5478. |
| Kentucky | | Bloomfield, Ky. | | |
| Missouri | | Boone, N.C. | | |
| North Carolina | | Camp Taylor, Ky. | | |
| Tennessee | | Carrollton, Ky.<br>Carthage, Tenn.<br>Covington, Ky.<br>Fayetteville, Tenn.<br>Franklin, Tenn.<br>Gallatin, Tenn.<br>Glasgow, Ky.<br>Greensburg, Ky.<br>Greeneville, Tenn.<br>Harrodsburg, Ky.<br>Hartsville, Tenn.<br>Hopkinsville, Ky.<br>Johnson City, Tenn.<br>Lexington, Ky.<br>Louisville, Ky.<br>Madison, Ind.<br>Morristown, Tenn.<br>New Albany, Ind.<br>New Tazewell, Tenn.<br>Owensboro, Ky.<br>Richmond, Ky.<br>Rogersville, Tenn.<br>Weston, Mo. | | |
| (t) Georgia | Flue-cured | | June 26, 1942 | 7 FR 4811. |
| Florida | | Ahoskie, N.C. | | |
| North Carolina | | Baxley, Ga. | | |
| South Carolina | | Blackshear, Ga. | | |
| Virginia | | Brookneal, Va. | | |
| | Flue-cured. | Chadbourn, N.C.<br>Chase City, Va.<br>Clarksville, Va.<br>Clarkton, N.C.<br>Conway, S.C.<br>Durham, N.C.<br>Fair Bluff, N.C.<br>Fairmont, N.C.<br>Hazlehurst, Ga.<br>Henderson, N.C.<br>Kenbridge, Va.<br>Kingstree, S.C.<br>Kinston, N.C.<br>Lake City, Fla.<br>Lawrenceville, Va.<br>Louisburg, N.C.<br>Lumberton, N.C.<br>Martinsville, Va.<br>Moultrie, Ga.<br>Mt. Airy, N.C.<br>Mullins, S.C.<br>Pelham, Ga.<br>Petersburg, Va.<br>Rocky Mount, N.C.<br>Rocky Mount, Va.<br>Roxboro, N.C.<br>Sanford, N.C.<br>Smithfield, N.C.<br>South Boston, Va.<br>Tabor City, N.C.<br>Tifton, Ga.<br>Vidalia, Ga.<br>Wallace, N.C.<br>Warrenton, N.C.<br>Washington, N.C.<br>Waycross, Ga. | | |

*Designated Tobacco Markets*—Continued

| Territory | Types of tobaccos | Auction markets | Order of designation | Citation |
|---|---|---|---|---|
| | | Whiteville, N.C.<br>Wilson, N.C.<br>Winston-Salem, N.C. | | |
| (u) Virginia | All | Richmond, Va | Nov. 7, 1942 | 7 FR 9107. |
| (v) Tennessee | .....do | Springfield and Clarksville, Tenn. | Sept. 18, 1944 | 9 FR 11571. |
| (w) Georgia | .....do | Quitman, Ga | Aug. 28, 1945 | 10 FR 11104. |
| (x) Georgia | .....do | Fitzgerald, Ga | July 22, 1946 | 11 FR 7967. |
| (y) North Carolina | .....do | Clinton, N C | Aug. 9, 1946 | 11 FR 8712. |
| (z) Kentucky | .....do | Winchester, Ky | Oct. 30, 1946 | 11 FR 13099. |
| (aa) North Carolina | .....do | Fayetteville, N.C | June 17, 1947 | 12 FR 4015. |
| (bb) Maryland | .....do | Hughesville, La Plata, Upper Marlboro, and Waldorf, Md. | May 17, 1948 | 13 FR 2579. |
| (cc) Florida | .....do | Jasper, Fla | May 27, 1948 | 13 FR 2963. |
| (dd) Georgia | .....do | Claxton, Ga. | July 30, 1948 | 13 FR 4498. |
| (ee) Kentucky | .....do | London, Ky | Oct. 25, 1948 | 13 FR 6349. |
| (ff) North Carolina | .....do | West Jefferson, N.C | .....do | 13 FR 6348. |
| (gg) North Carolina | .....do | Dunn, N.C | July 15, 1949 | 14 FR 4514. |
| (hh) North Carolina | .....do | Ellerbe, N.C | Aug. 25, 1949 | 14 FR 5364. |
| (ii) Kentucky, Tennessee | .....do | Somerset, Ky<br>Sparta, Tenn. | Oct. 7, 1949 | 14 FR 6193. |
| (jj) North Carolina | .....do | Greensboro, N.C | June 16, 1950 | 15 FR 3980. |
| South Carolina | | Windsor, N.C. | | |
| Georgia | | Hemingway, S.C.<br>Sylvester, Ga. | | |
| (kk) Kentucky | All | Franklin, Ky<br>Russellville, Ky.<br>Scottsville, Ky. | June 21, 1950 | 15 FR 4072. |
| (ll) Tennessee, Virginia | .....do | Sweetwater, Tenn<br>Pennington Gap, Va. | July 18, 1950 | 15 FR 4675. |
| (mm) Kentucky | .....do | Mayfield, Ky<br>Murray, Ky.<br>Paducah, Ky. | Oct. 19, 1950 | 15 FR 7117. |
| (nn) South Carolina | .....do | Lamar, S.C | May 28, 1951 | 16 FR 5108. |
| (oo) Tennessee | .....do | Mountain City, Tenn | Nov. 1, 1951 | 16 FR 11260. |
| (pp) Florida | .....do | High Springs | June 2, 1954 | 19 FR 3211. |
| (qq) Tennessee | .....do | Newport | Oct. 27, 1954 | 19 FR 6878. |
| (rr) Georgia | .....do | Alma and Pearson | May 13, 1955 | 20 FR 3252. |
| (ss) Kentucky | .....do | Henderson, Ky | Oct. 29, 1942 | 20 FR 8142. |
| Virginia. | | Gate City, Va.. | | |
| (tt) Florida | All | Madison, Fla | July 6, 1956 | 21 FR 4998. |
| Georgia | | Swainsboro, Ga..<br>Thomasville, Ga. | | |
| (uu) Kentucky | All | Morehead | June 18, 1958 | 23 FR 4377. |
| (vv) North Carolina | .....do | Yadkinville, N.C | April 15, 1970 | 35 FR 6107. |
| (ww) North Carolina | Flue-Cured | Mebane-Burlington | Mar. 11, 1983 | 48 FR 10291. |
| (xx) Georgia | Flue-Cured | Valdosta-Hahira | Apr. 19, 1985 | 50 FR 15537. |
| (yy) Virginia | Type 37 | Farmville | Oct. 9, 1985 | 50 FR 41127. |
| (zz) Georgia | Flue-Cured | Baxley-Hazlehurst | July 6, 1987 | 52 FR 25199. |
| (aaa) South Carolina | Flue-Cured | Darlington-Timmonsville | July 6, 1987 | 52 FR 25200. |
| (bbb) North Carolina | Flue-Cured | Carthage-Aberdeen | Aug. 30, 1988 | 53 FR 33097. |
| (ccc) North Carolina | Flue-cured | Stoneville-Madison | Aug. 2, 1989. | 54 FR 31797. |
| (ddd) Georgia | Flue-Cured | | Sept. 4, 1990. | 55 FR 35886. |
| (eee) Georgia | Flue-Cured | Metter | Sept. 4, 1990. | 55 FR 35885. |
| (fff) Georgia | Flue-Cured | Fitzgerald-Ocilla | May 29, 1991 | 56 FR 19541. |
| (ggg) North Carolina | Flue-cured | Windsor-Williamston-Robersonville. | June 27, 1994 | 59 FR 27215. |
| (hhh) Georgia | Flue-Cured | Tifton-Fitzgerald-Ocilla | Apr. 6, 1995 | 60 FR 12398. |
| (iii) South Carolina | Flue-Cured | Kingstree-Hemingway | Apr. 6 1995 | 60 FR 12399. |
| (jjj) North Carolina | Flue-Cured | Clarkton-Chadbourn | Apr. 6, 1995 | 60 FR 12400. |
| (kkk) North Carolina | Flue-Cured | Fairmont-Fair Bluff | Apr. 6, 1995 | 60 FR 12401. |
| (lll) North Carolina | Flue-cured | Sanford-Carthage-Aberdeen | July 5, 1996 | 61 FR 27997. |
| (mmm) Kentucky | Burley | Horse Cave-Glasgow-Greensburg, KY. | July 15, 1996 | 61 FR 29924. |
| (nnn) North Carolina, Tennessee. | Burley | Boone-West Jefferson-Mountain City. | July 15, 1996 | 61 FR 29923. |
| (ooo) North Carolina | Flue-Cured | Tabor City-Whiteville | June 5, 1997 | 62 FR 24559. |
| (ppp) Virginia | Flue-Cured | Clarksville-Chase City | July 1, 1998 | 63 FR 29529. |
| (qqq) North Carolina, South Carolina. | Flue-Cured | Fairmont-Fair Bluff-Loris | October 22, 2001. | 66 FR 53076. |

[1 FR 649, June 23, 1936. Redesignated at 14 FR 465, Feb. 3, 1949, and further redesignated at 24 FR 2776, Apr. 10, 1959, as amended at 35 FR 6107, Apr. 15, 1970; 45 FR 36957, Oct. 16, 1974; 48 FR 10291, Mar. 11, 1983; 50 FR 15537, Apr. 19, 1985; 50 FR 41127, Oct. 9, 1985; 52 FR 25199, 25200, July 6, 1987; 53 FR 33097, Aug. 30, 1988; 54 FR 31797, Aug. 2, 1989; 55 FR 35885, 35886 Sept. 4, 1990; 56 FR 19541, Apr. 29, 1991; 59 FR 27215, May 26, 1994; 60 FR 12398, 12399, 12400, and 12401, Mar. 7, 1995; 61 FR 29923, 29924, June 13, 1996; 61 FR 37351, July 18, 1996; 62 FR 24559, May 6, 1997; 63 FR 29529, June 1, 1998; 66 FR 53075, Oct. 19, 2001]

## Subpart E [Reserved]

## Subpart F—Policy Statement and Regulations Governing the Identification and Certification of Nonquota Tobacco Produced and Marketed in a Quota Area

AUTHORITY: Pub. L. 97–98, 95 Stat. 1266, as amended (7 U.S.C. 1314f).

SOURCE: 47 FR 8980, Mar. 3, 1982, unless otherwise noted.

DEFINITIONS

### § 29.9201 Terms defined.

As used in this subpart and in all instructions, forms, and documents in connection therewith, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

### § 29.9202 Approved receiving station.

Points approved by the Director at which tobacco is offered for marketing or shipment into commerce including tobacco auction warehouses, packing houses, prizeries, or places where tobacco is handled or stored.

### § 29.9203 Certification.

The documentation of class or type, weight, or other tobacco characteristics as required in § 29.9263.

### § 29.9204 Crop-lot.

The assemblage of individual lots representing the season's production of each kind or type of nonquota tobacco produced on an individual farm.

### § 29.9205 Identification number (farm serial number).

The serial number assigned to an individual farm by the appropriate office of the Agricultural Stabilization and Conservation Service.

### § 29.9206 Inspection.

The examination by an inspector of a lot or crop-lot of tobacco to make determinations necessary for proper certification.

### § 29.9207 Nonquota tobacco.

Any kind or type of tobacco not subject to production and/or marketing limitations or restrictions under regulations issued by the Agricultural Stabilization and Conservation Service.

### § 29.9208 Permissive inspection.

Permissive inspection consists of inspecting and certificating tobacco, upon the request of an interested party.

### § 29.9209 Lot.

A pile, basket, bulk, package, or other definite unit.

### § 29.9210 Office of inspection.

A field office of the inspection service of the Tobacco Division.

POLICY STATEMENT

### § 29.9221 Policy statement.

Public Law 97–98 enacted on December 22, 1981, amended section 320 of the Agricultural Adjustment Act of 1938, to preserve the effectiveness of the tobacco program by discouraging the production of tobacco not under quota in states where tobacco farmers have elected to comply with marketing quotas. Under the amendment, any tobacco represented by the producer as nonquota which is produced in a state where producers have approved marketing quotas shall be determined to be subject to marketing quotas for the quota tobacco produced in that state having the highest price support, with the specific exemptions provided for in section 320(b) and set out in 7 CFR parts 724, 725, and 726 of these regulations. The regulations in this subpart

set out procedures for requesting a Tobacco Classification Certificate which would certify that the inspected tobacco is readily and distinguishably different from all kinds of quota tobacco, as determined through application of the standards for inspection and identification of tobacco.

ADMINISTRATION

### § 29.9231 Administration.

The Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC, 20250, is charged with the supervision of the Division and the performance of all duties assigned thereto in the administration of the act. The conduct of all services and the licensing or employment of inspection/grading/sampling personnel under these regulations shall be accomplished without discrimination as to race, color, creed, sex, or national origin. Information concerning such administration may be obtained from the Director.

### § 29.9232 Where certification is available.

Nonquota tobacco may be inspected and certified by class or type, upon request of an interested party, when the tobacco is displayed at an approved receiving station where the tobacco is accessible to the inspector.

### § 29.9233 When certification will be made.

Certification services for the nonquota tobacco shall be made when inspectors are available and such sales will not interfere with scheduled sales on designated auction markets.

### § 29.9234 Who may obtain certification.

Certification of nonquota tobacco may be requested by an interested party (applicant) by filing an application in accordance with §§ 29.9236 and 29.9237.

### § 29.9235 How to make application.

Application for certification by class or type of nonquota tobacco shall be made to the office of inspection, not less than 14 days before the date of requested certification. The application shall be in writing and signed by the applicant.

### § 29.9236 Form of application.

Application for inspection and certification of class or type of nonquota tobacco shall include the following information;

(a) The date of the application;

(b) The producer's certification of the type of the tobacco, the crop year when produced, and where produced;

(c) The name and post office address of the applicant;

(d) The financial interest of the applicant in the tobacco;

(e) The exact nature of the service desired;

(f) A statement that the tobacco is (1) in commerce, as defined in the act, or (2) entering such commerce; and

(g) Such other necessary information as the Director may require.

### § 29.9237 When application deemed filed.

An application shall be deemed filed when delivered to the office of inspection. When an application is filed, the date and time of filing shall be recorded by the official receiving it.

### § 29.9238 When application may be rejected.

An application may be rejected (a) for noncompliance with the act or the regulations in this subpart, or (b) when it is not practicable to provide the service. All expenses incurred in connection with an application rejected for noncompliance with the act or the regulations in this subpart shall be paid by the applicant as provided in § 29.124 of subpart B of this part.

### § 29.9239 When application may be withdrawn.

An application may be withdrawn at any time before the requested service is rendered. Payment of expenses incurred in connection therewith shall be paid by the applicant as provided in § 29.124 and subpart B of this part.

### § 29.9240 Responsibilities of applicant.

Any applicant requesting class or type certification on nonquota tobacco produced in a quota area, shall obtain from the appropriate county office of

the Agricultural Stabilization and Conservation Service a certificate showing the acreage of nonquota tobacco grown on each affected farm and the identification number. It shall also be the responsibility of the applicant to:

(a) Make available to the inspector any or all information required by the inspector for completion of the Tobacco Classification Certificate,

(b) Make the tobacco accessible to the inspector, and

(c) Surrender to the inspector at time of certification a copy of the ASCS certificate and sale bill.

### § 29.9241 Accessibility of tobacco.

All tobacco to be inspected and certified by class or type upon application shall be made accessible by the applicant for proper examination, including any necessary display in proper light for determination of grade, class, type, or other characteristics or for drawing of samples. Each croplot shall be displayed at an approved receiving station in a continuous and orderly sequence with no other quota, nonquota, or other producer's tobacco in between. The lots shall be arranged in rows 18 inches apart with the leaves of adjacent lots not touching within the rows. Coverings shall be removed by the applicant in such manner as may be prescribed by the inspector.

FEES AND CHARGES

### § 29.9251 Fees and charges.

Fees and charges for inspection and certification services shall comprise the cost of salaries, travel, per diem, and related expenses to cover the costs of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The hourly rate shall be $47.40. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $53.70. The rate of $64.45 shall be charged for work performed on Sundays and holidays.

[56 FR 41922, Aug. 26, 1991, as amended at 66 FR 28361, May 23, 2001]

CERTIFYING PROCEDURES

### § 29.9261 Procedure to be followed.

In certifications based on permissive inspection of nonquota tobacco produced in a state where any quota tobacco is produced, the inspector shall use the Official Standard Grades for all types of quota tobacco. The inspector shall determine by inspecting each lot in the crop-lot whether the crop-lot can be certified as the nonquota tobacco requested by the applicant. If the inspector determines upon inspection that any individual *lot* in the crop-lot meets the specifications of any grade of any quota tobacco, no certificate will be issued on any tobacco in the crop-lot.

### § 29.9262 Issuance of certificates.

A ''Tobacco Classification Certificate'' may be issued upon request of an applicant for nonquota tobacco certified in accordance with § 29.9261. The Tobacco Classification Certificate will be supplied by the inspection office.

### § 29.9263 Tobacco classification certificate.

Each tobacco classification certificate shall show:

(a) The caption ''Tobacco Classification Certificate'';

(b) Whether it is an original, first, second, or other copy;

(c) The number of the certificate;

(d) The sale bill identification number;

(e) The location of the tobacco at the time of inspection and certification;

(f) The date of certification;

(g) The class or type of tobacco;

(h) The number of lots in the croplot;

(i) The weight of each lot;

(j) The signature of the inspector and,

(k) Such additional information as may be required by the Director.

### § 29.9264 Forms.

Each certificate issued under this regulation shall:

(a) Show that it was issued under the Tobacco Inspection Act;

(b) Be in a form approved for the purpose by the Director, and

(c) Embody within it, written or printed terms with respect to the particular kind of service, all applicable information required by § 29.9263. Each certificate may also contain any information, not inconsistent with the act and the regulations in this subpart, as may be approved or required by the Director. The Director may, in his discretion, specify or limit the period in which a certificate shall be valid.

### § 29.9265 Disposition of certificate.

Distribution of the Tobacco Classification Certificate shall be limited to the provisions of this section. The original certificate and one copy shall be delivered or mailed to the applicant or his agent. One copy and the copy of the ASCS certificate shall be forwarded by the inspector to the Division or office of inspection.

### § 29.9266 Changes or alterations.

No change or alteration shall be made in the weight or other identification of a lot on the Tobacco Classification Certificate after the certification of class or type, and any such change or alteration shall constitute and be construed as a change or alteration in the certificate issued or authorized under the act.

PRECLUSION

### § 29.9281 Preclusion.

The provisions of this subpart shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the act.

## Subpart G—Policy Statement and Regulations Governing Availability of Tobacco Inspection and Price Support Services to Flue-Cured Tobacco on Designated Markets

AUTHORITY: Tobacco Inspection Act, 49 Stat. 731 (7 U.S.C. 511 *et seq.*); Commodity Credit Corporation Charter Act, 62 Stat. 1070, as amended (15 U.S.C. 714 *et seq.*); sec. 213, Pub. L. 98–180, 97 Stat. 1149 (7 U.S.C. 1421); 49 Stat. 731 (7 U.S.C. 511 *et seq.*), unless otherwise noted.

SOURCE: 39 FR 17754, May 20, 1974, unless otherwise noted.

### § 29.9401 Definitions.

As used in this subpart, the following terms shall have the following meanings:

(a) *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 may hereafter be delegated to act in his stead.

(b) *Marketing area* means a geographical area within the flue-cured tobacco production area specified by the Secretary each year on the basis of his determination that significant quantities of tobacco produced in such area are ready for marketing.

(c) *Resale tobacco* means any tobacco offered for sale, or sold, by someone other than its producer.

(d) *Nonauction-purchased tobacco* means tobacco purchased at other than a bona fide auction sale, as defined in 7 CFR 29.1(d), on a designated market, as defined in 7 CFR 29.1(e).

(e) *Nonauction-purchased resale tobacco* means tobacco being offered for sale, or sold, at auction by a person who purchased it at other than a bona fide auction sale, as defined in 7 CFR 29.1(d), on a designated market, as defined in 7 CFR 29.1(e).

[39 FR 17754, May 20, 1974, as amended at 40 FR 31592, July 28, 1975]

### § 29.9402 Policy statement.

The sets of inspectors available to serve the flue-cured marketing areas are currently adequate to provide inspection service as rapidly as tobacco can be purchased, handled and processed by the currently existing facilities of the buyers, and the lack of inspection personnel is not a limiting factor to accelerated marketings or the extension of price support to producers. The sets of buyers assigned to the flue-cured markets by the buying industry are adequate to purchase tobacco as rapidly as it can be handled and processed by the buyers' facilities. However, the tobacco ready for marketing during most weeks of the marketing season substantially exceeds the quantities which can be purchased, handled and processed by the currently existing facilities of the buyers. Moreover, the total number of flue-cured markets are

substantially greater than the number of sets of buyers assigned by the buying companies or the number of sets of available inspectors. In this situation, about 6 months is required to market a year's crop of flue-cured tobacco and all warehouses cannot be served at the same time by the available sets of inspectors and the sets of buyers assigned by the buying companies. As additional sets of inspectors would not relieve the situation, inspection service will be provided by assigning the available inspectors to the various marketing areas and to warehouses within the marketing areas in a manner determined by the Secretary to provide the best and most equitable service to all growers.

### § 29.9403 Flue-Cured Tobacco Advisory Committee.

To assist the Secretary in making the apportionment and assignment of inspectors, a Flue-Cured Tobacco Advisory Committee, appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. appendix I), shall advise and recommend to the Secretary marketing area opening dates and selling schedules for both designated and undesignated flue-cured tobacco to be sold in each marketing area and in each warehouse within each marketing area.

[39 FR 30475, Aug. 23, 1974, as amended at 49 FR 4067, Feb. 2, 1984; 50 FR 45806, Nov. 4, 1985; 51 FR 5987, Feb. 19, 1986; 67 FR 61468, Oct. 1, 2002]

### § 29.9404 Marketing area opening dates and marketing schedules.

(a) The Flue-Cured Tobacco Advisory Committee shall recommend, to the Secretary, marketing areas in the flue-cured tobacco production area and marketing area opening dates and selling schedules for both designated and undesignated tobacco for each marketing area and for the individual warehouses in each marketing area, which specify the length of time inspectors will be available to inspect designated tobacco and undesignated tobacco and/or the quantity of designated or undesignated tobacco to be marketed in each area and through each warehouse within such marketing area. In developing such opening date and selling schedules, the Committee shall take into account the following:

(1) When a sufficient volume of tobacco produced within a specific area of the flue-cured tobacco production area will be ready for marketing;

(2) The volume of tobacco ready for marketing which the producers have designated under § 1464.2(e) of this title to be sold at specific warehouses and also the volume of tobacco ready for marketing which has not been so designated by the producer;

(3) With regard to undesignated tobacco, the Committee shall first determine, on the basis of all information available to it, the volume of undesignated tobacco in a geographical area, and then shall provide sales opportunity for each warehouse to sell an amount of the undesignated tobacco available for sale from that geographical area in proportion to the amount of tobacco designated to the warehouse in comparison to the total amount of tobacco designated in the marketing area in which the warehouse is located. Provided, however, that the Secretary may authorize additional undesignated sales opportunity if the warehouse provided proper proof that it does, in fact, have available for sale a volume of tobacco which has not previously been designated and which was eligible for designation to that warehouse had the producer chosen to designate and that such additional volume of tobacco warrants more sales opportunity than allowed by the schedule;

(4) The processing or redrying capacity of the industry and the number of inspectors available to provide inspection service during the specific period involved;

(5) Such other factors or information as may be necessary to develop an effective and equitable opening date and selling schedule.

(b) The Flue-Cured Tobacco Advisory Committee shall thereupon submit its recommended opening date and selling schedules for designated and undesignated tobacco and the geographic areas to be included in specific marketing areas to the Secretary together with a basis supporting its recommendations.

[39 FR 17754, May 20, 1974, as amended at 39 FR 30476, Aug. 23, 1974; 40 FR 24174, June 5, 1975; 40 FR 30917, July 24, 1975]

### § 29.9405 Issuance of marketing area opening date and selling schedules by the Secretary.

(a) The Secretary shall review the recommendations of the Flue-Cured Tobacco Advisory Committee and based upon such recommendations and the basis therefor and such other information as may be available to him, shall specify the geographic areas to be encompassed by specific marketing areas, set the opening dates for sale within the marketing areas and issue the selling schedules for designated and undesignated tobacco. The inspection of flue-cured tobacco shall be in accordance with said schedules.

(b) The Flue-Cured Tobacco Advisory Committee shall recommend modifications in the opening date and marketing schedule during the flue-cured tobacco marketing season as may be warranted by changes in marketing conditions and the Secretary shall act thereon in the same manner as approving the initial opening date and marketing schedules.

[39 FR 17754, May 20, 1974, as amended at 39 FR 30476, Aug. 23, 1974]

### § 29.9406 Failure of warehouse to comply with opening and selling schedule.

(a) Each warehouse shall comply with opening and selling schedules issued by the Secretary for designated and undesignated flue-cured tobacco.

(b) For each of any two consecutive sales days during the marketing season a warehouse may exceed its scheduled sales opportunity for designated or undesignated tobacco, but the pounds sold during the second or third sales day must be adjusted so the warehouse will be back in compliance at the end of the third sales day or no tobacco inspection or price support services will be made available on the next succeeding sales day. Any such adjustment which is within 100 pounds of the required reduction shall be considered as in compliance with this section. During the closeout period, if a warehouse sells tobacco in excess of that allowed by the sales schedule on either of the last two sales days of the marketing season, then such excess sales shall be deducted from its scheduled sales opportunity on the first, or more, sales days of the next marketing season.

(c) The amount of the poundage adjustment specified in paragraph (b) of this section for a warehouse selling in excess of the sales schedule shall be as follows:

(1) If the excess is 5,000 pounds or less of designated producer tobacco, the adjustment in producer sales opportunity shall be one pound for each pound of excess; sales in excess of 5,000 pounds shall be a violation of the sales schedule and the adjustment for the first violation shall be 5,000 pounds plus the larger of 3 pounds for each pound in excess of 5,000 pounds or 5,000 pounds; for the second violation, the adjustment shall be 5,000 pounds plus the larger of 5 pounds for each pound in excess of 5,000 or 15,000 pounds; and for the third and subsequent violations, the adjustment shall be 5,000 pounds plus the larger of 5 pounds for each pound in excess of 5,000 pounds or 50 percent of a scheduled day's sales opportunity.

(2) If the excess is 1,000 pounds or less of undesignated producer tobacco, the adjustment in producers sales opportunity is one pound for each pound of excess; if the excess is larger than 1,000 pounds, the adjustment is 1,000 pounds plus the larger of 3 pounds for each pound in excess of 1,000 or 2,000 pounds.

(3) If the excess is designated producer tobacco that is not eligible for sale at the warehouse on the day of the sale, the adjustment in producers sales opportunity for the first violation is the larger of 3 pounds for each pound in excess or 5,000 pounds, and for the second and succeeding violations, the larger of 5 pounds for each pound in excess or 10,000 pounds.

(d) If, on any sales day, a warehouse does not sell the full quantity of designated or undesignated tobacco authorized to be sold at such warehouse, the designated or undesignated sales opportunity at such warehouse on the next immediate sales day shall automatically be increased by the unsold quantity except that no such increase in sales opportunity shall exceed 5,000 pounds for designated tobacco or 500 pounds for undesignated tobacco.

[46 FR 56156, Nov. 16, 1981, as amended at 65 FR 46087, July 27, 2000]

**§ 29.9407 Records and reports.**

(a) Each warehouse, on a designated market, shall provide the Secretary with any information that is requested on forms provided said warehouse by the Secretary.

(b) Each warehouse shall keep records for a period of two years from the opening of the marketing season in which the tobacco is sold, and make available to the Secretary such records as are necessary for the Secretary to verify the information required by paragraph (a) of this section.

(c) Failure to comply with the requirements of this section including but not limited to failure to provide information which is accurate, shall result in suspension of tobacco inspection services for a minimum of the equivalent of one sales day or until such time as the warehouse comes into compliance.

(Approved by the Office of Management and Budget under control number 0581–0056)

(44 U.S.C. 3506)

[46 FR 56156, Nov. 16, 1981, as amended at 47 FR 745, Jan. 7, 1982]

# PART 30—TOBACCO STOCKS AND STANDARDS

CLASSIFICATION OF LEAF TOBACCO COVERING CLASSES, TYPES, AND GROUPS OF GRADES

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REPORTS

30.60 Reports.

ADMINISTRATION

30.61 Administration.

AUTHORITY: 7 U.S.C. 502.

SOURCE: 39 FR 5300, Feb. 12, 1974, unless otherwise noted.

## CLASSIFICATION OF LEAF TOBACCO COVERING CLASSES, TYPES AND GROUPS OF GRADES

**§ 30.1 Definitions of terms used in classification of leaf tobacco.**

For the purpose of §§ 30.1 through 30.44 the terms appearing in §§ 30.2 through 30.21 shall be construed as explained therein.

**§ 30.2 Leaf tobacco.**

Tobacco in the forms in which it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating or fermenting, and conditioning are not regarded as manufacturing processes. Leaf tobacco does not include any manufactured or semimanufactured tobacco, stems which have been removed from leaves, cuttings, clippings, trimmings, shorts, or dust.

**§ 30.3 Unstemmed.**

A form of leaf tobacco consisting of a collection of leaves from which the stems or midribs have not been removed, including leaf-scrap.

**§ 30.4 Stemmed.**

A form of leaf tobacco consisting of a collection of leaves from which the stems or midribs have been removed, including strip scrap.

**§ 30.5 Class.**

One of the major divisions of leaf tobacco based on the distinct characteristics of the tobacco caused by differences in varieties, soil and climatic conditions, and the methods of cultivation, harvesting, and curing.

**§ 30.6 Type.**

A subdivision of a class of leaf tobacco, having certain common characteristics which permit of its being divided into a number of related grades. Any tobacco that has the same characteristics and corresponding qualities, colors, and lengths, shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

**§ 30.7 Group.**

A group of grades, or a division of a type covering several closely related grades, based on the general quality of the tobacco, including the percentage of injury, and other factors. The factors that determine the group divisions also largely determine the usage or suitability of tobacco for certain purposes.

**§ 30.8 Scrap.**

A byproduct from handling leaf tobacco in both the unstemmed and stemmed forms, consisting of loose and tangled portions of tobacco leaves, floor sweepings, and all other tobacco materials (except stems) which accumulate in auction and storage warehouses, packing and conditioning plants, and stemmeries. Scrap which accumulates from handling unstemmed leaf tobacco is known as leaf-scrap, and scrap which accumulates from handling stemmed leaf tobacco is known as strip-scrap. The scrap group, covering both leaf-scrap and strip-scrap is designated by the letter ''S''.

**§ 30.9 Nondescript.**

Any tobacco of a certain type which cannot be placed in other groups of the type, or any nested tobacco, or any muddy or extremely dirty tobacco, or any tobacco containing an unusual quantity of foreign matter, or any crude tobacco, or any tobacco which is damaged to the extent of 20 percent or more, or any tobacco infested with live tobacco beetles or other injurious insects, or any wet tobacco, or any tobacco that contains fat stems or wet butts. The nondescript group is designated by the letter ''N''.

[39 FR 11893, Apr. 1, 1974]

**§ 30.10 Cure.**

To dry the sap from newly harvested tobacco by either natural or artificial process. Proper curing is done under such conditions as will permit of the chemical and physiological changes necessary to develop the desired quality of color in tobacco.

**§ 30.11 Flue-cure.**

To cure tobacco under artificial atmospheric conditions by a process of regulating the heat and ventilation without allowing smoke or fumes from the fuel to come in contact with the tobacco.

**§ 30.12 Fire-cure.**

To cure tobacco under artificial atmospheric conditions by the use of open fires, the smoke and fumes of which are allowed to come in contact with the tobacco.

**§ 30.13 Air-cure.**

To cure tobacco under natural atmospheric conditions without the use of fire, except for the purpose of preventing pole burn (house burn) in damp weather.

**§ 30.14 Cigar filler.**

The tobacco that forms the core or inner part of a cigar. Cigar-filler tobacco is tobacco of the kind and quality commonly used for cigar fillers. Cigar-filler types are those which produce chiefly tobacco suitable for cigar-filler purposes.

**§ 30.15 Cigar binder.**

A portion of a tobacco leaf rolled around the filler of a cigar to bind or hold it together and form the first covering. Cigar-binder tobacco is tobacco of the kind and quality commonly used for cigar binders. Cigar-binder types

are those which produce chiefly tobacco suitable for cigar-binder purposes.

**§ 30.16 Cigar wrapper.**

A portion of a tobacco leaf forming the outer covering of a cigar. Cigar-wrapper tobacco is tobacco of the kind and quality commonly used for cigar wrappers. Cigar-wrapper types are those which produce chiefly tobacco suitable for cigar-wrapper purposes.

**§ 30.17 Damage.**

The effect of mold, must, rot, black rot, or other fungous or bacterial diseases which attack tobacco in its cured state. Any tobacco having the odor of mold, must, or rot shall be included in damaged tobacco. (Note distinction between ''damage'' and ''injury.'')

**§ 30.18 Injury.**

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state. Injured tobacco shall include any dead, burnt, or ragged tobacco; or tobacco that has been torn or broken, frozen or frosted, sunburned or scalded, scorched or fire-killed, bulk-burnt or stem-burnt, pole burnt or house burnt, bleached or bruised; or tobacco containing discolored or deformed leaves; or tobacco hurt by insects; or tobacco affected by wild-fire, black fire, rust, frogeye, mosaic, frenching, sanddrown, or other field diseases.

**§ 30.19 Nested.**

Any lot of tobacco which has been so handled or packed as to conceal damaged, injured, tangled, or inferior tobacco, or foreign matter.

**§ 30.20 Crude.**

A subdegree of maturity, crude leaves usually have the general appearance of being raw and unfinished as a result of extreme immaturity. Crude tobacco ordinarily has a characteristic green color.

**§ 30.21 Foreign matter.**

Any substance or material extraneous to tobacco leaves, such as dirt, sand, stalks, suckers, straws, and strings.

**§ 30.31 Classification of leaf tobacco.**

For the purpose of this classification leaf tobacco shall be divided into the following classes:

Class 1. Flue-cured types.
Class 2. Fire-cured types.
Class 3.[1] Air-cured types.
Class 4. Cigar-filler types.
Class 5. Cigar-binder types.
Class 6. Cigar-wrapper types.
Class 7. Miscellaneous domestic types.
Class 8. Foreign-grown cigar-leaf types.
Class 9. Foreign-grown types, other than cigar types.

[1] Class 3 covers Air-cured tobacco other than cigar leaf. This class may be subdivided as follows: Class 3a, Light Air-cured tobacco, including types 31 and 32, and Class 3b, Dark Air-cured tobacco, including types 35, 36, and 37.

For the purpose of this classification the classes shall be divided into the types and groups set forth in §§ 30.36 through 30.44.

**§ 30.36 Class 1; flue-cured types and groups.**

All flue-cured tobacco is graded under the same set of Official Standard Grades for Flue-cured Tobacco (U.S. Types 11, 12, 13, and 14). Flue-cured types are defined according to established general geographical areas of production. However, the determination as to type designations are based upon and indicate the geographic location where inspection and certification are performed—and do not necessarily identify the production area in which the tobacco was grown.

(a) *Type 11a.* That type of flue-cured tobacco commonly known as Western Flue-cured or Old Belt Flue-cured, produced principally in the Piedmont sections of Virginia and North Carolina.

(b) *Type 11b.* That type of flue-cured tobacco commonly known as Middle Belt Flue-cured, produced principally in a section lying between the Piedmont and coastal plains regions of Virginia and North Carolina.

(c) *Type 12.* That type of flue-cured tobacco commonly known as Eastern Flue-cured or Eastern Carolina Flue-cured, produced principally in the coastal plains section of North Carolina, north of the South River.

(d) *Type 13.* That type of flue-cured tobacco commonly known as Southeastern Flue-cured or South Carolina Flue-cured, produced principally in the

coastal plains section of South Carolina and the southeastern counties of North Carolina, south of the South River.

(e) *Type 14.* That type of flue-cured tobacco commonly known as Southern Flue-cured, produced principally in the southern section of Georgia, in northern Florida, and to some extent, in Alabama.

Groups applicable to types 11, 12, 13, and 14:
A—Wrappers.
B—Leaf.
H—Smoking Leaf.
C—Cutters.
X—Lugs.
P—Primings.
N—Nondescript, as defined.
S—Scrap, as defined.

### § 30.37 Class 2; fire-cured types and groups.

(a) *Type 21.* That kind of fire-cured tobacco commonly known as Virginia Fire-cured, or Dark-fired, produced principally in the Piedmont and mountain sections of Virginia.

(b) *Type 22.* That type of fire-cured tobacco, known as Eastern District Fire-cured, produced principally in a section east of the Tennessee River in southern Kentucky and northern Tennessee.

(c) *Type 23.* That type of fire-cured tobacco, known as Western District Fire-cured or Dark-fired, produced principally in a section west of the Tennessee River in Kentucky and extending into Tennessee.

Groups applicable to types 21, 22, and 23:
A—Wrappers.
B—Heavy Leaf.
C—Thin Leaf.
X—Lugs.
N—Nondescript, as defined.
S—Scrap, as defined.

### § 30.38 Class 3; air-cured types and groups.

(a) *Type 31.* That type of air-cured tobacco, commonly known as Burley, produced principally in Kentucky, Tennessee, Virginia, North Carolina, Ohio, Indiana, West Virginia, and Missouri.

Groups applicable to type 31:
X—Flyings.
C—Lugs or Cutters.
B—Leaf.
T—Tips.
M—Mixed.
N—Nondescript, as defined.
S—Scrap, as defined.

(b) *Type 31–V.* Notwithstanding the definitions of ''Type'' and ''Type 31'', any tobacco having the general visual characteristics of quality, color, and length of Class 3, Type 31, air-cured tobacco, but which is a low-nicotine strain or variety, produced and to be marketed under such restrictions or controls as shall be specified by the Director of the Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, and which in its cured state is found by an authorized representative of the Department to have a nicotine content of not more than eight-tenths of one percent (8/10 of 1%), oven dry weight, shall not be classified as Type 31 but shall be classified and designated upon certification by the Department as Type 31–V. No groups are established for Type 31–V.

(c) *Restrictions and controls relating to the production and marketing of Type 31–V tobacco as a prerequisite to the classification and certification of such tobacco*—(1) *Declaration of seed or seedlings.* Tobacco shall be produced from seed or seedlings declared to be a suitable low-nicotine strain or variety for the production of Type 31–V, by an agency or agencies designated by the Director of the Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(2) *Production under contract.* Type 31–V tobacco shall be grown under contract with a dealer in tobacco or a manufacturer of tobacco products. In addition to any other provisions not inconsistent herewith, the contract shall provide that:

(i) The dealer or manufacturer shall furnish to the grower seed or seedlings declared therefor as provided in paragraph (c)(1) of this section.

(ii) The grower shall deliver to the dealer or manufacturer all tobacco produced from such seed or seedlings;

(iii) The grower shall produce not in excess of the number of acres of low-nicotine tobacco specified in the contract;

(iv) The grower shall establish clear lines of demarcation between the low-nicotine tobacco and any other type of tobacco grown on the farm; and

(v) The low-nicotine tobacco shall be housed and handled separately and

shall not be commingled with any other type of tobacco: *Provided*, That this provision shall not prohibit the housing of low-nicotine and other types of tobacco in the same curing barn so long as the low-nicotine tobacco is clearly identified and is not commingled with any other type of tobacco.

(3) *Filing of copy of contract.* A copy of each contract referred to in paragraph (c)(2) of this section shall be filed by the dealer or manufacturer with the Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, by May 1 of each year.

(4) *Restrictions on sale and marketing.* The low-nicotine tobacco shall not be offered for sale, sold, marketed, or otherwise disposed of unless such tobacco is clearly represented and identified as being low-nicotine tobacco: *Provided*, That this restriction shall not apply to products manufactured from such tobacco.

(5) *Nicotine content.* The nicotine content of the tobacco in its cured state, based on an official sample drawn and selected as being representative of the whole production from the acreage of low-nicotine tobacco planted under said contract by the same grower during the same calendar year, shall not be more than eight-tenths of one percent (8/10 of 1%) oven dry weight.

(6) *Furnishing of information.* Each dealer or manufacturer and each grower shall, from time to time, furnish to the Director of the Tobacco Division, such information as shall be requested relating to his production, stocks, and disposition of low-nicotine tobacco.

(7) *Prohibitions relating to seed and plants.* No seed shall be saved or harvested from the tobacco produced under a contract referred to in paragraph (d)(2) of this section. No grower to whom seed or seedlings is furnished pursuant to paragraph (d)(2)(i) of this section shall deliver or transfer any such seed or any plant produced therefrom to any other person.

(8) *Designation of seed or seedlings declaring agencies.* The Kentucky Agricultural Experiment Station, Lexington, Kentucky, is designated as an agency for the declaration of seed or seedlings pursuant to paragraph (d)(1) of this section.

(9) *Definitions.* For the purposes of the restrictions and controls hereinbefore set forth a ''dealer'' or a ''manufacturer'' shall be a dealer in tobacco or a manufacturer of tobacco products.

(d) *Type 32.* That type of air-cured tobacco commonly known as Southern Maryland tobacco or Maryland Air-cured, and produced principally in southern Maryland. (Upper Country Maryland is classed as ''miscellaneous domestic.'')

Groups applicable to type 32:
X—Seconds.
C—Bright-crop or Thin-crop.
B—Dull-crop or Heavy-crop.
T—Tips.
N—Nondescript, as defined.
S—Scrap, as defined.

(e) *Type 35.* That type of air-cured tobacco commonly known as One Sucker Air-cured, Kentucky-Tennessee-Indiana One Sucker, or Dark Air-cured One Sucker, including the upper Cumberland District One Sucker, and produced principally in northern Tennessee, south central Kentucky, and southern Indiana.

(f) *Type 36.* That type of air-cured tobacco commonly known as Green River, Green River Air-cured, or Dark Air-cured of the Henderson and Owensboro Districts, and produced principally in the Green River section of Kentucky.

(g) *Type 37.* That type of air-cured or sun-cured tobacco commonly known as Virginia Sun-cured, Virginia Sun and Air-cured, or Dark Air-cured of Virginia, and produced principally in the central section of Virginia north of the James River.

Groups applicable to types 35, 36, and 37:
A—Wrappers.
B—Heavy Leaf.
C—Thin Leaf.
T—Tips.
X—Lugs.
N—Nondescript, as defined.
S—Scrap, as defined.

### § 30.39 Class 4; cigar-filler types and groups.

(a) *Type 41.* That type of cigar-leaf tobacco commonly known as Pennsylvania Seedleaf or Pennsylvania Broadleaf, produced principally in Lancaster County, Pennsylvania, and adjoining counties and including other areas of Pennsylvania and Maryland in which the seedleaf variety is grown.

Groups applicable to type 41:
C—Stripper.
X—Straight Stripped.
Y—Farm Filler.
N—Nondescript, as defined.

(b) *Type 42.* That type of cigar-leaf tobacco commonly known as Gebhardt, Ohio Seedleaf, or Ohio Broadleaf, produced principally in the Miami Valley Section of Ohio and extending into Indiana.

(c) *Type 43.* That type of cigar-leaf tobacco commonly known as Zimmer, Spanish, or Zimmer Spanish, produced principally in the Miami Valley Section of Ohio and extending into Indiana.

(d) *Type 44.* That type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch, produced principally in the Miami Valley Section of Ohio.

Groups applicable to types 42, 43, and 44:
X—Straight Stripped.
N—Nondescript, as defined.

(e) *Type 46.* That type of cigar-leaf tobacco commonly known as Puerto Rican Filler, produced principally in the inland and semicoastal areas of Puerto Rico.

Groups applicable to type 46:
C—Strippers.
X—Grinders.
N—Nondescript, as defined.
S—Scrap, as defined.

### § 30.40 Class 5; cigar-binder types and groups.

(a) *Type 51.* That type of cigar-leaf tobacco commonly known as Connecticut Valley Broadleaf or Connecticut Broadleaf, produced principally in the Connecticut River Valley.

(b) *Type 52.* That type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed or Havana Seed of Connecticut and Massachusetts, produced principally in the Connecticut River Valley.

Groups applicable to types 51 and 52:
B—Binder.
X—Nonbinder.
N—Nondescript, as defined.
S—Scrap, as defined.

(c) *Type 53.* That type of cigar-leaf tobacco commonly known as York State or Havana Seed of New York, and Pennsylvania, produced principally in the Big Flats and Onondaga sections of New York State, and extending into Pennsylvania.

(d) *Type 54.* That type of cigar-leaf tobacco commonly known as Southern Wisconsin Cigar-leaf or Southern Wisconsin Binder-type, produced principally south and east of the Wisconsin River.

(e) *Type 55.* That type of cigar-leaf tobacco commonly known as Northern Wisconsin Cigar-leaf or Northern Wisconsin Binder-type, produced principally north and west of the Wisconsin River and extending into Minnesota.

Groups applicable to types 53, 54, and 55:
B—Binder.
C—Stripper.
X—Straight Stripped.
Y—Farm Filler.
N—Nondescript, as defined.
S—Scrap, as defined.

### § 30.41 Class 6; cigar-wrapper types and groups.

(a) *Type 61.* That type of shade-grown tobacco known as Connecticut Valley Shade-grown, produced principally in the Connecticut Valley section of Connecticut and Massachusetts.

(b) *Type 62.* That type of shade-grown tobacco known as Georgia and Florida Shade-grown, produced principally in southwestern Georgia and in the central part of northern Florida.

Groups applicable to types 61 and 62:
A—Wrappers.
S—Stained.
X—Brokes.
N—Nondescript, as defined.

### § 30.42 Class 7; miscellaneous domestic types.

No group divisions are established for any of the types in Class 7. Notwithstanding the definitions of ''Class,'' ''Type,'' ''Type 11,'' ''Type 12,'' ''Type 13,'' and ''Type 14,'' any tobacco having the general visual characteristics of quality, color and length of the types and groups contained in Class 1, flue-cured tobacco, but which is a strain or variety found in its cured state by an authorized representative of the Department to have a nicotine content of not more than eight-tenths of one per cent (8/10 of 1%), oven dry weight, shall be designated upon certification by the Department as Class 7: *Provided,* That for the purpose of establishing and maintaining the identity of such tobacco, it shall not be sold or offered for sale through customary marketing

channels for Class 1, flue-cured tobacco; and it shall be identified in accordance with instructions issued by the Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, covering certification of seed or seedlings, contracts for production, designation and demarcation of fields in which grown, maintenance of separate identity of such tobacco from other tobacco, furnishing of samples and furnishing of such information as may be requested relating to production, stocks, and disposition of such tobacco. For tobacco stocks reporting purposes, all miscellaneous domestic tobacco shall be designated as follows:

(a) *Type 72.* That type of tobacco commonly known as Louisiana Perique, or Perique, produced principally in St. James Parish located in southeastern Louisiana.

(b) *Type 73.* All domestic-grown tobacco not otherwise classified, including tobacco cured in the same manner as Class 1, flue-cured tobacco, but having a nicotine content of not more than eight-tenths of one percent (8/10 of 1%), oven dry weight. Also included in the miscellaneous types are such types as Ohio Flue-cured and Fire-cured (known as Eastern Ohio), Upper Country Maryland, California, Turkish, and Virginia One-sucker, and the production of the insular possessions of the United States not otherwise classified.

### § 30.43 Class 8; Foreign-grown cigar-leaf types.

No group divisions are established for any of the types in Class 8. Type designations for Class 8 tobacco are based on the utilization of the leaf in the manufacture of cigars with no reference to physical characteristics. For tobacco stocks reporting purposes Foreign-grown cigar leaf shall be designated as follows:

(a) *Type 81.* Foreign-grown cigar wrapper.

(b) *Type 82.* Foreign-grown cigar filler.

(c) *Type 83.* Foreign-grown cigar binder.

(d) *Type 89.* Other Foreign-grown cigar leaf

[56 FR 25613, June 5, 1991]

### § 30.44 Class 9; foreign-grown types other than cigar leaf.

No group divisions are established for any of the types in Class 9. Type designations for class 9 are based on (a) utilization, (b) curing method, or both, with no reference to physical characteristics. For tobacco stocks reporting purposes, all foreign-grown tobacco other than cigar leaf shall be designated as follows:

(a) *Type 91.* Foreign grown tobacco commonly known a soriental or aromatic, used principally in blends of cigarette and pipe tobacco.

(b) *Type 92.* Foreign-grown flue-cured tobacco.

(c) *Type 93.* Foreign-cured burley tobacco.

(d) *Type 95.* Foreign-grown dark air-cured.

(e) *Type 96.* Foreign-grown fire-cured.

(f) *Type 99.* Other Foreign-grown cigarette and dark tobacco.

[39 FR 5300, Feb. 12, 1979, as amended at 56 FR 25614, June 5, 1991]

## REPORTS

### § 30.60 Reports.

Within fifteen (15) days after January 1, April 1, July 1, and October 1 of each year, all manufacturers, dealers, grower cooperative associations, owners or agents, other than the original grower of the tobacco and manufacturers who produced less than 185,000 cigars, or 750,000 cigarettes or 35,000 pounds of manufactured tobacco during the first three quarters of the preceding calendar year, shall complete and mail to the Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, in the detail required on forms available from him, reports showing the following information as to leaf tobacco in leaf and sheet form:

(a) *Tobacco in leaf form.* The pounds of tobacco in leaf form or stems owned on the first day of the applicable quarter, with all stocks reported by types of tobacco and whether stemmed or unstemmed.

(b) *Tobacco in sheet form.* The pounds of tobacco sheet owned on the first day

of the applicable quarter shall be segregated as to whether for cigar wrapper, cigar binder, for cigarettes, or for other products.

[39 FR 5300, Feb. 12, 1979, as amended at 56 FR 25614, June 5, 1991]

ADMINISTRATION

### § 30.61 Administration.

The Director, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, is charged with the supervision of the Division and the performance of all duties assigned thereto in the administration of the Tobacco Stocks and Standards Act. The conduct of all services, classification of leaf tobacco, or employment of inspection/grading/sampling personnel under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin. Information concerning such administration may be obtained from the Director.

## PART 31—PURCHASE OF WOOL AND WOOL TOP SAMPLES

Sec.

31.400 Samples for wool and wool top grades; method of obtaining.
31.401 Cost of samples for wool grades.
31.402 Cost of samples for wool top grades.

AUTHORITY: 7 U.S.C. 1621–1627.

SOURCE: 62 FR 43438, Aug. 13, 1997, unless otherwise noted.

### § 31.400 Samples for wool and wool top grades; method of obtaining.

Samples certified as representative of the official standards of the United States for grades of wool and wool top will be furnished as follows, subject to other conditions of this section, upon filing of an approved application and prepayment of costs thereof as fixed in §§ 31.401 and 31.402. The certification will be issued by the United States Department of Agriculture and will be signed by the Director of the Livestock Division or other duly authorized official.

(a) Samples representative of each of the standard grades of wool:

(1) *Complete set:* Grades 80's through 36's. Fourteen samples, each of approximately ⅛ pound grease wool, or

(2) *Individual sample:* Individual samples of approximately ⅛ pound of grease wool.

(b) Samples representative of each of the standard grades of wool top:

(1) *Complete set:* Grades 80's through 36's. Fourteen samples, each of approximately 3 ounces wool top, or

(2) *Individual sample:* Individual samples of approximately 3 ounces of wool top, representing a standard grade.

(c) Each application for standard samples of wool or wool top shall be upon an application form furnished or approved by the Agricultural Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, post office money order, or express money order, payable to the ''Agricultural Marketing Service,'' in an amount to cover the cost of the samples requested, and shall incorporate the following agreement:

(1) That no samples representative of the official wool or wool top standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and canceled by the Director of the Livestock Division if it is found upon such inspection that the said samples are not representative of the official standards.

NOTE TO § 31.400: A sample consists of wool randomly selected from a bulk sample. The measured average and standard deviation of fiber diameter of the bulk sample are within the limits corresponding to the grade of the standard sample as set forth in the voluntary U.S. grade standards. Copies of the voluntary U.S. grade standards can be obtained from Director, Livestock and Seed Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090–6456.

### § 31.401 Cost of samples for wool grades.

(a) *Complete set:* $22 each, delivered to any destination within the United States and $24 each, delivered to any destination outside the United States.

(b) *Individual sample:* $2 each, delivered to any destination within the United States and $2.50 each, delivered to any destination outside the United States.

### § 31.402 Cost of samples for wool top grades.

(a) *Complete set:* $42 each, delivered to any destination within the United States and $44 each, delivered to any destination outside the United States.

(b) *Individual sample:* $3 each, delivered to any destination within the United States and $3.50 each, delivered to any destination outside the United States.

## PART 32—PURCHASE OF GREASE MOHAIR AND MOHAIR TOP SAMPLES

Sec.

32.400 Samples of grease mohair grades; method of obtaining.
32.401 Cost of samples for grease mohair grades.
32.402 Samples of mohair top grades; method of obtaining.
32.403 Cost of samples for mohair top grades.

AUTHORITY: 7 U.S.C. 1621–1627.

SOURCE: 62 FR 43439, Aug. 13, 1997, unless otherwise noted.

### § 32.400 Samples of grease mohair grades; method of obtaining.

Samples certified as representative of the official standards of the United States for grades of grease mohair will be furnished as follows, subject to other conditions of this section, upon filing of an approved application and prepayment of the costs thereof as fixed in § 32.401. The certification will be issued by the U.S. Department of Agriculture and will be signed by the Director of the Livestock Division or other duly authorized official.

(a) Samples representative of each of the standard grades of grease mohair:

(1) *Complete set.* Ten certified samples of grease mohair, grades 40s through 18s.

(2) *Individual sample.* Individual certified samples of grease mohair.

(b) Each application for standard samples of grease mohair shall be upon an application form furnished or approved by the Consumer and Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, post office money order, or express money order, payable to the ''Agricultural Marketing Service,'' in an amount to cover the cost of the samples requested, and shall incorporate the following agreement.

(1) That no samples representative of the official grease mohair standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and canceled by the Director of the Livestock Division, if it is found upon such inspection that the said samples are not representative of the official standards.

NOTE TO § 32.400: A certified sample consists of grease mohair randomly selected from a bulk sample. The measured average and standard deviation of fiber diameter of bulk sample were within the limits corresponding to the grade of the standard sample as set forth in the voluntary U.S. grade standards. Copies of the voluntary U.S. grade standards can be obtained from Director, Livestock and Seed Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090–6456.

### § 32.401 Cost of samples for grease mohair grades.

(a) *Complete set.* $22 each, delivered to any destination with the United States and $25 each, delivered to any destination outside the United States.

(b) *Individual sample.* $2.50 each, delivered to any destination within the United States, and $3 each, delivered to

any destination outside the United States.

### § 32.402 Samples of mohair top grades; method of obtaining.

Samples certified as representative of the official standards of the United States of grades of mohair top will be furnished when available as follows, subject to other conditions for this section, upon filing of an approved application and prepayment of the cost thereof as fixed in § 32.403. The certification will be issued by the U.S. Department of Agriculture and will be signed by the Director of the Livestock Division or other official duly authorized by him.

(a) Samples representative of the official grades of mohair top:

(1) *Complete set.* Nine certified samples of mohair top, grades 40s through 20s.

(2) *Individual sample.* Individual certified samples of mohair top, grades 40s through 20s.

(b) Each application for standard samples of mohair top shall be upon an application form furnished or approved by the Agricultural Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, postal money order, or express money order, payable to the ''Agricultural Marketing Service,'' in an amount to cover the cost of the samples requested and shall incorporate the following agreement:

(1) That no samples representative of the official mohair top standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and canceled by the Director of the Livestock Division, if it is found upon such inspection that the said samples are not representative of the official standards.

### § 32.403 Cost of samples for mohair top grades.

(a) *Complete set.* Twenty-seven dollars each, delivered to any destination within the United States and $30 each, delivered to any destination outside the United States.

(b) *Individual sample.* Three dollars each, delivered to any destination within the United States, and $3.50 each, delivered to any destination outside the United States.

## PART 33—REGULATIONS ISSUED UNDER AUTHORITY OF THE EXPORT APPLE ACT

DEFINITIONS

Sec.
33.1 Act.
33.2 Person.
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REGULATIONS

33.10 Minimum requirements.
33.11 Inspection and certification.

EXEMPTIONS

33.12 Apples not subject to regulations.

WITHHOLDING CERTIFICATES

33.13 Notice.
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33.16 Service of notice or order.

INTERPRETIVE RULES

33.50 Apples for processing.
33.60 OMB control number assigned pursuant to the Paperwork Reduction Act.

AUTHORITY: Sec. 7, 48 Stat. 124; 7 U.S.C. 587.

SOURCE: 71 FR 70644, Dec. 6, 2006, unless otherwise noted.

DEFINITIONS

### § 33.1 Act.

*Act* and *Export Apple Act* are synonymous and mean ''An act to promote the foreign trade of the United States in apples to protect the reputation of American-grown apples in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving to foreign commerce,

to provide for the commercial inspection of such products entering such commerce, and for other purposes,'' approved June 10, 1933 (48 Stat. 123; 7 U.S.C. 581 *et seq.*), and amended November 12, 1999 (113 Stat. 1321; 7 U.S.C. 581 *et seq.*).

### § 33.2 Person.

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

### § 33.3 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 hereafter be delegated to act in his stead.

### § 33.4 Carrier.

*Carrier* means any common or private carrier, including, but not limited to trucks, railroads, airplanes, vessels, tramp or chartered steamers whether carrying for hire or otherwise.

### § 33.5 Apples.

*Apples* mean fresh whole apples in packages whether or not they have been in storage.

### § 33.6 Package.

*Package* means any container of apples.

### § 33.7 Less than carload lot.

*Less than carload lot* means a quantity of apples in packages not exceeding 20,000 pounds gross weight or 400 standard boxes or equivalent.

REGULATIONS

### § 33.10 Minimum requirements.

No person shall ship, or offer for shipment, and no carrier shall transport, or receive for transportation, any shipment of apples to any foreign destination unless:

(a) Apples grade at least U.S. No. 1 or U.S. No. 1 Early: *Provided,* That apples for export to Pacific ports of Russia shall grade at least U.S. Utility or U.S. No. 1 Hail for hail-damaged apples, as specified in the United States Standards for Apples (Sections 51.300–51.323 of this chapter): *Provided further,* That apples for export to any foreign destination do not contain apple maggot, and do not have more than 2 percent, by count, of apples with apple maggot injury, nor more than 2 percent, by count, of apples infested with San Jose scale or scale of similar appearance;

(b) Decay, scald or any other deterioration which may have developed on apples after they have been in storage or transit shall be considered as affecting condition and not the grade.

(c) Each package of apples is packed so that the apples in the top layer shall be reasonably representative in size, color, and quality of the contents of the package; and

(d) Each package of apples is marked plainly and conspicuously with:

(1) The name and address of the grower, packer, or domestic distributor: *Provided,* That the name of the foreign distributor may be placed on consumer unit packages shipped in a master container if such master container is marked with the name and address of the grower, packer, or domestic distributor;

(2) The variety of the apples;

(3) The name of the U.S. grade or the name of a state grade if the fruit meets each minimum requirement of a U.S. grade specified in this section.

### § 33.11 Inspection and certification.

(a) Each person shipping, or offering for shipment, apples to any foreign destination shall cause them to be inspected by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection and certification of fresh fruits, and vegetables and other products (Part 51 of this chapter) and certified as meeting the requirements of the Act and this part. No carrier shall transport, or receive for transportation, apples to any foreign destination unless they have been so inspected and certified. Inspection and certification may be obtained at any time prior to exportation of the apples. Such a Federal or Federal-State certificate shall be designated as an ''Export Form Certificate'' and shall include the following

statement: ''Meets requirements of Export Apple Act.'' The shipper shall deliver a copy of the Export Form Certificate or Memorandum of Inspection to the export carrier. Whenever apples are inspected and certified at any other point other than the port of exportation, the shipper shall deliver a copy of the Export Form Certificate or Memorandum of Inspection to the agent of the first carrier that thereafter transports such apples and such agent shall deliver such copy to the proper official of the carrier on which the apples, covered by such certificate or memorandum, are to be exported. A copy of the Export Form Certificate or Memorandum of Inspection shall be filed by the export carrier for a period of not less than three (3) years after date of export.

(b) If the inspector has reason to believe that samples of a lot of apples have been obtained for a determination as to compliance with tolerance for spray residue, established under the Federal Food, Drug and Cosmetic Act, as amended (52 Stat. 1040; U.S.C. 301 *et seq.*), he shall not issue a certificate on the lot unless it complies with such tolerances.

EXEMPTIONS

### § 33.12 Apples not subject to regulation.

Except as otherwise provided in this section, any person may, without regard to the provisions of this part, ship or offer for shipment, and any carrier may, without regard to the provisions of this part, transport or receive for transportation to any foreign destination:

(a) A quantity of apples to any foreign country not exceeding a total of 5,000 pounds gross weight or 100 boxes of apples packed in standard boxes on a single conveyance:

(b) Apples to Pacific ports west of the International Date Line which do not meet maturity standards of the grade specified in § 33.10, if the packages are conspicuously marked or printed with the words ''Immature Fruit;'' (in letters at least two inches high) if inspected and certified as meeting all other requirements of §§ 33.10 and 33.11.

(c) Apples for processing which do not meet the grade standards specified in § 33.10, if such apples grade at least U.S. No. 1 as specified in U.S. Standards for Apples for Processing (§§ 51.340 to 51.344 of this chapter), and if the containers are conspicuously marked ''Cannery'' (in letters at least two inches high) if inspected and certified as meeting all other requirements of §§ 33.10 and 33.11.

WITHHOLDING CERTIFICATES

### § 33.13 Notice.

If the Secretary is considering withholding the issuance of certificates under the Act for a period of not exceeding 90 days to any person who ships, or offers for shipment, apples to any foreign destination in violation of any provisions of the Act or this part, he or she shall cause notice to be given to the person accused of the nature of the charges against him or her and of the specific instances in which violation of the Act or the regulations in this part is charged.

### § 33.14 Opportunity for hearing.

The person accused shall be entitled to a hearing, provided he or she makes written requests therefore and files a written responsive answer to the charges made not later than 10 days after service of such notice on him or her. The right to hearing shall be restricted to matters in issue. At such hearing, he or she shall have the right to be present in person or by counsel and to submit evidence and argument in his or her behalf. Failure to request a hearing within the specified time or failure to appear at the hearing when scheduled shall be deemed a waiver of the right to hearing. Such person may, in lieu of requesting an oral hearing, file a sworn written statement with the Secretary not later than 10 days after service of such notice upon him or her.

### § 33.15 Suspension of inspection.

Any order to withhold the issuance of a certificate, as provided in section 6 of the Act, will be effective from the date specified in the order but no earlier than the date of its service upon the person found to have been guilty. Such

order will state the inclusive dates during which it is to remain in effect, and during this period no inspector employed or licensed by the Secretary shall issue any Export Form Certificate or Memorandum of Inspection to such person.

### § 33.16 Service of notice or order.

Service of any notice or order required by the Act or prescribed by the regulations in this part shall be deemed sufficient if made personally upon the person served, by registered mail, or by leaving a copy of such notice or order with an employee or agent at such person's usual place of business or abode or with any member of his immediate family at his or her place of abode. If the person named is a partnership, association, or corporation, service may similarly be made by service on any member of the partnership or any officer, employee, or agent of the association or corporation.

INTERPRETIVE RULES

### § 33.50 Apples for processing.

The terms ''apples for processing'' as used in § 33.12 of this part apply only and is restricted to packages of apples which were originally packaged for processing and marked ''Cannery'' as required by § 33.12(c) of this part. Packages of apples not so originally packaged and marked are not eligible for certification as ''apples for processing'' for purposes of this part.

### § 33.60 OMB control number assigned pursuant to the Paperwork Reduction Act.

The OMB control number assigned pursuant to the Paperwork Reduction Act for this part is OMB No. 0581–0143.

## PART 34 [RESERVED]

## PART 35—EXPORT GRAPES AND PLUMS

DEFINITIONS

Sec.
35.1 Act.
35.2 Person.
35.3 Secretary.
35.4 Carrier.
35.5 Package.
35.6 Shipment.
35.7 Certificate.
35.8 Date of export.

REGULATIONS

35.11 Minimum requirements.
35.12 Inspection and certification.

EXEMPTIONS

35.13 Minimum quantity.

WITHHOLDING CERTIFICATES

35.14 Notice.
35.15 Opportunity for hearing.
35.16 Suspension of inspection.
35.17 Service of notice or order.
35.60 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

AUTHORITY: 74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591–599.

SOURCE: 26 FR 8934, Sept. 22, 1961, unless otherwise noted.

DEFINITIONS

### § 35.1 Act.

*Act* or *Export Grape and Plum Act* means ''An Act to promote the foreign trade of the United States in grapes and plums, to protect the reputation of American-grown grapes and plums in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes'' (74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591–599).

### § 35.2 Person.

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

### § 35.3 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 hereafter be delegated to act in his stead.

### § 35.4 Carrier.

*Carrier* means any common or private carrier, including, but not being limited to, trucks, rail, airplanes, vessels,

tramp or chartered steamers, whether carrying for hire or otherwise.

### § 35.5 Package.

*Package* means any container of any variety of vinifera species table grapes.

[41 FR 32877, Aug. 6, 1976]

### § 35.6 Shipment.

*Shipment* means one or more lots of any variety of vinifera species table grapes shipped or offered for shipment by any one person in a single conveyance to a foreign country regardless of the number of consignees, receivers, or ports of destination in that country.

[41 FR 32877, Aug. 6, 1976]

### § 35.7 Certificate.

*Certificate* or *Certificate of Inspection* means any of the official forms of inspection certificate, bearing the statement ''meets Export Grape and Plum Act,'' issued by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection of fresh fruits, vegetables, and other products (7 CFR part 2851[1]).

### § 35.8 Date of export.

*Date of export* means the date of loading on board the exporting carrier on which movement of the grapes from the United States is effected. The date of the on board bill of lading (or loading tally sheet) shall be considered to be the date the grapes were loaded on board, unless an ''on board'' date is shown.

## REGULATIONS

### § 35.11 Minimum requirements.

No person shall ship, or offer for shipment, and no carrier shall transport, or receive for transportation, any shipment of any variety of vinifera species table grapes unless such grapes meet the following quality and container marking requirements applicable to the variety and destination specified:

(a) Any such variety for export to destinations in Japan, Europe (defined to mean the following countries: Albania, Austria, Belgium, Bosnia, Bulgaria, Croatia, Czech Republic, Denmark, England, Finland, France, Germany, Greece, Herzegovina, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Macedonia, Montenegro, Netherlands, Northern Ireland, Norway, Poland, Portugal, Romania, Scotland, Serbia, Slovenia, Spain, Sweden, Switzerland, Wales), or Greenland shall meet each applicable minimum requirement of the U.S. Fancy Table grape grade as specified in the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) (§§ 51.880–51.912 of this title). The Black Corinth variety shall be exempt from bunch and berry size requirements.

(b) Any such variety for export to any foreign destination, other than destinations in Japan, Europe, Greenland, Canada, or Mexico, shall meet each applicable minimum requirement of the U.S. No. 1 Table grape grade as specified in the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) (§§ 51.880–51.912 of this title), except that an additional 2 percent tolerance for sealed berry cracks on the Ribier variety is allowed. The Black Corinth variety shall be exempt from bunch and berry size requirements.

(c) Each package of any such variety, other than those in packages of 5 pounds or less in master containers, to any destination other than in Canada or Mexico shall be plainly and conspicuously marked with the name and address of the grower or packer, the variety, and the applicable inspection lot stamp number, except that when the packages are unitized, the requirement as to inspection lot stamp marking shall be deemed as met if the exposed box ends on one end of the unit are so marked.

[41 FR 32877, Aug. 6, 1976, as amended at 61 FR 54082, Oct. 17, 1996; 76 FR 14277, Mar. 16, 2011]

### § 35.12 Inspection and certification.

(a) Each person shipping or offering for shipment any variety of vinifera species table grapes, to any foreign destination other than destinations in Canada or Mexico, shall cause them to be inspected within 14 days prior to

[1] Part 2851 was redesignated as part 51 at 46 FR 63203, Dec. 31, 1981.

date of export by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection and certification of fresh fruits, vegetables, and other products (part 51 of this chapter) and certified as meeting the requirements of the act and this part.

(b) The Federal or Federal-State certificate shall be designated as an ''Export Form Certificate'' and shall include one of the following statements as applicable:

(1) For any variety meeting specifications of paragraph (a) of § 35.11 ''Meets requirements of Export Grape and Plum Act'' or (2) For any variety meeting specifications of paragraph (b) of § 35.11 ''Meets requirements of Export Grape and Plum Act except for export to destinations in Europe, Greenland, or Japan.'' No carrier shall transport or receive for transportation any such variety to any foreign destination other than Canada or Mexico unless a copy of the certificate of inspection issued thereon showing that the grapes meet requirements for the applicable export destination is surrendered to such carrier when such variety is so received. The shipper shall deliver a copy of such certificate covering the shipment to the export carrier. Such grapes may be inspected at points other than port of exportation. Whenever such grapes are inspected and certified at any point other than port of exportation, the shipper shall deliver a copy of such certificate to the agent of the first carrier that thereafter transports such grapes and such agent shall deliver such copy to the proper official of the carrier on which the grapes are to be exported.

(c) A copy of the Certificate of Inspection shall be filed by the export carrier for a period of not less than three (3) years following date of export.

(d) Persons exporting grapes under the provisions of section 2 of the Act shall first submit to the Federal or Federal-State Inspection Service a certification in duplicate stating the names and addresses of the contracting parties, the date of contract, the quantity of grapes to be delivered, the U.S. grade specified, the expected date of shipment, and the name and address of the export carrier. The certificate of inspection shall indicate that the grapes are eligible for export under section 2 of the Act.

(e) If the inspector has reason to believe that samples of a lot of any variety of vinifera species table grapes have been obtained for a determination as to compliance with tolerance for spray residue, established under the Federal Food, Drug and Cosmetic Act, as amended (52 Stat. 1040; 21 U.S.C. 301 *et seq.*), he shall not issue a certificate on the lot unless it complies with such tolerances.

[26 FR 8934, Sept. 22, 1961, as amended at 41 FR 32878, Aug. 6, 1976]

EXEMPTIONS

### § 35.13 Minimum quantity.

Any person may, without regard to the provisions of this part, ship or offer for shipment, and any carrier may, without regard to the provisions of this part, transport or receive for transportation to any foreign destination, a shipment of 25 packages or less of vinifera species table grapes, either a single variety or a combination of two or more varieties, not exceeding 1,250 pounds gross weight.

[41 FR 32878, Aug. 6, 1976]

WITHHOLDING CERTIFICATES

### § 35.14 Notice.

If the Secretary is considering withholding the issuance of certificates under the Act for a period of not exceeding 90 days to any person who ships, or offers for shipment, any variety of vinifera species table grapes to any foreign destination in violation of any provisions of the Act or this part, he shall cause notice to be given to the person accused of the nature of the charges against him and of the specific instances in which violation of the Act or the regulations in this part is charged.

[41 FR 32878, Aug. 6, 1976]

### § 35.15 Opportunity for hearing.

The person accused shall be entitled to a hearing, provided he makes written request therefor and files a written responsive answer to the charges made not later than 10 days after service of

such notice upon him. The right to hearing shall be restricted to matters in issue. At such hearing, he shall have the right to be present in person or by counsel and to submit evidence and argument in his behalf. Failure to request a hearing within the specified time or failure to appear at the hearing when scheduled shall be deemed a waiver of the right to hearing. Such person may, in lieu of requesting an oral hearing, file a sworn written statement with the Secretary not later than 10 days after service of such notice upon him.

### § 35.16 Suspension of inspection.

Any order to withhold the issuance of a certificate, as provided in section 6 of the Act, will be effective from the date specified in the order but no earlier than the date of its service upon the person found to have been guilty. Such order will state the inclusive dates during which it is to remain in effect, and during this period no inspector employed or licensed by the Secretary shall issue any Certificate of Inspection to such person.

### § 35.17 Service of notice or order.

Service of any notice or order required by the Act or prescribed by the regulations in this part shall be deemed sufficient if made personally upon the person served, by registered mail, or by leaving a copy of such notice or order with an employee or agent at such person's usual place of business or abode or with any member of his immediate family at his place of abode. If the person named is a partnership, association, or corporation, service may similarly be made by service on any member of the partnership or any officer, employee, or agent of the association or corporation.

### § 35.60 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0581–0143.

[49 FR 23826, June 8, 1984]

# PART 36—PROCEDURES BY WHICH THE AGRICULTURAL MARKETING SERVICE DEVELOPS, REVISES, SUSPENDS, OR TERMINATES VOLUNTARY OFFICIAL GRADE STANDARDS

Sec.

36.1 General information.
36.2 Initiating action on grade standards.
36.3 Public notification of grade standards action.

AUTHORITY: 7 U.S.C. 1621–1627.

SOURCE: 62 FR 43439, Aug. 13, 1997, unless otherwise noted.

### § 36.1 General information.

The Agricultural Marketing Service (AMS or agency) of the U.S. Department of Agriculture (USDA) facilitates the fair and efficient marketing of agricultural products by promulgating voluntary official grade standards for dairy, fresh and processed fruits and vegetables, livestock, meats and meat products, eggs, poultry and rabbit products, tobacco, wool, mohair, and other agricultural products. AMS standards provide a uniform language for describing the quality of various agricultural commodities in the marketplace. These standards may cover (but are not limited to) terms, classes, sizes (including quantities of packaged consumer agricultural commodities), dimensions, capacities, quality levels, performance criteria, inspection requirements, marking requirements, testing equipment, test procedures, and installation procedures.

(a) Grade standards are officially designated as U.S. Grade Standards and the AMS assigns each grade standard an appropriate identification number. AMS develops, revises, suspends, or terminates official grade standards under procedures that allows for input by interested parties.

(b) These procedures set forth the process by which AMS will develop, revise, suspend, or terminate the U.S. standards.

(c) Communications about AMS standards in general should be addressed to the Administrator, Attention: Functional Committee for Standards. Communications about specific standards (such as a request to develop

or revise a standard) should be addressed to the Director of the appropriate Division (Dairy, Fruit and Vegetable, Livestock and Seed, Poultry, or Tobacco). All communications should include in the address: Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington, DC 20090–6456.

### § 36.2 Initiating action on grade standards.

The Agency will develop, revise, suspend, or terminate grade standards if it determines that such action is in the public interest. Any standardization action should reflect the broad interest of individuals or an industry involved in manufacturing, producing, packaging, distributing, testing, consuming, or using the product; or the interest of a Federal, State, or local agency. Proposed actions should always be based on sound technical and marketing information and should include careful consideration of the factors that determine a commodity's quality and condition and that will allow trained personnel to determine objectively conformance or non-conformance.

(a) AMS encourages interested parties to participate in the review, development, and revision of grade standards. Interested parties include growers, producers, processors, shippers, distributors, consumers, individuals or groups, trade associations, companies, and State or Federal agencies. Such groups and individuals may at any time recommend that AMS develop, revise suspend, or terminate a grade standard. Requests for Agency action should be in writing, preferably accompanied by a draft of the suggested change.

(1) The Agency, in cooperation with interested parties, as applicable, will:

(i) Determine the need for new or revised standards;

(ii) Collect technical, marketing, or other appropriate data;

(iii) Conduct research regarding new or revised standards, as appropriate; and,

(iv) Draft the proposed standards;

(2) [Reserved]

(b) If the Agency determines that new standards are needed, existing standards need to be revised, or the suspension or termination of existing standards is justified, it will undertake the action, with input from all interested parties.

### § 36.3 Public notification of grade standards action.

After developing a standardization proposal, the Agency will publish a notice in the FEDERAL REGISTER describing new or changes to existing standards or to suspend or terminate existing standards. AMS will simultaneously issue a news release about these actions. AMS will also distribute copies of the full text of the proposals to anyone requesting a copy or to anyone the Agency believes may be interested, including other Federal, State, or local government agencies, and on the Internet. For other than minor editorial or technical changes, the notice will provide at least 60 days for interested parties to submit comments to the Agency.

(a) All comments received within the comment period will be part of the public record maintained by the Agency, will be available to the public for review, and will be considered by the Agency before final action is taken on the proposal.

(1) Based on the comments received, the Agency's knowledge of standards, grading, marketing, and other technical factors, and any other relevant information AMS will decide whether the proposed actions should be implemented.

(2) If AMS concludes that the actions as proposed or with minor modifications should be adopted, AMS will publish a description of the changes or actions in a FEDERAL REGISTER notice. The Agency, through the appropriate AMS Divisions, will make the grade standards and related information available in printed form and electronic media.

(3) If the Agency determines that proposed changes are not warranted, or otherwise are not in the public interest, the Agency will either publish in the FEDERAL REGISTER a notice withdrawing the proposal, or will revise the proposal and again seek public input.

(b) [Reserved]

# PART 37—PROGRAM TO ASSESS ORGANIC CERTIFYING AGENCIES

Sec.
37.1 Definitions.
37.2 Services.
37.3 Availability of service.
37.4 How to apply for service.
37.5 Order of furnishing service.
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37.7 Authority to request service.
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37.9 Access to establishments or records; record retention.
37.10 Official assessment.
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37.12 Reassessment.
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37.14 Fees and other charges.
37.15 Payment of fees.
37.16 OMB assigned numbers.

AUTHORITY: 7 U.S.C. 1621–1627.

SOURCE: 64 FR 30867, June 9, 1999, unless otherwise noted.

## § 37.1 Definitions.

Words used in this part in the singular form shall be deemed to impart the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

*Assessment services*. The services provided by the Meat Grading and Certification Branch in accordance with the regulations that may result in assessment of an organic certification program that certifies agricultural commodities to established specifications or standards.

*Act*. The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087, as amended by Pub. L. 272, 84th Cong., 69 Stat. 553, 7 U.S.C. 1621–1627).

*Agricultural commodity*. Any agricultural commodity or product, raw or processed, that is used for human or animal consumption or use.

*Agricultural Marketing Service*. The Agricultural Marketing Service of the Department.

*Applicant*. Any person who applies for service under the regulations.

*Audit*. A systematic review of the adequacy of program or system documentation, or the review of the completeness of implementation of a documented program or system.

*Auditor*. Person authorized by the Branch to conduct official assessments of agricultural commodity product certification programs.

*Branch*. The Meat Grading and Certification Branch.

*Branch Chief*. The Chief of the Branch, or any officer or employee of the Meat Grading and Certification Branch, Livestock and Seed Program, Agricultural Marketing Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his or her stead.

*Department*. The United States Department of Agriculture.

*Deputy Administrator*. The Deputy Administrator of the Livestock and Seed Program of the Agricultural Marketing Service or any officer or employee of the Livestock and Seed Program to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his or her stead.

*Legal holiday*. Those days designated as legal public holidays in Title 5, United States Code, Section 6103(a).

*Livestock and Seed Program*. The Livestock and Seed Program of the Agricultural Marketing Service.

*Part*. The program to assess organic certifying agencies in the regulations.

*Person*. Any individual, partnership, corporation, or other legal entity, or Government agency.

*Quality Manual*. A manual documenting an organic certifying agency's quality system and associated quality certification procedures used to certify organic producers and handlers of organically produced agricultural commodities in accordance with established specifications or standards.

*Regulations*. The regulations in this part.

## § 37.2 Services.

Organic certifying agencies requesting assessment services under this part shall conform to the provisions of the regulations and the requirements of International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 65—General Requirements for Bodies

Operating Product Certification Systems, Ref. No. ISO/IEC Guide 65:1996, or other internationally recognized guidelines or requirements. The Director of the Federal Register approves the incorporation by reference of ISO/IEC Guide 65 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the American National Standards Institute, 11 West 42nd Street, New York, NY 10036. You may inspect a copy at USDA, AMS, LSP, MGCB; STOP 0248, Room 2628–S; 1400 Independence Ave., SW., Washington, DC 20250–0248 or 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*.

(a) Assessment services provided under the regulations shall consist of:

(1) Review of the adequacy of an applicant's quality manual against the requirements of ISO Guide 65; and

(2) Onsite auditing of an applicant's organic certification program to ensure implementation of the provisions of the quality manual and the applicant's compliance with the requirements of ISO Guide 65.

(b) Organic certifying agencies also may request assessment services under other international recognized guidelines or requirements. Developmental assistance in the form of training to explain requirements for quality system assessment is available upon request.

### § 37.3 Availability of service.

Service under these regulations is available to State and private organic certifying agencies.

### § 37.4 How to apply for service.

(a) *Application*. Any organic certifying agency may apply to the Branch Chief, Meat Grading and Certification (MGC) Branch, Livestock and Seed (LS) Program, AMS, P.O. Box 96456, Room 2628-South, Washington, DC, 20090–6456 for assessment service. The application shall be made on Form LS–314, Application for Service. The applicant shall provide the following:

(1) The name and address of the establishment at which service is desired;

(2) The name and post office address of the applicant;

(3) The financial interest of the applicant in the program, except where application is made by an official of a State Government agency in their official capacity;

(4) The type of business and services provided;

(5) The type of commodity certified; and

(6) the signature of the applicant (or the signature and title of his representative). The application shall indicate the status of the applicant as an individual, partnership, corporation, or other form of entity. Any change in such status, at any time while service is being received, shall be promptly reported to the Department by the person receiving the service.

(b) *Notice of eligibility for service*. The applicant will be notified whether its application is approved, and the request for service deemed made under the regulations. Upon approval of a request for service, the applicant shall provide a copy of its quality manual.

(c) Applicants requiring additional assessment audits who have already submitted Form LS–314 are not required to submit an additional Form LS–314: *Provided that*, the required information on the original Form LS–314 remains unchanged.

### § 37.5 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests for service therefore are received, insofar as consistent with good management, efficiency, and economy.

### § 37.6 When application may be withdrawn.

An application or a request for service may be withdrawn by the applicant at any time before the application is approved or prior to performance of service: provided that, the applicant shall pay any expenses which have been incurred by the Department in connection with such application.

### § 37.7 Authority to request service.

Proof of the interest of an applicant involved in the request for service, or of the authority of any person applying for the service on behalf of another may be required, at the discretion of the reviewing official.

### § 37.8 Financial interest of official.

No auditor or other Department official shall review any programs or documents concerning a certification program in which the official is directly or indirectly financially interested.

### § 37.9 Access to establishments or records; record retention.

The applicant shall cause records and documents, with respect to which service is requested, to be made easily accessible for examination. Supervisors and other employees of the Department responsible for maintaining uniformity and accuracy of service shall have access to all parts of establishments covered by approved applications for service under the regulations, during normal business hours or during periods of production, for the purpose of evaluating systems or processes associated with an approved certification program. Records and documents shall be retained for at least 5 years beyond the date of the applicant's request for service.

### § 37.10 Official assessment.

Official assessment of an applicant's certification program shall be granted upon successful completion of a two-step review process, as provided for in § 37.2.

(a) *Documentation approval.* Documentation approval will be provided by the Branch Chief regarding the adequacy of an applicant's quality manual with respect to ISO Guide 65 requirements upon completion of an adequacy audit by the auditors.

(b) *Program assessment.* Assessment of a certification program will be issued by the Branch Chief by written memorandum or other approved method of assessment upon successful completion of an onsite audit conducted by the auditors of an applicant's organic certification program ensuring that the provisions of the applicant's quality manual have been implemented and that the applicant's certification program complies with the requirements of ISO Guide 65.

(c) *Disapproval and corrections.* An applicant determined not to meet applicable assessment requirements shall be provided by the Branch Chief with a written summary of observed program deficiencies. The applicant may appeal such a determination in accordance with the provisions of § 37.13 or implement required corrective action. After completion of the corrective action, the applicant may contact the Branch Chief to schedule another audit for assessment.

### § 37.11 Publication of program assessment status.

(a) The names of assessed certifying agencies shall be posted for public reference on the Livestock and Seed Program's website at: *http://www.ams.usda.gov/lsg/.* Such postings shall include: certifier's name and contact information; referenced specification or standard(s) covered under the scope of assessment; effective date of assessment; and control number(s) of official certificate(s), as applicable.

(b) The names of assessed certifying agencies posted on the Livestock and Seed Program's website may be removed from the website upon suspension or termination of assessment for noncompliance with the regulations pursuant to § 37.13.

### § 37.12 Reassessment.

Approved certification programs shall be subject to periodic reassessment to ensure ongoing compliance with the regulations, including the requirements of ISO Guide 65. The frequency of such reassessment shall be based on the relative risk associated with the certification program's integrity, as determined by the Branch Chief.

### § 37.13 Suspension or denial of program assessment; appeals and termination.

(a) *Suspension or denial of assessment.* When a review of a certification program by auditors finds noncompliance with the regulations, including the requirements of ISO Guide 65, the Branch Chief may suspend or deny assessment

until subsequent audits show the noncompliance has been corrected.

(b) *Appeals.* Appeals of adverse decisions by an auditor or the Branch Chief may be made in writing to the Livestock and Seed Program Deputy Administrator at Room 2092-South, 1400 Independence Avenue, SW., Washington, DC 20250–0249.

(c) *Termination.* If noncompliance with the regulations remains uncorrected beyond a reasonable amount of time, as determined by the Livestock and Seed Program Deputy Administrator, an application may be rejected or program assessment terminated.

(1) *Procedure.* Actions under this subparagraph concerning rejection of an application or termination of assessment shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§ 1.130 through 1.151 of this title.

(2) [Reserved]

### § 37.14 Fees and other charges.

Fees and other charges equal as nearly as may be to the cost of the assessment services rendered under the regulations, including reassessments, shall be assessed and collected from applicants in accordance with the following provisions.

(a) *Fees for Service.* Except as otherwise provided in this section, fees-for-service shall be based on the time required to render the service provided calculated to the nearest 15-minute period, including auditor's travel, review and approval of quality manual, the conduct of the onsite audit, and time required to prepare reports and any other documents in connection with the performance of service. The base hourly rate for such service is $42.20 per hour for 8 hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays. The premium hourly rate for all applicants is $47.80 per hour charged to users of the service for the hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m.; for the hours worked between 6 p.m. and 6 a.m., Monday through Friday; and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants is $79.60 charged to users of the service for all hours worked on legal holidays.

(b) *Travel charges.* When service is requested at a place so distant from an auditor's headquarters, or place of prior assignment on circuitous routing, that a total of one-half hour or more is required for the auditor to travel to such place and back to the headquarters, or to the next place of assignment on a circuitous routing, the charge for such service shall include mileage charge administratively determined by the Department, and travel tolls, if applicable, or such travel prorated against all the applicants furnished the service involved on an equitable basis, or where the travel is made by public transportation (including hired vehicles), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(c) *Per diem charges.* When service is requested at a place away from the auditor's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the auditor receives per diem reimbursement. The per diem rate will be administratively determined by the Department. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(d) *Other costs.* When costs, other than costs specified in paragraphs (a), (b), and (c) of this section are associated with providing the services, the applicant will be charged for these costs. The amount of the costs charged will be determined administratively by the Department. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

### § 37.15 Payment of fees.

Fees and other charges for service shall be paid by the applicant to the Livestock and Seed Program, AMS,

P.O. Box 96456, Room 2628-South, Washington, DC 20090–6456, with a check made payable to the Agricultural Marketing Service.

### § 37.16 OMB assigned numbers.

The information collection and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581–0183.

## PARTS 38–41 [RESERVED]

## PART 42—STANDARDS FOR CONDITION OF FOOD CONTAINERS

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Sec.

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42.143 Operating Characteristic (OC) curves for on-line sampling and inspection.

AUTHORITY: Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

## Subpart A—Definitions

### § 42.101 Meaning of words.

Words used in this part in the singular form shall be considered to import the plural, or vice versa, as the case may demand.

[31 FR 4687, Mar. 19, 1966; 31 FR 4949, Mar. 25, 1966; Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981]

### § 42.102 Definitions, general.

For the purpose of this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

*Acceptable Quality Level (AQL).* The maximum number of defects per hundred units (DHU) which is acceptable as a process average. Lots, or portions of production, having a quality level equal to a specified AQL will be accepted approximately 95 percent of the time when using the sampling plans prescribed for the AQL.

*Acceptance Number* (Ac). The number in a sampling plan that indicates the maximum number of defects permitted in a sample in order to consider a lot as meeting a specific requirement.

*Administrator.* The Administrator of the Agricultural Marketing Service

(AMS) of the Department or any other officer or employee of the Agency who is delegated, or who may be delegated the authority to act in the Administrator's stead.

*Basic Inspection Period*. A specified period of consecutive production designated for on-line inspection (e.g., one shift's production, one day's production, etc.).

*Condition*. The degree of acceptability of the container with respect to freedom from defects which affect the serviceability, including appearance as well as usability, of the container for its intended purpose.

*Cumulative Sum Sampling (CuSum) Plan*. An on-line sampling plan that accumulates the number of defects which exceed the subgroup tolerance (''T'') in a series of consecutive subgroups. Terms specified to the CuSum sampling plans are:

(a) *Acceptance Limit (''L'')*. The maximum accumulation of defects allowed to exceed the subgroup tolerance (''T'') in any subgroup or consecutive subgroups.

(b) *CuSum value*. The accumulated number of defects that exceed the subgroup tolerance (''T'').

(c) *Subgroup tolerance (''T'')*. The allowable number of defects in any subgroup.

(d) *Starting value (''S'')*. The initial CuSum value used to begin a CuSum sampling plan.

*Defect*. Any nonconformance of a container from specified requirements.

*Defect classifications*. The terms used to denote the severity of a defect. The terms are as follows:

(a) *Critical defect*. A defect that seriously affects, or is likely to seriously affect, the usability of the container for its intended purpose.

(b) *Major defect*. A defect that materially affects, or is likely to materially affect, the usability of the container for its intended purpose.

(c) *Minor defect*. A defect that materially affects the appearance of the container but is not likely to affect the usability of the container for its intended purpose.

(d) *Insignificant defect*. A flaw in the container that does not materially affect the appearance and does not affect usability of the container for its intended purpose. When performing examinations, insignificant defects shall not be recorded.

*Defective*. A container which has one or more defects.

*Department*. The U.S. Department of Agriculture.

*Double sampling*. A sampling scheme which involves use of two independently drawn but related samples, a first sample and a second sample which is added to the first to form a total sample size. A double sampling plan consists of first and total sample sizes with associated acceptance and rejection criteria. The first sample must be inspected first, and if possible, a decision as to acceptance or rejection of the lot made before a second sample is inspected. When the decision cannot be made on the first sample, a second sample is inspected; the decision to accept or reject is based on the total sample size.

*Lot or inspection lot*. A collection of filled food containers of the same size, type, and style. The term shall mean ''inspection lot,'' i.e., a collection of units of product from which a sample is to be drawn and inspected to determine conformance with the applicable acceptance criteria. An inspection lot may differ from a collection of units designated as a lot for other purposes (e.g., production lot, shipping lot, etc.).

*On-line sampling*. The random selection of samples from a production line.

*Origin inspection*. An inspection made at any location where the filled containers are examined prior to shipment or transfer to the purchaser.

*Primary container*. The immediate container in which the product is packaged and which serves to protect, preserve, and maintain the condition of the product. It may be metal, glass, fiber, wood, textile, plastic, paper, or any other suitable type of material and may be supplemented by liners, overwraps, or other protective materials.

(b) *For On-line Sampling*. The chance that a portion of production with a given level of quality will be accepted. Probability of acceptance is synonymous with ''Percent of Production Expected to be Accepted.'' The probability of acceptance is normally designated as ''Pa.'' In on-line sampling

inspection, the probability of acceptance of any portion of production depends on the sample results obtained from the preceding portions. The probability of acceptance values associated with these procedures are the values which would be expected if a large number of samples are to be inspected. For the CuSum plans referenced in this standard, the probability of acceptance at the Acceptable Quality Level (AQL) is approximately 95 percent. The starting value (''S'') associated with each CuSum plan helps to make the probability of acceptance of the first portions of production of a basic inspection period as close as possible to 95 percent.

*Random sampling*. A process of selecting a sample from a lot, or portion of production, whereby each unit in the lot of portion of production, has an equal chance of being chosen.

*Rejection number* (Re). The number in a sampling plan that indicates the minimum number of defects in a sample that will cause a lot to fail a specific requirement.

*Sample*. Any number of sample units which are to be used for inspection.

*Sample size (n)*. The number of sample units included in the sample.

*Sample unit*. The individual container including any component parts.

*Sampling plan*. Any plan stating the number of sample units to be included in the sample as well as the corresponding plan parameters used to make acceptance and rejection decisions.

*Secondary container*. The container in which one or more primary containers are packed. For example, a shipping case containing canned product.

*Shipping case*. The container in which the product or primary containers of the product are placed to protect, preserve, and maintain the condition of the product during transit or storage. The shipping case may include strapping, liners or other protective material.

*Single sampling*. A sampling scheme where the decision to accept or reject an inspection lot with respect to a specified requirement is made after the inspection of a single sample. A single sampling plan consists of a single sample size with associated acceptance and rejection criteria.

*Stationary lot sampling*. The process of randomly selecting sample units from a lot whose production has been completed. This type of lot is usually stored in a warehouse or in some other storage facility and is offered in its entirety for inspection.

*Subgroup*. A group of sample units representing a portion of production.

*Total defects*. The sum of critical, major, and minor defects.

*User*. The person or agency at whose request inspection is conducted.

[31 FR 4687, Mar. 19, 1966, as amended at 36 FR 18456, Sept. 15, 1971; 41 FR 42639, Sept. 28, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further amended at 45 FR 69423, Oct. 21, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981; 78 FR 57035, Sept. 17, 2013]

## Subpart B—Procedures for Stationary Lot Sampling and Inspection

### § 42.103 Purpose and scope.

(a) This subpart outlines the procedure to be used to establish the condition of containers in stationary lots of packaged foods. This subpart shall be used to determine the acceptability of a lot based on specified acceptable quality levels and defects referenced in § 42.104 or any alternative plan which is approved by the Administrator. In addition, any other sampling plan in the tables with a larger first sample size than that indicated by the lot size range may be specified when approved by the Administrator. This subpart or approved alternative plan will be applied when a Government agency or private user of the inspection or grading services requests that filled primary containers or shipping cases, or both, be certified for condition. Unless the request for certification specifically asks that only the primary container or only the shipping case be examined, both containers will be examined.

(b) Unless otherwise specified by the user of service, this subpart will not apply to inspection lots of less than 50 shipping cases or to inspection lots of less than 300 primary containers. When the primary container is the shipping case, the shipping case limit will apply.

When the lot size exceeds either the 50 shipping case limit or the 300 primary container limit or both, the provisions of paragraph (a) of this section will apply.

(c) Under certain conditions, special procedures (Skip Lot Sampling and Inspection) may be used to determine the condition of containers in stationary lots of packaged foods. Subpart C sets forth the requirements and procedures for Skip Lot Sampling and Inspection.

[31 FR 4687, Mar. 19, 1966, as amended at 36 FR 18456, Sept. 15, 1971; 41 FR 42639, Sept. 28, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further amended at 45 FR 69424, Oct. 21, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

### § 42.104 Sampling plans and defects.

(a) *Sampling plans.* Sections 42.109 through 42.111 show the number of containers to examine for condition in relation to lot size ranges. The tables provide acceptance (Ac) and rejection (Re) numbers for lot acceptance (or rejection) based on the number, class, and type of defects present in the sample.

(b) *Defects.* The tables in § 42.112 enumerate and classify defects according to the degree to which the individual defect affects the serviceability, including appearance as well as usability, of the container for its intended purpose. The table in § 42.113 enumerates and classifies defects of the label, marking, or code.

[31 FR 4687, Mar. 19, 1966, as amended at 36 FR 18456, Sept. 15, 1971. Redesignated at 42 FR 32514, June 27, 1977 and 46 FR 63203, Dec. 31, 1981]

### § 42.105 Basis for selection of sample.

(a) *Identification of lot.* Selection of proper samples requires sufficient information to identify the lot; such information includes, but is not limited to:

(1) The lot size (see § 42.103 for restriction on small lots);

(2) The type and size of container;

(3) The code marks or other identification marks and the number of containers represented by each mark.

(4) The history of the lot regarding previous inspections; and

(5) The inspection status (normal, tightened, or reduced).

(b) *Preliminary scanning.* Prior to drawing the sample, the lot should be scanned to determine if any segments or portions are abnormal with respect to wet cases, blown cans, top layer rust, leaking bags, etc. If such segments or portions noted are of any consequence, the lot may be rejected for condition of containers without sampling.

(c) *Sample size.* Determination of the number of containers to check for condition:

(1) Refer to the table in §§ 42.109 through 42.111 (sampling plans) and find where the lot size (number of individual containers) fits into the column headed ''Lot Size Ranges.''

(i) Tables I-A (normal), II-A (tightened), or III-A (reduced), as applicable, will apply to origin inspections, unless the contractor requests that corresponding single sampling plans be used.

(ii) The appropriate double sampling plans in Table I will apply to other than origin inspections, unless the contractor requests that corresponding single sampling plans be used.

(2) Select the appropriate sample size for the corresponding lot size range as indicated in the appropriate column headed ''Sample Size.''

(3) Lots rejected for unsatisfactory condition of containers may be subsequently sampled after being reconditioned or reworked. Such lots or resulting portion of a lot may be sampled as a reoffered lot providing the reoffered portion is separately identifiable. When making such inspections, the appropriate sampling plan for tightened inspection shall be used. Except in the case of an appeal inspection, it is not permissible to reinspect a previously rejected lot until it has been reconditioned or reworked.

(d) *Sample selection.* Select samples from the lot presented in accordance with either of the following two procedures as may be applicable. (A lot offered for inspection will be accepted or rejected in its entirety with either sampling procedure used to select the sample.)

(1) *Proportional random sampling.* When the number of codes or other identifying marks within the lot and the approximate number of cases or

containers per code are known, select sample units at random within each mark and in a number proportionate to the number of containers represented by such mark.

(2) *Simple random sampling.* When there are no code or other identifying marks, or when the number of codes or identifying marks within the lot and/or approximate number of cases or containers per mark are not known, select sample units at random from the entire lot.

(e) *Maximum sample units per case.* If the lot is cased, predetermine the number of containers to draw from each sampled case as well as the position within the case. Do not restrict the sampling to the top or bottom layers or to the corners. The best sample is one selected from all the various positions in the shipping case. It is desirable but not mandatory to limit the number of sample units to a single container from any one case. Multiple sample units may be taken from a single case but not in excess of the following plan:

(1) When containers are packed 12 or less to a case, draw a maximum of 6 sample units from any one case; and

(2) When containers are packed more than 12 to a case but not more than 60, draw a maximum of 12 sample units from any one case; and

(3) When containers are packed more than 60 to a case but not more than 250, draw a maximum of 16 sample units from any one case; and

(4) When containers are packed more than 250 in a case, draw a maximum of 24 sample units from any one case.

[31 FR 4687, Mar. 19, 1966, as amended at 36 FR 18456, Sept. 15, 1971. Redesignated at 42 FR 32514, June 27, 1977 and 46 FR 63203, Dec. 31, 1981]

### § 42.106 Classifying and recording defects.

(a) *Classifying defects.* Examine each sample unit for the applicable type of defects listed in the table covering the container being inspected in §§ 42.112 and 42.113. Other defects, not specifically listed, shall be classified according to their effect on the intended use of the container.

(1) Related defects are defects on a single container that are related to a single cause. If the initial incident causing one of the defects had not occurred, none of the other related defects on the container would be present. As an example of related defects, a can may be a leaker and the exterior may also be seriously rusted due to the leakage of the contents. In this case, the container is scored only once for these two defects since the rust condition can be attributed to the leak. Score the container according to whichever condition is the most serious. In this example, score as a ''leaker'' (a critical defect) and not as ''pitted rust'' (a major defect).

(2) Unrelated defects are defects on a single container that result from separate causes. If the incident that caused one of the defects had not occurred, the other unrelated defects on the container would still be present. As an example of unrelated defects, a can may be seriously rusted, may have a bad dent along the seam, and the label may also be detached from the can because of improper gluing. In this case it is unlikely that any of the three defects exist because of a common cause. Therefore, they are considered unrelated defects and should be scored as three defects.

(3) The lot acceptance portion of this procedure is based on the number of defects per 100 containers. It is necessary to determine if the defects on any one container are ''related'' defects or ''unrelated'' defects. A container is scored for the most serious of related defects, and is also scored for each unrelated defect.

(b) *Recording defects.* Record on a worksheet the number, type, and class (critical, major, or minor) of defects on each sample unit.

(c) *Totaling defects.* Add the number of defects in each class, then add the number of minor, major, and critical defects to obtain the total defects.

[31 FR 4687, Mar. 19, 1966, as amended at 36 FR 18456, Sept. 15, 1971. Redesignated at 42 FR 32514, June 27, 1977 and 46 FR 63203, Dec. 31, 1981; 78 FR 57035, Sept. 17, 2013]

### § 42.107 Lot acceptance criteria.

(a) The acceptability of the lot is determined by relating the number and class of defects enumerated on the

worksheet to the acceptance and rejection numbers shown in §§ 42.109 through 42.111 for the respective sample size and Acceptable Quality Level (AQL).

(b) Unless otherwise specified, use the following AQL's for the respective class of defects:

| Defect class | AQL at origin inspection | AQL at other than origin inspection |
|---|---|---|
| Critical | 0.25 | 0.25 |
| Major | 1.5 | 2.5 |
| Total | 6.5 | 10.0 |

(c) Refer to the appropriate sample size and AQL and compare the number of defects found in the sample with the acceptance (Ac) and rejection (Re) numbers in the sampling plan.

(1) Accept the lot after examining the single sample or first sample of a double sampling plan when all of the following conditions are met:

(i) The number of critical defects does not exceed the applicable acceptance number (Ac) for critical defects, and

(ii) The number of major defects does not exceed the applicable acceptance number (Ac) for major defects, and

(iii) The total number of critical, major, and minor defects does not exceed the applicable acceptance number (Ac) for total defects.

(2) Reject the lot after examining the single sample or first sample of a double sampling plan when any one or more of the following conditions occur:

(i) The number of critical defects equals or exceeds the applicable rejection number (Re) for critical defects, or

(ii) The number of major defects equals or exceeds the applicable rejection number (Re) for major defects, or

(iii) The total number of critical, major, and minor defects equals or exceeds the applicable rejection number (Re) for total defects.

(3) If the lot can neither be accepted nor rejected on the first sample, when a double sampling plan is used, select and examine the prescribed second sample. Accept the lot if the accumulated defects of the first and second sample meet conditions of paragraph (c)(1) of this section, otherwise, reject the lot.

[31 FR 4687, Mar. 19, 1966, as amended at 36 FR 18456, Sept. 15, 1971. Redesignated at 42 FR 32514, June 27, 1977 and 46 FR 63203, Dec. 31, 1981]

### § 42.108 Normal, tightened, or reduced inspection.

(a) *Normal inspection.* Sampling plans for normal inspection are those in Tables I and I-A. These plans shall be used except when the history of inspection permits reduced inspection or requires tightened inspection.

(b) *Tightened inspection.* Sampling plans for tightened inspection are those in Tables II and II-A.

(c) *Reduced inspection.* Sampling plans for reduced inspection are those in Tables III and III-A.

(d) *Switching rules.* The normal inspection procedure shall be followed except when conditions in paragraph (d) (1) or (3) of this section are applicable or unless otherwise specified. Application of the following switching rules will be restricted to the inspection of lots for one applicant at a single location (plant, warehouse, etc.), and will be based upon records of original inspections of lots (excluding resubmitted lots) at that same location.

(1) *Normal inspection to reduced inspection.* When normal inspection is in effect, reduced inspection shall be instituted providing that reduced inspection is considered desirable by the Administrator and further provided that all of the following conditions are satisfied for each class of defect:

(i) The preceding 10 inspection lots (or more, as indicated by the note to Table III-B) which have been inspected within the preceding 6 months have been on normal inspection and none has been rejected on original inspection; and

(ii) The total number of defects in the samples from the preceding 10 inspection lots (or such other number of lots used for condition in paragraph (d)(1)(i) of this section) is equal to or less than the applicable number given in Table III-B. If a double sampling plan is used, all samples inspected should be included, not ''first'' samples only; and

(2) *Reduced inspection to normal inspection.* When reduced inspection is in effect, normal inspection shall be reinstituted if any of the following occur:

(i) An inspection lot is rejected on original inspection; or

(ii) Production becomes irregular (delayed or accelerated); or

(iii) Other valid conditions warrant that normal inspection shall be reinstituted.

(3) *Normal inspection to tightened inspection.* When normal inspection is in effect, tightened inspection shall be instituted when 2 out of 5 consecutive inspection lots have been rejected on original inspection.

(4) *Tightened inspection to normal inspection.* When tightened inspection is in effect, normal inspection shall be reinstituted when five consecutive inspection lots have been considered acceptable on original inspection.

(e) When the rules require a switch in the inspection status because of one or more classes of defects, all classes of defects shall be inspected under the new inspection criteria. At the option of the user of the service and when approved by the Administrator, such user may elect to remain on normal inspection when qualified for reduced inspection, or on tightened inspection when qualified for normal inspection.

(f) *Appeal inspection*—(1) *Appeal request.* Any interested party who is not satisfied with the results of a condition inspection on packaged food containers, as stated on an official certificate, may request an appeal inspection.

(2) *How to file an appeal.* A request for an appeal inspection may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the reasons for requesting the appeal service and a description of the product to be appealed.

(3) *When an application for an appeal inspection may be refused.* When it appears that: (i) The reasons given in the request are frivolous or not substantial; or (ii) the condition of the containers has undergone a material change since the original inspection; or (iii) the original lot is no longer intact, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

(4) *Who shall perform the appeal.* An appeal inspection shall be performed by a person(s) other than the person who made the inspection being appealed.

(5) *Sampling procedures.* The sampling plan for an appeal inspection shall be the next larger sampling plan from the plan in the table used in the original inspection.

(6) *Appeal certificate.* Immediately after an appeal inspection is completed, an appeal certificate shall be issued to show that the original inspection was sustained or was not sustained. Such certificate shall supersede any previously issued certificate for the inspection involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until the previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Government.

[31 FR 4687, Mar. 19, 1966, as amended at 36 FR 18456, Sept. 15, 1971. Redesignated at 42 FR 32514, June 27, 1977 and 46 FR 63203, Dec. 31, 1981]

### § 42.109 Sampling plans for normal condition of container inspection, Tables I and I–A.

TABLE I—SINGLE SAMPLING PLANS FOR NORMAL CONDITION OF CONTAINER INSPECTION

| Code | Lot size ranges—Number of containers in lot | Type of Plan | Acceptable quality levels | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Origin Inspection | | | | | | Other Than Origin Inspection | | | | | |
| | | | Sample size | 0.25 | | 1.5 | | 6.5 | | 0.25 | | 2.5 | | 10.0 | |
| | | | | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re |
| CA ..... | 6,000 or less ..... | Single ..... | 84 | 0 | 1 | 3 | 4 | 9 | 10 | 0 | 1 | 4 | 5 | 13 | 14 |
| CB ..... | 6,001–12,000 ..... | Single ..... | 168 | 1 | 2 | 5 | 6 | 16 | 17 | 1 | 2 | 7 | 8 | 23 | 24 |
| CC ..... | 12,001–36,000 ..... | Single ..... | 315 | 2 | 3 | 8 | 9 | 28 | 29 | 2 | 3 | 13 | 14 | 41 | 42 |
| CD ..... | Over 36,000 ..... | Single ..... | 500 | 3 | 4 | 12 | 13 | 42 | 43 | 3 | 4 | 18 | 19 | 62 | 63 |
| CE ..... | ..... | Single ..... | 800 | 4 | 5 | 18 | 19 | 64 | 65 | 4 | 5 | 27 | 28 | 95 | 96 |

Ac = Acceptance number.
Re = Rejection number.

Table I-A--Double Sampling Plans for Normal Condition of Container Inspection

| Code | Lot size --ranges Number of containers in lot | Type of Plan | Sample Size | | Acceptable quality levels | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Origin Inspection | | | | | | Other Than Origin Inspection | | | | | | | |
| | | | | | 0.25 | | 1.5 | | 6.5 | | 0.25 | | 2.5 | | 10.0 | | | |
| | | | | | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | | |
| CA | 6,000 or less--- | Double----- | 1st------- | 36 | (*) | (*) | 0 | 4 | 2 | 7 | (*) | (*) | 0 | 4 | 3 | 9 | | |
| | | | 2d------- | 60 | | | | | | | | | | | | | | |
| | | | Total----- | 96 | (*) | (*) | 3 | 4 | 10 | 11 | (*) | (*) | 4 | 5 | 15 | 16 | | |
| CB | 6,001-12,000---- | Double----- | 1st------- | 120 | 0 | 2 | 2 | 6 | 10 | 14 | 0 | 2 | 3 | 7 | 14 | 19 | | |
| | | | 2d------- | 60 | | | | | | | | | | | | | | |
| | | | Total----- | 180 | 1 | 2 | 5 | 6 | 17 | 18 | 1 | 2 | 8 | 9 | 25 | 26 | | |
| CC | 12,001-36,000--- | Double----- | 1st------- | 168 | 0 | 3 | 2 | 7 | 12 | 18 | 0 | 3 | 5 | 10 | 19 | 26 | | |
| | | | 2d------- | 180 | | | | | | | | | | | | | | |
| | | | Total----- | 348 | 2 | 3 | 9 | 10 | 31 | 32 | 2 | 3 | 14 | 15 | 45 | 46 | | |
| CD | Over 36,000----- | Double----- | 1st------- | 228 | 0 | 3 | 3 | 9 | 15 | 24 | 0 | 3 | 5 | 11 | 23 | 34 | | |
| | | | 2d------- | 288 | | | | | | | | | | | | | | |
| | | | Total----- | 516 | 3 | 4 | 12 | 13 | 43 | 44 | 3 | 4 | 19 | 20 | 64 | 65 | | |

(*) = Reject on one or more defects

[78 FR 57035, Sept. 17, 2013]

**§ 42.110 Sampling plans for tightened condition of container inspection; Tables II and II–A.**

TABLE II—SINGLE SAMPLING PLANS FOR TIGHTENED CONDITION OF CONTAINER INSPECTION

| Code | Lot size ranges—Number of containers in lot | Type of Plan | Acceptable quality levels | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Origin Inspection | | | | | | Other Than Origin Inspection | | | | | |
| | | | Sample Size | 0.25 | | 1.5 | | 6.5 | 0.25 | | 2.5 | | 10.0 | |
| | | | | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re |
| CB | 6,000 or less | Single | 168 | 0 | 1 | 4 | 5 | 11 | 12 | 0 | 1 | 5 | 6 | 16 | 17 |
| CC | 6,001–12,000 | Single | 315 | 1 | 2 | 6 | 7 | 19 | 20 | 1 | 2 | 8 | 9 | 28 | 29 |
| CD | 12,001–36,000 | Single | 500 | 2 | 3 | 9 | 10 | 28 | 29 | 2 | 3 | 12 | 13 | 42 | 43 |
| CE | Over 36,000 | Single | 800 | 3 | 4 | 13 | 14 | 42 | 43 | 3 | 4 | 18 | 19 | 64 | 65 |
| CF | | Single | 1,250 | 4 | 5 | 19 | 20 | 63 | 64 | 4 | 5 | 26 | 27 | 96 | 97 |

Table II-A—Double Sampling Plans for Tightened Condition of Container Inspection

| Code | Lot size ranges -- Number of containers in lot | Type of Plan | Sample Size | Acceptable quality levels | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Origin Inspection | | | | | | Other Than Origin Inspection | | | | | | | |
| | | | | 0.25 | | 1.5 | | 6.5 | | 0.25 | | 2.5 | | 10.0 | | | |
| | | | | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | | |
| CB | 6,000 or less | Double | 1st | 120 | (*) | (*) | 2 | 5 | 6 | 10 | (*) | (*) | 2 | 6 | 10 | 14 | |
| | | | 2d | 60 | | | | | | | | | | | | | |
| | | | Total | 180 | (*) | (*) | 4 | 5 | 12 | 13 | (*) | (*) | 5 | 6 | 17 | 18 | |
| CC | 6,001-12,000 | Double | 1st | 168 | 0 | 2 | 1 | 5 | 7 | 13 | 0 | 2 | 2 | 7 | 12 | 18 | |
| | | | 2d | 180 | | | | | | | | | | | | | |
| | | | Total | 348 | 1 | 2 | 7 | 8 | 21 | 22 | 1 | 2 | 9 | 10 | 31 | 32 | |
| CD | 12,001-36,000 | Double | 1st | 228 | 0 | 3 | 2 | 7 | 8 | 17 | 0 | 3 | 3 | 9 | 15 | 24 | |
| | | | 2d | 288 | | | | | | | | | | | | | |
| | | | Total | 516 | 2 | 3 | 9 | 10 | 29 | 30 | 2 | 3 | 12 | 13 | 43 | 44 | |
| CE | Over 36,000 | Double | 1st | 456 | 0 | 4 | 5 | 10 | 21 | 28 | 0 | 4 | 8 | 13 | 32 | 41 | |
| | | | 2d | 408 | | | | | | | | | | | | | |
| | | | Total | 864 | 3 | 4 | 14 | 15 | 44 | 45 | 3 | 4 | 19 | 20 | 69 | 70 | |

(*) = Reject on one or more defects

[78 FR 57036, Sept. 17, 2013]

**§ 42.111 Sampling plans for reduced condition of container inspection, Tables III and III–A; and limit number for reduced inspection, Table III–B.**

TABLE III—SINGLE SAMPLING PLANS FOR REDUCED CONDITION OF CONTAINER INSPECTION

| Code | Lot size ranges—Number of containers in lot | Type of Plan | Acceptable quality levels | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Origin inspection | | | | | | Other Than Origin Inspection | | | | | |
| | | | Sample Size | 0.25 | | 1.5 | | 6.5 | | 0.25 | | 2.5 | | 10.0 | |
| | | | | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re |
| CAA ... | 6,000 or less ..... | Single ..... | 29 | 1 | 2 | 1 | 2 | 4 | 5 | 1 | 2 | 2 | 3 | 5 | 6 |
| CA ..... | 6,001–36,000 ..... | Single ..... | 84 | 1 | 2 | 3 | 4 | 9 | 10 | 1 | 2 | 4 | 5 | 13 | 14 |
| CB ..... | Over 36,000 ..... | Single ..... | 168 | 1 | 2 | 5 | 6 | 16 | 17 | 1 | 2 | 7 | 8 | 23 | 24 |
| CC ..... | ..... | Single ..... | 315 | 2 | 3 | 8 | 9 | 28 | 29 | 2 | 3 | 13 | 14 | 41 | 42 |

Table III-A--Double Sampling Plans for Reduced Condition of Container Inspection

| Code | Lot size ranges -- Number of containers in lot | Type of Plan | Sample Size | | Acceptable quality levels | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Origin Inspection | | | | | | Other Than Origin Inspection | | | | | | | |
| | | | | | 0.25 | | 1.5 | | 6.5 | | 0.25 | | 2.5 | | 10.0 | | | |
| | | | | | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | Ac | Re | | |
| CAA | 6,000 or less--------- | Double---- | 1st-------- | 18 | 0 | 2 | 0 | 2 | 1 | 4 | 0 | 2 | 0 | 3 | 2 | 5 | | |
| | | | 2d--------- | 18 | | | | | | | | | | | | | | |
| | | | Total------ | 36 | 1 | 2 | 1 | 2 | 5 | 6 | 1 | 2 | 2 | 3 | 6 | 7 | | |
| CA | 6,001-36,000 | Double---- | 1st-------- | 36 | 0 | 2 | 0 | 4 | 2 | 7 | 0 | 2 | 0 | 4 | 3 | 9 | | |
| | | | 2d--------- | 60 | | | | | | | | | | | | | | |
| | | | Total------ | 96 | 1 | 2 | 3 | 4 | 10 | 11 | 1 | 2 | 4 | 5 | 15 | 16 | | |
| CB | Over 36,000- | Double---- | 1st-------- | 120 | 0 | 2 | 2 | 6 | 10 | 14 | 0 | 2 | 3 | 7 | 14 | 19 | | |
| | | | 2d--------- | 60 | | | | | | | | | | | | | | |
| | | | Total------ | 180 | 1 | 2 | 5 | 6 | 17 | 18 | 1 | 2 | 8 | 9 | 25 | 26 | | |

TABLE III–B—LIMIT NUMBERS FOR REDUCED INSPECTION

| Number of sample units from last 10 lots inspected within 6 months | Acceptable quality level | | | | |
|---|---|---|---|---|---|
| | 0.25 | 1.5 | 2.5 | 6.5 | 10.0 |
| 320–499 | (*) | 1 | 4 | 14 | 24 |
| 500–799 | (*) | 3 | 7 | 25 | 40 |
| 800–1,249 | 0 | 7 | 14 | 42 | 68 |
| 1,250–1,999 | 0 | 13 | 24 | 69 | 110 |
| 2,000–3,149 | 2 | 22 | 40 | 115 | 181 |
| 3,150–4,999 | 4 | 38 | 67 | 186 | 293 |
| 5,000–7,999 | 7 | 63 | 110 | 302 | 472 |
| 8,000–12,499 | 14 | 105 | 181 | 491 | 765 |
| 12,500–19,999 | 24 | 169 | 290 | 777 | 1207 |

*Denotes that the number of sample units from the last 10 inspection lots is not sufficient for reduced inspection for this AQL. In this instance more than 10 inspection lots may be used for the calculations if; the inspection lots used are the most recent ones in sequence within the last 6 months, they have all been on normal inspection, and none has been rejected on original inspection.

[78 FR 57038, Sept. 17, 2013]

## § 42.112 Defects of containers: Tables IV, V, VI, VII, VIII, IX, and X.

TABLE IV—METAL CONTAINERS

[Rigid and semi-rigid]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| Type or size of container or component parts not as specified | **None permitted** | | |
| Closure incomplete, not located correctly or not sealed, crimped, or fitted properly: | | | |
| (a) Heat processed primary container | 1 | | |
| (b) Non-heat processed primary container | | 101 | |
| (c) Other than primary container | | | 201 |
| Dirty, stained, or smeared container | | | 202 |
| Key opening metal containers (when required): | | | |
| (a) Key missing | | 102 | |
| (b) Key does not fit tab | | 103 | |
| (c) Tab of opening band insufficient to provide accessibility to key | | 104 | |
| (d) Improper scoring (band would not be removed in one continuous strip) | | 105 | |
| Metal pop-top: | | | |
| (a) Missing or broken pull tab | | 106 | |
| (b) Missing or incomplete score line (not conforming to a relevant product specification) | | 107 | |
| Flexible pop-top: | | | |
| (a) Poor seal (wrinkle, entrapped matter, etc.) | | 108 | |
| (b) Short pull tab (not conforming to a relevant product specification) | | | 203 |
| (c) Missing pull tab | | 109 | |
| (d) Torn pull tab | | | 204 |
| Open top with plastic overcap (when required): | | | |
| (a) Plastic overcap missing | | 110 | |
| (b) Plastic overcap warped (making opening or reapplication difficult) | | 111 | |
| Outside tinplate or coating (when required): | | | |
| (a) Missing or incomplete | | | 205 |
| (b) Blistered, flaked, sagged, or wrinkled | | | 206 |
| (c) Scratched or scored | | | 207 |
| (d) Fine cracks | | | 208 |
| Rust (rust stain confined to the top or bottom double seam or rust that can be removed with a soft cloth is not scored a defect): | | | |
| (a) Rust stain | | | 209 |
| (b) Pitted rust | | 112 | |
| Wet cans (excluding refrigerated containers) | | | 210 |
| Dent: | | | |
| (a) Materially affecting appearance but not usability | | | 211 |
| (b) Materially affecting usability | | 113 | |
| Buckle: | | | |
| (a) Not involving end seam | | | 212 |
| (b) Extending into the end seam | | 114 | |

TABLE IV—METAL CONTAINERS—Continued

[Rigid and semi-rigid]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| Collapsed container | | 115 | |
| Paneled side materially affecting appearance but not usability | | | 213 |
| Solder missing when required | | 116 | |
| Cable cut exposing seam | | 117 | |
| Improper side seam | | 118 | |
| Swell, springer, or flipper (not applicable to gas or pressure packed product nor frozen products) | 2 | | |
| Leaker or blown container | 3 | | |
| Frozen products only: | | | |
| (a) Bulging ends 3/16-inch to 1/4-inch beyond lip | | | 214 |
| (b) Bulging ends more than 1/4-inch beyond lip | | 119 | |
| Metal drums: leaking filling seal (bung) swell [1] | 4 | 120 | |

[1] Defect classification depends on the severity of the defect.

TABLE V—COMPOSITE CONTAINERS

[Fiberboard body with metal lids or metal bottoms, plastic or foil top with cap]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| Type or size of container or component parts not as specified | **None permitted** | | |
| Closure incomplete, not located correctly or not sealed, crimped, or fitted properly | 1 | | |
| Dirty, stained, or smeared container | | | 201 |
| Easy open closure: | | | |
| (a) Pull tab: | | | |
| 1. Missing or broken pull tab | | 101 | |
| 2. Missing or incomplete score line | | 102 | |
| (b) Membrane top: | | | |
| 1. Poor seal (wrinkle, entrapped matter, etc.) | | 103 | |
| 2. Short pull tab | | 104 | |
| 3. Missing pull tab | | 105 | |
| 4. Torn pull tab | | 106 | |
| (c) Open top with plastic overcap (when required): | | | |
| 1. Plastic overcap missing | | 107 | |
| 2. Plastic overcap warped (making opening or reapplication difficult) | | 108 | |
| Outside tinplate or coating on ends (when required): | | | |
| (a) Missing or incomplete | | | 202 |
| (b) Blistered, flaked, sagged, or wrinkled | | | 203 |
| (c) Scratched or scored | | | 204 |
| (d) Fine cracks | | | 205 |
| Collapsed container | | 109 | |
| Paneled side materially affecting appearance but not usability | | | 206 |
| Leaker | 2 | | |
| Wet or damp: | | | |
| (a) Materially affecting appearance but not usability | | | 207 |
| (b) Materially affecting usability | | 110 | |
| Crushed or torn area: | | | |
| (a) Materially affecting appearance but not usability | | | 208 |
| (b) Materially affecting usability | | 111 | |

TABLE VI—GLASS CONTAINERS

[Bottles, Jars]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| Type or size of container or component parts not as specified | **None permitted** | | |
| Closure not sealed, crimped, or fitted properly: | | | |
| (a) Heat processed | 1 | | |
| (b) Non-heat processed | | 101 | |
| Dirty, stained, or smeared container | | | 201 |
| Chip in glass | | | 202 |

TABLE VI—GLASS CONTAINERS—Continued

[Bottles, Jars]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| Stone (unmelted material) in glass | | | 203 |
| Pits in surface of glass | | | 204 |
| Sagging surface | | | 205 |
| Bead (bubble within glass): | | | |
| (a) 1/8-inch to 1/16-inch in diameter | | | 206 |
| (b) Exceeding 1/8-inch in diameter | | 102 | |
| Checked | | 103 | |
| Thin spot in glass | | 104 | |
| Blister (structural defect) | | 105 | |
| Bird swing (glass appendage inside container) | 2 | | |
| Broken or leaking container | 3 | | |
| Cap (nonheat processed): | | | |
| (a) Cross-threaded | | | 207 |
| (b) Loose but not leaking | | | 208 |
| (c) Pitted rust | | 106 | |
| Cap (heat processed): | | | |
| (a) Cross-threaded or loose | 4 | | |
| (b) Pitted rust | | 107 | |
| Sealing tape or cello band (when required): | | | |
| (a) Improperly placed | | | 209 |
| (b) Not covering juncture of cap and glass | | 108 | |
| (c) Ends overlap by less than 1/2-inch | | 109 | |
| (d) Loose or deteriorating | | 110 | |
| Missing or torn outer safety seal | | 111 | |
| Inner safety seal—missing, torn, poor seal | | 112 | |

TABLE VII—PLASTIC CONTAINERS

[Rigid and Semi-Rigid, Bottles, Jars, Tubs, Trays, Pails, etc.]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| Type or size of container or component parts not as specified | **None permitted** | | |
| Closure not sealed, crimped, or fitted properly: | | | |
| (a) Heat processed | 1 | | |
| (b) Non-heat processed | | 101 | |
| Dirty, stained, or smeared container | | | 201 |
| Chip in plastic | | | 202 |
| Un-melted gels in plastic | | | 203 |
| Pits in surface of plastic | | | 204 |
| Sagging surface | | | 205 |
| Air bubble within plastic: | | | |
| (a) 1/8-inch to 1/16-inch in diameter | | | 206 |
| (b) Exceeding 1/8-inch in diameter | | 102 | |
| Checked | | 103 | |
| Thin spot in plastic | | 104 | |
| Blister (structural defect) | | 105 | |
| Broken or leaking container | 2 | | |
| Cap (non-heat processed): | | | |
| (a) Cross-threaded | | | 207 |
| (b) Loose but not leaking | | | 208 |
| Cap (heat processed), cross-threaded or loose | 3 | | |
| Security seals: | | | |
| (a) Closure ring missing | | 106 | |
| (b) Missing or torn outer safety seal | | 107 | |
| (c) Inner safety seal—missing, torn, or poor seal | | 108 | |
| (d) Sealing tape or cello band (when required): | | | |
| 1. Improperly placed | | | 209 |
| 2. Not covering juncture of cap and plastic | | 109 | |
| 3. Ends overlap by less than 1/2-inch | | 110 | |
| 4. Loose or deteriorating | | 111 | |

TABLE VIII—RIGID AND SEMI-RIGID CONTAINERS—CORRUGATED OR SOLID FIBERBOARD, CHIPBOARD, WOOD, PAPERBOARD ASEPTIC CARTONS, POLYMERIC TRAYS, ETC.

[Excluding metal, glass, and plastic]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| Type or size of container or component parts not as specified | **None permitted** | | |
| Component part missing | | 101 | |
| Closure not sealed, crimped, or fitted properly: | | | |
| (a) Primary container | 1 | | |
| (b) Other than primary container | | | 201 |
| Dirty, stained, or smeared container | | | 202 |
| Wet or damp (excluding ice packs): | | | |
| (a) Materially affecting appearance but not usability | | | 203 |
| (b) Materially affecting usability | | 102 | |
| Moldy area | 2 | | |
| Crushed or torn area: | | | |
| (a) Materially affecting appearance but not usability | | | 204 |
| (b) Materially affecting usability | | 103 | |
| Separation of lamination (corrugated fiberboard): | | | |
| (a) Materially affecting appearance but not usability | | | 205 |
| (b) Materially affecting usability | | 104 | |
| Product sifting or leaking | | 105 | |
| Nails or staples (when required): | | | |
| (a) Not as required, insufficient number or improperly positioned | | | 206 |
| (b) Nails or staples protruding | | 106 | |
| Glue or adhesive (when required); not holding properly, not covering area specified, or not covering sufficient area to hold properly: | | | |
| (a) Primary container | | 107 | |
| (b) Other than primary container | | | 207 |
| Flap: | | | |
| (a) Projects beyond edge of container more than ¼-inch | | | 208 |
| (b) Does not meet properly, allowing space of more than ¼-inch | | | 209 |
| Sealing tape or strapping (when required): | | | |
| (a) Missing | | 108 | |
| (b) Improperly placed or applied | | | 210 |
| Missing component (straw, etc.) | | | 211 |
| Paperboard Aseptic Cartons: | | | |
| (a) Missing re-sealable cap or tab | | 109 | |
| (b) Inner or outer safety seal—missing, torn, poor seal | 3 | | |
| Thermostabilized polymeric trays: | | | |
| Tray body: | | | |
| (a) Swollen container | 4 | | |
| (b) Tear, crack, hole, abrasion through more than one layer of multi-layer laminate for the tray | 5 | | |
| (c) Presence of delamination in multi-layered laminate | | | 212 |
| (d) Presence of any permanent deformation, such that deformed area is discolored or roughened in texture | | | 213 |
| Lid material: | | | |
| (a) Closure seal not continuous along tray flange surface | 6 | | |
| (b) Foldover wrinkle in seal area extends into the closure seal such that the closure seal is reduced to less than ⅛-inch | 7 | | |
| (c) Any impression or design on the seal surfaces which conceals or impairs visual detection of seal defects | | 110 | |
| (d) Areas of "wave-like" striations or wrinkles along the seal area that spans the entire width of seal | | | 214 |
| (e) Abrasion of lid material: | | | |
| 1. Within 1/16-inch of food product edge of seal such that barrier layer is exposed | 8 | | |
| 2. Greater than 1/16-inch from food product edge of seal that barrier layer is exposed | | | 215 |
| (f) Presence of entrapped matter within 1/16-inch of the food product edge of seal or entrapped moisture or vapor with 1/16-inch of the food product edge of seal that results in less than 1/16-inch of defect free seal width at the outside edge | 9 | | |
| (g) Presence of any seal defect or anomaly (for example, entrapped moisture, gases, etc.) within 1/16-inch of food product edge of seal | | 111 | |
| (h) Closure seal width less than ⅛-inch | | | 216 |

TABLE IX—FLEXIBLE CONTAINERS

[Plastic, Cellophane, Paper, Textile, Laminated Multi-Layer Pouch, Bag, etc.]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| Type or size of container or component parts not as specified | **None permitted** | | |
| Closure not sealed, crimped, stitched, or fitted properly: | | | |
| (a) Heat processed primary container | 1 | | |
| (b) Non-heat processed primary container | | 101 | |
| (c) Other than primary container | | | 201 |
| Dirty, stained, or smeared container | | | 202 |
| Unmelted gels in plastic | | | 203 |
| Torn or cut container or abrasion (non-leaker): | | | |
| (a) Materially affecting appearance but not usability | | | 204 |
| (b) Materially affecting usability | | 102 | |
| Moldy area | 2 | | |
| Individual packages sticking together or to shipping case (tear when separated) | | 103 | |
| Not fully covering product | | 104 | |
| Wet or damp (excluding ice packs): | | | |
| (a) Materially affecting appearance but not usability | | | 205 |
| (b) Materially affecting usability | | 105 | |
| Over wrap (when required): | | | |
| (a) Missing | | 106 | |
| (b) Loose, not sealed, or closed | | | 206 |
| (c) Improperly applied | | | 207 |
| Sealing tape, strapping, or adhesives (when required): | | | |
| (a) Missing | | 107 | |
| (b) Improperly placed, applied, torn, or wrinkled | | | 208 |
| Tape over bottom and top closures (when required): | | | |
| (a) Not covering stitching | | 108 | |
| (b) Torn (exposing stitching) | | 109 | |
| (c) Wrinkled (exposing stitching) | | 110 | |
| (d) Not adhering to bag: | | | |
| 1. Exposing stitching | | 111 | |
| 2. Not exposing stitching | | | 209 |
| (e) Improper placement | | | 210 |
| Product sifting or leaking: | | | |
| (a) Non-heat processed | | 112 | |
| (b) Heat processed | 3 | | |
| Flexible pop-top: | | | |
| (a) Poor seal (wrinkle, entrapped matter, etc.) reducing intact seal to less than 1/16-inch | 4 | | |
| (b) Short pull tab (materially affecting usability) | | | 212 |
| (c) Missing pull tab | | 113 | |
| (d) Torn pull tab (materially affecting usability) | | | 213 |
| Missing component (straw, etc.) | | | 214 |
| Two part container (poly lined box or bag in box): | | | |
| (a) Outer case torn | | | 215 |
| (b) Poly liner: | | | |
| 1. Missing | 5 | | |
| 2. Improper closure | | 114 | |
| Missing "zip lock" (re-sealable containers) | | | 216 |
| Loss of vacuum (in vacuum-packed) | | 115 | |
| Pre-formed containers: | | | |
| (a) Dented or crushed area | | | 217 |
| (b) Deformed container | | | 218 |
| Missing re-sealable cap | | 116 | |
| Inner or outer safety seal—missing, torn, poor seal | 6 | | |
| Air bubble in plastic | | 117 | |
| Thermostabilized products (includes but not limited to tubes, pouches, etc.): | | | |
| Foldover wrinkle in seal area (thermostabilized pouches): | | | |
| (a) Extends through all plies across seal area or reduces seal less than 1/16-inch | 7 | | |
| (b) Does not extend through all plies and effective seal is 1/16-inch or greater | | | 219 |
| Incomplete seal (thermostabilized pouches) | 8 | | |
| Non-bonding seal (thermostabilized pouches) | 9 | | |
| Laminate separation in body of pouch or in seal within 1/16-inch of food product edge: | | | |
| (a) If food contact layer is exposed | 10 | | |
| (b) If food contact surface is exposed after manipulation or laminate separation expands after manipulation | | 118 | |

TABLE IX—FLEXIBLE CONTAINERS—Continued

[Plastic, Cellophane, Paper, Textile, Laminated Multi-Layer Pouch, Bag, etc.]

| Defects | Categories | | |
|---|---|---|---|
| | Critical | Major | Minor |
| (c) If lamination separation is limited to isolated spots that do not propagate with manipulation or is outer ply separation in seal within 1/16-inch of food product edge of seal | | | 220 |
| Flex cracks (cracks in foil layer only) | | | 221 |
| Swollen container | 11 | | |
| Blister (in seal) reducing intact seal to less than 1/16-inch | 12 | | |
| Compressed seal (overheated to bubble or expose inner layer) reducing intact seal to less than 1/16-inch | 13 | | |
| Stringy seal (excessive plastic threads showing at edge of seal area) | | | 222 |
| Contaminated seal (entrapped matter) reducing intact seal to less than 1/16-inch | 14 | | |
| Seal creep (product in pouch "creeping" into seal) reducing intact seal to less than 1/16 inch | 15 | | |
| Misaligned or crooked seal reducing intact seal to less than 1/16-inch | 16 | | |
| Seal formed greater than 1-inch from edge of pouch (unclosed edge flaps) | | | 223 |
| Waffling (embossing on surface from retort racks; not scorable unless severe) | | | 224 |
| Poor or missing tear notch (when required) | | | 225 |

TABLE X—UNITIZING

[Plastic or other type of casing/unitizing]

| Defects | Categories | |
|---|---|---|
| | Major | Minor |
| Not specified method | 101 | |
| Missing tray (when required) | 102 | |
| Missing shrink wrap (when required) | 103 | |

TABLE X—UNITIZING—Continued

[Plastic or other type of casing/unitizing]

| Defects | Categories | |
|---|---|---|
| | Major | Minor |
| Loose or improperly applied wrap | | 201 |
| Torn or mutilated | | 202 |
| Off-center wrap (does not overlap both ends) | | 203 |

[78 FR 57041, Sept. 17, 2013]

## § 42.113 Defects of label, marking, or code.

TABLE XI—LABEL, MARKING, OR CODE

| Defects | Categories | |
|---|---|---|
| | Major | Minor |
| Not specified method | 101 | |
| Missing (when required) | 102 | |
| Loose or improperly applied | | 201 |
| Torn or mutilated | | 202 |
| Torn or scratched, obliterating any markings on the label | 103 | |
| Text illegible or incomplete | | 203 |
| Incorrect | 104 | |
| In wrong location | | 204 |

[78 FR 57046, Sept. 17, 2013]

## § 42.114 Procedures for evaluating interior container defects.

(a) Sections 42.101–42.136 provide procedures for determining lot conformance with the U.S. Standards for Condition of Food Containers. This determination is based on the examination of the external characteristics of the food containers.

(b) As an option, if a user of the inspection service requests to have the interior characteristics of containers examined, and apply these results in the determination of lot acceptability, the defects listed in Table XII may be used.

(c) The determination of lot acceptability based on internal container defects shall be independent of the determination of lot acceptability for U.S. Standards for Condition of Food Containers. A user of the inspection service may choose to require inspection for internal can defects as well as inspection for U.S. Standards for Condition of Food Containers.

(d) If a user of the inspection service requests an examination for internal container defects in addition to an official USDA/USDC inspection for product quality and/or U.S. grade, the containers opened by the official inspection service for inspection of product quality and/or U.S. grade will be used for examination of interior container defects. The minimum sample size for evaluation of interior container defects will be 13 containers. As a result, additional containers will be required if the inspection for quality or U.S. grade calls for fewer than 13 containers. Table XIII provides acceptance numbers for internal container defects for selected sample sizes.

TABLE XII—INTERIOR CONTAINER DEFECTS

| Defects | Categories | |
|---|---|---|
| | Major | Minor |
| De-tinning in metal container materially affecting usability | 101 | |
| De-tinning in metal container not materially affecting usability | | 201 |
| Black spots in metal container | | 202 |
| Enamel missing (when required) in metal container | 102 | |
| Enamel breakdown in metal container material affecting usability | 103 | |
| Enamel breakdown in metal container material not affecting usability | | 203 |
| Other defect(s) of the interior of the container (metal, plastic, paper, rigid, etc.) e.g., interior damage, tear, delamination, missing layer, off-odor, interior blisters, etc. that materially affects usability | 104 | |
| Defect(s) of the interior of the container (metal, plastic, paper, rigid, etc.) e.g., interior damage, tear, delamination, missing layer, off-odor, interior blisters, etc. that materially affects appearance but not usability | | 204 |

TABLE XIII—ACCEPTANCE NUMBERS FOR INTERNAL CONTAINER DEFECTS

| Sample Size (n = number of containers) | Major | | Total | |
|---|---|---|---|---|
| | Interior Defects | | Interior Defects | |
| | Ac | Re | Ac | Re |
| n—13 | 0 | 1 | 2 | 3 |
| n—21 | 1 | 2 | 3 | 4 |
| n—29 | 1 | 2 | 4 | 5 |
| n—38 | 2 | 3 | 5 | 6 |
| n—48 | 2 | 3 | 6 | 7 |
| n—60 | 2 | 3 | 7 | 8 |

[78 FR 57046, Sept. 17, 2013]

## Subpart C—Skip Lot Sampling and Inspection Procedures

SOURCE: 41 FR 42639, Sept. 28, 1976, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### § 42.120 Description and qualification.

Skip lot sampling and inspection are special procedures for inspecting stationary lots in which only one-half or one-fourth of the lots offered for inspection are formally inspected. Skip lot sampling and inspection procedures may be instituted only when all of the following conditions are met:

(a) When authorized by the Administrator and acceptable to the user and producer, if different from the user.

(b) When inspection is origin inspection (see § 42.102).

(c) When all lots can be expected to be of essentially the same quality.

(d) When lots from the producer are currently on, or eligible to be on, either normal or reduced inspection.

### § 42.121 Sampling and inspection procedures.

(a) Following skip lot procedure authorization, inspect every lot consecutively offered for inspection using normal inspection procedures as set forth in Subpart B of this part. When 10 consecutive lots are acceptable, inspect only one-half of the lots offered for inspection using normal inspection procedures. While on the one-half inspection rate, when 10 consecutively inspected lots are acceptable, inspect only one-fourth of the lots offered for inspection using normal inspection procedures. While on the one-half or one-fourth inspection rate, if any formally inspected lot is unacceptable, revert immediately to the inspection of every lot using normal inspection procedures and recommence the above procedure. See § 42.123 for a flow diagram of the skip lot sampling plan.

(b) Two exceptions to the procedures in paragraph (a) of this section are as follows:

(1) The skip lot sampling and inspection rate of one-half can be instituted immediately if the lots from the producer are currently on, or eligible to be on, reduced inspection and all other conditions in § 42.120 are met. After skip lot sampling and inspection begins, however, only normal inspection is permitted.

(2) While inspecting every lot consecutively as offered for inspection, i.e., while not on the one-half or one-fourth sampling and inspection rate, if requirements for switching from normal to tightened inspection are met as specified in § 42.108 then skip lot procedures terminate, tightened inspection is initiated, and stationary lot sampling and inspection procedures in Subpart B are instituted. Skip lot procedures may be instituted again only when all conditions of § 42.120 are met.

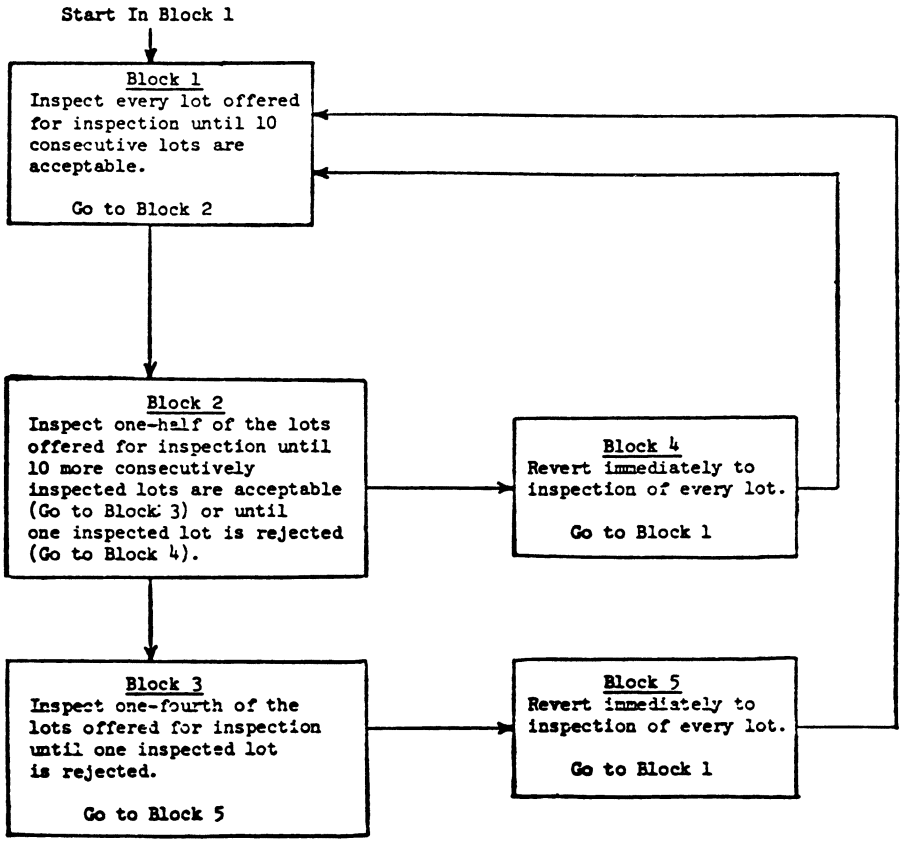
(c) All lot selections for the one-half and one-fourth inspection rates must be strictly random (for example, not every other lot or every fourth lot). Use of random number tables, coin flipping, or numbered cards is encouraged.

(d) Preliminary scanning procedures (see § 42.105) shall be used on all lots scheduled for formal inspection and also shall be used on lots not scheduled for inspection (''skipped'' lots) whenever the inspector feels such action is prudent to further insure the acceptability of such lots.

### § 42.122 Applicability of other procedures.

Whenever appropriate, the procedures for classifying and recording defects in § 42.106 and for appeal inspections in § 42.108 also apply to skip lot sampling and inspection.

**§ 42.123 Flow diagram for skip lot sampling and inspection.**




NOTES: 1. Only normal inspection is permitted.

2. All lot selections for the one-half and one-fourth sampling rates must be strictly random (for example, not every other lot or every fourth lot).

3. Two exceptions to the procedures shown above are as follows:

(a) The skip lot sampling and inspection rate of one-half can be instituted immediately if the lots from the producer are currently on, or eligible to be on, reduced inspection and all other conditions in § 42.120 are met. When skip lot inspection begins, however, only normal inspection is permitted.

(b) While inspecting every lot consecutively as offered for inspection, i.e., while not on the one-half or one-fourth rate, if requirements for switching from normal to tightened inspection are met as specified in § 42.108 then skip lot procedures terminate, tightened inspection is initiated, and stationary lot sampling and inspection procedures in Subpart B are instituted. Skip lot procedures may be instituted again only when all conditions of § 42.120 are met.

## Subpart D—On-Line Sampling and Inspection Procedures

AUTHORITY: Sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended (7 U.S.C. 1622, 1624).

SOURCE: 45 FR 69428, Oct. 21, 1980, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

### § 42.130 Description and qualifications.

(a) In many instances, food containers are loaded directly into carriers immediately after final packaging. This situation makes stationary lot sampling and inspection impractical. For such circumstances, the optional procedure for on-line sampling and inspection using cumulative sum sampling plans is provided. On-line sampling and inspection is a procedure in which subgroups of sampling units are selected randomly from predesignated portions of production. The acceptability of the portions of production is determined by inspecting, at the time of the sampling, the subgroups which represent these portions. On-line sampling and inspection contrasts with stationary lot procedures in which sample units are selected randomly and inspected and lot acceptability determinations are made only after lot production is completed.

(b) On-line sampling and inspection procedures may be instituted only when all of the following conditions are met:

(1) When authorized by the Administrator and acceptable to the user and producer, if different from the user.

(2) When inspection is origin inspection (see § 42.102).

(3) When previous production lots from the producer are currently on, or eligible to be on, either normal or reduced inspection. (When shifting from stationary lot sampling and inspection to on-line sampling and inspection, normal on-line inspection shall be initially used.)

(4) When inspection of the containers is performed at a point after which all condition of container related characteristics are fixed and will not be subject to change during final handling.

### § 42.131 Selection of samples.

(a) Prior to commencement of on-line sampling and inspection, the total amount of production for a given day or shift is predicted and is then subdivided into conveniently designated portions of production approximately equal in size. Portions may be designated by sequential numbers (e.g., containers 1 through 500 are portion 1, containers 501 through 1000 are portion 2, etc.) or by time intervals (e.g., the first half hour of production is portion 1, the second half hour of production is portion 2, etc.) during which the containers are identified by individual production codes for each time interval.

(b) Determine the number of sample units in a subgroup as follows:

*Type of Inspection and Number of Sample Units*

Normal—25
Tightened—50
Reduced—13

(c) Subgroups are drawn randomly from portions of production throughout the production process and are inspected for defects. The drawing of sampling units may be done in either of two ways: (1) The number of sample units (13, 25 or 50) comprising a subgroup may be drawn at the same time from a randomly chosen point in the production of each portion, or (2) sample units may be drawn individually, but in a random manner, throughout the production of each portion. At least 6 subgroups must be obtained during each basic inspection period regardless of the system used to designate portions of production.

(d) A shift to on-line sampling plans from stationary lot sampling plans (or vice versa) during a basic inspection period is not permitted.

### § 42.132 Determining cumulative sum values.

(a) The parameters for the on-line cumulative sum sampling plans for AQL's applicable to origin inspection are as follows:

| Acceptable quality levels | Type of inspection | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Normal | | | Tightened | | | Reduced | | |
| | T | L | S | T | L | S | T | L | S |
| 0.25 | 0.05 | 0.95 | 0.35 | 0.1 | 0.9 | 0.3 | 0 | 0 | 0 |
| 1.5 | 0.5 | 2 | 1 | 0.8 | 1.6 | 0.4 | 0.5 | 0.5 | 0 |
| 6.5 | 2 | 3 | 1 | 2.5 | 3 | 1 | 1 | 2 | 1 |

(b) At the beginning of the basic inspection period, the CuSum value is set equal to the starting value (''S'') for the specified CuSum plan. The CuSum value is then determined for each consecutive subgroup as follows:

(1) Add the number of defects for the present subgroup to the CuSum value of the previous subgroup.

(2) Subtract the subgroup tolerance (''T'').

(3) The CuSum value is reset in the following situations; however, determine portion of production acceptability (see § 42.133) prior to resetting the CuSum value:

(i) Reset the CuSum value to zero (0) if the CuSum value is less than zero (0).

(ii) Reset the CuSum value to the acceptance limit (''L'') if the CuSum value exceeds the acceptance limit (''L'').

### § 42.133 Portion of production acceptance criteria.

(a) The acceptability of a portion of production is determined by comparing the calculated CuSum value with the acceptance limit (''L'') for the specified AQL.

(b) A portion of production is acceptable if the CuSum value, calculated from the subgroup representing that portion, is equal to or less than the acceptance limit (''L'') for all classes of defects.

(c) A portion of production is rejected if the CuSum value, calculated from the subgroup representing that portion, exceeds the acceptance limit (''L'') for one or more classes of defects.

### § 42.134 Disposition of rejected portions of production.

Rejected portions of production from the same basic inspection period may be reworked, combined together to form a lot, and resubmitted for inspection under the criteria for tightened inspection using stationary lot sampling procedures described in subpart B of this part.

### § 42.135 Normal, tightened or reduced on-line inspection.

(a) Normal, tightened and reduced on-line sampling plans are specified in § 42.132 (Determining cumulative sum values). Normal plans shall be used except when the history of inspection permits reduced inspection or requires tightened inspection.

(b) Switching rules: Normal on-line inspection procedures shall be followed except when conditions in paragraph (b) (1) or (3) of this section are applicable or unless otherwise specified. Application of the following switching rules will be restricted to the inspection of production for one applicant at a single production location and will be based upon records of original inspections of production (excluding resubmitted portions previously rejected and reworked) at that same location.

(1) *Normal inspection to reduced inspection.* When normal inspection is in effect, reduced inspection shall be instituted provided that reduced inspection is considered desirable by the Administrator and further provided that all of the following conditions are satisfied for each class of defect:

(i) The preceding 40 consecutive portions of production have been on normal inspection and no more than one of these portions has been rejected on original inspection; and

(ii) The total number of defects in the subgroups (1000 sample units) from these preceding 40 consecutive portions of production is less than or equal to the following limit numbers for the specified AQL's:

| Acceptable quality levels | Limit No. |
|---|---|
| 0.25 | 0 |
| 1.5 | 9 |
| 6.5 | 54 |

(2) *Reduced inspection to normal inspection.* When reduced inspection is in effect, normal inspection shall be reinstituted if any of the following occurs:

(i) More than one portion of production in any 40 consecutive portions of production is rejected on original inspection; or

(ii) Production becomes irregular (delayed or accelerated); or

(iii) Other valid conditions warrant that normal inspection shall be reinstituted.

(3) *Normal inspection to tightened inspection.* When normal inspection is in

effect, tightened inspection shall be instituted when two out of five consecutive portions of production have been rejected.

(4) *Tightened inspection to normal inspection.* When tightened inspection is in effect, normal inspection shall be reinstituted when five consecutive portions of production have been considered acceptable.

(c) When the rules require a switch in the inspection status because of one or more classes of defects, all classes of defects shall be inspected under the new inspection criteria. At the option of the user of the service, and when approved by the Administrator, such user may elect to remain on normal inspection when qualified for reduced inspection, or on tightened inspection when qualified for normal inspection.

### § 42.136 Applicability of other procedures.

When appropriate, the procedures for classifying and recording defects in § 42.106 and for appeal inspections in § 42.108 also apply to on-line sampling and inspection.

## Subpart E—Miscellaneous

AUTHORITY: Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

### § 42.140 Operating Characteristic (OC) curves for on-line sampling and inspection.

(a) This section contains the Operating Characteristic (OC) curve for each of the sampling plans given in Tables I, I-A, II, II-A, III, and III-A. The OC curve and the corresponding sampling plans are listed by AQL.

(b) Different acceptance and rejection criteria are provided for each AQL. The criteria for each AQL must be obtained from the applicable sampling plan tables.

(c) The curves show the ability of the various sampling plans to distinguish between good and bad lots. This can be illustrated by examining OC curve 6 for an AQL of 0.25 defects per hundred units in the Reduced and Normal Inspection Plans. If the quality of the lots submitted for inspection is poorer than the AQL of 0.25 defects per hundred units, fewer lots will be accepted. For example, OC curve 6 shows that when the quality of lots submitted for inspection is 1.0 defects per hundred units, only 26 percent of the lots are expected to be accepted. Conversely when the quality of the lots submitted for inspection is better than the AQL of 0.25 defects per hundred units, most lots are expected to be accepted. For example, the same OC curve 6 shows that when the quality of lots submitted for inspection is 0.10 defects per hundred units, about 99 percent of the lots are expected to be accepted.

(d) The table of sampling plans that correspond to OC curve 6 can be found over the curves for an AQL of 0.25 defects per hundred units in the Reduced and Normal Inspection Plan. An examination of this table reveals that there is one single and one double sampling plan that have OC curves comparable to OC curve 6. The first plan listed is a single plan requiring the inspection of 500 individual containers. Under this plan the lot is accepted as meeting the requirements for an AQL of 0.25 if there are 3 or less defects in the sample or rejected if there are 4 or more defects in the sample.

(e) The next plan that is listed in the column headed 6 for an AQL of 0.25 is a double sampling plan that requires the initial inspection of 228 individual containers. The lot will be accepted as meeting the requirements of an AQL of 0.25 if there are no defects in the sample, and rejected if there are 3 or more defects in the sample. In the event that the number of defects is between the acceptance (0) and rejection (3) numbers, additional containers must be inspected. In this case, the table indicates that a total of 516 containers must be inspected before a decision can be made to either accept or reject the lot. This will require the inspection of 288 more containers (516 − 228 = 288).

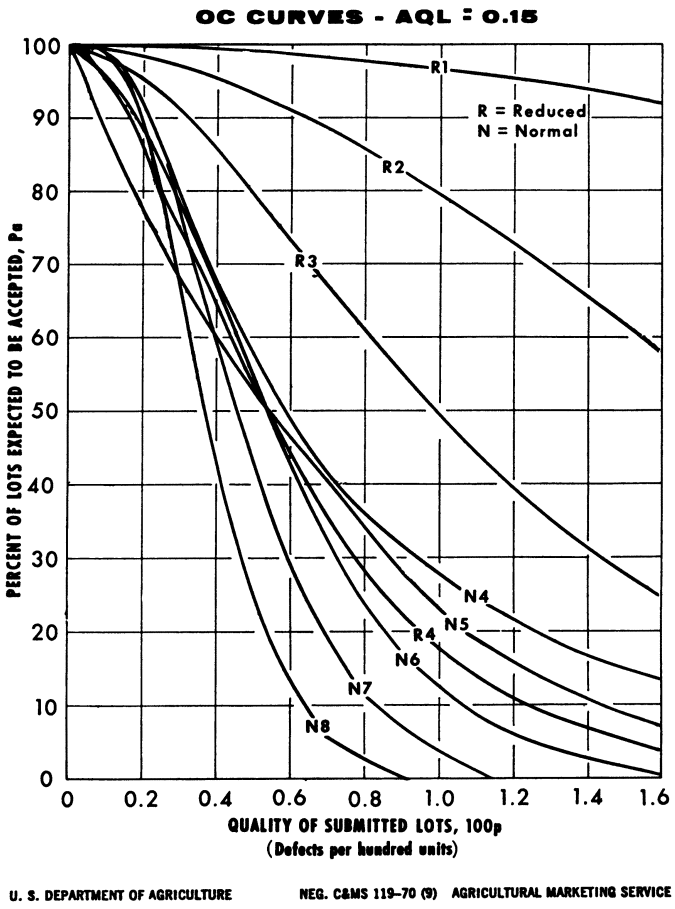
If there are 3 or less defects in the total sample, the lot will be accepted. If there are 4 or more defects in the total sample, the lot will be rejected. The other double sampling plans operate in a similar manner with the only differences being the sample sizes and acceptance and rejection numbers.

REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.15 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.15]

| Comparable sampling plans | Identification number of OC curve | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | R2 | | | R3 | | | R4 | | | N4 | | | N5 | | | N6 | | | N7 | | | N8 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 29 | 1 | 2 | 84 | 1 | 2 | 126 | 0 | 1 | 315 | 1 | 2 | 168 | 1 | 2 | 264 | 1 | 2 | 500 | 2 | 3 | 800 | 3 | 4 | 1,250 | 4 | 5 |
| Double | 18 | 0 | 2 | 36 | 0 | 2 | ..... | .... | ... | ..... | .... | ... | 120 | 0 | 2 | 174 | 0 | 2 | 252 | 0 | 3 | 456 | 0 | 4 | | | |
| | 36 | 1 | 2 | 96 | 1 | 2 | ..... | .... | ... | ..... | .... | ... | 180 | 1 | 2 | 336 | 1 | 2 | 540 | 2 | 3 | 864 | 3 | 4 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

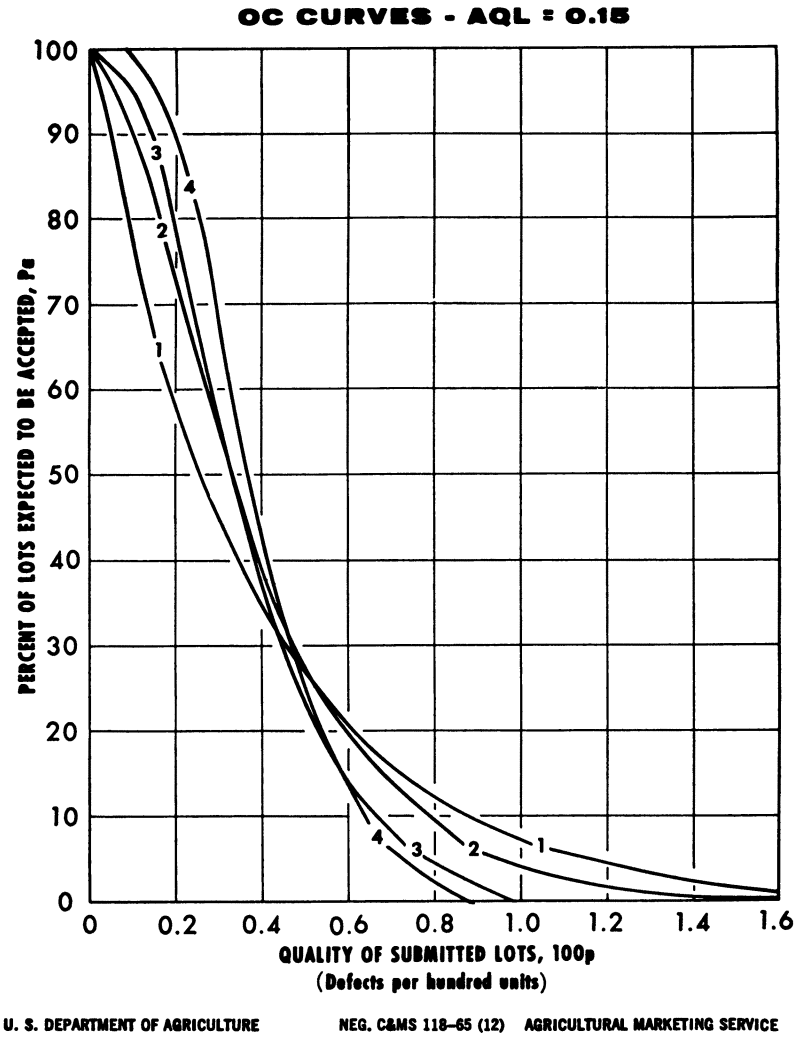

OC CURVES - AQL = 0.15
R = Reduced
N = Normal
R1
R2
R3
N4
N5
R4
N6
N7
N8
PERCENT OF LOTS EXPECTED TO BE ACCEPTED, Pa
QUALITY OF SUBMITTED LOTS, 100p
(Defects per hundred units)
U. S. DEPARTMENT OF AGRICULTURE
NEG. C&MS 119–70 (9) AGRICULTURAL MARKETING SERVICE

TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.15 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.15]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 264 | 0 | 1 | 500 | 1 | 2 | 800 | 2 | 3 | 1,250 | 3 | 4 |
| Double | ..... | ..... | ..... | 360 | 0 | 2 | 456 | 0 | 3 | 576 | 0 | 3 |
| | ..... | ..... | ..... | 516 | 1 | 2 | 864 | 2 | 3 | 1,296 | 3 | 4 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

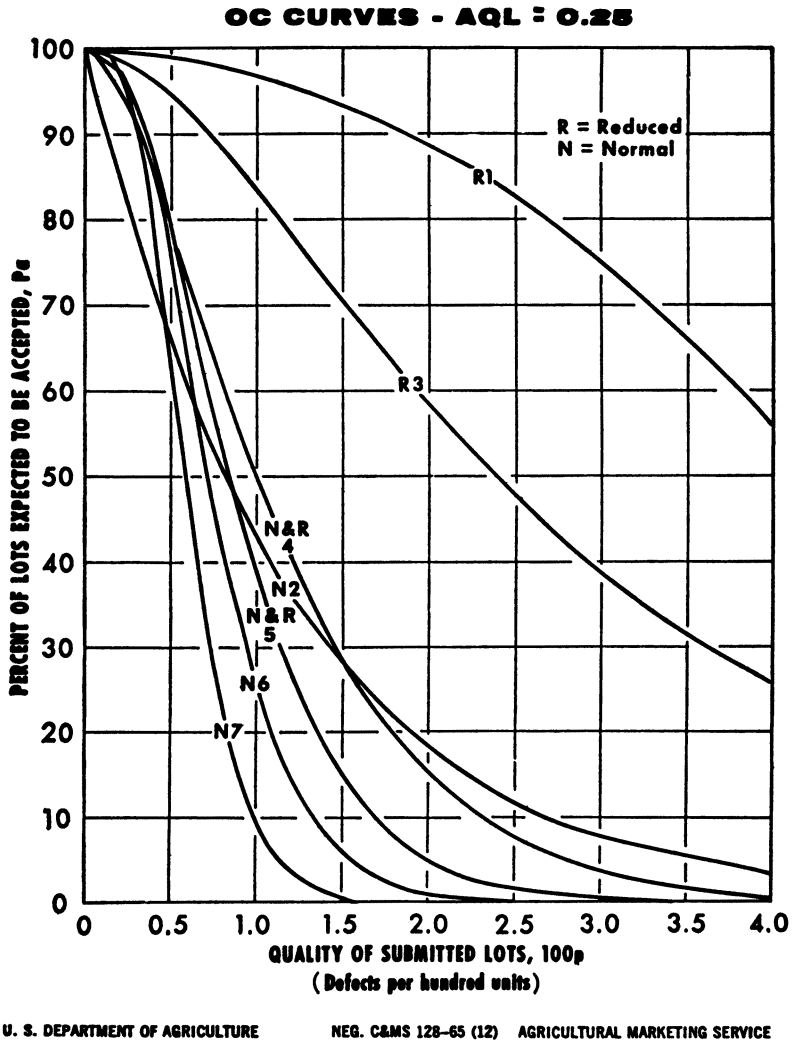


REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.25 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.25]

| Comparable sampling plans | Identification number OC curves | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | N2 | | | R3 | | | N and R4 | | | N and R5 | | | N6 | | | N7 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single ..... | 29 | 1 | 2 | 84 | 0 | 1 | 84 | 1 | 2 | 168 | 1 | 2 | 315 | 2 | 3 | 500 | 3 | 4 | 800 | 4 | 5 |
| Double ..... | 18 | 0 | 2 | .... | 36 | 0 | 2 | 120 | 0 | 2 | 168 | 0 | 3 | 228 | 0 | 3 | | | | | |
| | 18 | 1 | 2 | .... | 96 | 1 | 2 | 180 | 1 | 2 | 348 | 2 | 3 | 516 | 3 | 4 | | | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

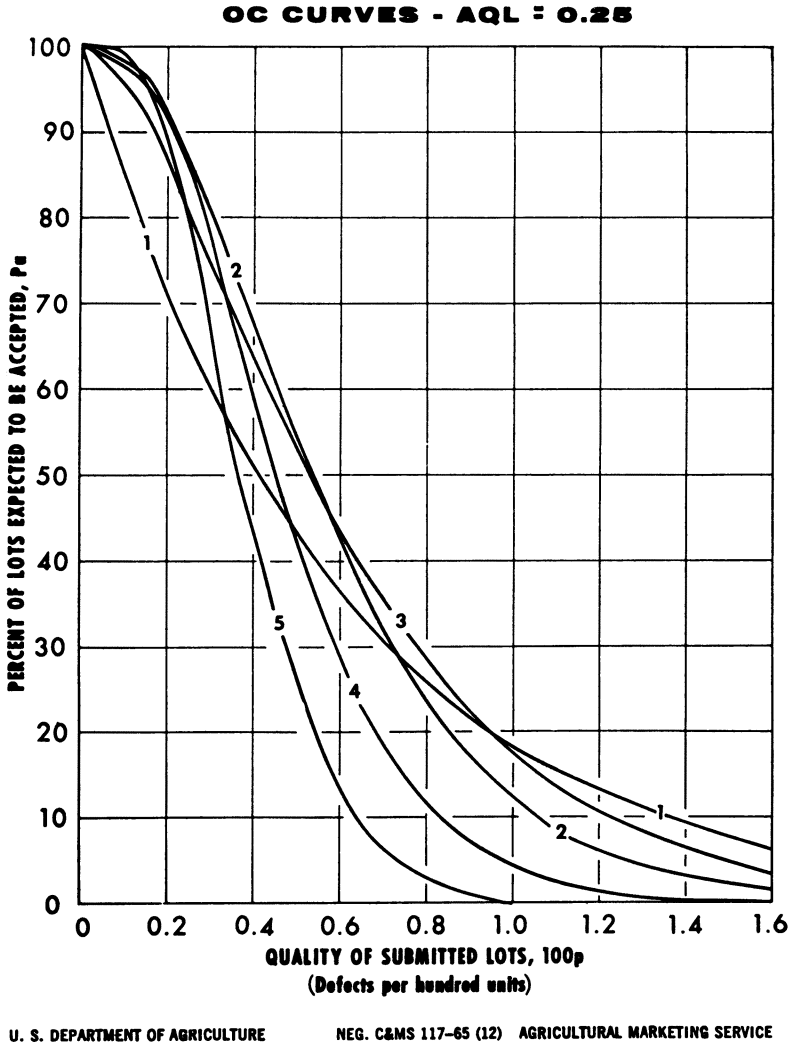


TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATION CHARACTERISTICS (OC) CURVES FOR AQL=0.25 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.25]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | | 5 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 168 | 0 | 1 | 315 | 1 | 2 | 500 | 2 | 3 | 800 | 3 | 4 | 1,250 | 4 | 5 |
| Double | .....<br>..... | ....<br>.... | ....<br>.... | 168<br>348 | 0<br>1 | 2<br>2 | 228<br>516 | 0<br>2 | 3<br>3 | 456<br>864 | 0<br>3 | 4<br>4 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

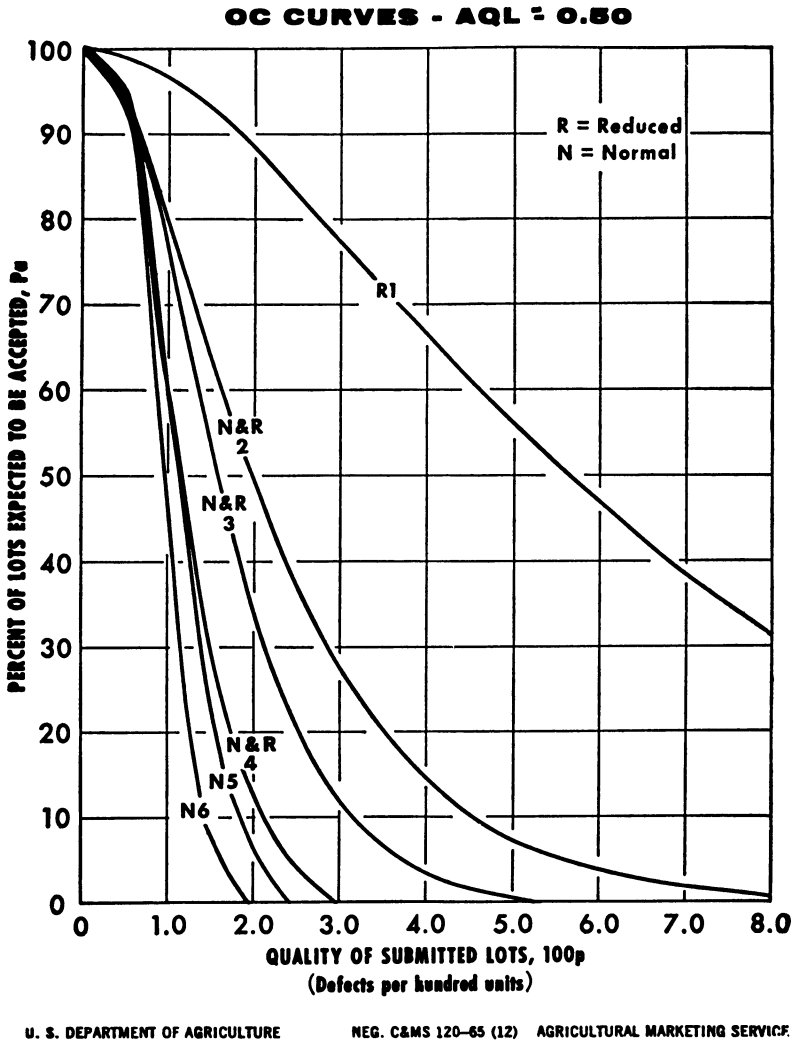


REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.50]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | N and R2 | | | N and R3 | | | N and R4 | | | N5 | | | N6 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 29 | 1 | 2 | 84 | 1 | 2 | 168 | 2 | 3 | 315 | 3 | 4 | 500 | 5 | 6 | 800 | 7 | 8 |
| Double | 18 | 0 | 2 | 36 | 0 | 2 | 120 | 0 | 3 | 168 | 0 | 4 | 228 | 0 | 5 | | | |
| | 36 | 1 | 2 | 96 | 1 | 2 | 180 | 2 | 3 | 348 | 3 | 4 | 516 | 5 | 6 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

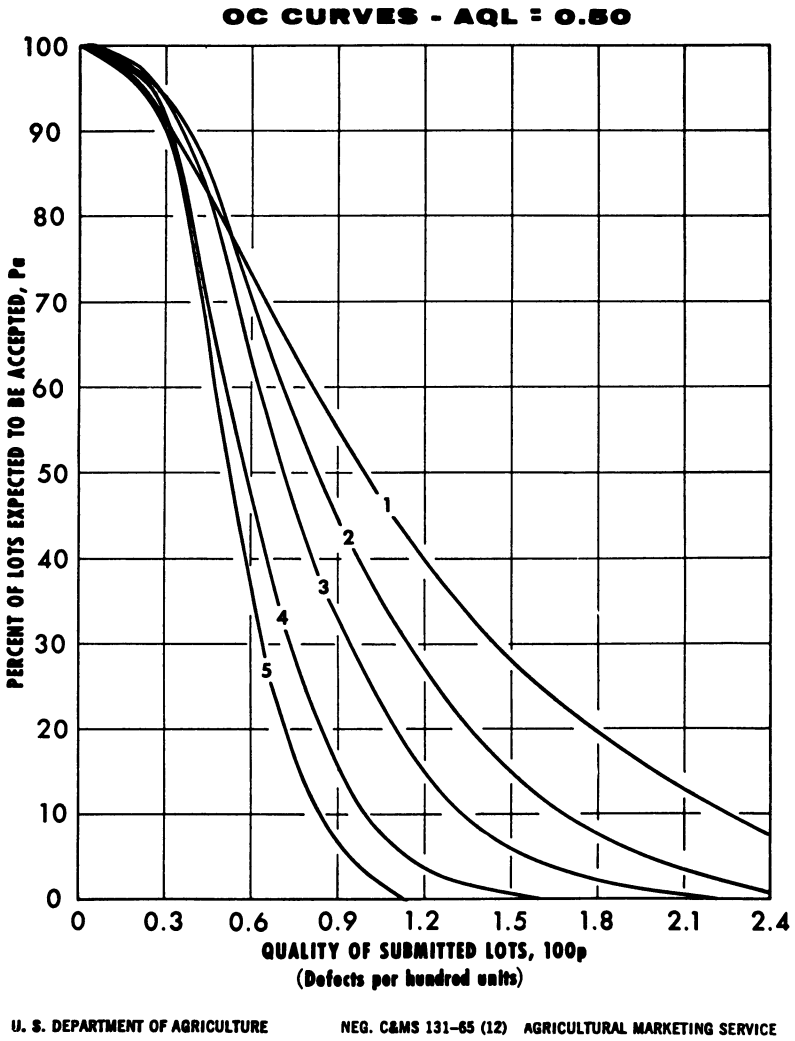


TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.50]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | | 5 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 168 | 1 | 2 | 315 | 2 | 3 | 500 | 3 | 4 | 800 | 4 | 5 | 1,250 | 6 | 7 |
| Double | 120 | 0 | 2 | 168 | 0 | 3 | 228 | 0 | 3 | 456 | 1 | 5 | | | |
| | 180 | 1 | 2 | 348 | 2 | 3 | 516 | 3 | 4 | 864 | 4 | 5 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

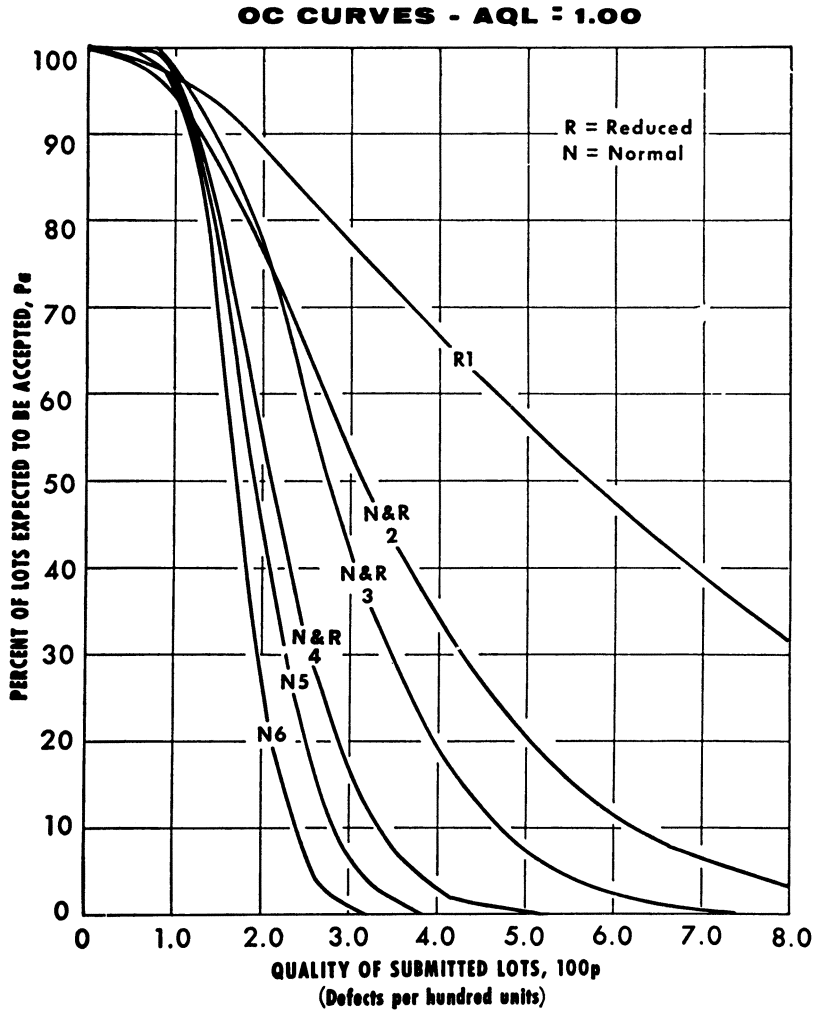


REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.00 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=1.00]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | N and R2 | | | N and R3 | | | N and R4 | | | N5 | | | N6 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 29 | 1 | 2 | 84 | 2 | 3 | 168 | 4 | 5 | 315 | 6 | 7 | 500 | 9 | 10 | 800 | 13 | 14 |
| Double | 18 | 0 | 2 | 36 | 0 | 3 | 120 | 2 | 5 | 168 | 1 | 5 | 228 | 2 | 7 | | | |
| | 36 | 1 | 2 | 96 | 2 | 3 | 180 | 4 | 5 | 348 | 7 | 8 | 516 | 9 | 10 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

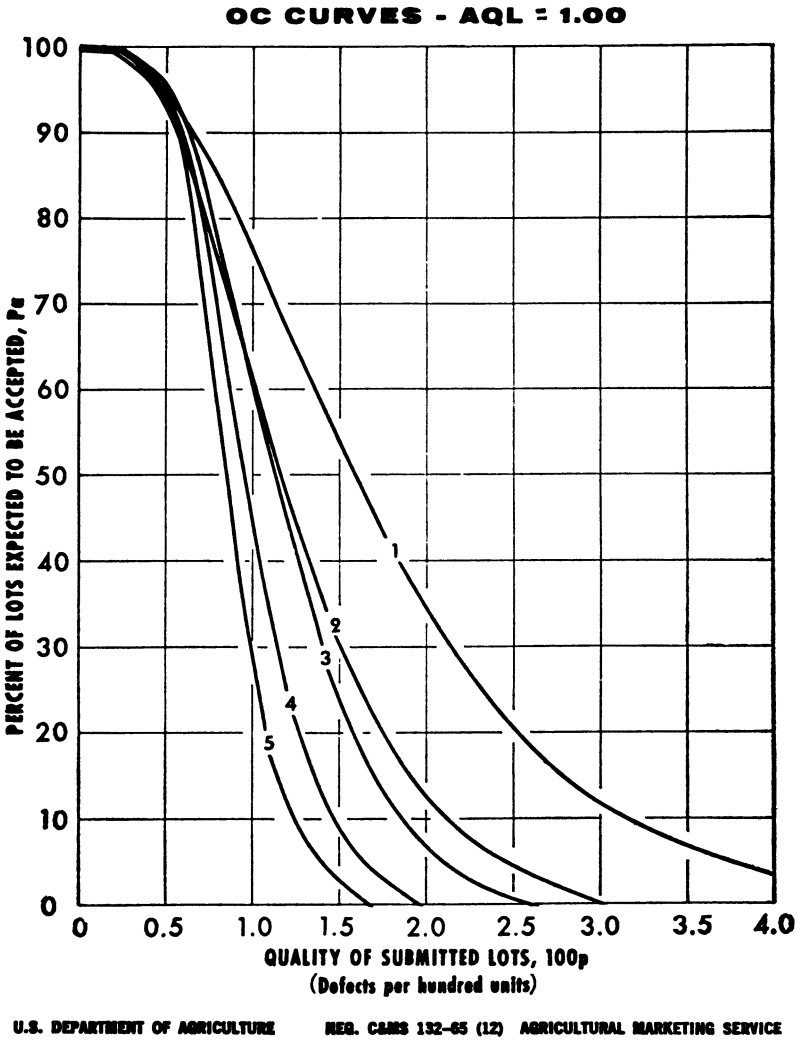


TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.00 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=1.00]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | | 5 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 168 | 2 | 3 | 315 | 3 | 4 | 500 | 5 | 6 | 800 | 7 | 8 | 1,250 | 10 | 11 |
| Double | 120 | 0 | 3 | 168 | 0 | 4 | 228 | 0 | 5 | 456 | 2 | 6 | | | |
| | 180 | 2 | 3 | 348 | 3 | 4 | 516 | 5 | 6 | 864 | 8 | 9 | | | |

$n_c$=Cumulative sample size Ac=Acceptance number. Re=Rejection number.

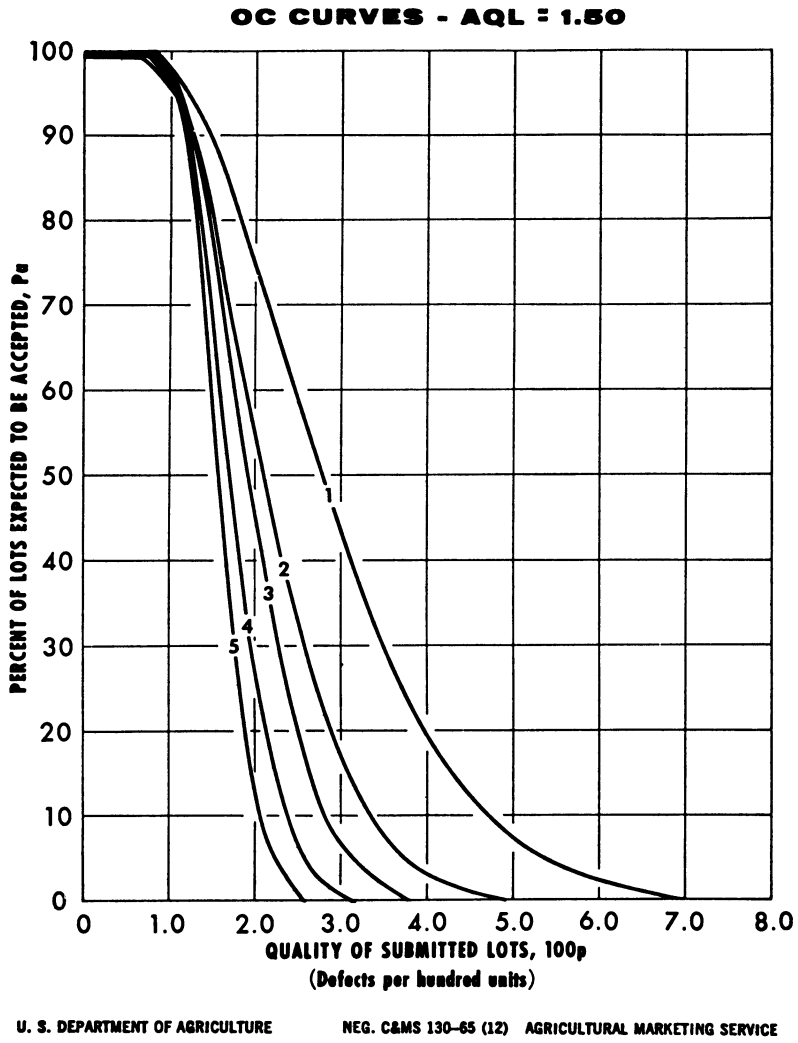


REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=1.50]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | N and R2 | | | N and R3 | | | N and R4 | | | N5 | | | N6 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 29 | 1 | 2 | 84 | 3 | 4 | 168 | 5 | 6 | 315 | 8 | 9 | 500 | 12 | 13 | 800 | 18 | 19 |
| Double | 18 | 0 | 2 | 36 | 0 | 4 | 120 | 2 | 6 | 168 | 2 | 7 | 228 | 3 | 9 | | | |
| | 36 | 1 | 2 | 96 | 3 | 4 | 180 | 5 | 6 | 348 | 9 | 10 | 516 | 12 | 13 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

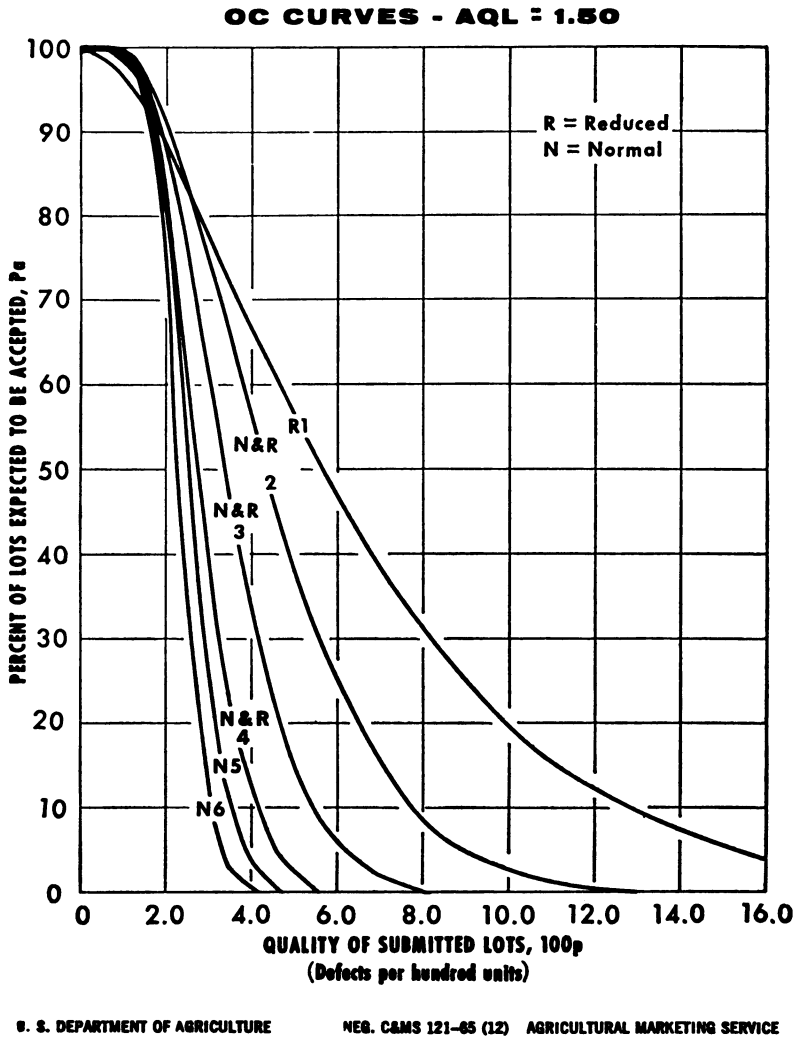


TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=1.50]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | | 5 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 168 | 4 | 5 | 315 | 6 | 7 | 500 | 9 | 10 | 800 | 13 | 14 | 1,250 | 19 | 20 |
| Double | 120 | 2 | 5 | 168 | 1 | 5 | 228 | 2 | 7 | 456 | 5 | 10 | | | |
| | 180 | 4 | 5 | 348 | 7 | 8 | 516 | 9 | 10 | 864 | 14 | 15 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

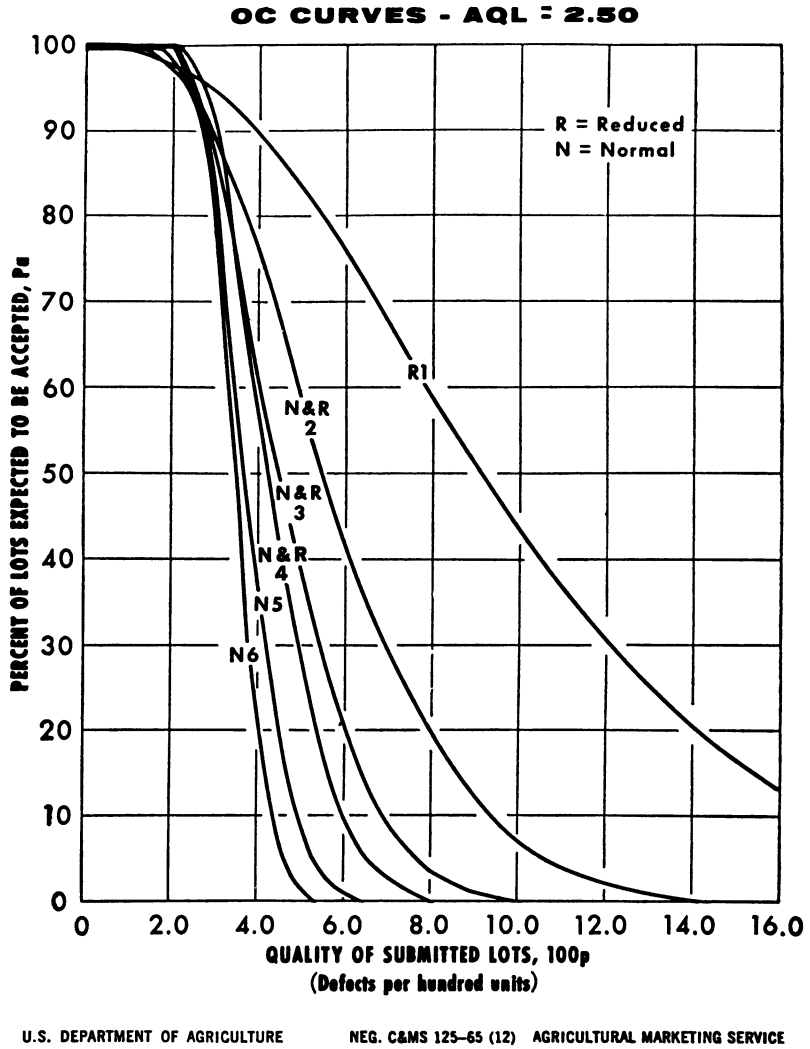


REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=2.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=2.50]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | N and R2 | | | N and R3 | | | N and R4 | | | N5 | | | N6 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 29 | 2 | 3 | 84 | 4 | 5 | 168 | 7 | 8 | 315 | 13 | 14 | 500 | 18 | 19 | 800 | 27 | 28 |
| Double | 18 | 0 | 3 | 36 | 0 | 4 | 120 | 3 | 7 | 168 | 5 | 10 | 228 | 5 | 11 | | | |
| | 36 | 2 | 3 | 96 | 4 | 5 | 180 | 8 | 9 | 348 | 14 | 15 | 516 | 19 | 20 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

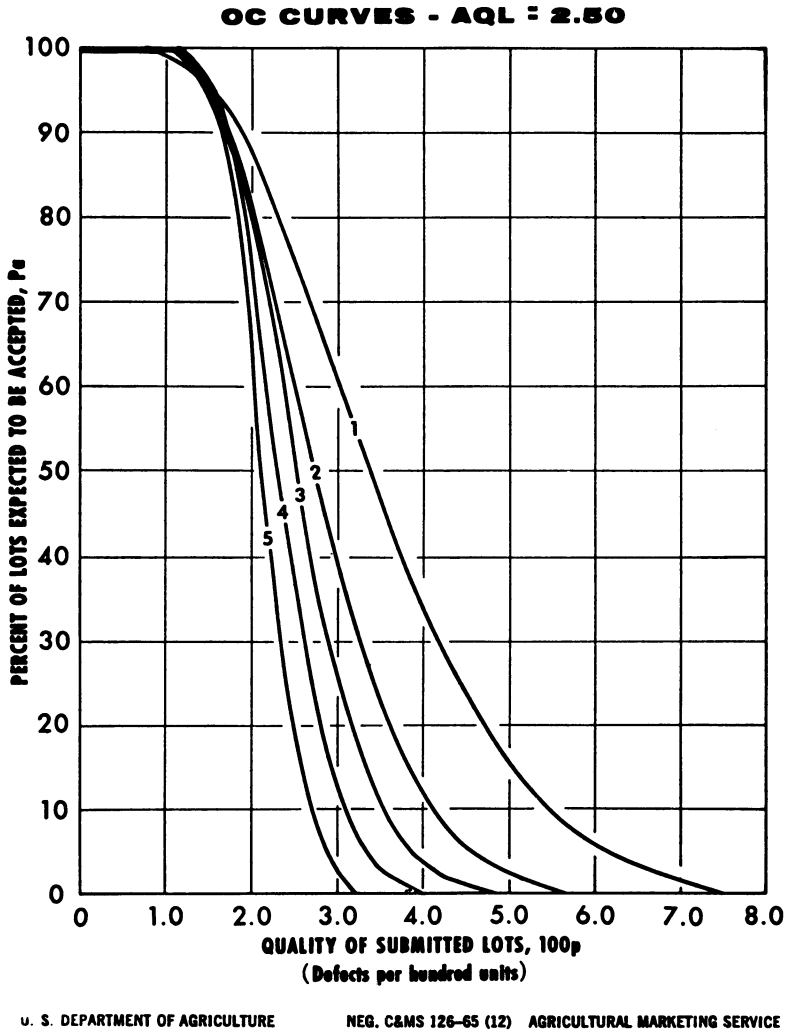


TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=2.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=2.50]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | | 5 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 168 | 5 | 6 | 315 | 8 | 9 | 500 | 12 | 13 | 800 | 18 | 19 | 1,250 | 26 | 27 |
| Double | 120 | 2 | 6 | 168 | 2 | 7 | 228 | 3 | 9 | 456 | 8 | 13 | | | |
| | 180 | 5 | 6 | 348 | 9 | 10 | 516 | 12 | 13 | 864 | 19 | 20 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

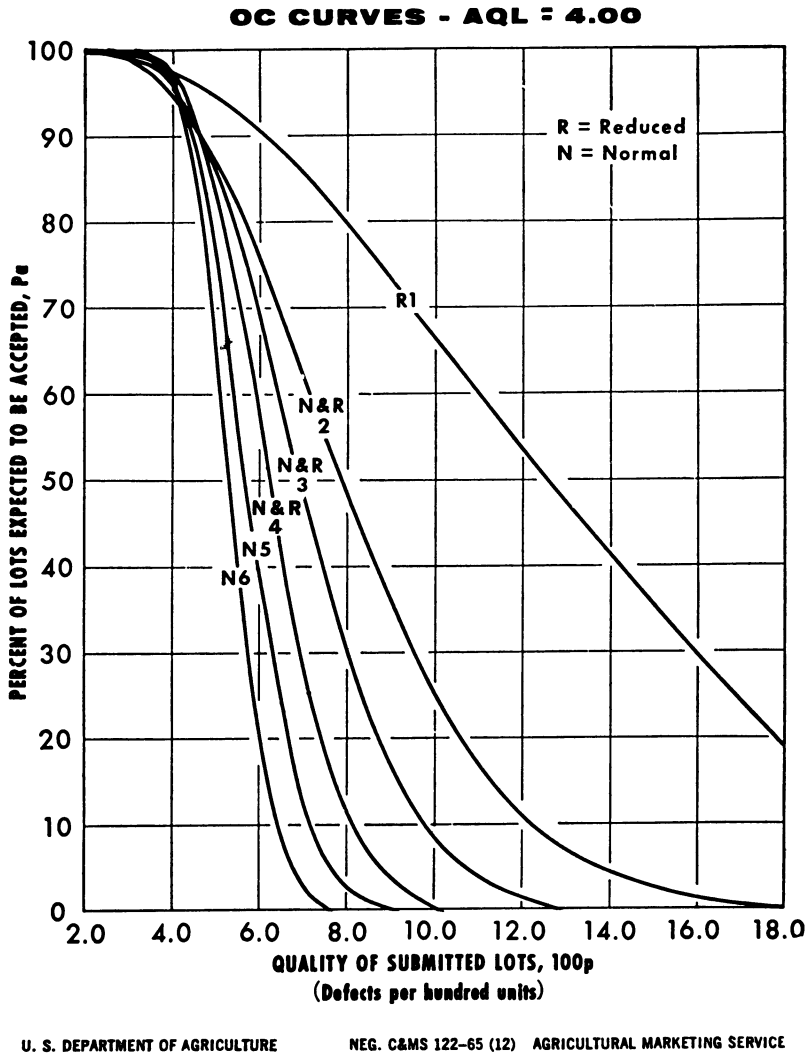


REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=4.00 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=4.00]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | N and R2 | | | N and R3 | | | N and R4 | | | N5 | | | N6 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 29 | 3 | 4 | 84 | 6 | 7 | 168 | 11 | 12 | 315 | 19 | 20 | 500 | 28 | 29 | 800 | 42 | 43 |
| Double | 18<br>36 | 1<br>4 | 3<br>5 | 36<br>96 | 0<br>7 | 5<br>8 | 120<br>180 | 6<br>12 | 10<br>13 | 168<br>348 | 7<br>21 | 13<br>22 | 228<br>516 | 8<br>29 | 17<br>30 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

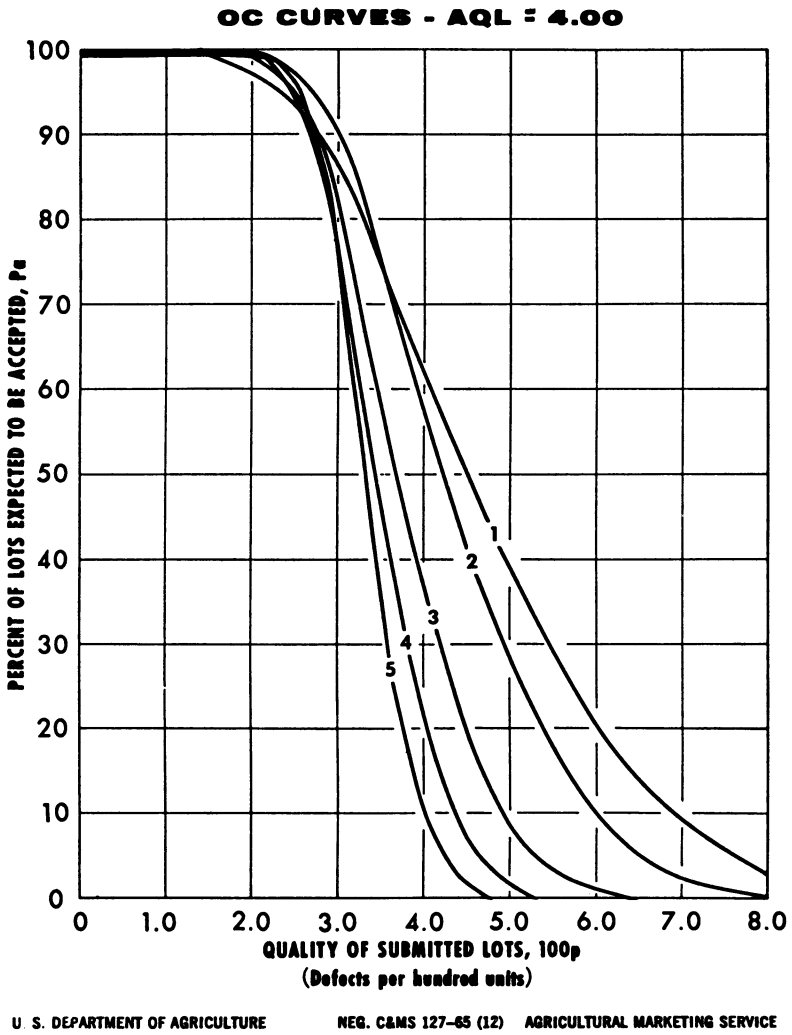


TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=4.00 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=4.00]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | | 5 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 168 | 7 | 8 | 315 | 13 | 14 | 500 | 18 | 19 | 800 | 27 | 28 | 1,250 | 41 | 42 |
| Double | 120 | 3 | 7 | 168 | 5 | 10 | 228 | 5 | 11 | 456 | 12 | 19 | | | |
| | 180 | 8 | 9 | 348 | 14 | 15 | 516 | 19 | 20 | 864 | 29 | 30 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

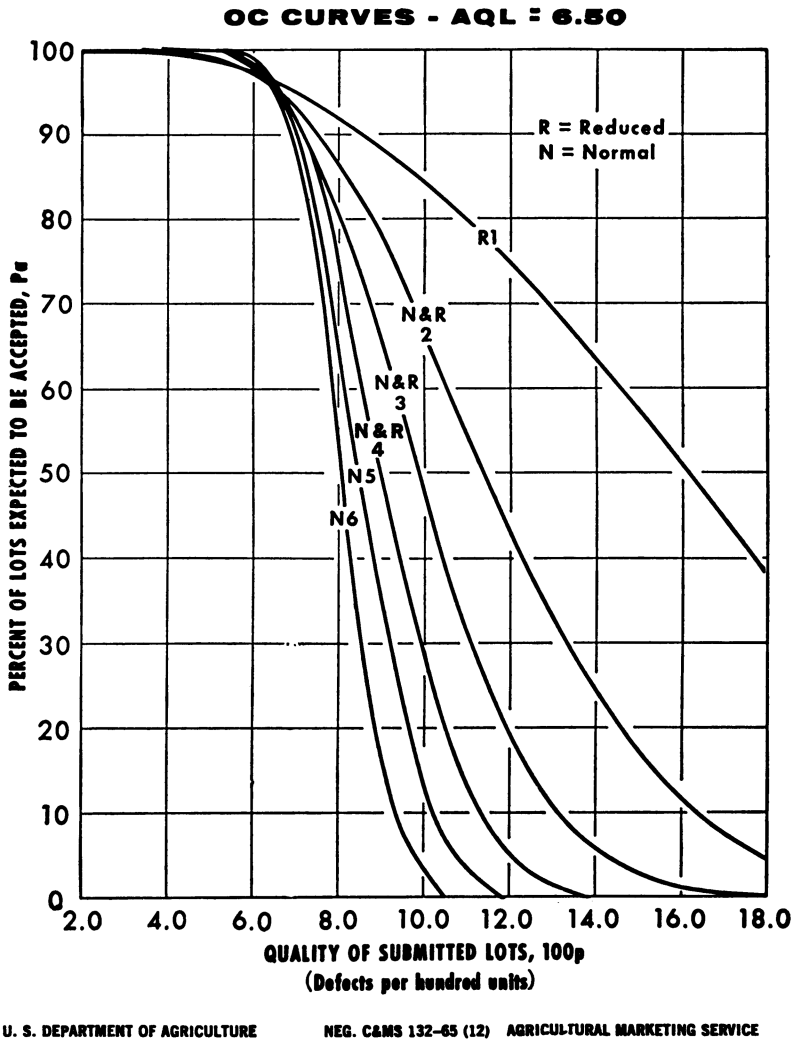


REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=2.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=6.50]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | N and R2 | | | N and R3 | | | N and R4 | | | N5 | | | N6 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 29 | 4 | 5 | 84 | 9 | 10 | 168 | 16 | 17 | 315 | 28 | 29 | 500 | 42 | 43 | 800 | 64 | 65 |
| Double | 18<br>36 | 1<br>5 | 4<br>6 | 36<br>96 | 2<br>10 | 7<br>11 | 120<br>180 | 10<br>17 | 14<br>18 | 168<br>348 | 12<br>31 | 18<br>32 | 228<br>516 | 15<br>43 | 24<br>44 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

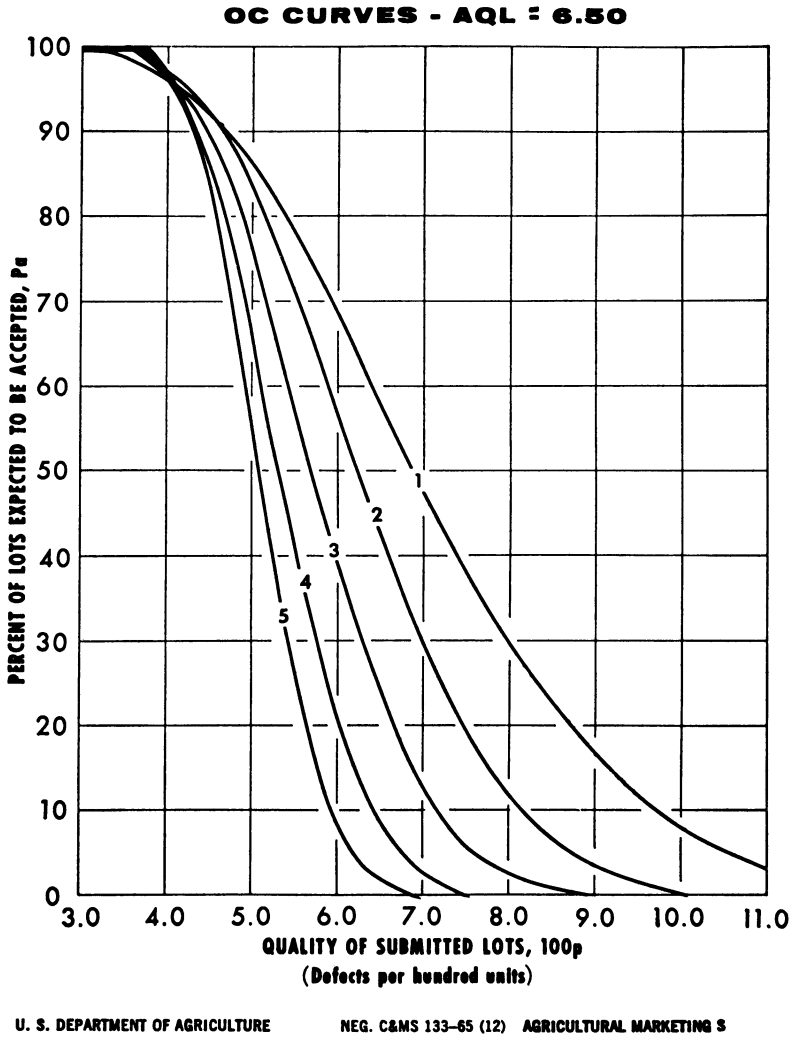


TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=6.50 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=6.50]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | | 5 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 168 | 11 | 12 | 315 | 19 | 20 | 500 | 28 | 29 | 800 | 42 | 43 | 1,250 | 63 | 64 |
| Double | 120 | 6 | 10 | 168 | 7 | 13 | 228 | 8 | 17 | 456 | 21 | 28 | | | |
| | 180 | 12 | 13 | 348 | 21 | 22 | 516 | 29 | 30 | 864 | 44 | 45 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

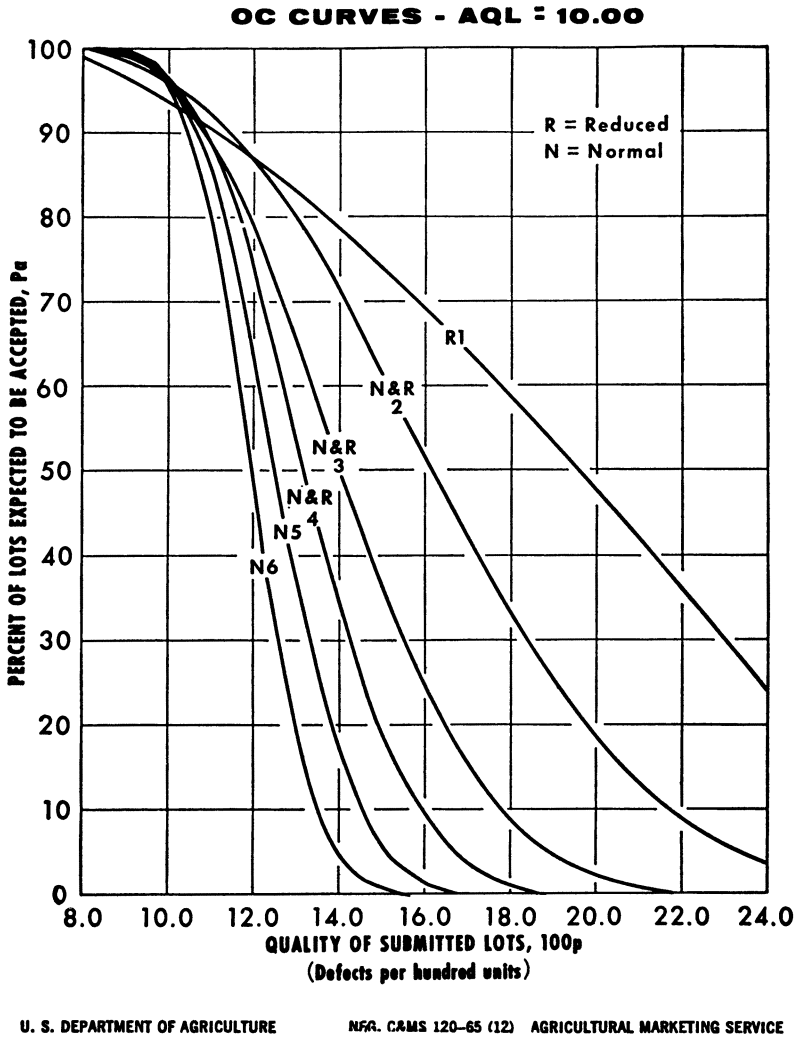


REDUCED AND NORMAL INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=10.00 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=10.00]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | R1 | | | N and R2 | | | N and R3 | | | N and R4 | | | N5 | | | N6 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 29 | 5 | 6 | 84 | 13 | 14 | 168 | 23 | 24 | 315 | 41 | 42 | 500 | 62 | 63 | 800 | 95 | 96 |
| Double | 18<br>36 | 2<br>6 | 5<br>7 | 36<br>96 | 3<br>15 | 9<br>16 | 120<br>180 | 14<br>25 | 19<br>26 | 168<br>348 | 19<br>45 | 26<br>46 | 228<br>516 | 23<br>64 | 34<br>65 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

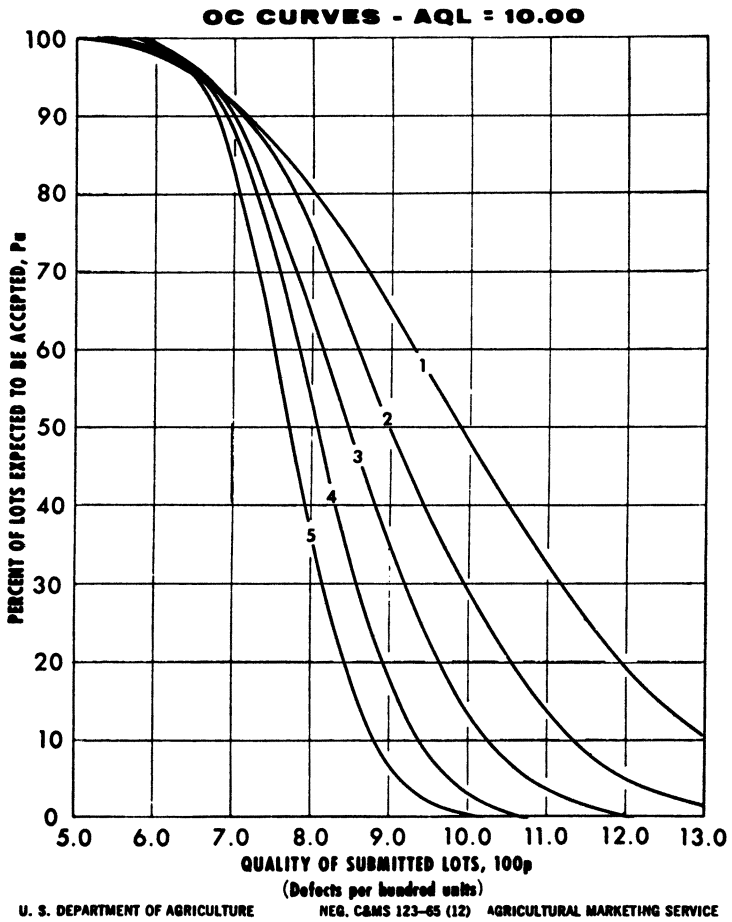


TIGHTENED INSPECTION PLANS—SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=10.00 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=10.00]

| Comparable sampling plans | Identification number of OC curves | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1 | | | 2 | | | 3 | | | 4 | | | 5 | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 168 | 16 | 17 | 315 | 28 | 29 | 500 | 42 | 43 | 800 | 64 | 65 | 1,250 | 96 | 97 |
| Double | 120 | 10 | 14 | 168 | 12 | 18 | 228 | 15 | 24 | 456 | 32 | 41 | | | |
| | 180 | 17 | 18 | 348 | 31 | 32 | 516 | 43 | 44 | 864 | 69 | 70 | | | |

$n_c$=Cumulative sampling size. Ac=Acceptance number. Re=Rejection number.




[31 FR 4687, Mar. 19, 1966; 31 FR 4949, Mar. 25, 1966, as amended at 36 FR 18457, Sept. 15, 1971. Redesignated at 41 FR 42640, Sept. 28, 1976 and 42 FR 32514, June 27, 1977, further redesignated at 45 FR 69424, Oct. 21, 1980 and 46 FR 63203, Dec. 31, 1981]

**§ 42.141 Obtaining Operating Characteristic (OC) curve information for skip lot sampling and inspection.**

The Operating Characteristic (OC) curve information (probability of acceptance) for skip lot sampling and inspection procedures described in § 42.121 is easily obtained from the single curve in § 42.142. The procedure for using the curve in § 42.142 is as follows:

(a) Select any sampling plan for normal condition of container inspection from Table I or Table I-A of § 42.109.

(b) For a given Quality of Submitted Lots, $100_p$, find the Percent of Lots Expected to be Accepted, Pa from the respective OC curve in § 42.140.

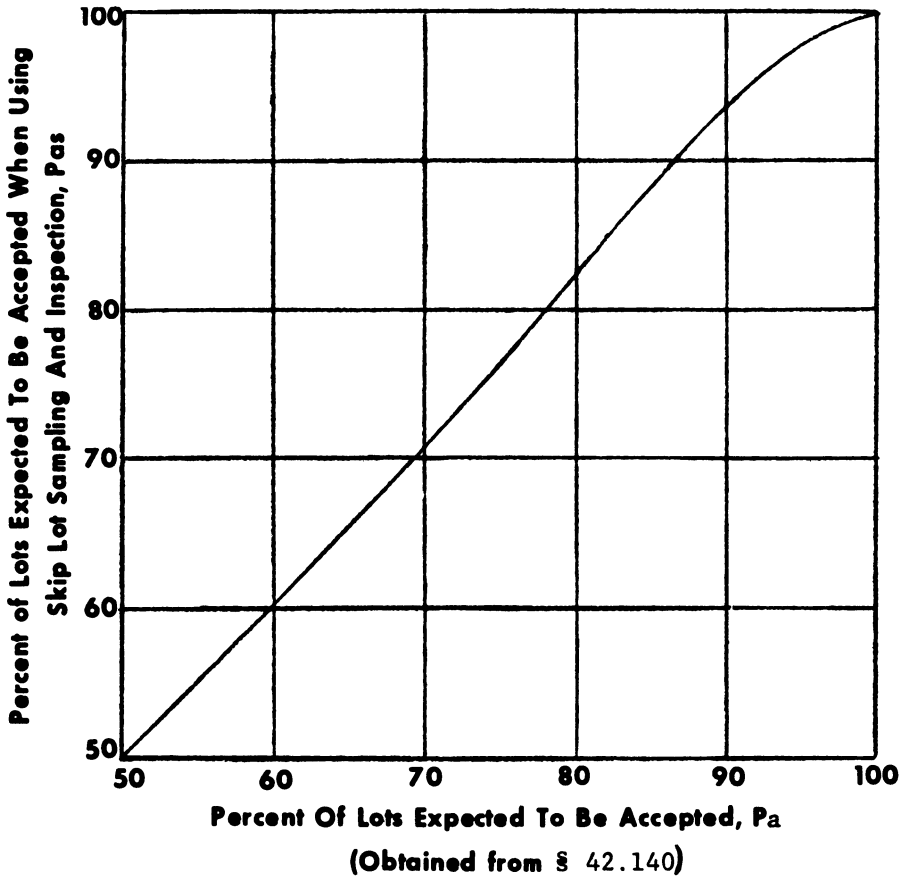
(c) Refer to § 42.142 with this Percent of Lots Expected to be Accepted, Pa, and read the new Percent of Lots Expected to be Accepted, Pas, which results when using these skip lot procedures.

For example, let's assume the lot size is 6,001 to 12,000 containers, and we use the single sampling plan of size 168 for normal inspection (Table I of § 42.109) along with an AQL for total defects of 6.5. The OC curve for this sampling plan is curve N and R3. Also, assume that the quality of the lot is 6.5 defects per hundred units. From curve N and R3, then, the Pa is determined to be 95 percent. Then refer to the graph in § 42.142 and locate Pa of 95 percent along the horizontal axis. From this point, proceed vertically to the curve and then horizontally to the left to the vertical axis. From this point on the vertical axis, Pas is determined to be approximately 98[1] percent for skip lot sampling and inspection.

[41 FR 42641, Sept. 28, 1976. Redesignated at 42 FR 32514, June 27, 1977 and 45 FR 69424, Oct. 21, 1980 and further redesignated at 46 FR 63203, Dec. 31, 1981]

[1] This slight increase of Pas over Pa results because all the lots offered for inspection are no longer being inspected. Some lots are being ''skipped'', and thereby accepted, which would have been rejected if inspected. The largest increase in Pa which will occur using skip lot sampling is approximately 4 percent. It is for this reason that skip lot sampling procedures are applied only in instances where past production quality has been consistently high—as evidenced by the requirement to have 10 consecutively acceptable lots prior to a reduction in sampling rate—and where all requirements in § 42.120 also have been met.

**§ 42.142 Curve for obtaining Operating Characteristic (OC) curve information for skip lot sampling and inspection.**




NOTES: 1. This curve applies only to the specific skip lot sampling and inspection plan described in § 42.121 and § 42.123.

2. Pa and Pas are essentially equal for values under 50 percent.

[41 FR 42641, Sept. 28, 1976. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 45 FR 69424, Oct. 21, 1980 and 46 FR 63203, Dec. 31, 1981]

### § 42.143 Operating Characteristic (OC) curves for on-line sampling and inspection.

(a) This section contains the Operating Characteristic (OC) curve for each of the on-line cumulative sum sampling plans provided in subpart D. The OC curve and the corresponding cumulative sum sampling plans are listed by AQL.

(b) Different plan parameters used to make acceptance and rejection decisions are provided for each AQL.

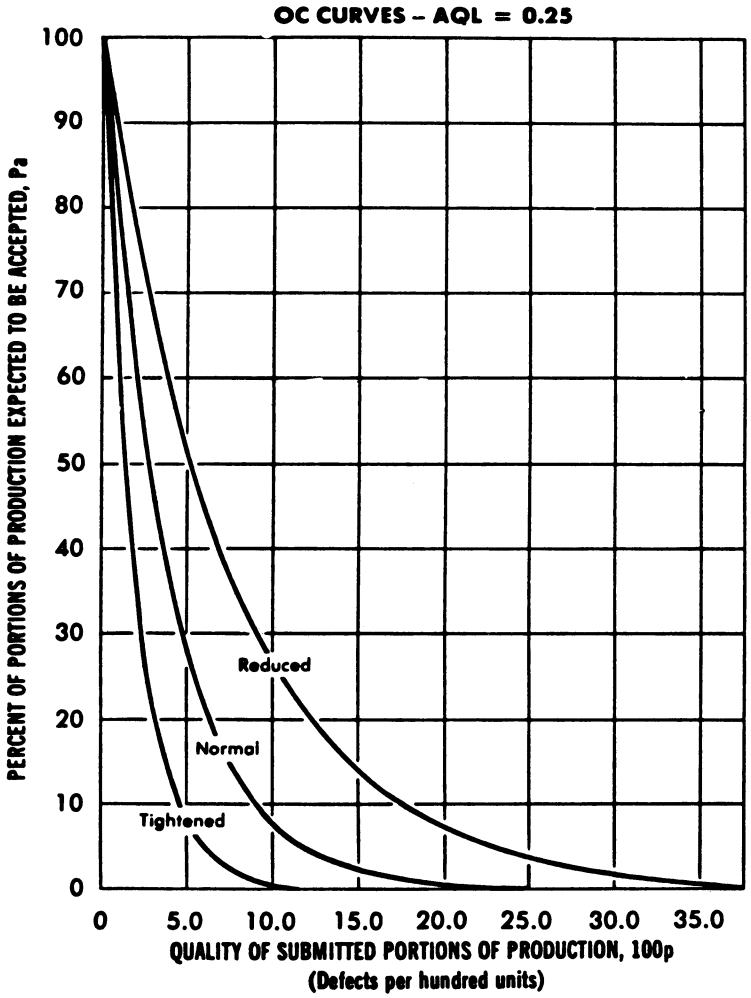
(c) The curves show the ability of the various cumulative sum sampling plans to distinguish between good and bad portions of production. The interpretation of these curves for portions of production is similar to the interpretation of the OC curves for stationary lots as illustrated in § 42.140(c).

REDUCED, NORMAL AND TIGHTENED INSPECTION PLANS—CUMULATIVE SUM SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.25 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.25]

| Identification name of OC curves | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Reduced | | | | Normal | | | | Tightened | | | |
| $n_g$ | T | L | S | $n_g$ | T | L | S | $n_g$ | T | L | S |
| 13 | 0 | 0 | 0 | 25 | 0.05 | 0.95 | 0.35 | 50 | 0.1 | 0.9 | 0.3 |

$n_g$=Number of sample units in a subgroup. T=Subgroup tolerance. L=Acceptance limit. S=Starting value.

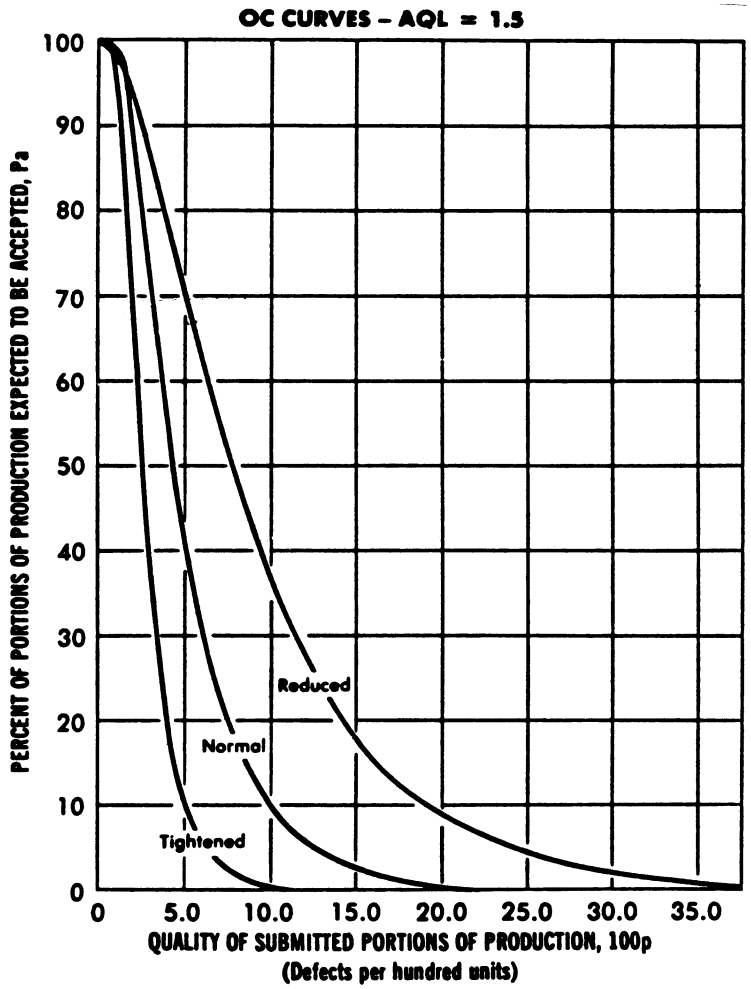


REDUCED, NORMAL, AND TIGHTENED INSPECTION PLANS—CUMULATIVE SUM SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.5 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=1.5]

| Identification name of OC curves | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Reduced | | | | Normal | | | | Tightened | | | |
| $n_g$ | T | L | S | $n_g$ | T | L | S | $n_g$ | T | L | S |
| 13 | 0.5 | 0.5 | 0 | 25 | 0.5 | 2 | 1 | 50 | 0.8 | 1.6 | 0.4 |

$n_g$=Number of sample units in a subgroup. T=Subgroup tolerance. L=Acceptance limit. S=Starting value.

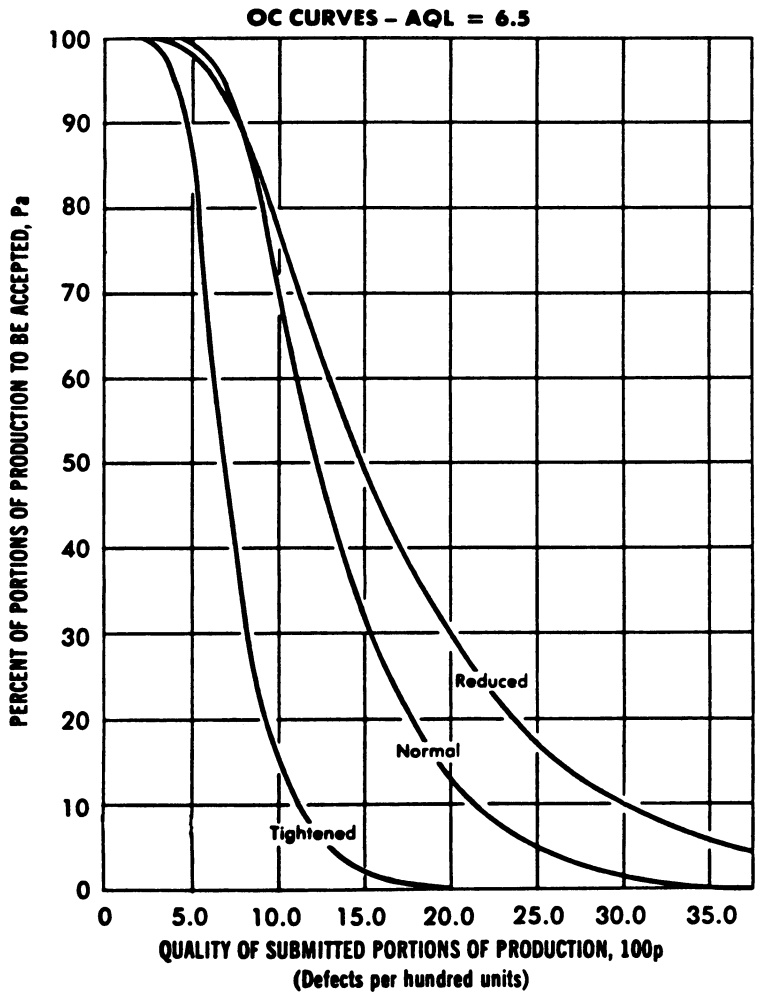


REDUCED, NORMAL, AND TIGHTENED INSPECTION PLANS—CUMULATIVE SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=6.5 DEFECTS PER HUNDRED UNITS

[Sampling Plans—AQL=6.5]

| Identification name of OC curves | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Reduced | | | | Normal | | | | Tightened | | | |
| $n_g$ | T | L | S | $n_g$ | T | L | S | $n_g$ | T | L | S |
| 13 | 1 | 2 | 1 | 25 | 2 | 3 | 1 | 50 | 2.5 | 3 | 1 |

$n_g$=Number of sample units in a subgroup. T=Subgroup tolerance. L=Acceptance limit. S=Starting value.




[45 FR 69424; Oct. 21, 1980. Redesignated at 46 FR 63203, Dec. 31, 1981]

# PART 43—STANDARDS FOR SAMPLING PLANS

DEFINITIONS

Sec.
43.101 Meaning of words.
43.102 Definitions.

SAMPLING PLANS

43.103 Purpose and scope.
43.104 Master table of single and double sampling plans.
43.105 Operating characteristics (OC) curves.
43.106 Choosing AQL's and sampling plans.

AUTHORITY: Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended; 7 U.S.C. 1622, 1624.

SOURCE: 29 FR 5870, May 5, 1964, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

DEFINITIONS

## § 43.101 Meaning of words.

Words used in this subpart in the singular form shall be considered to impart the plural, or vice versa, as the case may demand.

## § 43.102 Definitions.

Statistical and inspection or sampling terms and their respective definitions that are used in the sampling plans and operating characteristic curves of which are pertinent to the understanding of inspection by attributes follow:

*Acceptable quality level* (*AQL*). The AQL is expressed in terms of percent defective or defects per 100 units. Lots having a quality level equal to a specified AQL will be accepted approximately 95 percent of the time when using the sampling plans prescribed for that AQL.

*Acceptance number* (*Ac*). The number in a sampling plan that indicates the maximum number of defects or defectives permitted in a sample in order to consider a lot as meeting a specific requirement.

*Acceptance sampling*. The art or science that deals with procedures in which decisions to accept or reject lots or processes are based on the examination of samples.

*Attributes*. Refers to the measurement of a given factor noting and recording the presence or absence of some characteristic (attribute) in each of the units in the group under consideration.

*Consumer's risk*. The risk a consumer takes that a lot will be accepted by a sampling plan even though the lot does not conform to requirements. In the standards of this subpart this risk is nominally set at ten percent.

*Consumer protection*. The ability of a sampling plan to reject unacceptable supplies. This is measured as the complement of the probability of acceptance (Pa) for the Limited Quality (LQ) lots. The consumer protection is 90 percent in these standards.

*Defect*. A failure to meet a requirement imposed on a unit with respect to a single quality characteristic. A unit may contain more than one defect.

*Defective*. A defective unit; one containing one or more defects with respect to the quality characteristic(s) under consideration.

*Inspection*. The examination (including testing) of supplies (including, when appropriate, raw materials, components and intermediate assemblies).

(a) *Acceptance inspection*. An inspection to determine conformance of supplies to specified requirements in order to accept or reject the supplies.

(b) *Estimation inspection*. In dealing with attributes, an inspection to determine the amount of the supplies conforming to a specified requirement—usually expressed as a percentage.

*Inspection by attributes*. Inspection whereby either the sample unit is classified as defective or non-defective with respect to a requirement or set of requirements (when on a ''defective'' basis); or, inspection whereby the number of defects in each sample unit is counted with respect to a requirement or set of requirements (when on a ''defect'' basis).

*Limiting quality* (*LQ*). The LQ is expressed in terms of percent defective or defects per 100 units. Lots inspected under the standards of this subpart that have a ten percent probability of acceptance are referred to as a lot having a quality level equal to LQ.

*Lot*. A collection of units of the same size, type and style which has been

manufactured or processed under essentially the same conditions. The term shall mean ''inspection lot,'' i.e., a collection of units of product from which a sample is to be drawn and inspected to determine conformance with the acceptability criteria. An inspection lot may differ from a collection of units designated as a lot for other purposes (e.g., production lot, shipping lot, etc.).

*Lot size*. The number of units in the lot.

*Operating characteristic curve* (*OC curve*). A curve that gives the probability of acceptance as a function of a specific lot quality level.

*Probability of acceptance* (*Pa*). For a given sampling plan and a given quality of inspection lots, is that percentage of inspection lots expected to be accepted.

*Process capability*. Performance of a process under normal operating conditions. The performance is measured with respect to specific characteristics.

*Producer's risk*. The risk that a producer takes that a lot will be rejected by a sampling plan even though the lot conforms to requirements. In the standards of this subpart this risk is nominally set at five percent.

*Random sampling*. A process of selecting a sample from a lot whereby each unit in the lot has an equal chance of being chosen. Ordinary haphazard choice is generally insufficient to guarantee randomness. Devices such as tables of random numbers are used to remove subjective biases inherent in personal choice.

*Rejection number* (*Re*). The number in a sampling plan that indicates the minimum number of defects or defectives permitted in a sample that will cause a lot to fail a specific requirement.

*Sample*. Any number of sample units which are to be used for inspection.

*Sample size*. The number of sample units which are to be included in the sample.

*Sample unit*. A container, the entire contents of a container, a portion of the contents of a container, a composite mixture of a product, or any other unit of container or commodity to be used for inspection.

*Sampling*. The act of drawing or selecting sample units from a given lot.

*Sampling plan*. A specific plan which states the sample size(s), acceptance number(s) and rejection number(s). In the standards of this subpart two types of sampling plans are provided:

(a) *Single sampling plan*. A sampling inspection scheme in which a decision to accept or reject an inspection lot is based on the inspection of a single sample. A single sampling plan consists of a single sample size with associated acceptance and rejection number(s).

(b) *Double sampling plan*. A sampling inspection scheme which involves use of two independently drawn but related samples, a first sample ($n_1$) and a second sample which is added to the first to form a total sample size ($n_t$). A double sampling plan consists of a first and total sample size with associated acceptance and rejection number(s). Inspection of the first sample leads to a decision to accept, to reject, or to take a second sample and the examination of a second sample, when required, always leads to a decision to accept or reject.

SAMPLING PLANS

### § 43.103 Purpose and scope.

(a) This subpart contains selected single and double sampling plans for inspection by attributes. They are to serve as a source of plans for developing sound specifications, standards, or sampling and inspection procedures.

(b) The sampling plans of this subpart and corresponding operating characteristic curves are indexed by acceptable quality level, AQL. The AQL's expressed in percent defectives or defects per hundred units are:

| | | | |
|---|---|---|---|
| 0.065 | 0.40 | 2.5 | 8.5 |
| 0.10 | 0.65 | 4.0 | 10.0 |
| 0.15 | 1.0 | 5.0 | 12.5 |
| 0.25 | 1.5 | 6.5 | 15.0 |

### § 43.104 Master table of single and double sampling plans.

(a) In the master table, a sampling plan is selected by first determining the sample size or sizes and AQL to be used. Then find the applicable acceptance (Ac) and rejection (Re) numbers at the intersection of the sample size(s) row and AQL column. These numbers together with the sample size or sizes constitute a sampling plan.

(b) Single sampling plans having a sample size of 66 or greater and an acceptance number of 1 are not included in the Master Table. These plans are listed in the tables which supplement the Master Table and accompany the OC curves as indexes to the comparable double sampling plans. The use of these single sampling plans do not facilitate the practice of using two or more AQL's simultaneously with the same sample size.

### § 43.105 Operating characteristics (OC) curves.

The OC curves shows the ability of the various sampling plans, presented for each AQL, to distinguish between lots of different quality.

### § 43.106 Choosing AQL's and sampling plans.

(a) The selection of AQL's and sampling plans for given lot sizes depends on too many factors to permit the issuance of a ''pre-selected'' standard set of plans for specified lot sizes. Each user of the standards of this subpart should select AQL's and sampling plans that are tailored to best meet his needs.

(b) Some of the factors that must be considered prior to selecting the AQL's are:

(1) Class of defects such as major and minor: Major defects would generally require lower AQL's than those for minor defects;

(2) Process capabilities under good commercial practice with respect to the defects in question: For example, if under normal production processes, the defect level cannot be kept below 2.0 percent defective, the selection of an AQL of 0.15 percent defective, although desirable for the defects in question, may not be practical;

(3) Consumer preferences: These may require higher AQL's or permit lower AQL's than process capabilities would indicate; and

(4) Time and cost required to sample and inspect a lot under various AQL's: The smaller the AQL the more time and cost of inspection.

(c) Some of the factors that may be considered prior to selecting the sampling plans for given lot sizes are:

(1) The applicable AQL(s): The AQL dictates, among other things, the smallest sample size that can be used and the size of the ''jumps'' from one sample size to the next larger one;

(2) The relative ability of the plans to discriminate between ''good'' and ''bad'' lots: Although several plans in these standards have the same AQL, they differ in their ability to reject lots worse than the AQL's. The OC curve in the standards of this subpart provide the basis for determining the discriminating ability of each plan;

(3) The amount, time, and cost of sampling required;

(4) The size and value of the lots relative to the producer and consumer protection a sampling plan affords: One may be willing to take larger risks of passing ''bad'' lots that are small or of lesser value than they would for larger more valuable lots;

(5) The knowledge about the lot(s) to be submitted for inspection: Lots consisting of product produced under essentially the same conditions may require smaller sample sizes than those consisting of product produced by different shifts and different raw stock for example; and

(6) The record of the quality level of previously submitted lots: The sample size can be smaller for lots submitted from a supplier with a consistent record of quality levels significantly better than the specified AQL(s) than sample sizes for the supplier whose records show considerable variability in quality, ''borderline'' supplies or product worse than the AQL.

## MASTER TABLE OF SINGLE AND DOUBLE SAMPLING PLANS [1]

| Sample size code letter | Sample size | Acceptable quality levels | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 0.065 | 0.10 | 0.15 | 0.25 | 0.40 | 0.65 | 1.0 | 1.5 | 2.5 | 4.0 | 5.0 | 6.5 | 8.5 | 10.0 | 12.5 | 15.0 |
| | | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re | Ac Re |
| AA | $n_1$=1 | | | | | | | | | | | | | | | | 0 1 |
| A | $n_1$=2 | | | | | | | | | | | | | | 0 1 | | |
| B | $n_1$=3 | | | | | | | | | | | | 0 1 | | | 0 3 | 1 2 |
| | $n_t$=8 | | | | | | | | | | | | | | | 2 3 | |
| C | $n_1$=4 | | | | | | | | | | | 0 1 | | | 1 2 | | |
| D | $n_1$=5 | | | | | | | | | | 0 1 | | | 1 2 | | | |
| E | $n_1$=6 | | | | | | | | | | | | 1 2 | | | | 2 3 |
| EE | $n_1$=7 | | | | | | | | | | | | | | | 2 3 | |
| F | $n_1$=9 | | | | | | | | | 0 1 | | 1 2 | | | 2 3 | | 3 4 |
| G | $n_1$=11 | | | | | | | | | | 1 2 | | | 2 3 | | 3 4 | |
| H | $n_1$=13 | | | | | | | | 0 1 | | | | 2 3 | | 3 4 | | 4 5 |
| J | $n_1$=21 | | | | | | | 0 1 | 0 2 | 0 2 | 2 3 | 1 4 | 3 4 | 3 5 | 4 5 | 5 6 | 6 7 |
| | $n_t$=31 | | | | | | | | 1 2 | 2 3 | | 3 4 | | 5 6 | | | |
| K | $n_1$=29 | | | | | | 0 1 | 0 2 | 1 2 | 2 3 | 1 4 | 3 4 | 4 5 | 3 7 | 5 6 | 6 7 | 7 8 |
| | $n_t$=65 | | | | | | | 1 2 | | | 6 7 | | | 9 10 | | | |
| L | $n_1$=48 | | | | | 0 1 | 0 2 | 1 2 | 2 3 | 3 4 | 4 5 | 5 6 | 6 7 | 7 8 | 8 9 | 10 11 | 11 12 |
| | $n_t$=72 | | | | | | 1 2 | | | | | | | | | | |
| M | $n_1$=84 | | | | 0 1 | 0 2 | 0 3 | 2 3 | 3 4 | 4 5 | 6 7 | 7 8 | 9 10 | 11 12 | 13 14 | 15 16 | 18 19 |
| | $n_t$=120 | | | | | 1 2 | | | | | | | | | | | |
| | $n_t$=132 | | | | | | 2 3 | | | | | | | | | | |
| N | $n_1$=126 | | | 0 1 | 0 2 | 0 3 | 2 3 | 3 4 | 4 5 | 6 7 | 9 10 | 10 11 | 13 14 | 16 17 | 18 19 | 22 23 | 26 27 |
| | $n_t$=180 | | | | 1 2 | | | | | | | | | | | | |
| | $n_t$=210 | | | | | 2 3 | | | | | | | | | | | |
| P | $n_1$=200 | | 0 1 | 0 2 | 0 3 | 2 3 | 3 4 | 4 5 | 6 7 | 9 10 | 13 14 | 15 16 | 19 20 | 24 25 | 27 28 | 33 34 | 39 40 |
| | $n_t$=284 | | | 1 2 | | | | | | | | | | | | | |
| | $n_t$=326 | | | | 2 3 | | | | | | | | | | | | |
| Q | $n_1$=315 | 0 1 | 0 2 | 0 | 2 3 | 3 4 | 4 5 | 6 7 | 8 9 | 13 14 | 19 20 | 22 23 | 28 29 | 35 36 | 41 42 | 50 51 | 59 60 |
| | $n_t$=435 | | 1 2 | | | | | | | | | | | | | | |
| | $n_t$=519 | | | 2 3 | | | | | | | | | | | | | |
| R | $n_1$=500 | 0 2 | 0 3 | 2 3 | 3 4 | 4 5 | 6 7 | 9 10 | 12 13 | 18 19 | 28 29 | 33 34 | 42 43 | 53 54 | 62 63 | 76 77 | 90 91 |
| | $n_t$=644 | 1 2 | | | | | | | | | | | | | | | |
| | $n_t$=836 | | 2 3 | | | | | | | | | | | | | | |
| S | $n_1$=800 | 0 3 | 2 3 | 3 4 | 4 5 | 6 7 | 9 10 | 13 14 | 18 19 | 27 28 | 42 43 | 50 510 | 64 65 | 82 83 | 95 96 | 117 118 | 140 141 |
| | $n_t$=1304 | 2 3 | | | | | | | | | | | | | | | |
| T | $n_1$=1250 | 2 3 | 3 4 | 4 5 | 6 7 | 9 10 | 13 14 | 19 20 | 26 27 | 41 42 | 63 64 | 76 77 | | | | | |
| U | $n_1$=2000 | 3 4 | 4 5 | 6 7 | 9 10 | 13 14 | 19 20 | 28 29 | 39 40 | 62 63 | 96 97 | | | | | | |

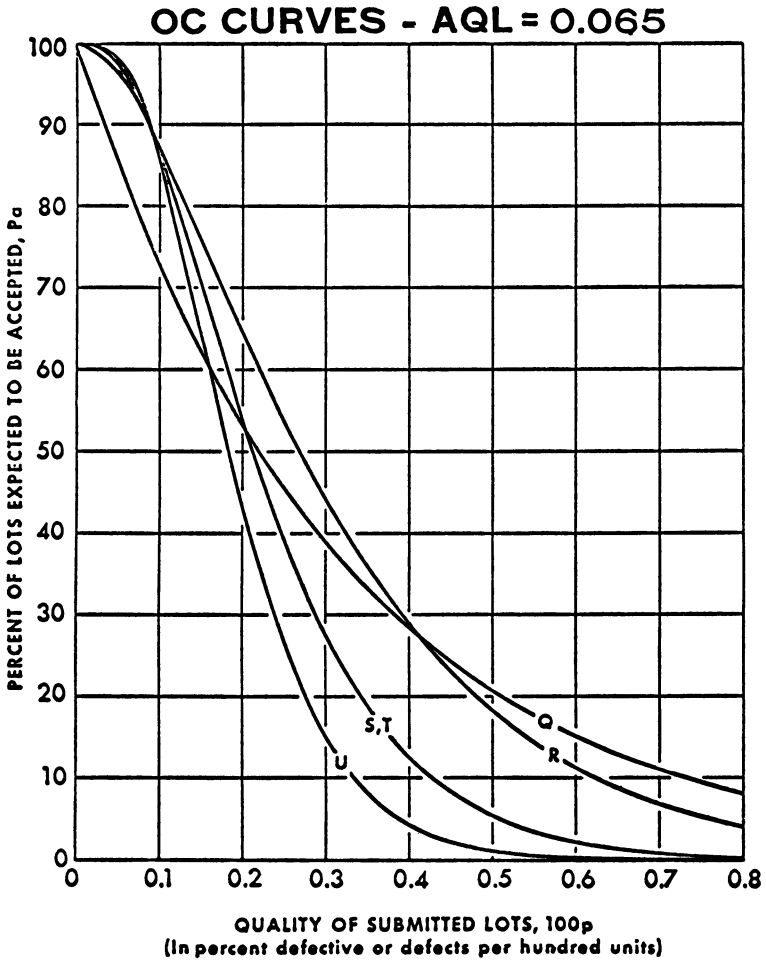
[1] Double plans are indicated by 2 sample sizes, $n_1$ (first) and $n_t$ (total). Ac=Acceptance number Re=Rejection number.

SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.065 PERCENT DEFECTIVE (OR AQL=0.065 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.065]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Q | | | R | | | S, T | | | U | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 315 | 0 | 1 | 624 | 1 | 2 | 1250 | 2 | 3 | 2,000 | 3 | |
| Double | ..... | ..... | ..... | 500 | 0 | 2 | 800 | 0 | 3 | | | |
| | ..... | ..... | ..... | 644 | 1 | 2 | 1304 | 2 | 3 | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

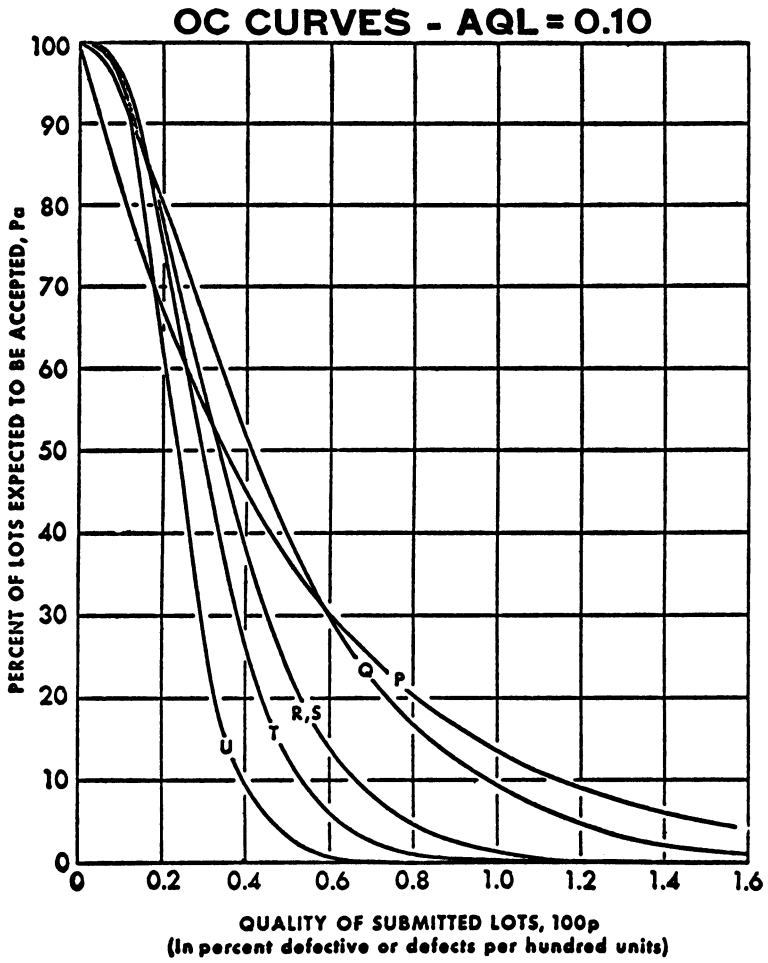


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.10 PERCENT DEFECTIVE (OR AQL=0.10 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.10]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | P | | | Q | | | R, S | | | T | | | U | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 200 | 0 | 1 | 408 | 1 | 2 | 800 | 2 | 3 | 1,250 | 3 | 4 | 2,000 | 4 | |
| Double | ..... | .... | .... | 315 | 0 | 2 | 500 | 0 | 3 | | | | | | |
| | ..... | .... | .... | 435 | 1 | 2 | 836 | 2 | 3 | | | | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

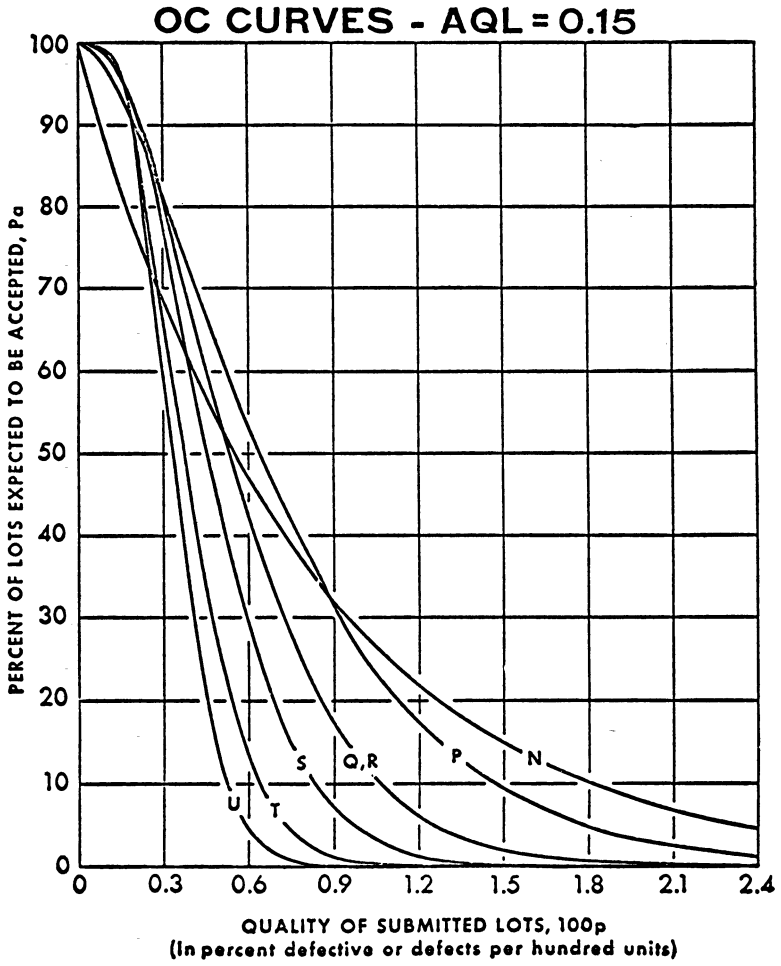


SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.15 PERCENT DEFECTIVE (OR AQL=0.15 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.15]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | N | | | P | | | Q | | | R, S | | | T | | | U | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 126 | 0 | 1 | 264 | 1 | 2 | 500 | 2 | 3 | 800 | 3 | 4 | 1,250 | 4 | 5 | 2,000 | 6 | 7 |
| Double | ..... | .... | .... | 200 | 0 | 2 | 315 | 0 | 3 | | | | | | | | | |
| | ..... | .... | .... | 284 | 1 | 2 | 519 | 2 | 3 | | | | | | | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.

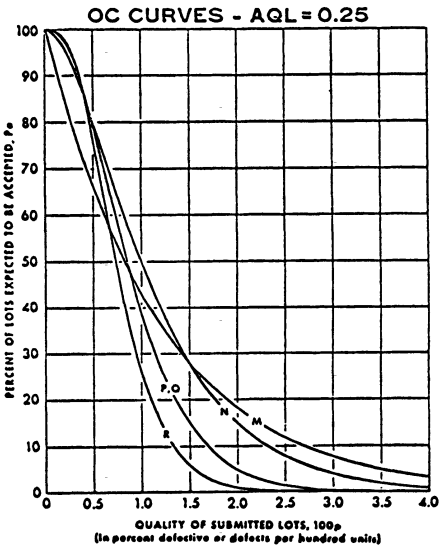


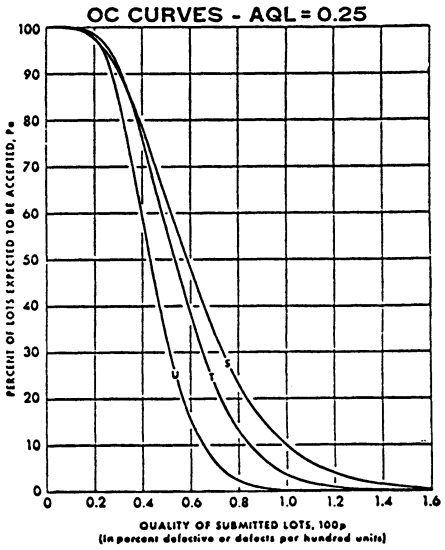
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.25 DEFECTS PER HUNDRED UNITS

[Sampling plans—AQL=0.25]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | M | | | N | | | P, Q | | | R | | | S | | | T | | | U | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single ..... | 84 | 0 | 1 | 168 | 1 | 2 | 315 | 2 | 3 | 500 | 3 | 4 | 800 | 4 | 5 | 1250 | 6 | 7 | 2000 | 9 | 10 |
| Double .... | .... | .... | .... | 126 | 0 | 2 | 200 | 0 | 3 | | | | | | | | | | | | |
| | .... | .... | .... | 180 | 1 | 2 | 326 | 2 | 3 | | | | | | | | | | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



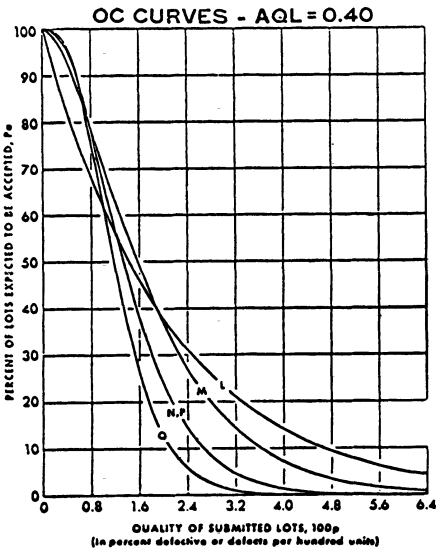



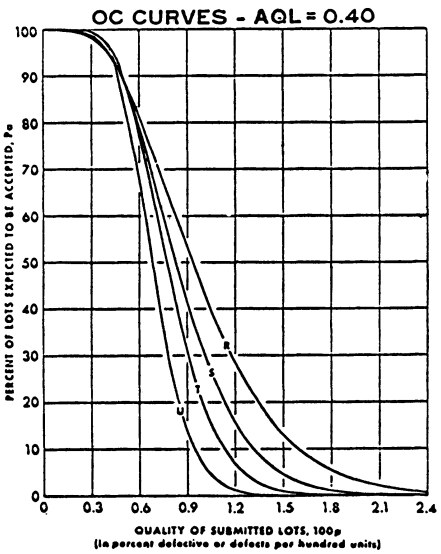
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.40 PERCENT DEFECTIVE (OR AQL=0.40 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.40]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | L | | | M | | | N, P | | | Q | | | R | | | S | | | T | | | U | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single ..... | 48 | 0 | 1 | 108 | 1 | 2 | 200 | 2 | 3 | 315 | 3 | 4 | 500 | 4 | 5 | 800 | 6 | 7 | 1250 | 9 | 10 | 2000 | 13 | 10 |
| Double ..... | .... | .... | .... | 84 | 0 | 2 | 126 | 0 | 3 | | | | | | | | | | | | | | | |
| | .... | .... | .... | 120 | 1 | 2 | 210 | 2 | 3 | | | | | | | | | | | | | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



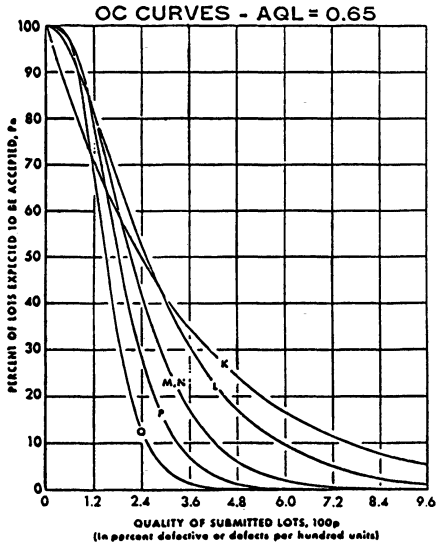



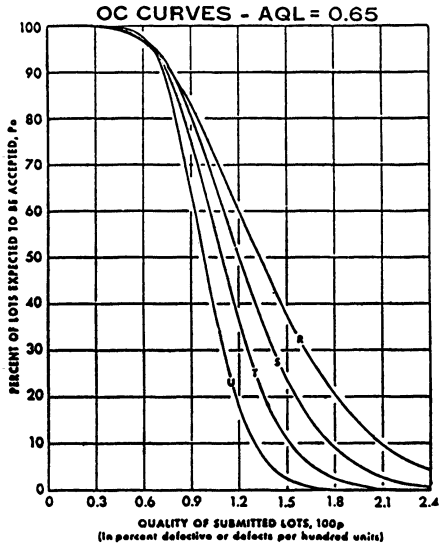
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=0.65 PERCENT DEFECTIVE (OR AQL=0.65 DEFECTS PER HUNDRED UNITS)

[Sampling plans—AQL=0.65]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | K | | | L | | | M, N | | | P | | | Q | | | R | | | S | | | T | | | U | | | | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | | | |
| Single | 29 | 0 | 1 | 66 | 1 | 2 | 126 | 2 | 3 | 200 | 3 | 4 | 315 | 4 | 5 | 500 | 6 | 7 | 800 | 9 | 10 | 1250 | 13 | 14 | 2000 | 19 | 20 | | | |
| Double | .... | .... | .... | 48 | 0 | 2 | 84 | 0 | 3 | | | | | | | | | | | | | | | | | | | | | |
| | .... | .... | .... | 72 | 1 | 2 | 132 | 2 | 3 | | | | | | | | | | | | | | | | | | | | | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



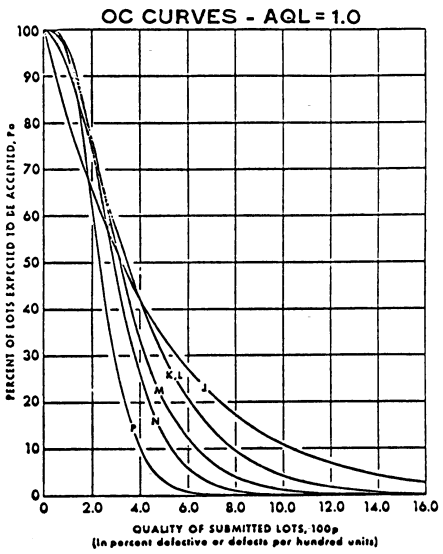
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.0 PERCENT DEFECTIVE (OR AQL=1.0 DEFECTS PER HUNDRED UNITS)

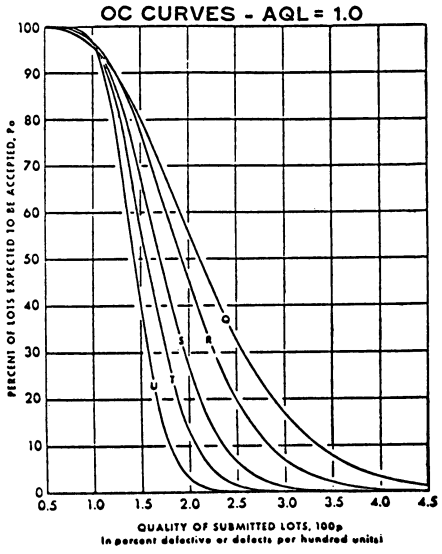
[Sampling plans—AQL=1.0]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | J | | | K, L | | | M | | | N | | | P | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 21 | 0 | 1 | 48 | 1 | 2 | 84 | 2 | 3 | 126 | 3 | 4 | 200 | 4 | 5 |
| Double | .....<br>..... | ....<br>.... | ....<br>.... | 29<br>65 | 0<br>1 | 2<br>2 | ..... | .... | .... | ..... | .... | .... | ..... | .... | .... |

| | Q | | | R | | | S | | | T | | | U | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 315 | 6 | 7 | 500 | 9 | 10 | 800 | 13 | 14 | 1250 | 19 | 20 | 2000 | 28 | 29 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



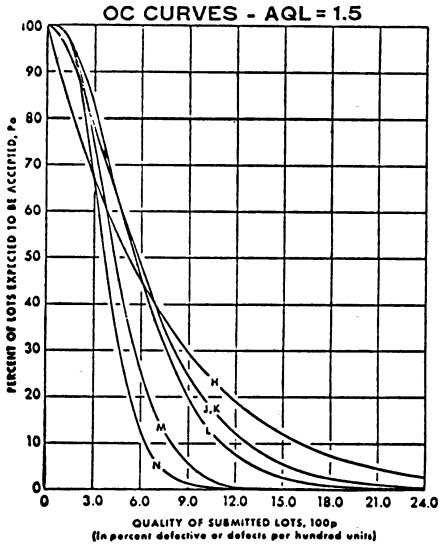
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=1.5 PERCENT DEFECTIVE (OR AQL=1.5 DEFECTS PER HUNDRED UNITS)

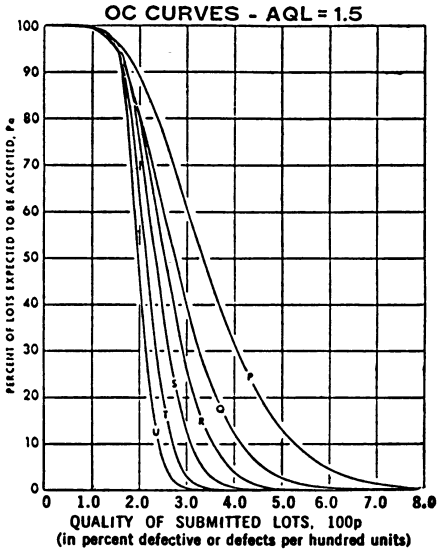
[Sampling plans—AQL=1.5]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | H | | | J, K | | | L | | | M | | | N | | | P | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 13 | 0 | 1 | 29 | 1 | 2 | 48 | 2 | 3 | 84 | 3 | 4 | 126 | 4 | 5 | 200 | 6 | 7 |
| Double | ....<br>.... | ....<br>.... | ....<br>.... | 21<br>31 | 0<br>1 | 2<br>2 | ....<br>.... | ....<br>.... | ....<br>.... | ....<br>.... | ....<br>.... | ....<br>.... | .....<br>..... | ....<br>.... | ....<br>.... | .....<br>..... | ....<br>.... | ....<br>.... |

| | Q | | | R | | | S | | | T | | | U | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 315 | 8 | 9 | 500 | 12 | 13 | 800 | 18 | 19 | 1,250 | 26 | 27 | 2,000 | 39 | 40 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



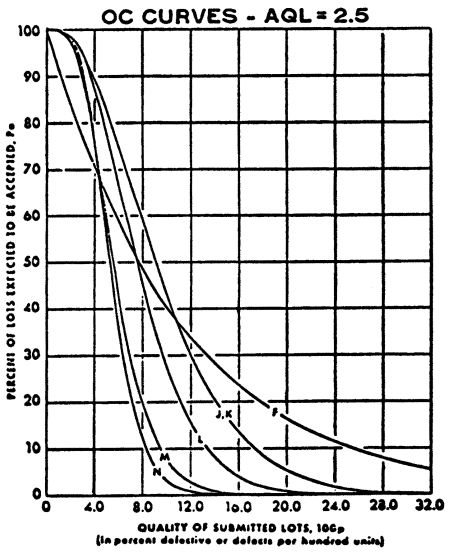
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=2.5 PERCENT DEFECTIVE (OR AQL=2.5 DEFECTS PER HUNDRED UNITS)

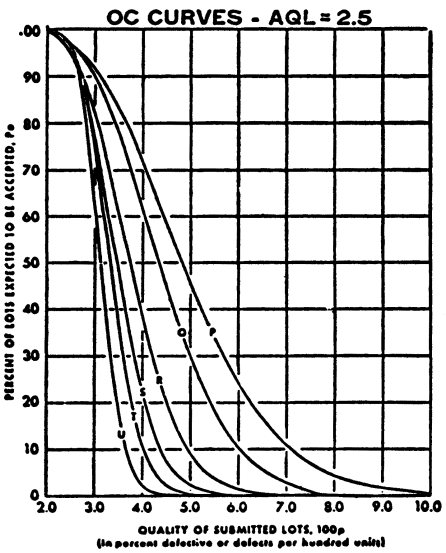
[Sampling plans—AQL=2.5]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | F | | | J, K | | | L | | | M | | | N | | | P | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 9 | 0 | 1 | 29 | 2 | 3 | 48 | 3 | 4 | 84 | 4 | 5 | 126 | 6 | 7 | 200 | 9 | 10 |
| Double | .....<br>..... | ....<br>.... | ....<br>.... | 21<br>31 | 0<br>2 | 2<br>3 | ..... | .... | .... | ..... | .... | .... | ..... | .... | .... | ..... | .... | .... |

| | Q | | | R | | | S | | | T | | | U | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 315 | 13 | 14 | 500 | 18 | 19 | 800 | 27 | 28 | 1,250 | 41 | 42 | 2,000 | 62 | 63 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



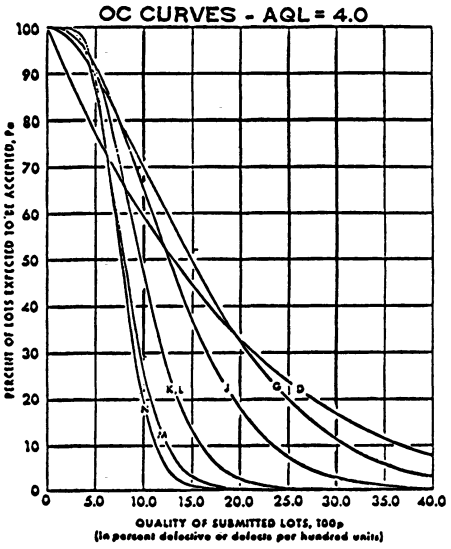
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=4.0 PERCENT DEFECTIVE (OR AQL=4.0 DEFECTS PER HUNDRED UNITS)

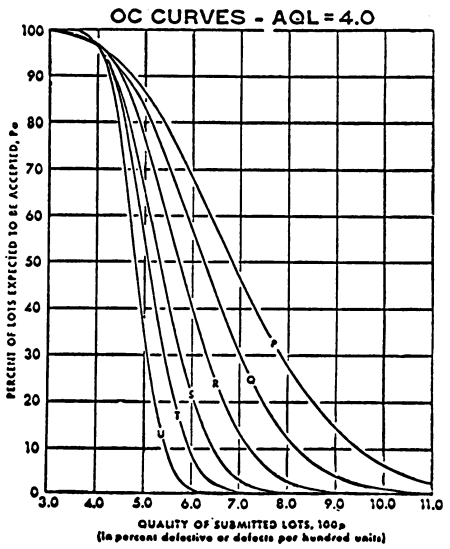
[Sampling plans—AQL=4.0]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | D | | | G | | | J | | | K L | | | M | | | N | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 5 | 0 | 1 | 11 | 1 | 2 | 21 | 2 | 3 | 48 | 4 | 5 | 84 | 6 | 7 | 126 | 9 | 10 |
| Double | ..... | .... | .... | ..... | .... | .... | ..... | .... | .... | 29 | 1 | 4 | | | | | | |
| | ..... | .... | .... | ..... | .... | .... | ..... | .... | .... | 65 | 6 | 7 | ..... | .... | .... | ..... | .... | .... |

| | P | | | Q | | | R | | | S | | | T | | | U | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 200 | 13 | 14 | 315 | 19 | 20 | 500 | 28 | 29 | 800 | 42 | 43 | 1250 | 63 | 64 | 2000 | 96 | |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



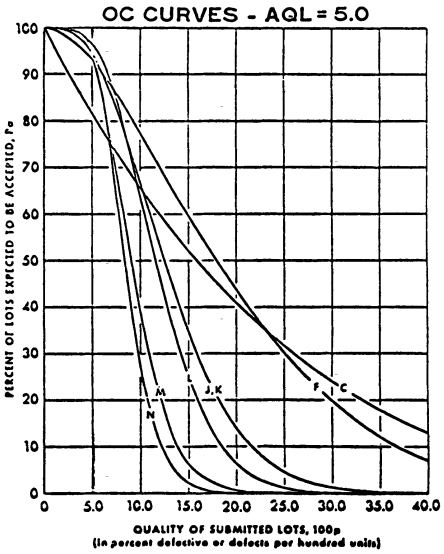
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=5.0 PERCENT DEFECTIVE (OR AQL=5.0 DEFECTS PER HUNDRED UNITS)

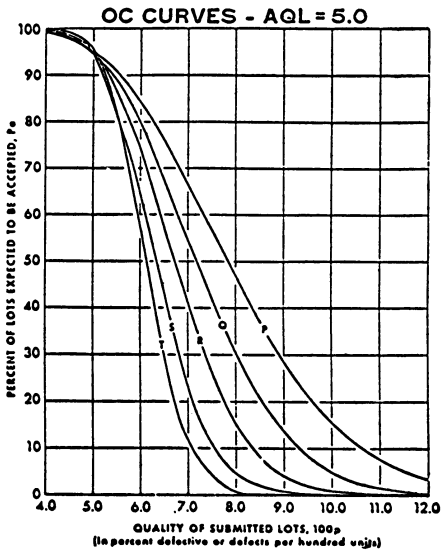
[Sampling plans—AQL=5.0]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | C | | | F | | | J, K | | | L | | | M | | | N | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 4 | 0 | 1 | 1 | 1 | 2 | 29 | 3 | 4 | 48 | 5 | 6 | 84 | 7 | 8 | 126 | 10 | 11 |
| Double | .... | .... | .... | .... | .... | .... | 21 | 1 | 4 | | | | | | | | | |
| | .... | .... | .... | .... | .... | .... | 31 | 3 | 4 | .... | .... | .... | ..... | .... | .... | ..... | .... | .... |

| | P | | | Q | | | R | | | S | | | T | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 200 | 15 | 16 | 315 | 22 | 23 | 500 | 33 | 34 | 800 | 50 | 51 | 1250 | 76 | 77 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



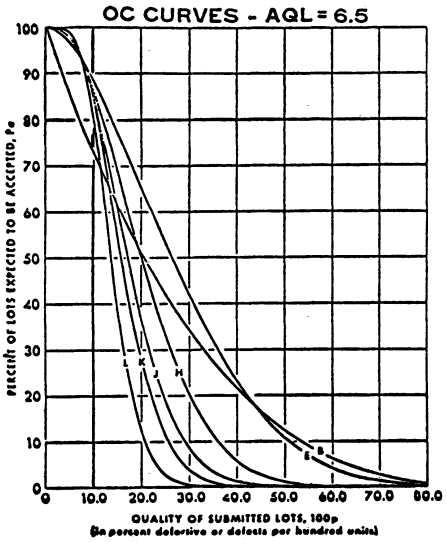
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=6.5 PERCENT DEFECTIVE (OR AQL=6.5 DEFECTS PER HUNDRED UNITS)

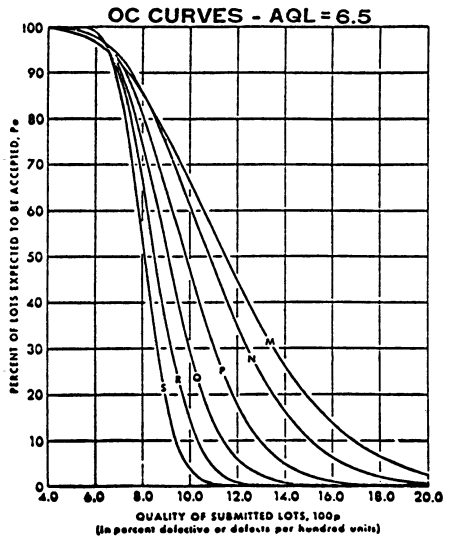
[Sampling plans—AQL=6.5]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | B | | | E | | | H | | | J | | | K | | | L | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 3 | 0 | 1 | 6 | 1 | 2 | 13 | 2 | 3 | 21 | 3 | 4 | 29 | 4 | 5 | 48 | 6 | 7 |

| | M | | | N | | | P | | | Q | | | R | | | S | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 84 | 9 | 10 | 126 | 13 | 14 | 200 | 19 | 20 | 315 | 28 | 29 | 500 | 42 | 43 | 800 | 64 | 65 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



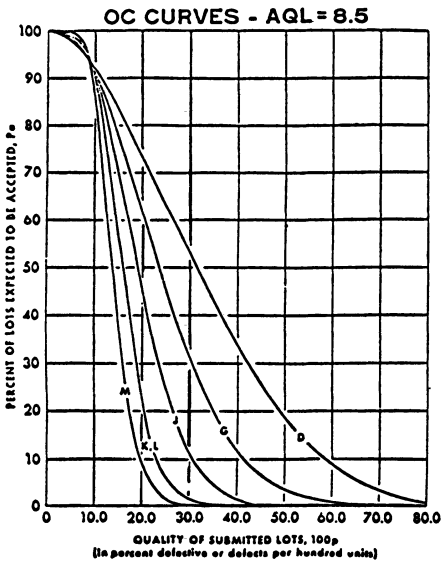
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=8.5 PERCENT DEFECTIVE (OR AQL=8.5 DEFECTS PER HUNDRED UNITS)

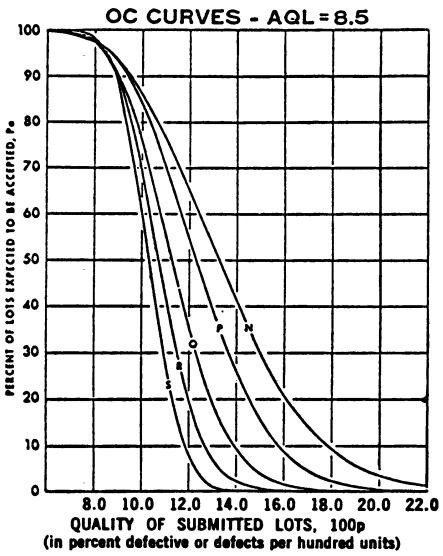
[Sampling plans—AQL=8.5]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | D | | | G | | | J | | | K, L | | | M | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 5 | 1 | 2 | 11 | 2 | 3 | 24 | 4 | 5 | 48 | 7 | 8 | 84 | 11 | 1 |
| Double | .....<br>..... | ....<br>.... | ....<br>.... | .....<br>..... | ....<br>.... | ....<br>.... | 21<br>31 | 3<br>5 | 5<br>6 | 29<br>65 | 3<br>9 | 7<br>10 | | | |

| | N | | | P | | | Q | | | R | | | S | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 126 | 16 | 17 | 200 | 24 | 25 | 315 | 35 | 36 | 500 | 53 | 54 | 800 | 82 | 83 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



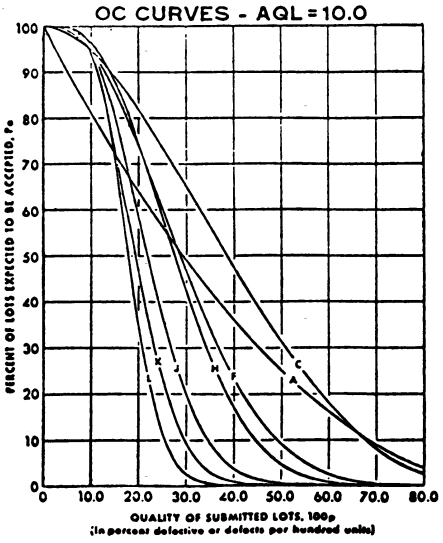
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=10.0 PERCENT DEFECTIVE (OR AQL=10.0 DEFECTS PER HUNDRED UNITS)

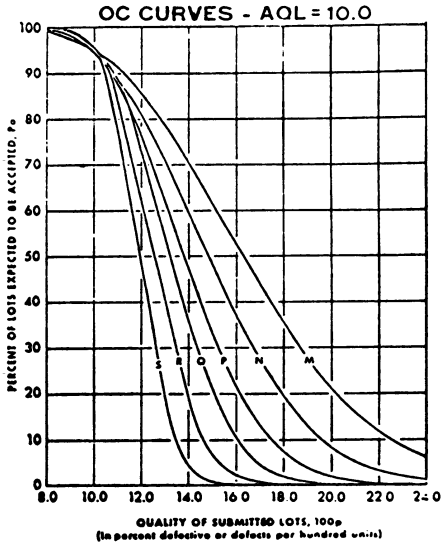
[Sampling plans—AQL=10.0]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A | | | C | | | F | | | H | | | J | | | K | | | L | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 2 | 0 | 1 | 4 | 1 | 2 | 9 | 2 | 3 | 13 | 3 | 4 | 21 | 4 | 5 | 29 | 5 | 6 | 48 | 8 | 9 |

| | M | | | N | | | P | | | Q | | | R | | | S | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 84 | 13 | 14 | 126 | 18 | 19 | 200 | 27 | 28 | 315 | 41 | 42 | 500 | 62 | 63 | 800 | 95 | 96 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



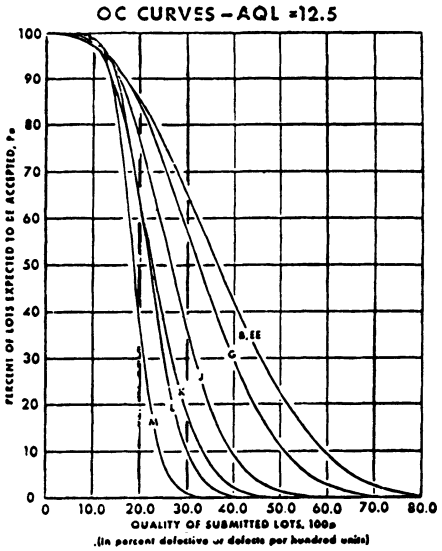
SAMPLING PLANS AND OPERATING CHARACTERISTICS (OC) CURVES FOR AQL=12.5 PERCENT DEFECTIVE (OR AQL=12.5 DEFECTS PER HUNDRED UNITS)

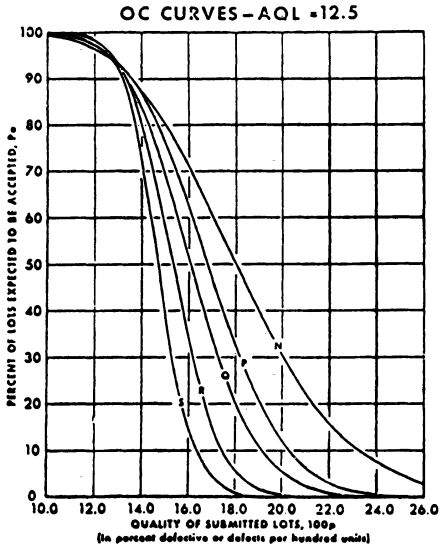
[Sampling plans—AQL=12.5]

| Identification letter of OC curve | Comparable sampling plans | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | B, EE | | | G | | | J | | | K | | | L | | | M | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 7 | 2 | 3 | 11 | 3 | 4 | 21 | 5 | 6 | 29 | 6 | 7 | 48 | 10 | 11 | 84 | 15 | 16 |
| Double | 3<br>8 | 0<br>2 | 3<br>3 | .... | ..... | ..... | .... | ..... | ..... | .... | ..... | ..... | .... | ..... | ..... | .... | ..... | ..... |

| | N | | | P | | | Q | | | R | | | S | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single | 126 | 22 | 23 | 200 | 33 | 34 | 315 | 50 | 51 | 500 | 76 | 77 | 800 | 117 | 118 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.



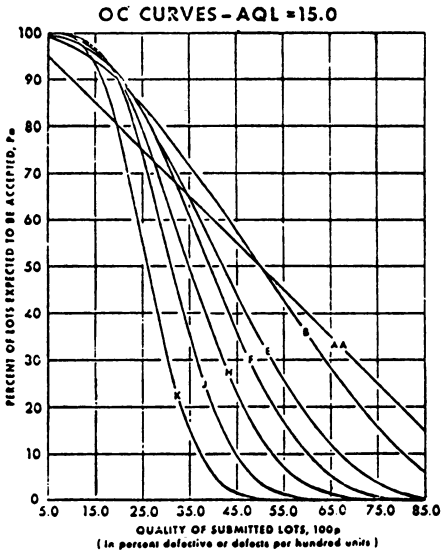
SAMPLING PLANS AND OPERATING CHARACTERISTIC (OC) CURVES FOR AQL=15.0 PERCENT DEFECTIVE (OR AQL=15.0 DEFECTS PER HUNDRED UNITS)

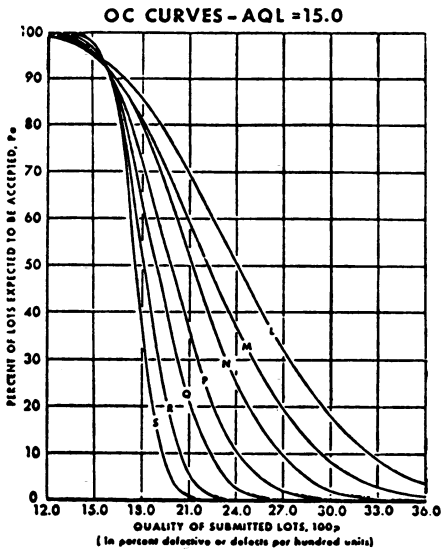
[Sampling plans—AQL=15.0]

| Comparable sampling plans | Identification letter of OC curve | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | AA | | | B | | | E | | | F | | | H | | | J | | | K | | |
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single ..... | 1 | 0 | 1 | 3 | 1 | 2 | 6 | 2 | 3 | 9 | 3 | 4 | 13 | 4 | 5 | 21 | 6 | 7 | 29 | 7 | 8 |

| | L | | | M | | | N | | | P | | | Q | | | R | | | S | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re | $n_c$ | Ac | Re |
| Single ..... | 48 | 11 | 12 | 84 | 18 | 19 | 126 | 26 | 27 | 200 | 39 | 40 | 315 | 59 | 60 | 500 | 90 | 91 | 800 | 140 | 141 |

$n_c$=Cumulative sample size. Ac=Acceptance number. Re=Rejection number.




## PARTS 44–45 [RESERVED]

# SUBCHAPTER B—MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

## PART 46—REGULATIONS (OTHER THAN RULES OF PRACTICE) UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

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46.2 Definitions.

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AUTHORITY: 7 U.S.C. 499a–499t.

SOURCE: 28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, unless otherwise noted.

DEFINITIONS

### § 46.1 Words in singular form.

Words in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

### § 46.2 Definitions.

The terms defined in the first section of the Act shall have the same meaning as stated therein. Unless otherwise defined, the following terms whether used in the regulations, in the Act, or in the trade shall be construed as follows:

(a) *Act* means the Perishable Agricultural Commodities Act, 1930, approved June 10, 1930, and legislation supplementary thereto and amendatory thereof (46 Stat. 531; 7 U.S.C. 499a–499r).

CROSS REFERENCE: For Rules of Practice under the Act, see part 47 of this chapter.

(b) *Department* means the United States Department of Agriculture.

(c) *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.

(d) *Service* means the Agricultural Marketing Service, United States Department of Agriculture.

(e) *Deputy Administrator* means the Deputy Administrator, Regulatory Programs, of the Consumer and Marketing Service, or any officer or employee of the Service, to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead.

(f) *Division* means the Fruit and Vegetable Division of the Service.

(g) *Director* means the Director of the Division or any officer or employee of the Division to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, by the Director to act in his stead.

(h) *In commerce* means interstate or foreign commerce as defined in paragraphs (3) and (8) of the first section of the Act.

(i) *Person* means any individual, partnership, limited liability company, corporation, association, or separate legal entity.

(j) *Retailer* is a dealer engaged in the business of selling any perishable agricultural commodity at retail; *Provided,* That occasional sales at wholesale shall not be deemed to remove a dealer from the category of retailer if less than 5 percent of annual gross sales is derived from wholesale transactions.

(k) *Firm* means any person engaged in business as a commission merchant, dealer, or broker.

(l) *Licensee* means any firm who holds an unrevoked and valid unsus-pended license issued under the Act.

(m) *Dealer* means any person engaged in the business of buying or selling in wholesale or jobbing quantities in commerce and includes:

(1) Jobbers, distributors and other wholesalers;

(2) Retailers, when the invoice cost of all purchases of produce exceeds $230,000 during a calendar year. In computing dollar volume, all purchases of fresh and frozen fruits and vegetables are to be counted, without regard to quantity involved in a transaction or whether the transaction was intrastate, interstate or foreign commerce;

(3) Growers who market produce grown by others.

(4) The term ''dealer'' does not include persons buying produce, other than potatoes, for canning and/or processing within the State where grown, whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen, or packed in ice, or consists of cherries in brine.

(n) *Broker* means any person engaged in the business of negotiating sales and purchases of produce in commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a ''broker'' within the meaning of the Act if such person is an independent agent negotiating sales for or on behalf of the vendor and if the only sales of such commodities negotiated by such

person are sales of frozen fruits and vegetables having an invoice value not in excess of $230,000 in any calendar year.

(o) *Shipper* means any person operating at shipping point who is engaged in the business of purchasing produce from growers or others and distributing such produce in commerce by resale or other methods, or who handles such produce on joint account with others.

(p) *Grower* means any person who raises produce for marketing.

(q) *Growers' agent* means any person operating at shipping point who sells or distributes produce in commerce for or on behalf of growers or others and whose operations may include the planting, harvesting, grading, packing, and furnishing containers, supplies, or other services.

(r) *Receiving market commission merchant* means any person operating on a receiving market who is engaged in the business of receiving produce in commerce for sale, on commission, for or on behalf of another.

(s) *Joint account transaction* means a produce transaction in commerce in which two or more persons participate under a limited joint venture arrangement whereby they agree to share in a prescribed manner the costs, profits, or losses resulting from such transaction.

(t) *Produce* means any perishable agricultural commodity, as defined in paragraph (4) of the first section of the Act.

(u) *Fresh fruits and fresh vegetables* include all produce in fresh form generally considered as perishable fruits and vegetables, whether or not packed in ice or held in common or cold storage, but does not include those perishable fruits and vegetables which have been manufactured into articles of food of a different kind or character. The effects of the following operations shall not be considered as changing a commodity into a food of a different kind or character: Water, steam, or oil blanching, battering, coating, chopping, color adding, curing, cutting, dicing, drying for the removal of surface moisture; fumigating, gassing, heating for insect control, ripening and coloring; removal of seed, pits, stems, calyx, husk, pods rind, skin, peel, et cetera; polishing, precooling, refrigerating, shredding, slicing, trimming, washing with or without chemicals; waxing, adding of sugar or other sweetening agents; adding ascorbic acid or other agents to retard oxidation; mixing of several kinds of sliced, chopped, or diced fruit or vegetables for packaging in any type of containers; or comparable methods of preparation.

(v) *Frozen fruits and vegetables* include all produce defined in paragraph (u) of this section when such produce is in frozen form.

(w) *Cherries in brine* means cherries packed in an aqueous solution containing sulphur dioxide or other bleaching agent of sufficient strength to preserve the product, with or without the addition of hardening agents.

(x) *Wholesale or jobbing quantities*, as used in paragraph (6) of the first section of the Act, means aggregate quantities of all types of produce totaling one ton (2,000 pounds) or more in weight in any day shipped, received, or contracted to be shipped or received.

(y) *Truly and correctly to account* means, in connection with:

(1) Consignments, to account by rendering a true and correct statement showing the date of receipt and date of final sale, the quantities sold at each price, or other disposition of the produce, and the proper, usual or specifically agreed upon selling charges and expenses properly incurred or agreed to in the handling thereof, plus any other information required by § 46.29;

(2) Joint account transactions, to account by rendering a true and correct statement showing the date of receipt and date of final sale, the quantities sold at each price or other disposition of produce, the joint account cost of the produce, and the expenses properly incurred or other charges specifically agreed to in the handling thereof, plus any other information required by § 46.29;

(3) Buying brokerage transactions, to account by rendering a true and correct itemized statement showing the cost of the produce, the expenses properly incurred, and the amount of brokerage charged.

(z) *Account promptly*, except when otherwise specifically agreed upon by

the parties, means rendering to the principal a true and correct accounting:

(1) In connection with buying brokerage transactions, within 24 hours after the date of shipment;

(2) In connection with consignment or joint account transactions, within 10 days after the date of final sale with respect to each shipment, or within 20 days from the date the goods are accepted at destination, whichever comes first: *Provided*, That whenever a grower's agent or shipper distributes individual lots of produce for or on behalf of others, accounting to the principal shall be made within 30 days after receipt of the shipment from the principal for sale or within 5 days after the date the agent receives payment for the goods, whichever comes first. Whenever a grower's agent or shipper harvests, packs, or distributes entire crops or multiple lots therefrom for or on behalf of others, an accounting on the initial shipment shall be rendered within 30 days after receipt of the goods for sale. Accountings for subsequent shipments shall be made at 10-day intervals from the date of the accounting for the initial shipment and a final accounting for the season shall be made to each principal within 30 days from the date the agent receives the last shipment for the season from that principal: *Provided further*, That whenever the marketing agreement between a principal and agent includes a provision for storage of goods prior to sale, the agent shall render accountings of inventory and expenses incurred to date at 30-day intervals from the date the goods are received by the agent until sales from storage begin, And *Provided further*, That nothing in the regulations in this part shall prohibit cooperative associations from accounting to their members on the basis of seasonal pools or other arrangements provided by their regulations or by-laws; and

(3) In connection with a consignment or joint account transaction, within 10 days after the date of receipt of payment of a carrier claim filed.

(aa) *Full payment promptly* is the term used in the Act in specifying the period of time for making payment without committing a violation of the Act. ''Full payment promptly,'' for the purpose of determining violations of the Act, means:

(1) Payment of net proceeds for produce received on consignment or the pro-rata share of the net profits for produce received on joint account, within 10 days after the date of final sale with respect to each shipment, or within 20 days from the date the goods are accepted at destination, whichever comes first;

(2) Payment by growers, growers' agents, or shippers of deficits on consignments or joint account transactions, within 10 days after the day on which the accounting is received;

(3) Payment of the purchase price, brokerage, and other expenses to buying brokers who pay for the produce, within 10 days after the day on which the broker's invoice is received by the buyer;

(4) Payment of brokerage earned and other expenses in connection with produce purchased or sold, within 10 days after the day on which the broker's invoice is received by the principal;

(5) Payment for produce purchased by a buyer, within 10 days after the day on which the produce is accepted;

(6) Payment to growers, growers' agents, or shippers by terminal market agents or brokers, who are selling for the account of a grower, growers' agent, or shipper and are authorized to collect from the buyer or receiver, within 5 days after the agent or broker receives payment from the buyer or receiver;

(7) Payment to the principal, within 10 days after receipt, of net proceeds realized from a carrier claim in connection with a consignment transaction or, in connection with a joint account transaction, payment to the joint account partners of their share of the joint account net proceeds realized from a carrier claim;

(8) Payment by growers agents or shippers who distribute individual lots of produce for or on behalf of others, within 30 days after receipt of the goods from the principal for sale or within 5 days after the date the agent receives payment for the goods, whichever comes first;

(9) Whenever a grower's agent or shipper harvests, packs, or distributes entire crops or multiple lots therefrom for or on behalf of others, payment for the initial shipment shall be made within 30 days after receipt of the goods for sale or within 5 days after the date the agent receives payment for the goods, whichever comes first. Payment for subsequent shipments shall be made at 10-day intervals from the date of the accounting for the initial shipment or within 5 days after the date the agent receives payment for the goods, whichever comes first, and final payment for the seasons shall be made to each principal within 30 days from the date the agent receives the last shipment for the season from that principal;

(10) When contracts are based on terms other than those described in these regulations, payment is due the supplier-seller within 20 days from the date of acceptance of the shipment under the terms of the contract and § 46.2(dd).

(11) Parties who elect to use different times of payment than those set forth in paragraphs (aa) (1) through (10) of this section must reduce their agreement to writing before entering into the transaction and maintain a copy of the agreement in their records. If they have so agreed, then payment within the agreed upon time shall constitute ''full payment promptly'': *Provided*, That the party claiming the existence of such an agreement for time of payment shall have the burden of proving it.

Nothing in the regulations in this part shall limit the seller's privilege of shipping under a closed or advise bill of lading or other arrangement requiring cash on delivery unless there has been express prior agreement to the contrary between the parties; or prohibit cooperative associations from settling with their members on the basis of seasonal pools or other arrangements provided by their regulations or bylaws. If there is a dispute concerning a transaction, the foregoing time periods for prompt payment apply only to payment of the undisputed amount.

(bb) *Reject without reasonable cause* means in connection with purchases, consignments, or joint account transactions: (1) Refusing or failing without legal justification to accept produce within a reasonable time; (2) advising the seller, shipper, or his agent that produce, complying with contract, will not be accepted; (3) indicating an intention not to accept produce through an act or failure to act inconsistent with the contract; or (4) any rejection following an act of acceptance.

(cc) *Reasonable time*, as used in paragraph (bb) of this section, means:

(1) For frozen fruits and vegetables with respect to rail shipments, 48 hours after notice of arrival and the produce is made accessible for inspection, and with respect to truck shipments, not to exceed 12 hours after the receiver or a responsible representative is given notice of arrival and the produce is made accessible for inspection;

(2) For fresh fruits and vegetables with respect to rail shipments, not to exceed 24 hours after notice of arrival and the car has been placed in a location where the produce is made accessible for inspection; and with respect to truck shipments, not to exceed 8 hours after the receiver or a responsible representative is given notice of arrival and the produce is made accessible for inspection; and, with respect to boat shipments, not to exceed 24 hours after the produce is unloaded and made accessible for inspection and the receiver is given notice thereof;

(3) If, within the applicable period, the receiver cannot make a thorough inspection due to adverse weather condition or applies for but cannot obtain Federal inspection before the end of this period, and so notifies the consignor within the applicable period, the period shall be extended until weather conditions permit inspection or until Federal inspection is made, as the case may be, plus two hours after either an oral or written report of the results of such inspection is made available to the receiver; and

(4) In computing the time periods specified above, (i) for shipments arriving on non-work days or after the close of regular business hours on work days when a representative of the receiver having authority to reject shipments is not present, non-working hours preceding the start of regular business hours on the next working day shall

not be included; and (ii) for shipments arriving during regular business hours when a representative of the receiver having authority to reject shipments customarily is present, the period shall run without interruption except that, for shipments arriving less than two hours before the close of regular business hours, the unexpired balance of the time period shall be extended and run from the start of regular business hours on the next working day.

(dd) *Acceptance* means:

(1) Any act by the consignee signifying acceptance of the shipment, including diversion or unloading;

(2) Any act by the consignee which is inconsistent with the consignor's ownership, but if such act is wrongful against the consignor it is acceptance only if ratified by him; or

(3) Failure of the consignee to give notice of rejection to the consignor within a reasonable time as defined in paragraph (cc) of this section: *Provided,* That acceptance shall not affect any claim for damages because of failure of the produce to meet the terms of the contract.

(ee) *Employ* and *employment* mean any affiliation of any person with the business operations of a licensee, with or without compensation, including ownership or self-employment.

(ff) *Responsibly connected* means affiliation as individual owner, partner in a partnership, member, manager, officer, director or holder of more than a 10 percent ownership stake in a limited liability company, or officer, director or holder of more than 10 percent of the outstanding stock of a corporation or association.

(gg) *Branch or additional business facility,* as used in section 3(b) of the Act, means an office or outlet in a location other than that of the principal or main office of a firm, out of which or through which the firm purchases, sells, negotiates contracts, solicits, or handles consignments, or otherwise contracts in perishable agricultural commodities including seasonal, part-time and full-time operations. As used in this paragraph, ''branch or additional business facility'' includes, but is not limited to, the following:

(1) Jobbers, wholesalers, distributors—each location through which commodities are bought, sold or otherwise contracted;

(2) Retailers—each outlet through which retail sales of commodities are made and each office which purchases commodities;

(3) Trucker/dealer—a truck is a ''branch'' office if the driver is authorized to buy, sell or otherwise contract for commodities on behalf of the firm;

(4) Shippers—on-the-ground representatives making purchases, sales or otherwise contracting for commodities;

(5) Brokers—each office conducting contract negotiations including on-the-ground representatives negotiating contracts for commodities;

(6) Processors—each location at which commodities are purchased, sold or contracted to be purchased or sold;

(7) Cooperatives—each operation away from the main office that has responsibility to account for proceeds received from sales of commodities; or

(8) Seasonal/part-time operations—any facility with on-the-ground representatives making purchases, sales, or otherwise contracting for commodities.

(hh) *Good faith* means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade. The principle of good faith requires that a party to a transaction disclose in writing the existence of any collateral fees and expenses to all other parties to the transaction where the collateral fees and expenses affect a material term of the agreement.

(ii) *Grocery wholesaler* is a dealer primarily engaged in the full-line wholesale distribution and resale of grocery and related nonfood items (such as perishable agricultural commodities, dry groceries, general merchandise, meat, poultry, and seafood, and health and beauty care items) to retailers. This term does not include persons primarily engaged in the wholesale distribution and resale of perishable agricultural commodities rather than other grocery and related nonfood items. Specifically, for an entity to be considered a grocery wholesaler, 50 percent or more of its annual gross sales must be from the full-line distribution and resale of grocery and related nonfood items, and it cannot have

more than 50 percent of its sales in perishable agricultural commodities. ''Full line'' means that an entity must be supplying the retailer with a wide range of products such as the grocery and related nonfood items specified.

(Sec. 1, 46 Stat. 531, as amended; 7 U.S.C. 499a *et seq.*)

[28 FR 7067, July 11, 1963, as amended at 37 FR 14561, July 21, 1972; 44 FR 50575, Aug. 29, 1979; 47 FR 21234, May 18, 1982; 47 FR 47802, Oct. 28, 1982; 49 FR 45739, Nov. 20, 1984; 61 FR 13386, Mar. 27, 1996; 62 FR 15086, Mar. 31, 1997; 65 FR 24854, Apr. 28, 2000; 68 FR 23378, May 2, 2003]

LICENSES

### § 46.3 License required.

(a) No person shall at any time carry on the business of a commission merchant, dealer, or broker without a license which is valid and effective at such time.

(b) Separate licenses are required for each person. More than one trade name may be used by the same person only after such trade names have been approved in writing by the Director.

(c) Joint account arrangements between two or more licensees are not considered to result in separate firms and, therefore, do not require separate licenses.

### § 46.4 Application for license.

(a) Any person who desires to obtain a license shall make application therefor on the currently approved form to be obtained from the Director or his representatives.

(b) The applicant shall furnish the following information:

(1) Name or names in which business is conducted; place of business; mailing address; name, location and number of branches or additional business facilities, divisions or affiliates; name of firm succeeded and whether the applicant assumes responsibility of settling any complaints filed under the Act against the firm succeeded.

(2) Type of business (i.e., wholesale, retail, trucking, processing, commission merchant, or broker), and whether the fruits and/or vegetables handled are fresh or frozen, or cherries in brine.

(3) *Type of ownership.* If a corporation or limited liability company, the applicant shall furnish the month, day, and year incorporated or organized; the State in which incorporated or organized; the name in which incorporated or organized; and the address of the principal office. A limited liability company shall also furnish a copy of its articles of organization and its operating agreement.

(4) *Full legal name, all other names used, if any, and home address of owner.* If a partnership, the applicant shall furnish the legal names, all other names used, if any, and home address of all partners, indicating whether general, limited, or special partners. If a limited liability company, the applicant shall furnish the full legal names, all other names used, if any, and home address of all members, managers, officers, directors and holders of more than 10 percent of the ownership stake, and the percentage of ownership in the company held by each such person. If an association or corporation, the applicant shall furnish the full legal names, all other names used, if any, and home address of all officers, directors and holders of more than 10 percent of the outstanding stock and the percentage of stock held by each such person. Minors shall also furnish the full name and home address of their guardian. If the applicant is a trust, the name of the trust and the full name and home address of the trustee must be furnished. If the applicant is a limited liability company and a member or holder of more than 10 percent of the ownership stake is a partnership, another limited liability company, corporation, association, or separate legal entity, the applicant shall furnish the full legal names and home address of that member's partners, members, managers, directors, and officers.

(5) Date when first became subject to the Act. If business was conducted subject to the Act prior to the filing of an application for a license, applicant shall furnish an explanation for such violation as prescribed in section 3(a) of the Act.

(6) Whether the applicant, or in case the applicant is a partnership, any partner, or in case the applicant is a

limited liability company, any member, manager, officer, director or holder of more than 10 percent of the ownership stake, or in case the applicant is an association or corporation, any officer, director, or holder of more than 10 percent of the outstanding stock, has prior to the filing of the application:

(i) Been connected with any firm whose license is under suspension or has been revoked. If so, he shall furnish the name and address of the firm whose license is under suspension or has been revoked and the details of such connection, including the dates thereof;

(ii) Within three years been adjudicated or discharged as a bankrupt or was an officer, director, stockholder, partner, member, manager or owner of a firm adjudicated or discharged as a bankrupt.

(iii) Been convicted of one or more felonies in any State or Federal court. If so, he shall furnish the name and date of birth of the party convicted, alias if any, name, location of court and date convicted, nature of felony, sentence imposed, where and length of time served; if paroled, date parole terminated;

(iv) Ever been licensed under the Act. If so, he shall furnish the name and address of licensee and whether license is still in effect.

(7) Whether any person employed by the applicant has been responsibly connected with any firm whose license has been revoked, or is currently under suspension, or who has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 2 of the Act, or against whom there is an unpaid reparation award which has been issued within the past two years, subject to his right of appeal. If so, he shall furnish the full legal name of the person, the name of the firm involved, and the details of such connection, including the dates thereof.

(8) Any other information the Director deems necessary to establish the identity and eligibility of the applicant to obtain a license.

(c) The application shall be signed by the owner, all general partners, or in case the applicant is a limited liability company, a member or manager, or in case the applicant is an association, or corporation, a duly authorized officer.

(d) The application and fees shall be forwarded to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or to his representative. An application which does not contain full or complete answers to all the questions, or is not properly signed, or not accompanied by the proper fee, or bond as required under paragraphs (c) and (e) of section 4 of the Act shall not be considered a valid application for license. The ''period not to exceed 30 days'' as prescribed in section 4(d) of the Act shall commence on the day that a valid application for license is received by the Director or his representative.

(e) If the application is incomplete, the Director may return the application to the applicant with a request that the application be completed by furnishing the missing data. If the applicant does not respond to this request within 30 days after it is mailed by the Director, the fees submitted shall be refunded.

(f) If the Director has reason to believe that the application contains inaccurate information, he may afford the applicant an opportunity to submit a corrected application or verify or explain information contained in the application. If the applicant submits a corrected application, the original application shall be considered withdrawn. If the applicant, in response to the Director's request, submits additional or corrected information for consideration in connection with his original application, the original application plus such information shall be considered as constituting a new application.

(g) Fees shall be refunded whenever an application is withdrawn without the filing of a new application.

(h) When a valid application is received and the provisions of paragraphs (b) and (c) of section 4 of the Act are applicable, the Director shall notify the applicant by letter of the pertinent provisions of this section and the reasons for denial of license and shall refund the fee.

(i) If the Director disapproves the use of a trade name which, in his opinion,

is deceiving, misleading or confusing to the trade, he shall return the application to the applicant for the selection of a different trade name. If the applicant does not return the application within thirty days after it was mailed by the Director, the fees submitted shall be refunded. The ''period not to exceed thirty days'' as prescribed in section 4(d) of the Act shall commence on the date that the application for license under the new name is received by the Director or his representative.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 44 FR 50575, Aug. 29, 1979; 65 FR 24854, Apr. 28, 2000]

### § 46.5 Bonds.

Bonds prescribed in section 4(c)(6), 4(e), 8(b), and 13(b) of the Act shall be in the form of cash or surety bonds in the form and amount satisfactory to the Director and shall not be less than $10,000. When cash is posted as surety, it shall be deposited into a special account of the United States Treasury and no interest is to accrue or be paid the licensee. When surety bonds are furnished, the surety shall be a company holding a certificate of authority from the Secretary of the Treasury under Act of Congress approved July 30, 1947 (6 U.S.C. 6 through 13) as acceptable surety on Federal bonds.

[44 FR 50575, Aug. 29, 1979]

### § 46.6 License fees.

(a) Retailers and grocery wholesalers making an initial application for license shall pay a $100 administrative processing fee.

(b) For commission merchants, brokers, and dealers (other than grocery wholesalers and retailers) the annual license fee is $995 plus $600 for each branch or additional business facility. In no case shall the aggregate annual fees paid by any such applicant exceed $8,000.

(c) The Director may require that fees be paid in the form of a money order, bank draft, cashier's check, or certified check made payable to ''USDA-AMS''. Authorized representatives of the Division may accept fees and issue receipts.

[62 FR 43455, Aug. 14, 1997, as amended at 75 FR 51919, Aug. 24, 2010]

### § 46.7 Issuance of license.

Upon receipt of a valid application accompanied by the proper fee for a license, and bond, if required, the Director shall, if the applicant is found to be eligible, issue a license certifying that the licensee is authorized to engage in the business of a commission merchant, dealer, or broker. All fees, and any additional sums assessed by the Director in accordance with the Act, shall be deposited in a special fund designated as the ''Perishable Agricultural Commodities Act fund.''

### § 46.8 Copies of licenses.

Copies of licenses may be issued upon request and upon the payment of a fee of two dollars ($2) for each copy. Each copy shall bear the word ''copy'' in conspicuous letters on its face and shall be certified by the Director as a true copy of the original.

### § 46.9 Termination, suspension, revocation, cancellation of licenses; notices; renewal.

(a) Under section 3(c) of the Act the license can be suspended if the licensee continues to use a trade name after being notified by the Director that such trade name has been disapproved.

(b) Under section 4(a) of the Act, after October 1, 1962, the license of any individual, corporation or association shall automatically terminate on the date of discharge in bankruptcy and the license of any partnership shall automatically terminate on the date of the discharge in bankruptcy of any of the general partners in the partnership.

(c) Under section 4(c) of the Act if a license is issued under a bond and the bond is terminated for any reason without the approval of the Director, within four years from the date of the issuance of the license, the license shall be automatically cancelled as of the date of termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. Also, if the Director notifies the licensee that a bond in an increased amount is required and the licensee fails to provide such a bond within the specified time the license of

such licensee shall be automatically suspended until such bond is provided.

(d) Under section 8(a) of the Act a license can be suspended or revoked for violations of section 2 of the Act or when the licensee is found guilty in a Federal Court of having violated section 14(b) of the Act.

(e) Under section 8(b) of the Act a license can be suspended or revoked if the licensee continues to employ any person in violation of the provisions of this section. Also, if any licensee is authorized to employ any person under a bond in accordance with this section and is notified by the Director subsequently to provide a bond in an increased amount and fails to provide such a bond within the time specified, approval of employment shall automatically terminate.

(f) Under section 8(c) of the Act a license can be revoked for any false or misleading statement, or through a misrepresentation or concealment or withholding of facts in connection with an application for a license.

(g) Under section 9 of the Act a license can be suspended if the licensee fails to keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business including the true ownership of such business by stock-holding or otherwise.

(h) Under section 13 of the Act a license can be suspended:

(1) If the licensee refuses to permit inspection of his records or of any lot of produce under his ownership or control; or

(2) If the licensee, subsequent to a determination in a formal disciplinary proceeding that it has violated the prompt payment provision of Section 2(4) of the Act, refuses to permit an inspection of its accounts, records and memoranda to insure that it is in compliance with the prompt payment provision of section 2(4) of the Act or fails or refuses to furnish, maintain, or adjust a surety bond in a form and amount satisfactory to the Secretary.

(i) Under section 4(a) of the Act, at least 30 days prior to the anniversary date of a valid and effective license, the Director shall mail a notice to the licensee at the last known address advising that the license will automatically terminate on its anniversary date unless an application for renewal is filed supplying all information requested on a form to be supplied by the Division, and unless the renewal fee (if any is applicable) is paid on or before such date. If the renewal application is not filed and/or the renewal fee (if required) is not paid by the anniversary date, the licensee may obtain a renewal of that license at any time within 30 days by submitting the required renewal application and/or paying the renewal fee (if required), plus $50. Within 60 days after the termination date of a valid and effective license, the former licensee shall be notified of such termination, unless a new license has been obtained in the meantime.

(j) Beginning on December 1, 1998, the renewal period for new licenses issued to retailers and grocery wholesalers is three years.

(k) Only a commission merchant, broker, or dealer holding a multi-year license, prior to phase out of this option, will receive a refund if business operations cease or a change in legal status occurs that requires issuance of a new license prior to the next license renewal date. If a refund is due, it will be issued for any remaining full-year portion of advance fee paid, minus a $100 processing fee.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 44 FR 50576, Aug. 29, 1979; 62 FR 15087, Mar. 31, 1997; 63 FR 64172, Nov. 19, 1998; 75 FR 51919, Aug. 24, 2010]

### § 46.10 Nonlicensed person; liability; penalty.

Any commission merchant, dealer, or broker who violates the Act by engaging in business subject to the Act without a license may settle its liability, if such violation is found by the Director not to have been willful but due to inadvertence, by submitting the required application and paying the amount of fees that it would have paid had it obtained and maintained a license during the period that it engaged in business subject to the Act, plus an additional sum not in excess of two hundred and fifty dollars ($250) as may be determined by the Director.

[62 FR 15087, Mar. 31, 1997]

### § 46.11 What constitutes valid license, form and use.

Each license shall bear a serial number, the names in which authorized to conduct business, type of ownership, if the business is individually owned, the name of the owner; if a partnership, the names of all general partners; if a limited liability company, the names of all members, managers, officers, directors and holders of more than 10 percent of the ownership stake, and the percentage of ownership in the company held by each such person; if a corporation or association, the names of all officers, directors, and shareholders of more than 10 percent of the outstanding stock and the percentage of stock held by each such person; the facsimile signature of the Deputy Administrator, the seal of the Department and shall be duly countersigned. The licensee may place upon his stationery, trucks, or business sign an inscription indicating that he is licensed under the Act, but such inscription must not be of such form or arrangement as to be deceptive or misleading to the public, nor shall any such inscription be displayed or used unless the person using the inscription has a license valid and effective at the time.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 65 FR 24854, Apr. 28, 2000]

### § 46.12 Forms of inscriptions.

The following inscriptions, for use with or without the license number, meet the foregoing requirements and may be used by licensees: ''Licensed by the U.S. Department of Agriculture under the Perishable Agricultural Commodities Act'', or ''Licensed under the PACA.''

### § 46.13 Address, ownership, changes in trade name, changes in number of branches, changes in members of partnership, and bankruptcy.

The licensee shall:

(a) Promptly report to the Director in writing;

(1) Any change of address;

(2) Any change in officers, directors, members, managers, holders of more than 10 percent of the outstanding stock in a corporation, with the percentage of stock held by such person, and holders of more than 10 percent of the ownership stake in a limited liability company, and the percentage of ownership in the company held by each such person;

(3) Any deletions or additions of trade names;

(4) Any change in the number and address of any branches or additional business facilities, and;

(5) When the licensee, or if the licensee is a partnership, any partner is subject to proceedings under the bankruptcy laws. A new license is required in case of a change in the ownership of a firm, the addition or withdrawal of partners in a partnership, or in case business is conducted under a different corporate charter, or in case a limited liability company conducts business under different articles or organization from those under which the license was originally issued.

(b) Obtain approval from the Director prior to using any trade name.

[44 FR 50576, Aug. 29, 1979, as amended at 65 FR 24855, Apr. 28, 2000]

## ACCOUNTS AND RECORDS (GENERAL)

### § 46.14 General.

(a) Every commission merchant, dealer, and broker shall prepare and preserve for a period of two years from the closing date of the transaction the accounts, records, and memoranda required by the Act, which shall fully and correctly disclose all transactions involved in his business. Licensees shall keep records which are adapted to the particular business that the licensee is conducting and in each case such records shall fully disclose all transactions in the business in sufficient detail as to be readily understood and audited. It is impracticable to specify in detail every class of records which may be found essential since many different types of business are conducted in the produce industry and many different types of contracts are made covering a wide range of services by agents and others. The responsibility is placed on every licensee to maintain records which will disclose all essential facts regarding the transactions in his business.

(b) Every commission merchant, dealer, and broker shall prepare and

preserve records and memoranda required by the Act which shall fully and correctly disclose the true ownership and management of such business during the preceding four years. Such records shall include the number and location of all branches or additional business facilities operated by or for the commission merchant, dealer or broker. In the case of a corporation, such records shall include the corporate charter, record of stock subscription and stock issued, the amounts paid in for stock and minutes of stockholders' and directors' meetings showing the election of directors and officers, resignations and other pertinent corporate actions. In the case of a partnership, the records shall contain a copy of the partnership agreement showing the type of partnership, the full names and addresses of all partners including general, special or limited partners, the partnership interest of each individual and any other pertinent records of the partnership.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 44 FR 50576, Aug. 29, 1979]

### § 46.15 Documents to be preserved.

Bills of lading, diversion orders, paid freight and other bills, car manifests, express receipts, confirmations and memorandums of sales, letter and wire correspondence, inspection certificates, invoices on purchases, receiving records, sales tickets, copies of statements (bills) of sales to customers, accounts of sales, papers relating to loss and damage claims against carriers, records as to reconditioning, shrinkage and dumping, daily inventories by lots, a consolidated record of all rebates and allowances made or received in connection with shipments handled for the account of another, an itemized daily record of cash receipts, ledger records in which purchases and sales can be verified, and all other pertinent papers relating to the shipment, handling, delivery, and sale of each lot of produce shall be preserved for a period of 2 years.

### § 46.16 Method of preservation or storage of records.

All records required to be preserved under the Act shall be stored in an orderly manner and in keeping with sound business practices. The records being currently used shall be filed in order of dates, by serial numbers, alphabetically or by any other proper method which will enable the licensee to promptly locate and produce the records. Records in dead storage should be arranged in an orderly fashion, be packaged or wrapped to insure proper preservation, be adequately marked or identified, and stored in a safe, dry location. When part of the records are forwarded to others (such as accountants, traffic agencies, attorneys, etc.), proper notations should be filed in appropriate places in the records identifying the missing records and stating where they can be located.

### § 46.17 Inspection of records.

(a) Each licensee shall, during ordinary business hours, promptly upon request, permit any duly authorized representative of USDA to enter its place of business and inspect such accounts, records, and memoranda as may be material:

(1) In the investigation of complaints under the Act, including any petition, written notification, or complaint under section 6 of the Act,

(2) To the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections,

(3) To ascertain whether there is compliance with section 9 of the Act,

(4) In administering the licensing and bonding provisions of the Act,

(5) If the licensee has been determined in a formal disciplinary proceeding to have violated the prompt payment provision of section 2(4) of the Act, to determine whether, at the time of the inspection, there is compliance with that section.

(b) Any necessary facilities for such inspection shall be extended to such representative by the licensee, its agents, and employees.

[62 FR 15087, Mar. 31, 1997]

## Records of Market Receivers

### § 46.18 Record of produce received.

Market receivers shall keep in the order of receipt a record of all produce received and this record shall be in the form of a book (preferably a bound

book) with numbered pages or comparable business record. This record shall clearly show for each lot the date of arrival and unloading; whether received by freight, express, truck, or otherwise; the car initials and number; the truck license number and the driver's name or the name of the trucking firm; the number of packages or the quantity received; the kind of produce; the name and address of the consignor or seller; whether the produce was purchased; consigned or received on joint account; and the disposition of the produce, whether jobbed or sold in carlots or trucklots, and the lot number assigned to the shipment by the receiver (as required by § 46.20).

### § 46.19 Sales tickets.

Sales tickets shall bear printed serial numbers running consecutively and shall be used in numerical order so far as practicable. No serial number shall be repeated within a 90-day period. The sales tickets shall be prepared and all the details of the sale shall be entered on the tickets in a legible manner in order that an audit can be readily made. Erasures, strike-outs, changes, etc., should be held to the minimum. When errors are made in preparing sales tickets, the tickets should be voided. Each sales ticket shall show the date of sale, the purchaser's name (so far as practicable), the kind, quantity, the unit price, and the total selling price of the produce. Each sales ticket shall show the lot number of the shipment if the produce is being handled on consignment or on joint account. Sales tickets on all other lots of the same commodity which are on hand at the same time shall also show a lot number. The original or a legible carbon copy of each sales ticket, including those voided or unused, shall be accounted for and shall be filed or stored either by dates of sales or in the order of the serial numbers for a period of two years.

### § 46.20 Lot numbers.

An identifying lot number shall be assigned to each shipment of produce to be sold on consignment or joint account or for the account of another person or firm. A lot number should be assigned to any purchased shipment in dispute between the parties to assist in proving damages. A lot number shall be assigned to each purchased shipment of similar produce on hand at that time or received later while the consigned or joint account or disputed lot is being sold. A lot number shall be assigned to each purchased shipment which is reconditioned if the seller is to be charged with the shrinkage or loss. The lot number shall be entered on the receiving record in connection with each shipment and entered on all sales tickets identifying and segregating the sales from the various shipments on hand. The lot number shall be entered on the sales tickets by the salesmen at the time of sale or by the produce dispatcher, and not by bookkeepers or others after the sales have been made. No lot number shall be repeated within a period of 30 days after the last sale from the preceding lot to which such number was assigned.

### § 46.21 Returns, rejections, or credit memorandums on sales.

In the event of the rejection and return of any produce sold for or on behalf of another, on consignment, or on joint account, or of any necessary allowance or adjustment being made to the buyers thereof, a credit memorandum showing the buyer's name, sales ticket number, lot number, date of the granting of the allowance, and amount of the credit or adjustment, with reasons therefor, shall be made or a notation shall be made on the original sales ticket referring to the adjustment and showing where the credit memorandum is filed. The credit memorandum shall be on a regular form, in a ledger book, or on a sales ticket or invoice properly completed to show the facts and shall be approved by a duly authorized person. Credits granted shall be entered in the same records as the original sales tickets.

### § 46.22 Accounting for dumped produce.

A clear and complete record shall be maintained showing justification for dumping of produce received on joint account, on consignment, or handled for or on behalf of another person if any portion of such produce regardless of percentage cannot be sold due to

poor condition or is lost through resorting or reconditioning. In addition to the foregoing, if five percent or more of a shipment is dumped, an official certificate, or other adequate evidence, shall be obtained to prove the produce was actually without commercial value, unless there is a specific agreement to the contrary between the parties. The original certificate or other adequate evidence justifying dumping shall be forwarded to the consignor or joint account partner with the accounting and a copy shall be retained by the receiver.

### § 46.23 Evidence of dumping.

Reasonable cause for destroying any produce exists when the commodity has no commercial value or when it is dumped by order of a local health officer or other authorized official or when the shipper has specifically consented to such disposition. The term ''commercial value'' means any value that a commodity may have for any purpose that can be ascertained by the exercise of due diligence without unreasonable expense or loss of time. When produce is being handled for or on behalf of another person, proof as to the quantities of produce destroyed or dumped in excess of five percent of the shipment shall be provided by procuring an official certificate showing that the produce has no commercial value from any person authorized by the Department to inspect fruits and vegetables. Where such inspection service is not available certification may be obtained from (a) any health officer or food inspector of any State, county, parish, city or municipality or of the District of Columbia; (b) any established commercial agency or service making inspections for the fruit and vegetable industry; or (c) when no inspector or health officer designated above is available consideration will be given to other evidence such as inspection and certification made by any two persons having no financial interest in the produce involved or in the business of any person financially interested therein, and who are unrelated by blood or marriage to any such financially interested person, and who, at the time of the inspection and certification, and for a period of at least one year immediately prior thereto, have been engaged in the handling of the same general kind or class of produce with respect to which the inspections and certification are to be made. Any certificate issued by any persons designated in paragraph (c) of this section shall include a statement that each of them possesses the requisite qualifications. Any such certificate shall properly identify the produce by showing the commodity, lot number, brand or principal identifying marks on the containers, quantity dumped, name and address of shipper, name and address of applicant, condition of the produce, time, place, and date of inspection and a statement that the produce possesses no commercial value.

## Records of Retailers

### § 46.24 Records of retailers.

Notwithstanding the specific records and documents prescribed in the foregoing sections, licensees who purchase produce solely for sale at retail shall establish and maintain accounts and records, adapted to their type of operations, which will fully and correctly disclose all transactions relating to the purchase of produce. Such accounts and records should include the date of receipt of each lot, kind of produce, number of packages and quantity, price paid, evidence of agreement, or contract of purchase, bills of lading, paid bills, and any other documents relating to the purchase of produce.

## Auction Sales

### § 46.25 Auction sales.

Commission merchants, dealers and brokers who offer produce for sale through auction companies which publish catalogs of offerings will be responsible for furnishing the auction company for publication true and correct information concerning the ownership of the produce. When the produce is offered for sale by an owner, his name shall be shown in the catalog listing as owner. When a joint account partner makes an offering, his name as well as that of his joint partner, or partners, shall be shown. When any person offers produce for sale at auction for the account of another, the

name, or names of the owner, if known, and of his principal shall be shown. In addition to listing such name or names he may show that he is acting in the capacity of agent. If a person instructs an auction company to catalog a shipment without disclosing true ownership, if known, or the name of an agent's principal, he shall be deemed to have made a false or misleading statement within the meaning of the Act. Since sales at auctions normally involve additional expenses, a broker, grower's agent or commission merchant shall have prior consent from his principal before such disposition is accomplished. Where a dispute exists regarding the ownership of produce, it may be listed in the auction catalog as being offered for sale ''for the account of whom concerned'' with the name of the party making the offering shown as agent.

DUTIES OF LICENSEES

### § 46.26 Duties of licensees.

It is impracticable to specify in detail all of the duties of brokers, commission merchants, joint account partners, growers' agents and shippers because of the many types of businesses conducted. Therefore, the duties described in these regulations are not to be considered as a complete description of all of the duties required but is merely a description of their principal duties. The responsibility is placed on each licensee to fully perform any specification or duty, express or implied, in connection with any transaction handled subject to the Act.

BROKERS

### § 46.27 Types of broker operations.

(a) Brokers carry on their business operations in several different ways and are generally classified by their method of operation. The following are some of the broad groupings by method of operation. The usual operation of brokers consists of the negotiation of the purchase and sale of produce either of one commodity or of several commodities. A broker is usually engaged by only one of the parties, but in negotiating a contract the broker acts as a special agent of first one and then the other party in conveying offers, counter offers, and acceptances between the parties. Once the contract is formed, and the confirmation issued, the broker's duties are usually ended, and the broker is not the proper party to whom notice of breach or of rejection should be directed. However, a broker receiving notice has a duty to promptly convey the notice to the proper party. Frequently, brokers never see the produce they are quoting for sale or negotiating for purchase by the buyer, and they carry out their duties by conveying information received from the parties between the buyer and seller until a contract is effected. Generally, the seller of the produce invoices the buyer, however, when there is a specific agreement between the broker and its principal, the seller invoices the broker who, in turn, invoices the buyer, collects, and remits to the seller. Under other types of agreements, the seller ships the produce to pool buyers, and the broker as an accommodation to the seller invoices the buyers, collects, and remits to the seller. Also, there are times when the broker is authorized by the seller to act much like a commission merchant, being given blanket authority to dispose of the produce for the seller's account either by negotiation of sales to buyers not known to the seller or by placing the produce for sale on consignment with receivers in the terminal markets.

(b) There is a second general grouping of brokers which are commonly referred to as buying brokers. Their operations are typified by the fact that they act as the buyer's representative in negotiating purchases at shipping points, terminal markets, or intermediate points. Their typical type of operation is to negotiate a purchase on the buyer's instructions and authorization. Sometimes the broker negotiates the purchase without seeing the produce. In other instances he may select the merchandise after forming an appraisal of the quality of the produce being offered for sale on the market. Generally, a purchase is made in the buyer's name and the seller invoices the buyer direct. On the other hand, acting on authority given him by the

buyer, the broker may negotiate purchases in his own name, pay the seller for the produce, make arrangements for its loading and shipment, and bill the buyer direct for the cost price plus the brokerage fee and the cost of any agreed upon accessorial service charges such as ice, loading, etc.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 62 FR 15087, Mar. 31, 1997]

### § 46.28 Duties of brokers.

(a) *General.* The function of a broker is to facilitate good faith negotiations between parties which lead to valid and binding contracts. A broker who fails to perform any specification or duty, express or implied, in connection with any transaction is in violation of the Act, is subject to the penalties specified in the Act, and may be held liable for damages which accrue as a result of the violation. It shall be the duty of the broker to fully inform the parties concerning all proposed terms and conditions of the proposed contract. After all parties agree on the terms and the contract is effected, the broker shall prepare in writing and deliver promptly to all parties a properly executed confirmation or memorandum of sale setting forth truly and correctly all of the essential details of the agreement between the parties, including any express agreement as to the time when payment is due. The confirmation or memorandum of sale shall also identify the party who engaged the broker to act in the negotiations. If the confirmation or memorandum of sale does not contain such information, the broker shall be presumed to have been engaged by the buyer. Brokers do not normally act as general agents of either party, and will not be presumed to have so acted. Unless otherwise agreed and confirmed, the broker will be entitled to payment of brokerage fees from the party by whom it was engaged to act as broker. The broker shall retain a copy of such confirmations or memoranda as part of its accounts and records. The broker who does not prepare these documents and retain copies in its files is failing to prepare and maintain complete and correct records as required by the Act. The broker who does not deliver copies of these documents to all parties involved in the transaction is failing to perform its duties as a broker. A broker who issues a confirmation or memorandum of sale containing false or misleading statements shall be deemed to have committed a violation of section 2 of the Act. If the broker's records do not support its contentions that a binding contract was made with proper notice to the parties, the broker may be held liable for any loss or damage resulting from such negligence, or for other penalties provided by the Act for failing to perform its express or implied duties. The broker shall take into consideration the time of delivery of the shipment involved in the contract, and all other circumstances of the transaction, in selecting the proper method for transmitting the written confirmation or memorandum of sale to the parties. A buying broker is required to truly and correctly account to its principal in accordance with § 46.2(y)(3). The broker should advise the appropriate party promptly when any notice of rejection or breach is received, or of any other unforeseen development of which it is informed.

(b) *Brokerage fees.* A broker is not considered to be entitled to a brokerage fee unless he effects a sale or makes a valid and binding contract, fully performing his duties as a broker. Unless otherwise specifically agreed, the broker does not guarantee the performance of the contracting parties and is entitled to receive prompt payment of the brokerage fee whenever a valid and binding contract is negotiated. Brokerage fees may be charged to only one of the parties to the contract unless by prior agreement the parties agree to split the brokerage fee. If the brokerage fee is charged to both parties without a specific prior agreement, such action by the broker is a violation of the Act. A broker employed to negotiate the sale of produce may not employ another broker or selling agent, including auction companies, without the specific prior approval of his principal. When the broker is authorized to sell, invoice the buyer, collect and remit to his principal, he shall render an itemized accounting to the principal promptly on receipt of payment, showing the true gross selling price, all brokerage fees

deducted, any auction charges and any other expenses incurred in connection with the sale of the shipment. The failure to account truly and correctly and make full payment promptly is a violation of the Act.

(c) *Broker's responsibility for payment.* In the absence of a specific agreement, a broker is not responsible for payment to the seller by the buyer. Agreement to collect from the buyer and remit to the seller is not a guarantee by the broker that the buyer will pay for the produce purchased, unless there is a specific agreement by the broker that he will pay if the buyer does not pay. A broker who agrees to collect funds from the buyer for his principal shall render an itemized accounting to the principal promptly on receipt of payment showing the true gross selling price, all brokerage fees deducted and all expenses including auction charges, incurred in connection with the sale of the shipment. The failure to account truly and correctly and make full payment promptly is a violation of the Act. While the broker is not obliged to furnish his principal information regarding the financial condition of the buyer, if the broker furnishes such information, he must truthfully report the information available to him, and any false or misleading statements for a fraudulent purpose to the principal to encourage the sale will be a violation of the Act. A buying broker who negotiates a purchase in his own name under an agreement with his principal, is responsible for payment of the purchase price to the seller. A broker has no authority to grant allowances or adjust the seller's invoice price to the buyer without the specific prior approval of his principal.

(d) *Purchases and sales by brokers.* A person who operates in a dual capacity, both as a broker and a dealer, shall clearly disclose his status in each transaction to all parties with whom he is dealing. If such a person misrepresents himself as a broker to the buyer or the seller when he is acting as a dealer purchasing produce or selling produce he has purchased, he shall be considered to have violated the Act. When a person purchases or sells produce as a dealer, he shall not request or receive a brokerage fee from the buyer or the seller. A broker shall not negotiate a transaction where the broker is subject to the direct or indirect control of any party to the transaction other than his principal, or where the other party is subject to the direct or indirect control of the broker without fully disclosing the circumstances to his principal and obtaining his specific prior approval.

(e) *Filing carrier claims by brokers.* Without prior consent of the owner, a broker has no authority to file claims with carriers in his own name or any other name. A broker has no obligation to file carrier claims for the owners of the shipments. However, when a broker in a transaction receives information valuable to the owner in connection with carrier claim rights, the broker should promptly advise the owner. A broker who agrees to protect the carrier claims of owners shall at all times exercise reasonable care to fulfill such obligation. If a broker makes an agreement with a seller or a buyer to file and handle such a claim for the benefit of the owner of the produce, the claim shall be filed promptly with the carrier, supported by adequate evidence, and he shall take the necessary action to bring the matter to a conclusion. A copy of the claim shall be forwarded to the owner of the shipment when the claim is filed. When settlement of the claim is effected, the broker shall promptly remit the net amount due the owner, after deducting the agreed or customary charges for handling the claim. Adequate information shall be furnished the owner regarding the claim while the matter is being handled with the carrier. If the owner files the claim, the broker shall promptly furnish any necessary information available in his records which is requested by the owner.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 37 FR 14561, July 21, 1972; 62 FR 15087, Mar. 31, 1997]

## RECEIVING MARKET COMMISSION MERCHANTS AND JOINT ACCOUNT PARTNERS

### § 46.29 Duties.

(a) *General.* All licensees who accept produce for sale on consignment or on joint account are required to exercise

reasonable care and diligence in disposing of the produce promptly and in a fair and reasonable manner. A commission merchant engaged to sell consigned produce may not employ another person or firm, including auction companies, to dispose of all or part of such produce without the specific prior authority of the consignor. A commission merchant is not authorized to sell consigned produce outside the market area where he is located without obtaining the permission of the consignor. Averaging or pooling of sales is not permissible unless the receiver obtains the specific written permission of the consignor prior to rendering the accounting. Complete and detailed records shall be prepared and maintained by all commission merchants and joint account partners covering produce received, sales, quantities lost, dates and cost of repacking or reconditioning, unloading, handling, freight, demurrage or auction charges, and any other expenses which are deducted on the accounting, in accordance with the provisions of § 46.18 through § 46.23. When rendering account sales for produce handled for or on behalf of another, an accurate and itemized report of sales and expenses charged against the shipment shall be made. It is a violation of section 2 of the Act to fail to render true and correct accountings in connection with consignments or produce handled on joint account. Charges which cannot be supported by proper evidence in the records of the commission merchant or joint account partner shall not be deducted. The commission merchant or joint account partner may be held liable for any financial loss and for other penalties provided by the Act, due to his negligence or failure to perform any specification or duty, express or implied, arising out of any transaction subject to the Act.

(b) *Commission charges.* Before accepting produce on consignment, the parties should reach a definite agreement on the amount of the commission and other charges which will be assessed by the commission merchant. In the absence of such an agreement, only the usual and customary commission and other charges shall be permitted. The receiver may not reconsign produce to another person or firm, including auction companies, and incur additional commissions, charges or expenses without the specific prior authority of the consignor. Unless otherwise agreed upon by the parties, joint account partners shall not charge a commission fee or other selling charges against the joint account for disposing of the produce. When a portion of a consigned shipment is purchased by the commission merchant he shall not charge or receive a commission fee for such sales.

(c) *Purchasing consigned produce.* A commission merchant or joint account partner may not purchase produce received on consignment or joint account or sell such produce to any person or firm over whose business he has direct or indirect control, or to any person or firm having direct or indirect control over his business, without specific prior authority of the consignor or the joint account partner. However, produce may be purchased by the commission merchant or joint account partner at reasonable market value to clean up remnants of shipments so accountings will not be unduly delayed, provided the accounting shows the quantity and price of the goods bought by the commission merchant or joint account partner. ''Remnants,'' as used here, mean small quantities remaining after the bulk of the shipment has been sold but shall not exceed 5 percent of the shipment. When consigned produce is purchased by a commission merchant he shall not charge or receive a commission fee for such sales.

(d) *Filing carrier claims.* Without the prior consent of the owner of the produce, a commission merchant has no authority to file claims with carriers in his own name or any other name: *Provided,* That the commission merchant may file a claim for breakage where the owner has been paid for the full value of the produce without any deduction for damage. Commission merchants have no obligation to file carrier claims on shipments for the owners. However, when a commission merchant in a transaction receives information valuable to the consignor in connection with carrier claim rights, the commission merchant should promptly advise the consignor. Before a commission merchant files a carrier

claim on a consigned shipment, a specific agreement shall be reached with the consignor. If a commission merchant is authorized and agrees to file the claim, he shall forward a copy of the claim filed with the carrier to the consignor and shall exercise reasonable care to protect the interests of the consignor by filing the claim promptly and in the proper amount, supported by adequate evidence, and shall take the necessary action to bring the matter to a conclusion. When settlement of the claim is effected, he shall promptly remit the net amount due the consignor, after deducting the agreed handling charges. Full and complete information shall be furnished the consignor while the claim is being handled. If the consignor is to file the claim, the commission merchant shall exercise reasonable care to protect the claim rights of the consignor and shall promptly furnish all necessary information and evidence from his records to enable the consignor to file a proper claim. A joint account partner who files a carrier claim on behalf of the partnership shall forward a copy of the claim filed with the carrier to his partner, keep him advised of its status, and remit promptly his share of the net proceeds realized from such claim.

GROWERS' AGENTS AND SHIPPERS

### § 46.30 Types of operations by growers' agents and shippers.

(a) The usual operations of shippers consist of purchasing produce from growers in their own names. They distribute the produce in commerce by selling, consigning, or jointing the shipments, assuming any loss or profits that result from these operations. In addition, shippers may handle produce on joint account with growers or others.

(b) Growers' agents sell and distribute produce for or on behalf of growers and others and, in addition, may perform a wide variety of services, such as financing, planting, harvesting, grading, packing, furnishing labor, seed, containers, and other supplies or services. They usually distribute the produce in their own names and collect payment direct from the consignees. They render accountings to their principals, paying the net proceeds after deducting their expenses and fees. Some agents are limited by contract to making only sales and cannot joint or consign produce without obtaining the prior consent of the growers. Other agents are granted blanket authority by the growers to market and distribute the produce, using their discretion as to the best methods, depending on market conditions and the quality of the produce available. They can sell, consign or ship on joint account, use the services of brokers or sell through terminal market auctions. They are authorized to grant credits, make adjustments in the invoice price, handle claims with the carriers, or even abandon shipments, when circumstances justify such action, without consulting the growers. Some agents have an agreement with the growers to pool the produce and render accountings on the basis of the average or prorated selling prices after deducting the prorated expenses incurred for the various operations performed and the agents' selling fees. Some agents's contracts require an accounting on the basis of actual selling prices after deducting the actual expenses incurred for services performed and the selling fees. Some agents' contracts specify a fixed charge for harvesting, grading, packing, furnishing the container or other services, plus a selling fee, and thereby substantially reduce the record requirements necessary to prove the cost of the various operations.

### § 46.31 Duties of shippers.

(a) *General.* The responsibilities of shippers vary with their contracts with growers to purchase produce or to handle produce on joint account. Similarly, their responsibilities to their customers depend upon their contracts to sell, consign or joint account produce with dealers on terminal markets. Shippers shall pay promptly for produce purchased and any deficits incurred on consigned shipments. They shall fully comply with their obligations in connection with joint account transactions. A shipper who fails to perform any express or implied duty is in violation of the Act and may be held liable for any damages resulting therefrom. The shipper shall prepare and

maintain records which fully and correctly disclose the details of his transactions.

(b) *Receiving records.* Each shipper shall prepare and maintain a record of all produce handled including his own production. This record shall be in the form of a book (preferably a bound book), with numbered pages or comparable business records. This receiving record shall show for each lot the date received, whether purchased or received on joint account, the quantity, quality, and kind of produce, the purchase price or joint account cost, and the name and address of the supplier. Shippers shall issue receipts to growers and others for all produce received.

(c) *Disposition records.* When a shipper purchases produce from growers or others, his records shall also show the disposition of the produce, whether sold or consigned, date of shipment, car number, or if shipped by truck, the license number, name and address of the carrier, name and address of the buyer, commission merchant or auction, and other pertinent details of the transaction, such as the terms of sale, selling price, and date of payment.

(d) *Joint accounts with growers.* When a shipper enters into a joint account transaction with growers or others, the agreement between the parties should be reduced to a written contract clearly defining the duties and responsibilities of both parties and the extent of the shipper's authority in distributing the produce. The shipper shall prepare and maintain records to show in detail the actual expenses incurred for the services he furnishes, such as harvesting, grading, packing and selling the produce (unless a fixed charge is agreed upon by the parties to cover the cost of these services), methods of distribution and proceeds received for the produce. If a shipper is at the same time handling similar produce not involved in the joint account transaction, a lot number or other positive means of identification shall be assigned to each lot of produce received in order to segregate and identify the various lots of produce. If a shipper consigns all or part of the produce or employs the services of brokers or terminal market auctions, his records shall show the results of these transactions, including the expenses involved and the names and addresses of the commission merchants, brokers, and the auctions. The shipper shall render a detailed and accurate accounting and pay promptly the net proceeds due the joint partner, in accordance with § 46.2(y), (z), and (aa). The accounting shall disclose the status of all claims collected or filed with the carriers.

(e) *Joint accounts with receivers.* When a shipper enters into a joint account agreement with a terminal market dealer, the agreement should be reduced to writing clearly defining the terms of the agreement. The shipper's records shall show the expenses which may be properly charged in accordance with the joint agreement, purchase price or joint account cost of the produce, and cost of harvesting, packing, grading, or other expenses. His records shall show the quantity and quality of the produce packed and shipped, the dates and methods of shipment, and all other pertinent details of his operation. At the conclusion of the transaction, a detailed and accurate accounting shall be furnished promptly to the joint partner, in accordance with § 46.2(z). If a deficit results, the shipper shall pay promptly his share of the deficit.

### § 46.32 Duties of growers' agents.

(a) *General.* The duties, responsibilities, and extent of the authority of a growers' agent depend on the type of contract made with the growers. Agreements between growers and agents should be reduced to a written contract clearly defining the duties and responsibilities of both parties and the extent of the agent's authority in distributing the produce. When such agreements between the parties are not reduced to written contracts, the agent shall have available a written statement describing the terms and conditions under which he will handle the produce of the grower during the current season and shall mail or deliver this statement to the grower on or before receipt of the first lot. A grower will be considered to have agreed to these terms if, after receiving such statement, he delivers his produce to the agent for handling in the usual

manner. In the event an unsolicited lot of produce is accepted by an agent for handling in his usual manner, he shall promptly deliver or mail a copy of such statement to the grower. A copy of this statement, showing the name of the grower and the date the statement was delivered to the grower, shall be retained in the agent's files. An agent who does not have in his files either written contracts or a written statement as required herein is failing to prepare and maintain full and complete records as required by the Act. *Provided,* That regulations or bylaws of cooperative marketing associations may be used in lieu of individual agreements or contracts to determine the methods of accounting and settlement with their grower members. An agent who fails to perform any specification or duty, express or implied, is in violation of the Act and may be held liable for any damages resulting therefrom and for other penalties provided under the Act for such failure.

(b) *Accounting for charges.* A growers' agent whose operations include such services as the planting, harvesting, grading, packing, furnishing of containers or other supplies, storing, selling or distributing produce for or on behalf of growers shall prepare and maintain complete records on all transactions in sufficient detail as to be readily understood and audited. Agents must be in a position to render to the growers accurate and detailed accountings covering all aspects of their handling of the produce. Agents shall maintain a record of all produce received in the form of a book (preferably a bound book) with numbered pages or comparable business records, showing for each lot the date received, quantity, the kind of produce and the name and address of the grower. Agents shall issue receipts to growers and others for all produce received. A lot number or other positive means of identification shall be assigned to each lot in order to segregate the various lots of produce received from different growers from similar produce being handled at the same time. Each lot shall be so identified and segregated throughout all operations conducted by the agent, including the sale or other disposition of the produce. The records shall show the result of all packing and grading operations, including the quantity lost through packing and grading and the quantity and quality packed out. If the culls are sold, they shall be included in the accounting. Unless there is a specific agreement with the growers to pool all various growers' produce, the accounting to each of the growers shall itemize the actual expenses incurred for the various operations conducted by the agent and all the details of the disposition of the produce received from each grower including all sales, adjustments, rejections, details of consigned or jointed shipments and sales through brokers, auctions, and status of all claims filed with or collected from the carriers. The agent shall prepare and maintain full and complete records on all details of such distribution to provide supporting evidence for the accounting. If an agent is working under a pool agreement with growers, the accounting shall show how the pool cost and pool sales prices are computed. If the agent and the growers have agreed on a fixed charge to cover the various operations conducted by the agent, actual expenses incurred for these services covered by the agreement are not required to be shown in the accounting. The failure of the agent to render prompt, accurate and detailed accountings in accordance with §46.2 (z) and (aa), is a violation of the Act.

(c) *Sales through brokers or auctions.* Unless a growers' agent is specifically authorized in his contract with the growers to use the services of brokers, commission merchants, joint partners, or auctions, he is not entitled to use these methods of marketing the growers' produce. Any expense incurred for such services, without the growers' permission, cannot be charged to the growers.

(d) *Filing of carrier claims.* Without the prior consent of the growers, an agent has no authority to file claims with the carriers in his own name or any other name. An agent has no obligation to file carrier claims on shipments for growers in the absence of a specific agreement to perform these duties. All information which an agent has received in handling the shipment which is essential for the growers to

file such claims shall be made available to the growers. If an agent has an agreement with the growers to file and handle carrier claims, he shall exercise reasonable care in handling the claims with the carriers by filing the claim promptly in the proper amount, supported by adequate evidence, and take any necessary action to bring the matter to a conclusion.

(e) *Purchases and sales by growers' agents.* A person who operates in a dual capacity, both as a growers' agent and as a shipper, shall clearly disclose his status in each transaction to all parties with whom he is dealing. If such a person misrepresents himself as an agent, when he is acting as a shipper selling produce he has purchased, he shall be considered to have violated the Act. A growers' agent shall not charge or receive a fee from the seller or the buyer when he purchases or sells produce as a shipper. A growers' agent shall not negotiate a transaction where he is subject to the direct or indirect control of any party to such transactions, other than his principal, or where the other party is subject to the agent's direct or indirect control, without fully disclosing the circumstances to his principal and obtaining his specific prior approval.

(f) *Negligence of agent.* A growers' agent may be held liable for any loss or damage resulting to the growers due to his negligence or failure to perform any specification or duty, express or implied, arising out of any undertaking in connection with transactions subject to the Act.

(g) *Responsibility for payment.* An agent is not responsible for the payment by the buyer who has purchased the growers' produce on credit, unless he guarantees payment or is negligent in extending credit. Agreement to collect from the buyer and remit to his principal is not a guarantee by the agent that the agent will pay if the buyer does not pay.

(h) *Responsibility for payment of selling fees and expenses to the growers' agent.* In the absence of a specific agreement to the contrary, the agent does not guarantee the performance of the contracting parties and he is entitled to the payment of his selling fees and expenses incurred in handling the produce of growers or others, providing he fully performs his duties as agent.

(i) *Agent's financial responsibility to buyers for failure to comply with contracts.* If a growers' agent contracts in his own name to deliver produce to a buyer and subsequently cannot deliver produce complying with the contract because the growers cannot or will not deliver such produce to him, he may be liable to the buyer for damages resulting from the breach of the contract.

CONVERSION OF FUNDS

### § 46.33 Conversion of funds.

Any licensee who collects or receives funds for or on behalf of another person or firm in connection with produce shall not make any use or disposition of such funds in his possession or control that will endanger or impair faithful and prompt payment to the owner or consignor of the produce or to any other person having a financial interest therein.

DISCLOSURE OF BUSINESS

### § 46.34 No disclosure of business of licensee.

No representative of the Department shall, without the consent of the licensee, divulge or make known, except to financially interested parties, or to other representatives of the Department who may be required to have such knowledge in the regular course of their official duties, or except insofar as he may be directed by the Secretary, Deputy Administrator, Director, or a court of competent jurisdiction, any facts or information regarding the business of such licensee which may come to the knowledge of such representative through an examination or inspection of the business or the accounts of the licensee, unless such facts or information should be testified to at a hearing authorized by the act because they are relevant and material to the issue in the case being heard.

SUSPENSION AND REVOCATION OF LICENSES

### § 46.35 Suspension or revocation order.

(a) Whenever the Secretary shall order the suspension or revocation of a

license, the person against whom such order is directed shall be served by the Hearing Clerk with a copy of the order, and be notified of the effective date thereof. Service of orders shall be accomplished in accordance with § 47.4 of this chapter.

(b) Except in the case of any license automatically suspended by the Act, a reasonable time shall be allowed, which shall not be less than 10 days between the date of issuance of the order of suspension or revocation and the date upon which such order becomes effective, during which period the licensee may make all necessary arrangements with some other person, who has a valid and effective license to safeguard the interests of consignors or other innocent parties whose property or business may be affected by such suspension or revocation and during which the licensee may terminate his affairs and business relating to the handling of produce.

(c) After the revocation of his license or during the effective period of any suspension thereof, no person shall, either directly or indirectly, through any agent, employee, or otherwise, carry on the business of a commission merchant, dealer, or broker until his status as a licensee has been restored.

(d) The suspension or revocation of a license shall not prevent the licensee from collecting amounts due on contracts entered into prior to the date of suspension or revocation or from remitting promptly to his principals and obligees.

PUBLICATION OF FACTS

### § 46.36 Publicity.

Upon the issuance by the Secretary of an order revoking or suspending a license, or in case of automatic suspension of a license for failure to pay a reparation award, the Director shall cause general publicity to be given to such fact, in order that those doing business with the licensee whose license has been revoked or suspended may take due notice thereof.

SUNDAYS AND HOLIDAYS

### § 46.37 Sundays and holidays excluded.

Sundays and holidays shall not be included in the computation of the 5-day period provided by section 7(d) of the Act nor in connection with the periods defined in § 46.43 with exception of paragraph (a) thereof.

### § 46.38 Sundays and holidays included.

Sundays and holidays shall be included in the computation of all other periods mentioned in the Act or in the regulations in this part.

COMMODITY INSPECTION

### § 46.39 Inspection of commodities.

Each licensee shall, during ordinary business hours, promptly upon request, permit any duly authorized representative of the Department to inspect any lot of produce under his ownership or control covered by the Act. Any necessary facilities for such inspection shall be extended to such representative by the licensee, his agents, and employees. The licensee shall be furnished a copy of any certificate or memorandum of inspection which is issued for any lot of produce which is inspected in accordance with this section.

### § 46.40 Inspection service.

The rules and regulations of the Secretary governing inspection and certification of fresh fruits and vegetables as outlined in part 51 of this chapter; and frozen fruits and vegetables as outlined in part 52 of this chapter, and amendments thereto, and such additional amendments as may from time to time be promulgated shall govern the inspection of such products under the Act and are hereby made a part of the regulations in this part.

LICENSEE'S RESPONSIBILITY FOR ACTS OF EMPLOYEES AND AGENTS

### § 46.41 Licensee's responsibility for acts of employees and agents.

In construing and enforcing the provisions of the Act and the regulations

in this part, the act, omission, or failure of any agent, officer, or other person acting for or employed by a licensee, within the scope of his employment or office, shall in every case be deemed the Act, omission, or failure of the licensee.

[25 FR 4853, June 2, 1960. Redesignated at 28 FR 7067, July 11, 1963]

COPIES OF RECORDS

### § 46.42 Copies of records; how obtained.

Copies of records pertaining to licensees under the Act may be furnished under the conditions and at the prices prescribed in the regulations of the Department.

[25 FR 4853, June 2, 1960. Redesignated at 28 FR 7067, July 11, 1963]

TRADE TERMS AND DEFINITIONS

### § 46.43 Terms construed.

The following terms and definitions, when used in any contract or communication involving any transaction coming within the scope of the Act, shall be construed as follows:

(a) *Today's shipment*, or shipment on a specified date (such as *shipment September 12*), means in connection with shipments by rail, that the goods referred to shall be under billing by the transportation company on the date the order is given or on the date specified in time to be picked up by a train schedule to move that day's loadings from the shipping point. When used in connection with shipments by boat, this term shall mean that the goods shall be placed alongside the boat and be under billing in time to be loaded and shipped on a boat scheduled to leave before midnight of the date specified. When used in connection with shipments by truck, this term shall mean that the goods shall be loaded and shall actually start from loading point to destination before midnight of the date specified.

(b) *Tomorrow's shipment* or *immediate shipment* means that the shipment referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 24 hours later than allowed under ''today's shipment.''

(c) *Quick shipment* means that the conditions of the offer, order, or confirmation will be met if the shipment is under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 48 hours later than allowed under ''today's shipment.''

(d) *Prompt shipment* means that the conditions of the offer, order, or confirmation will be met if the shipment is under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 72 hours later than allowed under ''today's shipment.''

(e) *Shipment first part of week* or *shipment early part of week* means that the produce referred to shall be under billing on Monday or Tuesday of the week specified in time to be picked up by a train scheduled to move these days' loadings from the shipping point. When used in connection with shipments by truck, this term shall mean that the goods shall be loaded and shall actually start from loading point to destination before midnight on Tuesday of the week specified.

(f) *Shipment middle of week* means that the produce referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave Wednesday or Thursday of the week specified. When used in connection with shipments by truck, this term shall mean that the goods shall be loaded and shall actually start from loading point to destination before midnight on Thursday of the week specified.

(g) *Shipment last of week* or *shipment latter part of week* means that the produce referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave on Friday or Saturday of the week specified. When used in connection with shipments by truck, this term shall mean that the goods shall be loaded and shall actually start from loading point to destination before midnight on Saturday of the week specified.

(h) *Shipment as soon as possible* or *Shipment as soon as car (truck) can be secured* means that the shipper is uncertain as to when the shipment can be made, but expects to make it within a reasonable time and will make it soon as possible. But in any case where these words are used the buyer shall, at any time after 7 days from the date the order is given, have the right to cancel the order or contract of sale, if notice of his decision so to cancel shall have been received by the shipper before shipment has been made.

(i) *F.o.b.* (for example, *f.o.b. Laredo, Tex.*, or *f.o.b. California*) means that the produce quoted or sold is to be placed free on board the boat, car, or other agency of the through land transportation at shipping point, in suitable shipping condition (see definitions of ''suitable shipping condition,'' paragraphs (j) and (k) of this section), and that the buyer assumes all risk of damage and delay in transit not caused by the seller irrespective of how the shipment is billed. The buyer shall have the right of inspection at destination before the goods are paid for to determine if the produce shipped complied with the terms of the contract at time of shipment, subject to the provisions covering suitable shipping condition.

(j) *Suitable shipping condition*, in relation to direct shipments, means that the commodity, at time of billing, is in a condition which, if the shipment is handled under normal transportation service and conditions, will assure delivery without abnormal deterioration at the contract destination agreed upon between the parties. If a good delivery standard for a commodity is set forth in § 46.44, and that commodity at the contract destination contains deterioration in excess of any tolerance provided therein, it will be considered abnormally deteriorated. The seller has no responsibility for any deterioration in transit if there is no contract destination agreed upon between the parties.

(k) *Suitable shipping condition*, in connection with reconsigned rolling or tramp cars, means that the commodity, at time of sale, meets the requirements of this phrase as defined in paragraph (j) of this section, relating to direct shipments.

(l) *F.o.b. acceptance* or *Shipping point acceptance* means that the buyer accepts the produce at shipping point and has no right of rejection. The buyer has recourse against the seller if the produce was not in suitable shipping condition (see definitions, paragraphs (j) and (k) of this section) or has recourse for a material breach of contract, providing the shipment is not rejected. The buyer's remedy under this method of purchase is by recovery of damages from the seller and not by rejection.

(m) *F.o.b. acceptance final* or *Shipping point acceptance final* means that the buyer accepts the produce at shipping point and has no right of rejection. Suitable shipping condition does not apply under this trade term. The buyer does have recourse for a material breach of contract, providing the shipment is not rejected. The buyer's remedy under this type of contract is by recovery of damages from the seller and not by rejection of the shipment.

(n) *F.o.b. steamer* means that the produce is to be placed free on board steamer at shipping point, in suitable shipping condition (see definitions of ''suitable shipping condition'', paragraphs (j) and (k) of this section) in accordance with the terms of the contract, and that the buyer assumes all responsibility and risk of damage thereafter.

(o) *F.a.s. steamer* means that the produce is to be delivered free alongside the steamer, in suitable shipping condition (see definitions of ''suitable shipping condition'', paragraphs (j) and (k) of this section), in accordance with the terms of the contract, and that the buyer assumes all responsibility and risk of damage thereafter.

(p) *Delivered* or *delivered sale* means that the produce is to be delivered by the seller on board car, or truck or on dock if delivered by boat, at the market in which the buyer is located, or at such other market as is agreed upon, free of any and all charges for transportation or protective service. The seller assumes all risks of loss and damage in transit not caused by the buyer For example, a sale of ''U.S. No. 1 potatoes delivered Chicago'' means that the potatoes, when tendered for delivery at Chicago, shall meet all the

requirements of the U.S. No. 1 grade as to quality and condition.

(q) *In transit, roller,* or *rolling car* means that the produce referred to is in possession of the transportation company and under movement from shipping point when the quotation is made, and that the car is moving over a route in line of haul between the point of origin and the market in which delivery is to be made, and has been so moving since date of shipment, without any delay attributable to the shipper or his agent. Unless otherwise specifically agreed, if a roller, rolling car, or a car in transit is sold f.o.b. shipping point, the buyer shall be deemed to have assumed only the lowest all-rail freight charges applicable for the shipment between the point of origin and the contract destination agreed upon between the parties together with such other charges which would have accrued if the car had been originally shipped direct to the contract destination: *Provided,* That the buyer is not liable for payment for protective services if the seller does not inform him of the kind and extent of such services ordered from the carrier.

(r) *Tramp car* or *tramp car sale* means that the produce has left the shipping point under a bill of lading issued prior to the day on which the quotation is made and has moved or is moving over a route out of line of haul with the market in which it is to be delivered or in which it is being offered or quoted, or has been moving over a route in line of haul between the point of origin and the market in which it is to be delivered or in which it is being offered or quoted, but has been delayed in transit by the seller, or has been held by the transportation company at diversion or other points en route awaiting instructions from the shipper and by such holding or delay has missed scheduled movement between points of shipment and the market in which it is to be delivered as the result of the transaction in question. Unless otherwise specifically agreed, if a ''tramp car'' is sold f.o.b. shipping point or a ''tramp car sale'' is made f.o.b. shipping point, the buyer shall be deemed to assume only the lowest authorized all-rail freight charges applicable for the shipment between the point of origin and the contract destination agreed upon between the parties, together with such other charges which would have accrued if the car had been originally shipped direct to the contract destination: *Provided,* That the buyer is not liable for payment for protective services if the seller does not inform him of the kind and extent of such services ordered from the carrier.

(s) *Rolling acceptance* means that the buyer accepts at time of purchase produce which is in the custody of the transportation company and under movement from shipping point, under the terms and conditions described in paragraphs (q) and (r) of this section, except that the buyer assumes full responsibility for transportation of the goods from time of purchase, has no recourse against the seller because of any change in condition after time of purchase unless the goods at the time of sale were not in suitable shipping condition, and has no right of rejection on arrival. The buyer's remedy under this method of purchase is by recovery of damages from the shipper and not by rejection of the shipment. By agreement between the parties, however, the purchase may be made subject to inspection at any specified point while the car is rolling or in transit and the point at which the buyer will assume transportation charges may be specified without affecting the time of acceptance of the commodity.

(t) *Rolling acceptance final* means the same as *Rolling acceptance* except that the buyer has no recourse against the seller because of any change in condition of the produce in transit. The buyer has recourse against the seller for any material breach of the contract providing the shipment is not rejected. The buyer's remedy under this type of contract is recovery of damages from the seller and not by rejection.

(u)(1) *Track sale* or *sale on track* means a sale of produce on track after transit and after inspection or opportunity for inspection by the buyer, or his agent, who shall be considered to have waived any right to reject the commodity so purchased upon receipt by him or his duly authorized representative from the seller or his duly authorized representative of the bill of

lading, delivery order, or other document enabling him to obtain the goods from the carrier.

(2) The above definition shall not be construed as depriving the buyer of a right to reparation when the unloading of the car demonstrates that a part of the lading which was not accessible to inspection was of a quality or condition materially inferior to that portion which was accessible to inspection; but notice of intention to file a claim for reparation must be given the seller within 24 hours after receipt by the buyer of the delivery order or bill of lading.

(3) If the seller gives the date of arrival when quoting price, the buyer shall, in the absence of any written memorandum of sale to the contrary, assume all charges that accrue on the shipment from the date of its arrival. If the seller fails to furnish the date of arrival when quoting price the buyer may, in the absence of any written memorandum of sale which includes the date of arrival or specific written statement as to who shall assume such charges as have accrued after arrival, assume that the shipment arrived at point of sale on the day and date upon which the purchase was made, and shall be liable only for such charges as would properly attach to a shipment arriving on the date the purchase was made.

(v) *C.a.f.*, *c.a.c.*, and *c.i.f.* mean *cost and freight*, *cost and charges*, and *cost, insurance, and freight*, respectively. C.a.f. sales shall be deemed to be the same as f.o.b. sales, except that the selling price shall include the correct freight charges to destination. C.a.c. sales shall be deemed to be the same as f.o.b. sales, except that the selling price includes the correct freight and refrigeration or heater charges to destination. C.i.f. sales shall be deemed to be the same as f.o.b. sales, except that the selling price includes insurance and the correct freight and refrigeration or heater charges to destination.

(w) *Carload*, *carlot*, or *car* when used in offers, quotations, or contracts in which the quantity is not more definitely specified, and in the absence of well-established trade custom or standard as to size of a ''carload,'' ''carlot,'' or ''car'' of the produce in question, means not less than the minimum quantity required by the carrier's tariff applicable to the movement, and not more than 10 percent in excess of such minimum tariff requirements, except that, where the carrier's tariffs provide alternative rates and minimum, the buyer shall state which tariff minimum must be observed, and, in event of failure so to do, the shipper may exercise his discretion, in no case, however, exceeding the higher alternative minimum quantity provided by the tariff, with only such variations therefrom as are permitted by this paragraph.

(x) *Shipping-point inspection* means that the seller is required to obtain Federal or Federal-State inspection, or such private inspection as has been mutually agreed upon, to show the compliance of the lot sold with the quality, condition, and grade specifications of the contract, and that the seller assumes the risk incident to incorrect certification.

(y) *Shipping-point inspection final*, or *inspection final* following the name of the State or point, as *California inspection final*, means that the seller is required to obtain Federal or Federal-State inspection, or such private inspection as has been mutually agreed upon, to show the compliance of the lot sold with the quality, condition, and grade specifications of the contract, and that the buyer assumes the risk incident to incorrect certification and is without recourse against the seller on account of quality, condition, and grade.

(z) *Subject approval Government inspection* means that the seller is required to obtain Federal or Federal-State inspection, or such private inspection as has been mutually agreed upon, and to correctly communicate, by wire or other agreed means, the statements on the certificate as to quality, condition and grade, and other essential information, whereupon the buyer, upon approval thereof, will be deemed to have accepted the produce without recourse against the seller on account of quality, condition, and grade.

(aa) *Guaranteed advance* used in connection with an advance payment on consigned produce means that the person making the advance guarantees that the net proceeds to the consignor

shall at least equal the amount so advanced, and that the consignor cannot be held liable for any deficit resulting from the sale of the produce, if such deficit is not occasioned by or contributed to by an act of the consignor.

(bb) *Accommodation advance* or *regular advance,* used in connection with an advance of money or credit against anticipated net proceeds to be realized from the sale of consigned produce, means that the consignor has received an advance of money or credit and that, if the consigned produce does not sell for enough to cover the cost of transportation and handling, including customary or agreed commission and the advance made to him, the consignor must return to the person making the advance a sum equal to the deficit sustained.

(cc) *Price arrival,* in the absence of a contrary specific understanding, means that the produce is shipped either direct to the customer or to an agent of the consignor, for the benefit of the customer, the price to be subject to agreement between the customer and the consignor upon the arrival of the produce at the customer's destination, with sufficient time being permitted for inspection.

(dd) *F.o.b. inspection and acceptance arrival* means that the produce quoted or sold is to be placed by the seller free on board car or other agency of through transportation at shipping point, the cost of transportation to be borne by the buyer, but the seller to assume all risks of loss and damage in transit not caused by the buyer, who has the right to inspect the goods upon arrival and to reject them if, upon such inspection, they are found not to meet the specifications of the contract of sale at destination. The buyer may not reject without reasonable cause. Such a sale is f.o.b. only as to price and is on a delivered basis as to grade, quality, and condition.

(ee) *F.o.b. sale at delivered price* means the same as f.o.b., except that transportation charges from shipping point to destination shall be borne by the seller; that is, the sale is f.o.b. as to grade, quality, and condition, and delivered as to price.

(ff) *Purchase after inspection* means a purchase of produce after inspection or opportunity for inspection by the buyer or his agent. Under this term the buyer has no right of rejection and waives all warranties as to quality or condition, except warranties expressly made by the seller.

(gg) *Cash sale* means that the buyer is required to pay the seller within 24 hours after his acceptance of the shipment.

(hh) *Joint Account—Split Above* means that the receiving joint partner will pay promptly the agreed cost of the shipment to his joint partner. After disposition of the produce, the parties will divide equally the profits on the shipment after deduction of the cost of the shipment and proper expenses from the gross proceeds. The receiving joint partner will pay all expenses and cannot recover any loss resulting from the joint venture.

(ii) *Commercial Unit* means a single shipment of one or more perishable agricultural commodities tendered for delivery on a single contract, such commercial unit must be accepted or rejected in its entirety. Acceptance of a commercial unit does not modify the parties' existing contractual rights and responsibilities.

[25 FR 4853, June 2, 1960, as amended at 26 FR 12209, Dec. 21, 1961. Redesignated at 28 FR 7067, July 11, 1963, and amended at 44 FR 50576, Aug. 29, 1979]

GOOD DELIVERY STANDARDS

### § 46.44 Good delivery.

Unless otherwise agreed to between the contracting parties, ''Good Delivery'' in connection with f.o.b. contracts of purchase and sale means that the commodity meets the requirements of the contract at time of loading or sale and, if the shipment is handled under normal transportation service and conditions, will meet the following additional requirements on delivery at the contract destination:

(a) *Lettuce.* (1) If the contract specifies a U.S. grade, the lettuce may contain an average of not more than 3 percent condition defects, including not more than 2 percent decay affecting any portion of the head exclusive of wrapper leaves in excess of the destination tolerances provided for the applicable grade in the U.S. Standards for

Grades of Lettuce. (For example, the U.S. No. 1 grade provides a 12 percent tolerance for damage at destination. If a lot contains 5 percent damage by permanent grade factors, 7 percent of the tolerance can be applied to damage by condition factors. The additional 3 percent Good Delivery tolerance would then allow a total of 10 percent damage by condition factors in this shipment at destination.)

(2) If the contract does not specify a U.S. grade or percentage of condition defects, the lettuce at destination may contain a maximum of 15 percent, by count, of the heads in any lot which are damaged by condition defects, including therein not more than 9 percent serious damage of which not more than 5 percent may be decay affecting any portion of the head exclusive of wrapper leaves. Sales made on a percentage of a U.S. grade, without specifying the percentage of condition defects separately from the permanent defects, fall under this provision, and the lettuce may not contain more than a total of 15 percent condition defects at destination. However, if the condition defects are specified, provision No. 3 will apply.

(3) If the contract specifies a percentage of individual or combined condition defects, the lettuce at destination may contain either of the following, whichever is greater:

(i) One and one-half times the specified percentage of damage or serious damage by condition defects: *Provided*, That, if serious damage is not specified, one-half of the allowance at destination may be serious damage, including therein not more than one-quarter of the total allowance may be decay affecting any portion of the head exclusive of wrapper leaves. (For example, a lot sold as ''16 percent tipburn'' could have a total of 24 percent damage by tipburn at destination, including not more than 12 percent serious damage of which not more than 6 percent may be decay affecting any portion of the head exclusive of wrapper leaves.) or

(ii) Up to 15 percent, by count, of the heads in any lot which are damaged by condition defects, including therein not more than 9 percent serious damage of which not more than 5 percent may be decay affecting any portion of the head exclusive of wrapper leaves.

Unless otherwise agreed to by the parties, condition defects will be considered to be damage as defined in the U.S. Standards for Lettuce.

(4) If the contract clearly indicates by descriptive terms that the lettuce is of inferior quality, larger allowances for damage by condition defects than those specified above will be applied.

(5) If the buyer and the seller agree to percentages for defects at destination, higher or lower than those specified above, such percentages will determine whether good delivery is made.

[26 FR 12209, Dec. 21, 1961. Redesignated at 28 FR 7067, July 11, 1963]

MISREPRESENTATION OR MISBRANDING

### § 46.45 Procedure in administering section 2(5) of the Act.

It is a violation of section 2(5) for a commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree, or maturity, or State, country, region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce. However, a person other than the first licensee handling misbranded perishable agricultural commodities shall not be held liable for a violation of section 2(5) of the Act by reason of the conduct of another if the person did not have knowledge of the violation or lacked the ability to correct the violation.

(a) *Violations.* Violations are considered to be serious, very serious, or repeated and/or flagrant, depending upon the circumstances of the misrepresentation.

(1) *Serious violations.* Include the following:

(i) Any lot of a perishable agricultural commodity shown by official inspection to contain scorable defects, off-size, off-count, exceeding the tolerance(s) in an amount up to and including double the tolerance provided in the applicable grades, standards or inspection procedures;

(ii) Any lot of perishable agricultural commodity officially certified as failing to meet the declared weight;

(iii) Any lot of a perishable agricultural commodity in which the State, country, or region of origin of the produce is misrepresentated because the lot is made up of containers with various labels or markings that reflect more than one incorrect State, country or region of origin. Example: A lot with containers individually marked to show the origin as Idaho or Maine or Colorado when the produce was grown in Wisconsin; or

(iv) Any other physical act, verbal or written declaration, or record entry that misrepresents a lot of a perishable agricultural commodity to the same extent as the examples listed.

(2) *Very serious violations.* Include the following:

(i) Any lot of a perishable agricultural commodity shown by official inspection to contain scorable defects, off-size, off-count, in excess of double the tolerance(s) provided in the applicable grades, standards or inspection procedures;

(ii) Any lot of a perishable agricultural commodity packed in containers showing a single point of origin, which is other than that in which the produce was grown, such as containers marked ''California'' when the produce was grown in Arizona;

(iii) Any lot of a perishable agricultural commodity officially certified as having an average net weight more than four percent below the declared weight;

(iv) Multiple sales or shipments of a misrepresented perishable agricultural commodity within a seven day period that can be attributed to one cause; or

(v) Any other physical act, verbal or written declaration, or record entry that misrepresents a lot of a perishable agricultural commodity to the same extent as the examples listed.

(3) *Flagrant violations.* Include, but are not necessarily limited to, the following examples:

(i) Shipment or sale of a lot of a perishable agricultural commodity from shipping point after notification by official inspection that the inspected commodity fails to comply with any marking on the container without first correcting the misbranding;

(ii) To offer for resale or consignment, a lot of a perishable agricultural commodity that has been officially inspected at destination and found to be misbranded without advising a prospective receiver that the lot is misbranded and that the misbranding must be corrected before resale. When a resale or consignment is finalized, *written* notice must be given that the lot is misbranded and must be corrected before resale; or

(iii) To withhold or fail to disclose known material facts with respect to a misrepresentation or misbranding.

(b) *Evidence.* (1) Evidence concerning a misrepresentation or misbranding includes official certificates of an inspection made by any person authorized by the Department to inspect fruits and vegetables or other public certifiers, and includes investigations and audit findings and any business records, testimony or other evidence bearing on the subject.

(2) When a lot of a perishable agricultural commodity has been officially inspected, and certification is made that the descriptive container markings are correct, but a subsequent inspection reverses the original findings, both inspection certificates will be accepted as evidence to show that the shipper/seller has *not* misrepresented the lot. The receiver of the commodity will be in violation if the misrepresentation is not corrected before the commodity is shipped, sold or offered for resale.

(c) *Sanctions*—(1) *Informal.* When liability for a violation of section 2(5) of the Act is to be settled informally, the violator may:

(i) Be given written warnings; or

(ii) Be given notice that liability for a violation may be settled by admitting the violation in writing and paying a penalty in an amount satisfactory to the Secretary in lieu of formal disciplinary action. In the event of a formal proceeding to suspend or revoke the license of such person because he has committed other violation(s), the admitted violation(s) will not be used to support the formal complaint but may be admitted to show a course of conduct prior to the filing of the formal complaint;

(iii) (A) The schedule for informal disposition is as follows:

| Violation | | Disposition |
|---|---|---|
| 1st | | [1] |
| 2d | | [1] |
| | [2] | [3] |
| 3d | $200 | $250 |
| 4th | 350 | 500 |
| 5th | 500 | 1,000 |
| 6th | 1,000 | 2,200 |
| 7th | 2,200 | 2,200 |

[1] Warning letter.
[2] If serious violation.
[3] Very serious violation.

(B) Informal disposition of misrepresentation violations is not limited to seven occurrences and will be considered for further violations.

(2) *Formal.* Formal proceedings to suspend or revoke a license may be instituted at any time against a person who has committed repeated and/or flagrant violations.

(d) *Cumulative record.* A cumulative record of licensee's misrepresentation violations will be maintained with the following limitations:

(1) Two years after the date it was committed or after payment of a monetary penalty, the violation will not be used as a basis for instituting formal disciplinary action. However, it may be cited as a part of the pattern of violations if formal proceedings are instituted and will be used in determining the level of monetary penalty for informal settlements.

(2) The record of violations *not* involved in formal proceedings will be expunged if there are no violations during a twenty-four (24) month period from the date of the most recent violation, or after thirty-six (36) months from the date of said violation, unless it was made a part of a formal disciplinary complaint.

(e) *Summary of procedure*—(1) *Compilation of authority.* The rules defining misrepresentation, including misbranding, and for determining liability and disposition of violations are contained in the Act (7 U.S.C. 499 *et seq.),* in particular sections 2(5) and 8 (7 U.S.C. 449b(5) and 499h), §46.45 of the Regulations (7 CFR 46.45), the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted By the Secretary (7 CFR 1.130 *et seq.*), and in the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

(2) *Evidence of misrepresentation.* Evidence of misrepresentation or misbranding violations includes results of official inspections, audit findings, business records, or other documentation or testimony bearing on the subject. When a lot of fruits and vegetables has been officially inspected, and certification made that the descriptive markings on the container do not misrepresent the produce, but a subsequent inspection reverses the original finding (such as to grade, size, weight, etc.), the shipper/seller will *not* be charged with violation of the Act. However, the misrepresentation must be corrected before the lot is shipped, sold, or offered for resale.

(3) *Warning letters.* When informal settlement of liability is appropriate, violators are given two written warnings and an opportunity to take preventive action before formal action is considered. Warning letters include an explanation of the requirements of the Act and recommendations of actions which the violator can take to avoid future violations.

(4) *Informal sanctions.* Violations subsquent to the sending of the warning letters referred to above, other than flagrant violations, may be settled informally pursuant to paragraph (c)(1) of this section. This procedure permits the violator to resolve the matter by payment of a monetary penalty pursuant to a schedule set out in lieu of a formal proceeding.

(5) *Formal sanctions.* In cases involving repeated or flagrant violations of the Act, formal proceedings seeking the suspension or revocation of the violator's license may be instituted pursuant to the Rules of Practice governing such matters (7 CFR 1.130 *et seq.*). Except in cases of willfulness or where the public health, interest, or safety requires otherwise, a violator must be given written warning and opportunity to demonstrate or achieve compliance with the Act before its license can be suspended or revoked (5 U.S.C. 551 *et seq.*). The warning letters referred to above serve this purpose. If formal proceedings are instituted, the violator is afforded an oral hearing, if requested, before an Administrative Law Judge,

an opportunity to appeal an adverse decision to the Department's Judicial Officer, and a further opportunity to appeal an adverse final decision to the appropriate United States Circuit Court of Appeals.

(6) *Use of record of misrepresentation.* A cumulative record of misrepresentation is maintained. It is used as a basis for determining whether a warning letter should be considered, and, if so, the amount of monetary penalty which is appropriate, or whether there is cause for instituting a formal disciplinary proceeding seeking suspension or revocation of the violator's license. But after payment of a monetary penalty or after two years from the date of the last violation, no formal disciplinary use can be made of the previous record of violation. The record of misrepresentation shall be erased if there are no further violations in the twenty-four (24) month period immediately following the most recent violation, or after 36 months from the date of each individual violation unless it is involved in formal disciplinary proceedings.

[43 FR 4964, Feb. 7, 1978, as amended at 46 FR 22746, Apr. 21, 1981; 47 FR 21234, May 18, 1982; 62 FR 15088, Mar. 31, 1997; 70 FR 29578, May 24, 2005]

STATUTORY TRUST

### § 46.46 Statutory trust.

(a) *Definitions.* (1) ''Received'' means the time when the buyer, receiver, or agent gains ownership, control, or possession of the perishable agricultural commodities: *Provided,* That when perishable agricultural commodities have not been received as described above, and where there is a rejection without reasonable cause as provided in § 46.2(bb) and (cc), the goods will be considered to have been received when proffered.

(2) ''Dissipation'' means any act or failure to act which could result in the diversion of trust assets or which could prejudice or impair the ability of unpaid suppliers, sellers, or agents to recover money owed in connection with produce transactions.

(3) ''Default'' means the failure to pay promptly money owed in connection with transactions in perishable agricultural commodities; *i.e.,* within the period of time applicable to the type of transaction as established by the provisions of the regulations (§ 46.2(aa)), or as otherwise agreed upon by the parties.

(4) ''Calendar days'' as used in section 5(c) 3 of the Act means every day of the week, including Saturdays, Sundays, and holidays, except that if the thirtieth calendar day falls on a Saturday, Sunday, or holiday, the final day with respect to the time for filing a written notice of intent to preserve the benefit of the trust shall be the next day upon which there is postal delivery service.

(5) ''Ordinary and usual billing or invoice statements'' as used in section 5(c)(4) of the Act, and ''invoice or other billing statement'' as used in § 46.46(f)(3), mean communications customarily used between parties to a transaction in perishable agricultural commodities in whatever form, documentary or electronic, for billing or invoicing purposes.

(b) *Trust assets.* The trust is made up of perishable agricultural commodities received in all transactions, all inventories of food or other products derived from such perishable agricultural commodities, and all receivables or proceeds from the sale of such commodities and food or products derived therefrom. Trust assets are to be preserved as a nonsegregated ''floating'' trust. Commingling of trust assets is contemplated.

(c) *Trust benefits.* (1) When a seller, supplier or agent who has met the eligibility requirements of paragraphs (e)(1) and (2) of this section, transfers ownership, possession, or control of goods to a commission merchant, dealer, or broker, it automatically becomes eligible to participate in the trust. Participants who preserve their rights to benefits in accordance with paragraph (f) of this section remain beneficiaries until they are paid in full.

(2) Any licensee, or person subject to license, who has a fiduciary duty to collect funds resulting from the sale or consignment of produce, and remit such funds to its principal, also has the duty to preserve its principal's rights to trust benefits in accordance with

paragraph (f) of this section. The responsibility for filing the notice to preserve the principal's rights is obligatory and cannot be avoided by the agent by means of a contract provision. Persons acting as agents also have the responsibility to negotiate contracts which entitle their principals to the protection of the trust provisions: *Provided*, That a principal may elect to waive its right to trust protection. To be effective, the waiver must be in writing and separate and distinct from any agency contract, must be signed by the principal prior to the time affected transactions occur, must clearly state the principal's intent to waive its right to become a trust beneficiary on a given transaction, or a series of transactions, and must include the date the agent's authority to act on the principal's behalf expires. In the event an agent having a fiduciary duty to collect funds resulting from the sale or consignment of produce and remit such funds to its principal fails to perform the duty of preserving its principal's rights to trust benefits, it may be held liable to the principal for damages. A principal employing a collect and remit agent must preserve its rights to trust benefits against such agent by filing appropriate notices with the agent.

(d) *Trust maintenance.* (1) Commission merchants, dealers and brokers are required to maintain trust assets in a manner that such assets are freely available to satisfy outstanding obligations to sellers of perishable agricultural commodities. Any act or omission which is inconsistent with this responsibility, including dissipation of trust assets, is unlawful and in violation of section 2 of the Act, (7 U.S.C. 499b).

(2) Agents who sell perishable agricultural commodities on behalf of a principal are required to preserve the principal's rights as a trust beneficiary as set forth in § 46.2(z), (aa) and paragraphs (d), (f), and (g) of this section. Any act or omission which is inconsistent with this responsibility, including failure to give timely notice of intent to preserve trust benefits, is unlawful and in violation of section 2 of the Act, (7 U.S.C. 499b).

(e) *Prompt payment and eligibility for trust benefits.* (1) The times for prompt accounting and prompt payment are set out in § 46.2(z) and (aa). Parties who elect to use different times for payment must reduce their agreement to writing before entering into the transaction and maintain a copy of their agreement in their records, and the times of payment must be disclosed on invoices, accountings, and other documents relating to the transaction.

(2) The maximum time for payment for a shipment to which a seller, supplier, or agent can agree, prior to the transaction, and still be eligible for benefits under the trust is 30 days after receipt and acceptance of the commodities as defined in § 46.2(dd) and paragraph (a)(1) of this section.

(3) If there is a default in payment as defined in § 46.46(a)(3), the seller, supplier, or agent who has met the eligibility requirements of paragraphs (e)(1) and (2) of this section will not forfeit eligibility under the trust by agreeing in any manner to a schedule for payment of the past due amount or by accepting a partial payment.

(4) The trust provisions do not apply to transactions between a cooperative association (as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), and its members.

(5) The amount claimable against the trust by a beneficiary or grower will be the net amount due after allowable deductions of contemplated expenses or advances made in connection with the transaction by the commission merchant, dealer, or broker.

(f) *Filing notice of intent to preserve trust benefits.* (1) Notice of intent to preserve benefits under the trust must be in writing, must include the statement that it is a notice of intent to preserve trust benefits and must include information which establishes for each shipment:

(i) The names and addresses of the trust beneficiary, seller-supplier, commission merchant, or agent and the debtor, as applicable,

(ii) The date of the transaction, commodity, invoice price, and terms of payment (if appropriate),

(iii) The date of receipt of notice that a payment instrument has been dishonored (if appropriate), and

(iv) The amount past due and unpaid.

(2) Timely filing of a notice of intent to preserve benefits under the trust will be considered to have been made if written notice is given to the debtor within 30 calendar days:

(i) After expiration of the time prescribed by which payment must be made pursuant to regulation,

(ii) After expiration of such other time by which payment must be made as the parties have expressly agreed to in writing before entering into the transaction, but not longer than the time prescribed in paragraph (e)(2) of this section, or

(iii) After the time the supplier, seller or agent has received notice that a payment instrument promptly presented for payment has been dishonored. Failures to pay within the time periods set forth in paragraphs (f)(2)(i) and (ii) of this section constitute defaults.

(3) Licensees may choose an alternate method of preserving trust benefits from the requirements described in paragraphs (f)(1) and (2) of this section. Licensees may use their invoice or other billing statement as defined in paragraph (a)(5) of this section, whether in documentary or electronic form, to preserve trust benefits. Alternately, the licensee's invoice or other billing statement, given to the buyer, must contain:

(i) The statement: ''The perishable agricultural commodities listed on this invoice are sold subject to the statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.''; and

(ii) The terms of payment if they differ from prompt payment set out in section 46.2(z) and (aa) of this part, and the parties have expressly agreed to such terms in writing before the affected transactions occur.

(4) If the invoice or other billing statement is in electronic form, the licensee has met its requirement of giving the buyer notice of intent to preserve trust benefits on the face of the invoice or other billing statement if the electronic invoice or other billing statement containing the statement set forth in paragraph (f)(3)(i) is sent to the buyer and the electronic transmission can be verified. The licensee will be deemed to have given notice to the buyer of its intent to preserve trust benefits if the licensee can verify that the electronic invoice or other billing statement was sent to a third party electronic transaction vendor designated by the buyer. The licensee will have met the requirement of giving the buyer written notice of intent to preserve trust benefits using electronic means if it can verify that the electronic data invoice or other billing statement was transmitted to the buyer, or its designated electronic transaction vendor, irrespective of whether or not the buyer or third party vendor downloads or accepts the trust statement.

(5) If a buyer conducts its transactions in perishable agricultural commodities using an electronic system, the buyer or its third party electronic vendor must allow sufficient space for the seller to include the required trust statement of intent to preserve trust benefits in the buyer's electronic invoices or other billing statement forms. A buyer or its designated third party electronic vendor must accept a seller's notice of intent to preserve benefits under the trust using the required trust statement, whether in documentary or electronic form, as set forth in paragraphs (d) and (f) of this section. Any act or omission which is inconsistent with this responsibility is unlawful and in violation of Section 2 of the Act (7 U.S.C. 499b).

(Sec. 1, 46 Stat. 531, as amended; 7 U.S.C. 499a *et seq.)*

[49 FR 45740, Nov. 20, 1984, as amended at 62 FR 15088, Mar. 31, 1997; 62 FR 60999, Nov. 14, 1997; 72 FR 29838, May 30, 2007; 76 FR 20220, Apr. 12, 2011]

OMB CONTROL NO.

### § 46.47 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management

and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581–0031.

[49 FR 23826, June 8, 1984]

### § 46.48 Procedure for investigating complaints involving commodities of a unique nature or coming from a distinct geographic area.

(a) *Scope:* This section provides for the payment of fees and the investigation of allegations of misrepresentation or misbranding in which the commodity which is misbranded or misrepresented is purported to be a commodity of a unique name or geographical designation which is defined as:

(1) A perishable agricultural commodity as that term is defined under the Perishable Agricultural Commodities Act, 1930;

(2) Subject to a federal marketing order under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*);

(3) Traditionally identified as being produced in a distinct geographic area, State, or region; and

(4) Of a unique identity, based on such distinct geographic area, which has been promoted with funds collected through producer contributions pursuant to such marketing order.

(b) *Filing complaints:* (1) Any person desiring to complain of a possible violation by any commission merchant, dealer, or broker as a result of misrepresentation or misbranding of any commodity subject to these regulations may file a complaint with the Secretary of Agriculture and request an investigation of the complaint by the Secretary.

(2) Complaints shall be made in writing setting forth all the essential details, including but not limited to:

(i) The name and address of each complaining person;

(ii) The name and address of each person against whom the complaint is made;

(iii) The commodity, approximate quantity of the commodity, and circumstances of alleged misrepresentation or misbranding;

(iv) The current location of the commodity;

(v) If shipped, the shipping and destination points of the commodity;

(vi) A statement of all other known material facts with respect to the complaint; and

(vii) Copies of any documents or evidence of any kind in the possession of the complainant regarding the alleged violation.

(3) The complaint shall be accompanied by a non-refundable $250.00 filing fee made payable to the Agricultural Marketing Service (see paragraph (e) of this section Collection of fees).

(4) The complaint, all supporting evidence, and fee should be mailed to: PACA Branch, room 2095 So., Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456.

(c) *Handling complaints.* (1) Upon receiving a written complaint, supporting evidence, and the $250.00 preliminary investigation fee from a complaining person, the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture shall order a preliminary investigation to determine if the complaint can be substantiated. If the initial investigation discloses no violation of the Act, no further action shall be taken and the complaining person shall be informed of the finding. The $250.00 filing fee shall be considered full payment for the preliminary investigation.

(2) If the Director finds reasonable cause for further investigation, the complaining person shall be duly notified of the findings. Prior to any further investigation, the Director shall advise the complaining person of the estimated fees and charges which the complaining person must pay. In calculating the estimated fees, the Director shall use the hourly salary rate of a GS–5, Step 4, for clerical time and GS–13, Step 1, for professional time, plus benefits and other related expenses including travel associated with the investigation.

(3) At the conclusion of the investigation, the Department will inform the complaining person of the results, provided, however, that any findings, the release of which may jeopardize an ongoing formal disciplinary proceeding initiated under the PACA, may be

withheld pending completion of the disciplinary case.

(d) *Investigative authority.* Investigation of a complaint of this section shall be deemed to be an investigation under section 6(b) of the Perishable Agricultural Commodities Act (7 U.S.C. 499f(b)).

(e) *Collection of fees.* (1) Any person bringing a complaint, alleging a violation of section 1309 of the Food, Agriculture, Conservation, and Trade Act of 1990 shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of that section.

(2) A non-refundable $250.00 fee for the preliminary investigation shall accompany the written complaint.

(3) An estimate of fees and charges to conduct the further investigation calculated in accordance with paragraph (c)(2) of this section will be provided the complaining person.

(i) Payment of the fees and charges shall be collected in advance by the Secretary prior to continuation of investigation of a complaint.

(ii) Payment of fees and charges may be made by cash, check, or money order payable to the Agricultural Marketing Service.

(iii) In the event that the estimated fees and charges prove to be inadequate, the complaining person will be informed of the deficiency. Any complaining person that does not reimburse the Secretary full payment for fees and charges associated with a completed investigation shall be liable to be proceeded against in any court of competent jurisdiction in a suit by the United States to collect any monetary or other damages connected with the investigation.

(iv) The complaining person will be reimbursed by the Secretary for any overpayment of fees and charges, except for the $250.00 preliminary investigation fee which is nonrefundable.

[56 FR 51826, Oct. 16, 1991]

### § 46.49 Written notifications and complaints.

(a) *Written notification,* as used in section 6(b) of the Act, means:

(1) Any written statement reporting or complaining of a PACA violation(s) filed by any officer or agency of any State or Territory having jurisdiction over licensees or persons subject to license, or any other interested person who has knowledge of or information regarding a possible violation, other than an employee of an agency of USDA administering this Act or a person filing a complaint under section 6(c);

(2) Any written notice of intent to preserve the benefits of the trust established under section 5 of this Act; or

(3) Any official certificate(s) of the United States Government or States or Territories of the United States.

(b) Any written notification may be filed by delivering it to any office of USDA or any official thereof responsible for administering the Act. A written notification which is so filed, or any expansion of an investigation resulting from any indication of additional further violations of the Act found as a consequence of an investigation based on written notification or complaint, shall also be deemed to constitute a complaint under section 13(a) of this Act.

(c) Upon becoming aware of a complaint under section 6(a) or 6(b) of this Act, the Secretary will determine if reasonable grounds exist for an investigation of such complaint for disciplinary action. If the investigation substantiates the existence of violations, a formal disciplinary complaint may be filed by the Secretary as described under section 6(c)(2) of the Act.

(d) Whenever an investigation, initiated as a result of a written notification or complaint under section 6(b) of the Act, is commenced, or expanded to include new violations, notice shall be given by the Secretary to the subject of the investigation within thirty (30) days of the commencement or expansion of the investigation. Within one hundred and eighty (180) days after giving initial notice, the Secretary shall provide the subject of the investigation with notice of the status of the investigation, including whether the Secretary intends to issue a complaint under section 6(c)(2) of this Act, terminate the investigation, or continue or expand the investigation. Thereafter, the subject of the investigation may request in writing, no more frequently

than every ninety (90) days, a status report from the Chief of the PACA Branch who shall respond thereto within fourteen (14) days of receiving the request. When an investigation is terminated, the Secretary shall, within fourteen (14) days, notify the subject of the investigation of the termination. In every case in which notice or response is required under this subsection such notice or response shall be accomplished by personal service or by posting the notice or response by certified mail to the last known address of the subject of the investigation.

[62 FR 15089, Mar. 31, 1997]

# PART 47—RULES OF PRACTICE UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

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AUTHORITY: 5 U.S.C 553; 7 U.S.C. 499f; 7 U.S.C. 499o; 7 CFR 2.22(a)(1)(viii)(L), 2.79(a)(8)(xiii).

SOURCE: 10 FR 2209, Feb. 27, 1945, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 47 appear at 64 FR 38108, July 15, 1999.

GENERAL PROVISIONS

## § 47.1 Meaning of words.

Words in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

## § 47.2 Definitions.

As used in the regulations in this part, the terms as defined in section 1 of the Act shall apply with equal force and effect. Unless otherwise defined, the following terms whether used in the regulations in this part, in the Act, or in the trade shall be construed as follows:

(a) *Act* means the Perishable Agricultural Commodities Act, 1930, approved June 10, 1930, as amended (46 Stat. 531, 7 U.S.C., 499a *et seq.*, and 499b), and legislation supplementary thereto and amendatory thereof.

(b) *Department* means the United States Department of Agriculture.

(c) *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 or her stead.

(d) *Service* means the Agricultural Marketing Service, United States Department of Agriculture.

(e) *Associate Administrator* means the Associate Administrator of the Service, or any officer or employee of the Service to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his or her stead.

(f) *General Counsel* means the General Counsel of the Department or any employee of the Office of the General Counsel to whom the authority to act in his or her stead has heretofore been or may hereafter be delegated.

(g) *Fruit and Vegetable Programs* means the Fruit and Vegetable Programs of the Agricultural Marketing Service.

(h) *Deputy Administrator* means the Deputy Administrator of the Fruit and Vegetable Programs or any officer or employee of the Fruit and Vegetable Programs to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated by the Deputy Administrator, to act in his stead.

(i) *Examiner*. In connection with reparation proceedings, the term ''examiner'' is synonymous with ''presiding officer'' and means any attorney employed in the Office of the General Counsel of the Department, or in connection with reparation proceedings conducted pursuant to the documentary procedure in §47.20, the term ''examiner'' may mean any other employee of the PACA Branch whose work is reviewed by an attorney employed in the Office of the General Counsel of the Department.

(j) *Examiner's report*. In connection with reparation proceedings, ''examiner's report'' means the examiner's report to the Secretary, and includes the examiner's proposed (i) findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefore, (ii) order and (iii) rulings on findings, conclusions and orders submitted by the parties.

(k) *Hearing* means that part of the proceeding which involves the submission of evidence and may or may not include an oral hearing.

(l) *Hearing Clerk* means the Hearing Clerk, United States Department of Agriculture, Washington, DC 20250.

(m) *Disciplinary proceeding* means any proceeding (other than a reparation proceeding) arising under the Act, in which proceeding it is required by law that the order or other determination duly issued shall be made only after an opportunity for a hearing, and, if a hearing be held, only upon the basis of a record made in the course of such hearing.

(n) *Reparation proceeding* means a proceeding in which money damages are claimed and in which the Department is not a party.

(o) *Party* includes the Department in those instances in which a proceeding is instituted upon moving papers filed by an officer or employee of the Department in an official capacity.

(p) *Complainant* means the party upon whose moving paper the proceeding is instituted.

(q) *Respondent* means the party proceeded against, whether the proceeding is instituted by the Department or by a private person.

(r) *Moving paper* means any formal complaint, petition, or order to show cause, by virtue of which a proceeding under the Act is instituted.

(s) *Mail* means to deposit an item in the United States Mail with postage affixed and addressed as necessary to cause it to be delivered to the address shown by ordinary mail, or by certified mail or registered mail if specified, or to cause a properly addressed item to be delivered by a commercial or private mail delivery service to the address shown.

(t) *Re-mail* means to mail by ordinary mail to an address an item that has been returned after being sent to the same address by certified or registered mail or by a commercial or private mail delivery service.

[10 FR 2209, Feb. 27, 1945; 10 FR 8685, July 13, 1945, as amended at 11 FR 224, Jan. 4, 1946; 12 FR 5483, Aug. 13, 1947; 19 FR 57, Jan. 6, 1954; 38 FR 30445, Nov. 5, 1973; 56 FR 174, Jan. 3, 1991; 60 FR 8459, Feb. 14, 1995; 64 FR 38105, July 15, 1999]

### §47.3 Institution of proceedings.

(a) *Informal complaints*. (1) Any interested person (including any officer or agency of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory, and any employee of the Department) desiring to complain of any violation of any provision of the Act by any commission merchant, dealer, or broker may file with the Deputy Administrator an informal complaint. Informal complaints may

be made the basis of either a disciplinary complaint, or a claim for damages, or both. If the informal complaint is to be made the basis of a claim for damages, it must be received by the Deputy Administrator within 9 months after the cause of action accrues; if the informal complaint is not to be made the basis of a claim for damages, it may be filed at any time within 2 years after the violation of the act occurred: *Provided,* That the 2-year limitation herein prescribed shall not apply to complaints charging flagrant or repeated violations of the act.

(2) Informal complaints may be made in writing by telegram, by letter, or by facsimile transmission, setting forth the essential details of the transaction complained of. So far as practicable, every such informal complaint shall state such of the following items as may be applicable:

(i) The name and address of each person and of the agent, if any, representing him in the transaction involved;

(ii) Quantity and quality or grade of each kind of produce shipped;

(iii) Date of shipment;

(iv) Carrier identification;

(v) Shipping and destination points;

(vi) If a sale, the date, sale price, and amount actually received;

(vii) If a consignment, the date, reported proceeds, gross and net;

(viii) Amount of damages claimed, if any; and

(ix) Statement of other material facts including terms of contract.

(3) The informal complaint should, so far as practicable, be accompanied by true copies of all available papers relating to the transaction complained about, including shipping documents, letters, telegrams, invoices, manifests, inspection certificates, accounts sales, and any special contracts or agreements.

(4) The informal complaint shall be accompanied by a filing fee of $100 as authorized by the Act.

(b) *Investigations and disposition of informal complaints.* (1) Upon receipt of all the information and supporting evidence submitted by the person filing the informal complaint, the Deputy Administrator shall cause such investigation to be made as, in the Deputy Administrator's opinion, is justified by the facts. If such investigation discloses that no violation of the Act has occurred, no further action shall be taken and the person filing the informal complaint shall be so informed.

(2) If the statements in the informal complaint and the investigation thereunder seem to warrant such action, and, in any case except one of wilfullness or one in which public health, interest or safety otherwise requires, which may result in the suspension or revocation of a license, the Deputy Administrator, in an effort to effect an amicable or informal adjustment of the matter, shall give written notice to the person complained against of the facts or conduct concerning which complaint is made, and shall afford such person an opportunity, within a reasonable time fixed by the Deputy Administrator, to demonstrate or achieve compliance with the applicable requirements of the Act and regulations promulgated thereunder.

[10 FR 2211, Feb. 27, 1945, as amended at 12 FR 1025, Feb. 13, 1947; 56 FR 174, Jan. 3, 1991; 60 FR 8459, Feb. 14, 1995; 64 FR 38106, July 15, 1999; 73 FR 31017, May 30, 2008]

### § 47.4 Service and proof of service.

(a) *Who shall make service.* Copies of all documents or papers required or authorized by the rules in this part to be filed with the Fruit and Vegetable Programs shall be served on the parties by the Fruit and Vegetable Programs, and copies of all documents or papers required or authorized by the rules in this part to be filed with the Hearing Clerk shall be served on the parties by the Hearing Clerk, unless any such document or paper is served by some other employee of the Department, or by a U.S. Marshal or deputy marshal, or as otherwise provided herein, or as otherwise directed by the presiding officer or Judicial Officer.

(b) *Service on Party.* (1) Any complaint or other document initially served on a person to make that person a party respondent in a proceeding, a final order, or other document specifically ordered by the presiding officer or Judicial Officer to be served by certified or registered mail, or commercial or private mail delivery service,

shall be deemed to be received by any party to a proceeding on the date of delivery by certified or registered mail, or commercial or private mail delivery service to the last known principal place of business of such party, last known principal place of business of the attorney or representative of record of such party, last known residence of such party if an individual: Provided, That, if any such document or paper is sent by certified, registered, commercial, or private mail, but is returned, it shall be deemed to be received by such party on the date of the re-mailing by ordinary mail to the same address.

(2) Any document or paper, other than one specified in paragraph (b)(1) of this section or written questions for a deposition as provided in §47.16(d)(2), shall be deemed to be received by any party to a proceeding on the date of mailing by ordinary mail to the last known principal place of business of such party, last known principal place of business of the attorney or representative of record of such party, or last known residence of such party if an individual.

(3) Any document or paper served other than by certified, registered, commercial, or private mail on any party to a proceeding shall be deemed to be received by such party on the date of:

(i) Delivery to any responsible individual at, or leaving in a conspicuous place at, the last known principal place of business of such party, last known principal place of business of the attorney or representative of record of such party, or last known residence of such party if an individual, or

(ii) Delivery to such party if an individual, to an officer or director of such party if a corporation, or to a member of such party if a partnership, at any location.

(c) *Service on another.* Any subpoena or other document or paper served on any person other than a party to a proceeding shall be deemed to be received by such person on the date of:

(1) Delivery by certified, registered, commercial, private or mail to the last known principal address of such person, last know principal place of business of the attorney or representative of record of such person, or last known residence of such person if an individual;

(2) Delivery other than by mail to any responsible individual at, or leaving in a conspicuous place at, any such location; or

(3) Delivery to such party if an individual, to an officer or director of such party if a corporation, or to a member of such party if a partnership, at any location.

(d) *Proof of service.* Any of the following, in the possession of the Department, showing such service, shall be deemed to be accurate:

(1) A certified or registered mail receipt returned by the postal service with a signature, or a signed receipt returned by a private or commercial mail delivery service;

(2) An official record of the postal service;

(3) An entry on a docket record or a copy placed in a docket filed by the Hearing Clerk of the Department or by an employee of the Hearing Clerk in the ordinary course of business;

(4) A certificate of service, which need not be separate from and may be incorporated in the document or paper of which it certifies service, showing the method, place and date of service in writing and signed by an individual with personal knowledge thereof, *Provided*, That such certificate must be verified by oath or declaration under penalty of perjury if the individual certifying service is not a party to the proceeding in which such document or paper is served, an attorney or representative of record for such a party, or an official or employee of the United States or of a State or political subdivision thereof.

[56 FR 174, Jan. 3, 1991; 56 FR 5151, Feb. 8, 1991, as amended at 60 FR 8459, Feb. 14, 1995; 64 FR 38106, July 15, 1999]

### §47.5 Scope and applicability of rules of practice.

Sections 47.6 through 47.25 shall be applicable to the procedure governing the filing and disposition of formal complaints in reparation proceedings. Sections 47.47 through 47.68 shall be applicable to the proceedings for determining whether a person is responsibly connected with a licensee under the

Perishable Agricultural Commodities Act. Sections 47.1 through 47.5 and § 47.46 shall be applicable to all proceedings under §§ 47.6 through 47.25. Sections 47.1 and 47.2, except for § 47.2 (i) through (r), shall be applicable to all proceedings under §§ 47.47 through 47.68. In addition, except to the extent that they are inconsistent with §§ 1.130 through 1.151 of this chapter, §§ 47.1 through 47.5 and 47.46 are also applicable to procedures governing the filing and disposition of formal complaints and other moving papers relating to administrative proceedings to enforce the Act pursuant to §§ 1.130 through 1.151 of this chapter.

[43 FR 30787, July 18, 1978, as amended at 60 FR 8459, Feb. 14, 1995]

RULES APPLICABLE TO REPARATION PROCEEDINGS

### § 47.6 Formal complaints.

(a) *Filing; contents; number of copies.* (1) If the procedure provided in § 47.3(b) fails to effect an amicable or informal settlement, the person who filed the informal complaint may, if further proceedings are desired, file a formal complaint with the Fruit and Vegetable Programs. The formal complaint shall be filed within ninety days of notification of the opportunity to proceed formally. Failure to file a formal reparation complaint within the time prescribed shall result in the waiver of further proceedings on the claim alleged in the informal complaint.

(2) The formal complaint shall set forth the information and be accompanied by the papers indicated in § 47.3(a)(2) and (3), including a statement of the amount of damages claimed, with the basis therefor, and the method of determination. The original and three copies shall be furnished for filing, and service on the respondent. If there is more than one respondent, a further copy shall be furnished for each additional respondent.

(b) *Bond Required if Complainant is Nonresident.* If formal complaint for reparation is filed by a nonresident of the United States, complainant shall first file a bond in double the amount of the claim either with a surety company approved by the Treasury Department of the United States as surety or with two personal sureties, each of whom shall be a citizen of the United States and shall qualify as financially responsible for the entire amount of the bond. The bond shall run to the respondent and be conditioned upon the payment of costs, including reasonable attorney's fees, for the respondent if the respondent shall prevail, and of any reparation award that may be issued by the Secretary against the complainant on any counterclaim asserted by respondent: *Provided,* That the furnishing of a bond may be waived at the discretion of the Secretary if the complainant is a resident of a country which permits the filing of a complaint in an administrative forum or its equivalent which is substantially similar to that provided under the Perishable Agricultural Commodities Act by a resident of the United States against a citizen of that country without the furnishing of a bond. Nothing in this section shall limit the discretion of the Secretary to deny such a waiver in order to effectuate the purposes of the Act or to protect the interests of the businesses concerned.

(c) Service upon respondent; proof of service. Upon receipt by the Fruit and Vegetable Programs of the formal complaint, the accompanying papers and the $500 handling fee authorized by the Act, a copy thereof shall be served by the Fruit and Vegetable Programs upon the respondent in accordance with § 47.4 of this part. If the complaint is not in the proper form, the Fruit and Vegetable Programs shall return it and inform the complainant of the deficiencies therein.

(d) *Amendments.* At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, if the respondent so requests, be adjourned for a reasonable time to be determined by the examiner: *Provided,* That, if the amendment introduces a new or different cause of action, it must be filed within 9 months after the cause of action accrued. Amendments subsequent to the first amendment or subsequent to the filing of an answer by the respondent may be made only with leave of the examiner

or with the written consent of the adverse party.

[10 FR 2209, Feb. 27, 1945, as amended at 56 FR 176, Jan. 3, 1991; 64 FR 38106, July 15, 1999; 73 FR 31017, May 30, 2008]

### §47.7 Report of investigation.

Where the facts and circumstances are deemed by the Deputy Administrator to warrant such action, the Fruit and Vegetable Programs shall serve upon each of the parties a copy of the report made by the Fruit and Vegetable Programs in connection with its investigation of the informal or formal complaint. Whenever the Secretary, or the Deputy Administrator, or the examiner deems it necessary, a supplemental investigation shall be made by the Fruit and Vegetable Programs and a copy of the report thereon shall be served upon the parties. If an answer is filed by respondent, a copy of any report or reports of investigation served upon the parties shall be filed with the Hearing Clerk and shall be considered as part of the evidence in the proceeding: *Provided*, That either party shall be permitted to submit evidence in rebuttal in the same manner as is provided in the regulations in this part for the submission of other evidence in the proceeding.

[24 FR 10055, Dec. 12, 1959]

### §47.8 The answer.

(a) *Filing and service.* Within 20 days after service of the formal complaint, unless extension of time has been requested and granted, the respondent may file with the Fruit and Vegetable Programs, an answer, in triplicate, signed by the respondent or his attorney. A copy of the answer shall be served upon the complainant by the Fruit and Vegetable Programs as provided in §47.4. If the answer includes a counterclaim, the answer shall be accompanied by the $300 handling fee required by the Act for formal complaints.

(b) *Contents.* Such answer shall contain (1) a precise statement of the facts which constitute the grounds of defense, including any set-off or counterclaim, and shall specifically admit, deny, or explain each of the allegations of the complaint, unless respondent is without knowledge, in which case the answer shall so state; or (2) a statement that the respondent admits all of the allegations of the complaint; or (3) a statement containing an admission of liability in an amount less than that alleged in the complaint (in which event, an order may be made, pursuant to section 7(a) of the Act, directing payment of the undisputed amount), and a denial, as in paragraph (b)(1) of this section, of liability for the remaining amount. The answer may contain a waiver of hearing.

(c) *Failure to file answer; effect of.* Failure to file an answer within the time prescribed shall constitute a waiver of hearing and an admission of the facts alleged in the complaint. If the facts deemed admitted are considered insufficient to support the amount of reparation sought, the proceeding shall continue on the question of damages only.

(d) *Procedure upon admission of facts.* Upon the admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint, an order may be issued without further procedure, official notice being taken of the license status of the respondent and the date of filing of the informal complaint, as disclosed by the records of the Department.

[10 FR 2212, Feb. 27, 1945, as amended at 24 FR 10055, Dec. 12, 1959; 64 FR 38106, July 15, 1999]

### §47.9 The reply.

(a) *Filing and service.* If the answer asserts a counterclaim or a set-off, the complaining party, within 20 days after service of the answer, may file a reply with the Fruit and Vegetable Programs. A copy of the reply shall be served upon the respondent by the Fruit and Vegetable Programs as provided in §47.4.

(b) *Contents.* The reply shall be confined strictly to the matters alleged in the counterclaim or set-off in the answer. It shall contain a precise statement of the facts which constitute the grounds of defense to the counterclaim or set-off, and shall specifically admit, deny, or explain each of the allegations of the counterclaim or set-off, unless the complainant is without knowledge,

in which case the reply shall so state; or a statement that the complainant admits all of the allegations of the counterclaim or set-off; or a statement containing an admission of liability in an amount less than that alleged in the counterclaim or set-off and a denial of liability for the remaining amount.

(c) *Failure to file reply.* Failure to file a reply shall be deemed a waiver of hearing on the counterclaim or set-off and an admission of the allegations contained in the counterclaim or set-off. If no reply is filed, the allegations of the counterclaim or set-off shall be deemed admitted.

[10 FR 2209, Feb. 27, 1945, as amended at 56 FR 174, Jan. 3, 1991; 64 FR 38106, July 15, 1999]

### § 47.10 Docketing of proceeding.

Immediately following the expiration of the period of time heretofore prescribed for the filing of the answer or reply, the Fruit and Vegetable Programs shall transmit all of the papers which have been filed in the proceeding to the Hearing Clerk, who shall assign a docket number to the proceeding. Thereafter the proceeding may be identified by such number.

### § 47.11 Examiners.

(a) *Disqualification.* No person who (1) has any pecuniary interest in any matter of business involved in the proceeding, or (2) is related within the third degree by blood or marriage to any of the persons involved in the proceeding shall serve as examiner in such proceeding.

(b) *Request for disqualification of examiner.* Any party may file with the Hearing Clerk a timely request, in affidavit form, for the disqualification of the examiner, which request shall set forth with particularity the grounds of alleged disqualification. After such investigation or hearing as the Secretary may deem necessary, the Secretary shall either deny or grant the request. If the request is granted, another examiner shall be assigned to the proceeding. If the request is denied, the request, any record made thereon, and the finding and order of the Secretary thereon shall be made a part of the record.

(c) *Powers.* Subject to review by the Secretary, as provided in this Part, the examiner who is an attorney employed in the Office of the General Counsel of the Department, in any proceeding assigned to him or her, shall have power to:

(1) Rule upon motions and requests;

(2) Set the time, place, and manner of the hearing, adjourn the hearing, and change the time, place, and manner of the hearing;

(3) Administer oaths and affirmations and take affidavits;

(4) Issue subpoenas over the facsimile signature of the Secretary requiring the attendance and testimony of witnesses and the production of books, contracts, papers, and other documentary evidence;

(5) Summon and examine witnesses and receive evidence;

(6) Take, or order (over the facsimile signature of the Secretary) the taking of, depositions;

(7) Admit or exclude evidence;

(8) Hear oral argument on facts or law;

(9) Require each party, prior to any hearing, to provide all other parties and the examiner with a copy of any exhibit that the party intends to introduce into evidence;

(10) Require each party, prior to any deposition, to provide all other parties and the examiner with a copy of any document that the party intends to use to examine a deponent;

(11) Require that any hearing to be conducted by telephone or audio-visual telecommunication be conducted at locations at which the parties and the examiner are able to transmit and receive documents during the hearing;

(12) Require that any deposition to be conducted by telephone or audio-visual telecommunication be conducted at locations at which the parties are able to transmit and receive documents during the deposition;

(13) Do all acts and take all measures necessary for the maintenance of order and for the efficient conduct of the proceeding.

(d) *Who may act in absence of examiner.* In case of the absence, illness, resignation, or death of the examiner who has been assigned to a proceeding, or, in case the General Counsel determines

that, for other good cause, such examiner should not act, the powers and duties to be performed by the examiner under these rules of practice in connection with such proceeding may, subject to the provisions of paragraph (a) of this section, be assigned to another examiner.

[10 FR 2212, Feb. 27, 1945; 11 FR 224, Jan. 4, 1946, as amended at 24 FR 10055, Dec. 12, 1959; 38 FR 30445, Nov. 5, 1973; 60 FR 8459, Feb. 14, 1995; 64 FR 38106, July 15, 1999]

### §47.12 Intervention.

At any time after the institution of a proceeding and before it has been submitted to the Secretary for final consideration, the Secretary or the examiner as defined in §47.2(i)(1) may, upon petition in writing and for good cause show, permit any person to intervene therein. The petition shall state with preciseness and particularity:

(a) The petitioner's relationship to the matters involved in the proceeding; (b) the nature of the material the petitioner intends to present in evidence; (c) the nature of the argument the petitioner intends to make; and (d) any other reason that the petitioner should be allowed to intervene.

[10 FR 2209, Feb. 27, 1945, as amended at 60 FR 8459, Feb. 14, 1995; 64 FR 38107, July 15, 1999]

### §47.13 Motions and requests.

(a) *General.* (1) All motions and requests made after the formal filing of the proceeding with the Hearing Clerk shall be filed with the Hearing Clerk, except that those made during an oral hearing may be stated orally and made a part of the transcript or recording.

(2) The examiner may rule upon all motions and requests filed or made prior to the transmittal of the record to the Secretary as hereinafter provided. The Secretary shall rule upon all motions and requests filed after that time.

(b) *Certification to the Secretary.* The submission or certification of any motion, request, objection, or other question to the Secretary prior to transmittal of the record to the Secretary as provided in this part shall be made by and in the discretion of the examiner. The examiner may either rule upon or certify the motion, request, objection, or other question to the Secretary, but not both.

[10 FR 2209, Feb. 27, 1945; 11 FR 224, Jan. 4, 1946, as amended at 38 FR 30445, Nov. 5, 1973; 60 FR 8459, Feb. 14, 1995]

### §47.14 Prehearing conferences.

(a) In any proceeding in which it appears that a conference will expedite the proceeding, the examiner, at any time prior to or during the course of the oral hearing, may request the parties or their counsel to appear at a conference before the examiner to consider:

(1) The simplification of the issues;

(2) The necessity or the desirability of amendments to the pleadings;

(3) The possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof;

(4) The limitation of the number of expert or other witnesses; or

(5) Such other matters as may expedite and aid in the disposition of the proceeding.

(b) No transcript or recording of the conference shall be made. If the conference is conducted by correspondence, the examiner shall forward copies of letters and documents to the parties as circumstances require. The correspondence in connection with a conference shall not be part of the record. The examiner shall prepare and file for the record a written summary of the action agreed upon or taken at the conference, which shall incorporate any written stipulations or agreements made by the parties at the conference or as a result of the conference.

(c) *Manner of the Conference.* (1) The conference shall be conducted by telephone or correspondence unless the examiner determines that conducting the conference by audio-visual telecommunication:

(i) Is necessary to prevent prejudice to a party;

(ii) Is necessary because of a disability of any individual expected to participate in the conference; or

(iii) Would cost less than conducting the conference by telephone or correspondence. If the examiner determines that a conference conducted by audio-visual telecommunication would measurably increase the United States Department of Agriculture's cost of

conducting the conference, the conference shall be conducted by personal attendance of any individual who is expected to participate in the conference, by telephone, or by correspondence.

(2) If the conference is not conducted by telephone or correspondence, the conference shall be conducted by audio-visual telecommunication unless the examiner determines that conducting the conference by personal attendance of any individual who is expected to participate in the conference:

(i) Is necessary to prevent prejudice to a party;

(ii) Is necessary because of a disability of any individual expected to participate in the conference; or

(iii) Would cost less than conducting the conference by audio-visual telecommunication.

[60 FR 8460, Feb. 14, 1995]

### § 47.15 Oral hearing before the examiner.

(a) *When permissible.* (1) Where the amount of the damages claimed, either in the complaint or in the counterclaim, does not exceed $30,000 (excluding interest), an oral hearing shall not be held, unless deemed necessary or desirable by the Fruit and Vegetable Programs or unless granted by the examiner as defined in § 47.2(i)(1), upon application of complainant or respondent setting forth the peculiar circumstances making an oral hearing necessary for a proper presentation of the case.

(2) Where the amount of damages claimed, either in the complaint or in the counterclaim, is in excess of $30,000 (excluding interest), the procedure provided in this section (except as provided in § 47.20(b)(2)) shall be applicable.

(b) *Request for hearing.* Any party may request an oral hearing on the facts by including such request in the complaint. Failure to request an oral hearing within the time allowed for filing of the reply, or within 10 days after the expiration of the time allowed for filing an answer, shall constitute a waiver of such hearing, and any party so failing to request an oral hearing will be deemed to have agreed that the proceeding may be decided upon a record formed under the documentary procedure provided in § 47.20.

(c) *Time, place, and manner.* (1) If and when the proceeding has reached the stage of oral hearing, the examiner, giving careful consideration to the convenience of the parties, shall set a time for hearing and shall file with the Hearing Clerk a notice stating the time and place of hearing. Unless the parties otherwise agree, the place of the hearing shall be the place in which the respondent is engaged in business. This notice shall state whether the hearing will be conducted by telephone, audio-visual telecommunication, or personal attendance of any individual expected to participate in the hearing and the examiner's determination regarding the manner of the hearing shall be made in accordance with paragraphs (c)(3) and (c)(4) of this section. If any change in the time, place, or manner of the hearing is made, the examiner shall file with the Hearing Clerk a notice of the change. The notice of any change in the time, place, or manner of the hearing shall be served on the parties, unless it is made during the course of an oral hearing and made part of the transcript or recording, or actual notice is given to the parties.

(2)(i) If and when the proceeding has reached the stage of oral hearing, any party may move that the hearing be conducted by telephone or personal attendance of any individual expected to attend the hearing rather than by audio-visual telecommunication. Any motion that the hearing be conducted by telephone or personal attendance of any individual expected to attend the hearing must be accompanied by a memorandum in support of the motion stating the basis for the motion and the circumstances that require the hearing to be conducted other than by audio-visual telecommunication.

(ii) Within 10 days after the examiner issues a notice stating the manner in which the hearing is to be conducted, any party may move that the examiner reconsider the manner in which the hearing is to be conducted. Any motion for reconsideration must be accompanied by a memorandum in support of the motion stating the basis for the motion and the circumstances that require the hearing to be conducted other

than in accordance with the examiner's notice.

(3) The hearing shall be conducted by audio-visual telecommunication unless the examiner determines that conducting the hearing by personal attendance of any individual expected to attend the hearing:

(i) Is necessary to prevent prejudice to a party;

(ii) Is necessary because of a disability of any individual expected to participate in the hearing; or

(iii) Would cost less than conducting the hearing by audio-visual telecommunication. If the examiner determines that a hearing conducted by audio-visual telecommunication would measurably increase the United States Department of Agriculture's cost of conducting the hearing, the hearing shall be conducted by personal attendance of any individual who is expected to participate in the hearing or by telephone.

(4) The examiner may, in his or her sole discretion or in response to a motion by a party to the proceeding, conduct the hearing by telephone if the examiner finds that a hearing conducted by telephone:

(i) Would provide a full and fair evidentiary hearing;

(ii) Would not prejudice any party; and

(iii) Would cost less than conducting the hearing by audio-visual telecommunication or personal attendance of any individual who is expected to participate in the hearing.

(d) *Appearances*—(1) *Representation.* In any proceeding under the Act, the parties may appear in person or by counsel or other representative.

(2) *Failure to appear.* If any party to the proceeding, after being duly notified, fails to appear at the hearing, the party shall be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the examiner may determine whether the party who is present shall present his or her evidence, in whole or in part, in the form of affidavits or by oral testimony.

(3) *Debarment of counsel or representative.* (i) Whenever, while a proceeding is pending before him or her, the examiner finds that a person acting as counsel or representative for any party to the proceeding is guilty of unethical or unprofessional conduct, the examiner may order that such person be precluded from further acting as counsel or representative in such proceeding. An appeal to the Secretary may be taken from any such order, but the proceeding shall not be delayed or suspended pending disposition of the appeal: *Provided,* That the examiner may suspend the proceedings for a reasonable time for the purpose of enabling the party to obtain other counsel or representative.

(ii) In case the examiner has issued an order precluding a person from further acting as counsel or representative in the proceeding, the examiner, within a reasonable time thereafter, shall submit to the Secretary a report of the facts and circumstances surrounding the issuance of the order and shall recommend what action the Secretary should take respecting the appearance of such person as counsel or representative in other proceedings before the Secretary. Thereafter, the Secretary may, after notice and an opportunity for hearing, issue such order respecting the appearance of such person as counsel or representative in proceedings before the Secretary as the Secretary finds to be appropriate.

(e) *Order of proceeding.* The complainant shall proceed first at the hearing and shall have the burden of proof, except that a party asserting a set-off or counterclaim shall have the burden of proof on such issue.

(f) *Written statements of direct testimony.* (1) Except as provided in paragraph (f)(2) of this section, each party must exchange with all other parties a written narrative verified statement of the oral direct testimony that the party will provide at any hearing to be conducted by telephone; the direct testimony of each employee or agent of the party that the party will call to provide oral direct testimony at any hearing to be conducted by telephone; and the direct testimony of each expert witness that the party will call to provide oral direct testimony at any hearing to be conducted by telephone. The written direct testimony of witnesses shall be exchanged by the parties at

least 10 days prior to the hearing. The oral direct testimony provided by a witness at a hearing conducted by telephone will be limited to the presentation of the written direct testimony, unless the examiner finds that oral direct testimony which is supplemental to the written direct testimony would further the public interest and would not constitute surprise.

(2) The parties shall not be required to exchange testimony in accordance with this paragraph if the hearing is scheduled to begin less than 20 days after the examiner's notice stating the time of the hearing.

(g) *Evidence*—(1) *In general.* (i) The testimony of witnesses at a hearing shall be upon oath or affirmation, subject to cross-examination, and shall be reported verbatim.

(ii) Any witness may, in the discretion of the examiner, be examined separately and apart from all other witnesses except those who may be parties to the proceeding.

(iii) The examiner shall exclude, insofar as practicable, evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(2) *Objections.* (i) If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, the party shall state briefly the grounds of such objections, whereupon an automatic exception will follow if the objection is overruled by the examiner. The transcript or recording shall not include argument or debate thereon except as ordered by the examiner. The ruling of the examiner on any objection shall be a part of the transcript or recording.

(ii) Only objections made before the examiner may subsequently be relied upon in the proceeding.

(3) *Depositions.* The deposition of any witness shall be admitted in the manner provided in and subject to the provisions of § 47.16.

(4) *Affidavits.* Except as is otherwise provided in these rules, affidavits may be admitted only if the evidence is otherwise admissible and the parties agree (which may be determined by their failure to make timely objections) that affidavits may be used.

(5) *Proof and authentication of official records or documents.* An official record or document, if admissible for any purpose, shall be admissible in evidence without the production of the person who made or prepared the same. Such record or document shall be evidenced by an official publication thereof or by a copy attested by the person having legal authority to make such attestation. The person attesting the copy shall make a certificate showing such authority.

(6) *Exhibits.* (i) All written statements, charts, tabulations, or similar data offered in evidence at the hearing shall, after identification by the proponent and upon a satisfactory showing of the admissibility of the contents thereof, be numbered as exhibits, received in evidence, and made a part of the record. Unless the examiner finds that the furnishing of copies is impracticable, a copy of each exhibit shall be filed with the examiner for the use of each other party to the proceeding. The examiner shall advise the parties as to the exact number of copies which will be required to be filed.

(ii) If the testimony of a witness refers to a statute, a report, document, recording, or transcript, the examiner, after inquiry relating to the identification of such statute, report, document, recording, or transcript, shall determine whether the same shall be produced at the hearing and physically be made a part of the evidence as an exhibit, or whether it shall be incorporated into the evidence by reference. If relevant and material matter offered in evidence is embraced in a report, document, recording, or transcript containing immaterial or irrelevant matter, such immaterial or irrelevant matter shall, insofar as practicable, be designated by the party and segregated and excluded.

(7) [Reserved]

(8) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript or recording. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a

brief oral statement or of an exhibit, it shall be inserted into the transcript or recording in toto. In such event, it shall be considered a part of the transcript or recording if the Secretary decides that the examiner's ruling in excluding the evidence was erroneous. The examiner shall not allow the insertion of such evidence in toto if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Secretary decides that the examiner erred in excluding the evidence, and that such error was substantial, the hearing shall be reopened to permit the taking of such evidence.

(h) *Oral argument before examiner.* The examiner may permit the parties or their counsel to argue orally at the hearing or at some other time prior to the transmittal of the record to the Secretary as provided in this part. Such argument may be limited by the examiner to any extent that the examiner finds necessary for the expeditious or proper disposition of the proceeding.

(i) *Transcript or recording.* (1) Hearings to be conducted by telephone shall be recorded verbatim by electronic recording device. Hearings conducted by audio-visual telecommunication or the personal attendance of any individual who is expected to participate in the hearing shall be transcribed, unless the examiner finds that recording the hearing verbatim would expedite the proceeding and the examiner orders the hearing to be recorded verbatim.

(2) If a hearing is recorded verbatim, a party requests the transcript of a hearing or part of a hearing, and the examiner determines that the disposition of the proceeding would be expedited by a transcript of the hearing or part of a hearing, the examiner shall order the verbatim transcription of the recording as requested by the party.

(3) If a reporter transcribes or records the testimony at a hearing, the reporter shall deliver the original transcript or recording, with exhibits thereto attached, to the examiner, who will retain such copy for the official file and for use in preparing his or her report. The reporter will also deliver to the examiner such other copy or copies as may be ordered by the Department, which copy or copies the examiner will forward to the Hearing Clerk.

(4) Parties to the proceeding, or others, who desire a copy of the transcript or recording of the hearing may place orders at the hearing with the reporter, who will furnish and deliver such copies direct to the purchaser upon payment of the applicable rate.

[10 FR 2213, Feb. 27, 1945; 11 FR 224, Jan. 4, 1946, as amended at 24 FR 10055, Dec. 12, 1959; 27 FR 12398, Dec. 14, 1962; 38 FR 30445, Nov. 5, 1973; 47 FR 21234, May 18, 1982; 60 FR 8460, Feb. 14, 1995; 64 FR 38107, July 15, 1999]

### §47.16 Depositions.

(a) *Application for taking deposition.* Upon the application of a party to the proceeding, the examiner as defined in §47.2(i)(1) may, except as provided in paragraph (b) of this section, at any time after the filing of the moving papers, order, over the facsimile signature of the Secretary, the taking of testimony by deposition. The application shall be in writing, shall be filed with the Hearing Clerk, and shall set forth:

(1) The name and address of the proposed deponent; (2) the name and address of the person (referred to hereinafter in this section as the ''officer''), qualified under the regulations in this part to take depositions, before whom the proposed examination is to be made; (3) the proposed time of the deposition which, unless otherwise agreed, shall be at least 30 days after the date of the mailing of the application; (4) the proposed place of the deposition; (5) the proposed manner in which the deposition is to be conducted (telephone, audio-visual telecommunication, or by personal attendance of the individuals who are expected to participate in the deposition); and (6) the reasons for taking the deposition.

(b) *Examiner's order for taking deposition.* (1) If, after examination of the application, the examiner is of the opinion that the deposition should be taken, or if the parties are using depositions in lieu of affidavits pursuant to §47.20(b)(2), the examiner shall order the taking of the deposition. In no case, except for good cause shown, may the examiner order the taking of a deposition less than 10 days prior to the designated date of deposition. The

order shall be filed with the Hearing Clerk upon the parties in accordance with § 47.4.

(2) The order shall state:

(i) The time of the deposition (which unless otherwise agreed shall not be less than 20 days after the filing of the order);

(ii) The place of the deposition;

(iii) The manner of the deposition (telephone, audio-visual telecommunication, or personal attendance of those who are to participate in the deposition);

(iv) The name of the officer before whom the deposition is to be made; and

(v) The name of the deponent.

(3) The deposition shall be conducted in the manner (telephone, audio-visual telecommunication, or personal attendance of those who are to participate in the deposition) agreed to by the parties.

(4) If the parties cannot agree on the manner in which the deposition is to be conducted:

(i) The deposition shall be conducted by telephone unless the examiner determines that conducting the deposition by audio-visual telecommunication:

(A) Is necessary to prevent prejudice to a party;

(B) Is necessary because of a disability of any individual expected to participate in the deposition; or

(C) Would cost less than conducting the deposition by telephone.

(ii) If the deposition is not conducted by telephone, the deposition shall be conducted by audio-visual telecommunication unless the examiner determines that conducting the deposition by personal attendance of any individual who is expected to participate in the deposition:

(A) Is necessary to prevent prejudice to a party;

(B) Is necessary because of a disability of any individual expected to participate in the deposition; or

(C) Would cost less than conducting the deposition by telephone or audio-visual telecommunication.

(c) *Qualification of officer*. The deposition shall be made before the examiner or before an officer authorized by the law of the United States or by the law of the place of the examination to administer oaths, or before an officer authorized by the Secretary to administer oaths.

(d) *Procedure on examination*. (1) The deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or some person under the officer's direction. In lieu of oral examination, parties may transmit written questions to the officer prior to examination and the officer shall propound the written questions to the deponent.

(2) The applicant shall arrange for the examination of the witness either by oral examination or by written questions. If the place of business of the opposing party is more than 100 miles from the place of the examination, the applicant will be required to conduct the examination by means of written questions, unless the parties otherwise agree or the examiner otherwise orders. If the examination is conducted by means of written questions, copies of the applicant's questions must be received by the other party to the proceeding and the officer at least 10 days prior to the date set for the examination unless otherwise agreed, and any cross questions of a party other than the applicant must be received by the applicant and the officer at any time prior to the time of the examination.

(e) *Certification by officer*. The officer shall certify on the deposition that the deponent was duly sworn by the officer and that the deposition is a true record of the deponent's testimony. The officer shall then securely seal the deposition, together with one copy thereof (unless there are more than two parties to a proceeding, in which case there should be another copy for each additional party), in an envelope and mail the same by registered mail to the Hearing Clerk.

(f) *Use of depositions*. A deposition taken in accord with this section or in accord with the provisions of the Rules of Civil Procedure of the Courts of the United States, may be used in a proceeding under the act if the examiner finds that the evidence is otherwise admissible. If a deposition has been taken, and the party upon whose application it was taken refuses to offer it

in evidence, the other party may offer the deposition, or any part thereof, in evidence.

[10 FR 2209, Feb. 27, 1945, as amended at 56 FR 174, Jan. 3, 1991; 60 FR 8461, Feb. 14, 1995; 64 FR 38107, July 15, 1999]

### § 47.17 Subpoenas.

(a) *Issuance of subpoenas.* The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to the proceeding may, by subpoena, be required at any designated place of hearing or at any designated place for the taking of a deposition. Subpoenas may be issued by the Secretary, or by the examiner, over the facsimile signature of the Secretary upon a reasonable showing by the applicant of the grounds, necessity, and reasonable scope thereof. Except for good cause shown, applications for subpoenas shall be filed with the Hearing Clerk at least 30 days prior to the designated date of hearing or deposition. Except for good cause shown, the examiner shall not issue subpoenas less than 20 days prior to the designated date of hearing or deposition.

(b) *Application for subpoena duces tecum.* Subpoenas for the production of documentary evidence shall be issued only upon a verified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, materiality, and the necessity for their production.

(c) *Service of subpoenas.* Subponeas may be served by any person not less than 18 years of age. The party at whose instance a subponea is issued shall be responsible for service thereof. Subpoenas shall be served as provided in § 47.4.

[10 FR 2209, Feb. 27, 1945; 11 FR 224, Jan. 4, 1946; 19 FR 57, Jan. 6, 1954, as amended at 38 FR 30445, Nov. 5, 1973; 56 FR 175, Jan. 3, 1991; 60 FR 8462, Feb. 14, 1995; 64 FR 38107, July 15, 1999]

### § 47.18 Fees and mileage.

Witnesses who are subpoenaed and who appear in the proceeding, including witnesses whose depositions are taken, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and persons taking depositions shall be entitled to the same fees as are paid for like services in the courts of the United States, to be paid by the party at whose request the deposition is taken. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear, and claims therefor shall be presented to such party.

### § 47.19 Post-hearing procedure before the examiner.

(a) *Certification of transcript or recording.* As soon as practicable after receipt of the transcript or recording, the examiner shall prepare his or her certificate stating that, to the best of his or her knowledge and belief, the transcript or recording is a true, correct, and complete transcript or recording of the testimony given at the hearing, except in such particulars as the examiner shall specify, and that the exhibits transmitted are all the exhibits received in evidence at the hearing, with such exceptions as the examiner shall specify. The original of such certificate shall be attached to the original transcript or recording and a copy of such certificate shall be furnished to each of the parties and to the Hearing Clerk. The examiner shall correct the original copy of the transcript or recording by adding or crossing out (but without obscuring the text) at the appropriate places any words necessary to make the text conform to the correct meaning, as certified by the examiner.

(b) *Proposed findings of fact, conclusions, and order.* The examiner shall decide and shall announce at the hearing whether proposed findings of fact, conclusions, and order may be filed by the parties. If allowed by the examiner, he or she shall announce a definite calendar day as the time within which these documents may be filed. Such findings of fact, conclusions, and order shall be based solely upon the evidence of record. They may be accompanied by supporting briefs and by a statement of objections made to the rulings of the examiner at the hearing.

(c) *Briefs.* If the examiner does not allow proposed findings of fact, conclusions, and order to be filed, the parties shall be given until a definite calendar day to file briefs.

(d) *Claim for award of fees and expenses*—(1) *Filing.* Prior to the close of the hearing, or within 20 days thereafter, each party may file with the Hearing Clerk a claim for the award of the fees and expenses which he incurred in connection with the oral hearing. No award of fees and expenses to the prevailing party and against the losing party shall be made unless a claim therefor has been filed, and failure to file a claim within the time allowed shall constitute a waiver thereof.

(2) *Fees and expenses which may be awarded to prevailing party.* The term ''fees and expenses,'' as used in section 7(a) of the Act, includes:

(i) Reasonable fees of an attorney or authorized representative for appearance at the hearing and for the taking of depositions necessary for introduction at the hearing; (ii) fees and mileage for necessary witnesses at the rates provided for witnesses in the courts of the United States; (iii) fees for the notarizing of a deposition and its reduction to writing; (iv) fees for serving subpenas; and (v) other fees and expenses necessarily incurred in connection with the oral hearing. Fees and expenses which are not considered to be reasonable or necessarily incurred in connection with the oral hearing will not be awarded.

(3) *Form of claim.* A claim for fees and expenses shall be in the form of a written itemized statement of the fees and expenses claimed, which shall include an explanation of how each item was computed, to which there shall be attached an affidavit, made by the party or the party's authorized attorney or agent having knowledge of the facts, that each such item is correct and has been necessarily incurred in connection with the oral hearing in the proceeding and that the services for which fees are claimed were actually and necessarily performed.

(4) *Service of claim.* A copy of each such claim filed shall be served by the Hearing Clerk on the other party or parties to the proceeding.

(5) *Objections to claim.* Within 20 days after being served with a copy of a claim for fees and expenses, the party so served may file with the Hearing Clerk written objections to the allowance of any or all of the items claimed. If evidence is offered in support of an objection, it must be in affidavit form. A copy of any such objections shall be served by the Hearing Clerk on the other party or parties.

(6) *Reply to objections to claim.* A claimant who is served with a copy of objections to his or her claim may, within 20 days after such service, file with the Hearing Clerk a reply to such objection. If evidence is offered in support of a reply, it must be in affidavit form. A copy of any such reply shall be served by the Hearing Clerk on the other party or parties.

(7) *Further inquiry by examiner.* Whenever it is deemed desirable or necessary for the proper disposition of a claim, the examiner may request statements as to specific matters from either or both parties. Any statements so furnished shall be served by the examiner on the other party.

(8) *Number of copies.* All documents or papers authorized by this paragraph to be filed with the examiner shall be filed in triplicate: *Provided,* That, where there are more than two parties to the proceeding an additional copy shall be filed for each additional party.

(e) *The examiner's report.* The examiner, with the assistance and collaboration of such employees of the Department as may be assigned for the purpose, and within a reasonable time after the termination of the periods allowed for the filing of the submissions of the parties allowed by this section, shall prepare, upon the basis of the evidence received at the hearing and with due consideration of submissions of the parties filed pursuant to this section, his or her report. Such report shall be filed with the Hearing Clerk and shall be prepared in the form of a final order for the signature of the Secretary, but shall not be served upon the parties, unless and until it shall have been signed by the Secretary, as hereinafter provided.

[38 FR 30445, Nov. 5, 1973, as amended at 41 FR 50803, Nov. 18, 1976; 56 FR 175, Jan. 3, 1991; 60 FR 8462, Feb. 14, 1995; 64 FR 38107, July 15, 1999]

### § 47.20 Documentary procedure.

(a) *In general.* The documentary procedure described in this section shall, whenever it is applicable as provided in

paragraph (b) of this section, take the place and serve in lieu of the oral hearing procedure hereinbefore provided. Under the documentary procedure, the pleadings of the parties, if verified in accordance with paragraph (h) of this section, and any report of investigation filed with the Hearing Clerk pursuant to § 47.7 will be considered as evidence in the proceeding. Under the shortened procedure, the pleadings of the parties, if verified in accordance with paragraph (h) of this section, and any report of investigation filed with the Hearing Clerk pursuant to § 47.7, will be considered as evidence in the proceeding. In addition, the parties may submit written proof in support of the complaint, answer, or reply, as the case may be, in the form of verified statements or depositions. After the close of the evidence, the parties may file briefs.

(b) *When applicable*—(1) *Where damages claimed do not exceed $30,000.* The documentary procedure provided for in this section shall (except as provided in § 47.15(a)) be used in all reparation proceedings in which the amount of damages claimed, either in the complaint or in the counterclaim, does not exceed $30,000 (excluding interest).

(2) *Where damages claimed exceed $30,000.* In any proceeding in which the amount of damages claimed, either in the complaint or in the counterclaim, is greater than $30,000 (excluding interest), the examiner, whenever he or she is of the opinion that proof may be fairly and adequately presented by use of the documentary procedure provided for in this section, shall suggest to the parties that they consent to the use of such procedure. Parties are free to consent to such procedure if they choose, and declination of consent will not affect or prejudice the rights or interests of any party. A party, if he or she has not waived oral hearing, may consent to the use of the documentary procedure on the condition that depositions rather than affidavits be used. In such case, if the other party agrees, depositions shall be required to be filed in lieu of verified statements. If any party who has not waived oral hearing does not consent to the use of the documentary procedure, the proceeding will be set for oral hearing. The suggestion that the documentary procedure be used need not originate with the examiner. Any party may address a request to the examiner asking that the documentary procedure be used.

(c) *Complainant's opening statement.* Within twenty (20) days after service of respondent's answer, complainant may file a verified opening statement, accompanied by any pertinent documents, which documents must be identified in the statement. If the answer is verified, complainant's evidence concerning the allegations of the answer should be included in the opening statement.

(d) *Respondent's answering statement.* Within twenty (20) days after service of complainants' opening statement or service of notice by the examiner that complainant has not filed an opening statement, respondent may file a verified answering statement, accompanied by any pertinent documents, which documents must be identified in the statement.

(e) *Complainant's statement in reply.* If respondent files an answering statement, complainant may, within twenty (20) days after service thereof upon complainant, file a verified statement in reply, accompanied by any pertinent documents, which documents must be identified in the statement.

(f) *Use of depositions in lieu of verified statements.* Depositions may be used in lieu of verified statements under paragraphs (c), (d), and (e) of this section.

(g) *Briefs.* Promptly after the conclusion of the presentation of evidence, the examiner shall notify the parties that they may file briefs within twenty (20) days after the receipt of such notice.

(h) *Verification.* Verification shall be made under oath of any facts set forth in the pleading or statement, by the person who signs the pleading or statement. Certification by a notary public is insufficient. The form of verification may be as follows:

_____, being first duly sworn, says that he (or she) has read the foregoing document and knows the contents thereof and that the facts set forth therein are true, except as to matters therein stated on information and belief, and as to such matters he believes them to be true, and that he (or she) is duly authorized to sign the document.

Subscribed and sworn to before me this _____ day of _____, 19____.

(Notary Public)

(i) *Stipulations.* In addition to or in lieu of the statements referred to in this section, the parties may file with the Hearing Clerk stipulations of fact signed by the parties or their representatives. Such stipulations filed with the Hearing Clerk shall become a part of the record.

(j) *Waiver of right to file.* Failure to file, within the time prescribed, any document authorized by this section shall constitute a waiver of the right to file such document.

(k) *The examiner's report.* Within a reasonable time after the time allowed for filing briefs, the examiner shall prepare his or her report in the manner prescribed in § 47.19(d).

(l) *Assignment for oral hearing.* Whenever it is deemed desirable or necessary for the proper disposition of the proceeding, the examiner, upon his or her own or any party's motion, may order the proceeding set down for oral hearing at any stage of the proceeding.

[27 FR 12398, Dec. 14, 1962, as amended at 47 FR 21234, May 18, 1982; 56 FR 175, Jan. 3, 1991; 60 FR 8462, Feb. 14, 1995; 64 FR 38107, July 15, 1999]

### § 47.21 Transmittal of record.

The Hearing Clerk, immediately after the filing of the examiners' report, shall transmit to the Secretary the record of the proceeding. Such record shall include: The pleadings; motions and requests filed, and rulings thereon; the report of investigation conducted by the Fruit and Vegetable Programs; the transcript or record of the testimony taken at the hearing, together with the exhibits filed therein; any statements or stipulations filed under the documentary procedure; any documents or papers filed in connection with conferences; such proposed findings of fact, conclusions, and orders and briefs as may have been permitted to be filed in connection with the hearing as provided in § 47.19(b) and (c); such statements of objections, and briefs in support thereof, as may have been filed in the proceeding; and the examiner's report.

[64 FR 38108, July 15, 1999]

### § 47.22 Argument before Secretary.

(a) *Oral argument.* There shall be no right to oral argument other than as provided in § 47.15(h).

(b) *Briefs.* The Secretary will consider any proposed findings of fact, conclusions, and orders, statements of objections, and briefs filed as provided in § 47.19(b). Briefs filed in accordance with § 47.19(c) and those filed in support of statements of fact will also be considered by the Secretary.

[10 FR 2209, Feb. 27, 1945, as amended at 12 FR 1026, Feb. 13, 1947; 60 FR 8462, Feb. 14, 1995]

### § 47.23 Issuance of order.

As soon as practicable after the receipt of the record from the Hearing Clerk, the Secretary, upon the basis of and after due consideration of the record, shall issue his or her order in the proceeding. Unless the Secretary disagrees with the order as drafted for his or her signature by the examiner, as provided in § 47.19(d), the Secretary shall issue as his or her order the order so prepared by the examiner. If the Secretary deems it advisable to do so, the Secretary may direct that the order be served upon the parties as a tentative order and that the parties be allowed such period of time, not to exceed 20 days, as the Secretary may specify, within which to file exceptions thereto and written argument or briefs in support of such exceptions.

[10 FR 2209, Feb. 27, 1945, as amended at 60 FR 8462, Feb. 14, 1995]

### § 47.24 Rehearing, reargument, reconsideration of orders, reopening of hearings, reopening after default.

(a) *Petitions to rehear, reargue, and reconsider.* A petition for rehearing or reargument of the proceeding, or for reconsideration of the order, shall be made by petition to the Secretary filed with the Hearing Clerk within 20 days after the date of service of the order. Every such petition shall state specifically the matters claimed to have been erroneously decided and the alleged errors. If the Secretary concludes that the questions raised by the petition have been sufficiently considered in the issuance of the order, the Secretary

shall dismiss the petition without service on the other party. Otherwise, the Secretary shall direct that a copy of the petition be served upon such party by the Hearing Clerk. The filing of a petition to rehear or reargue a proceeding, or to reconsider an order, shall automatically operate to set aside the order pending final action on the petition. Only one petition to rehear, reargue, or reconsider will be accepted from each party, except when a mathematical or typographical error appears in either the original decision and order or in the decision on reconsideration.

(b) *Petition to reopen.* A petition to reopen the hearing to take further evidence may be filed with the examiner at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing. Every such petition shall be served by the Hearing Clerk on the other party in the proceeding.

(c) *Procedure for disposition of petitions.* Within 20 days following the service of any petition provided for in this section, the other party to the proceeding may file with the Hearing Clerk an answer thereto. In the event that any such petition is granted the applicable rules of practice shall be followed.

(d) *Reopening after default.* The party in default in the filing of an answer or reply required or authorized under this part may petition to reopen the proceeding at any time prior to the expiration of 20 days from the date of service of the default order. If, in the judgment of the examiner, after notice to and consideration of the views of the other party(ies), there is good reason for granting such relief, the party in default will be allowed 20 days from the date of the order reopening the proceeding to file an answer.

[10 FR 2209, Feb. 27, 1945, as amended at 56 FR 175, Jan. 3, 1991; 60 FR 8462, Feb. 14, 1995; 64 FR 38108, July 15, 1999; 65 FR 29941, May 10, 2000]

### § 47.25 Filing; extensions of time; effective date of filing; computations of time; official notice.

(a) *Filing, number of copies.* Except as is provided otherwise herein, all documents or papers required or authorized by these rules to be filed with the Hearing Clerk shall be filed in triplicate: *Provided,* That, where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide for service upon all the parties to the proceeding. Any document or paper required or authorized by the regulations in this part to be filed with the Hearing Clerk shall, during the course of an oral hearing, be filed with the examiner.

(b) *Extensions of time.* The time for the filing of any document or paper (except an informal complaint) required or authorized under the regulations in this part to be filed may be extended by the examiner (before the transmittal of the record to the Secretary) or by the Secretary (after such transmittal), if, in the judgment of the examiner or the Secretary, as the case may be, there is good reason for the extension.

(c) *Effective date of filing.* Any document or paper required or authorized under the regulations in this part to be filed shall be deemed to be filed when it reaches the Department in Washington, DC; or, if filed with any officer or employee of the Regulatory Branch of the Fruit and Vegetable Programs at any place outside the District of Columbia, it shall be deemed to be filed at the time when it is received by such officer or employee.

(d) *Computations of time.* Saturdays, Sundays and holidays shall be included in computing the time allowed for the filing of any document or paper: Provided, That, when such time expires on a Saturday, Sunday or Federal holiday, such period shall be extended to include the next following business day.

(e) *Official notice.* In any proceeding official notice may be taken of (1) such matters as are judicially noticed by the courts of the United States; (2) any other matter of technical, scientific, or

commercial fact of established character; and (3) relevant publications and records of the Department.

[10 FR 2217, Feb. 27, 1945; 11 FR 224, Jan. 4, 1946, as amended at 24 FR 10055, Dec. 12, 1959; 56 FR 175, Jan. 3, 1991; 60 FR 8462, Feb. 14, 1995; 64 FR 38108, July 15, 1999]

RULES APPLICABLE TO DISCIPLINARY PROCEEDINGS

### § 47.46 Rule applicable to all proceedings.

The Secretary may act in the place and stead of an examiner or judge in any proceeding hereunder. When the Secretary so acts, the Hearing Clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions and orders, and the Secretary shall thereupon, after due consideration of the record, issue his or her final order in the proceeding: *Provided*, That the Secretary may issue a tentative order in which event the parties shall be afforded an opportunity to file exceptions before the issuance on the final order.

[12 FR 1026, Feb. 13, 1947, as amended at 38 FR 30447, Nov. 5, 1973; 60 FR 8462, Feb. 14, 1995]

RULES APPLICABLE TO THE DETERMINATION AS TO WHETHER A PERSON IS RESPONSIBLY CONNECTED WITH A LICENSEE UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

### § 47.47 Additional definitions.

The following definitions, which are in addition to those in § 47.2 (a) through (h), shall be applicable to proceedings under §§ 47.47 through 47.49.

(a) *Chief* means the Chief of the PACA Branch, or any officer or employee to whom authority has heretofore lawfully been delegated or to whom authority may hereafter lawfully be delegated by the Chief, to act in such capacity.

(b) *PACA Branch* means that PACA Branch of the Fruit and Vegetable Programs.

(c) *Petition for review* means the document filed requesting review by an Administrative Law Judge of the Chief's determination.

[61 FR 11504, Mar. 21, 1996]

### § 47.48 Scope and applicability.

These rules govern the determination of whether a person is responsibly connected with licensees under the Perishable Agricultural Commodities Act of 1930, as amended, or with persons whose license issued under the act has been suspended, revoked, or terminated or with persons who transact business subject to the act, but fail to obtain the required license.

[43 FR 30788, July 18, 1978]

### § 47.49 Determinations.

(a) The PACA Branch shall determine whether a person was at the time in issue responsibly connected with a licensee whose license is subject to suspension, revocation, or termination or which is subject to having the facts and circumstances of violations of the act published. Such determination shall be made on the basis of license records on file with the PACA Branch, and such other information as may be available.

(b) Upon determining that a person was responsibly connected at the time in issue with a licensee which is subject to the suspension or revocation of its license, or which is subject to having the facts and circumstances of violations of the Act published, and that the employment status and licensing of such person may be restricted, the PACA Branch shall notify the person in writing of his or her status and of any employment and licensing restrictions resulting therefrom.

(c) If a person believes he or she was not responsibly connected with a licensee at the time in issue, he or she may submit the reasons for such belief in written form, along with all pertinent documents, within 30 days of the receipt of such notification to the Chief, who will promptly review the matter and advise the person in writing of the Chief's determination and the reasons for reaching such determination.

(d) Within 30 days of receipt of notification of the Chief's determination, a person who disagrees with such determination may file with the Hearing Clerk, pursuant to § 1.130–1.151 of this

title, a petition for review of the determination.

[43 FR 30788, July 18, 1978, as amended at 60 FR 8462, Feb. 14, 1995; 61 FR 11504, Mar. 21, 1996]

# PART 48—REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR THE ENFORCEMENT OF THE PRODUCE AGENCY ACT

DEFINITIONS

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48.8 Filing of complaints.

AUTHORITY: Sec. 3, 44, Stat. 1355, as amended; 7 U.S.C. 494.

SOURCE: 24 FR 7127, Sept. 3, 1959, unless otherwise noted.

## DEFINITIONS

### § 48.1 Meaning of words.

Words in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

### § 48.2 Definitions.

Unless the context otherwise requires, the following terms shall be construed as follows:

(a) *Act* means ''An act to prevent the destruction or dumping, without good and sufficient cause therefor, of farm produce received in interstate commerce by commission merchants and others, and to require them truly and correctly to account for all farm produce received by them,'' approved March 3, 1927 (44 Stat. 1355; 7 U.S.C. 491–497).

(b) *Person* means an individual, partnership, association or corporation.

(c) *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.

(d) *Service* means the Consumer and Marketing Service, United States Department of Agriculture.

(e) *Deputy Administrator* means the Deputy Administrator for Marketing Services, or any officer or employee of the Service, to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead.

(f) *Director* means the Director of the Fruit and Vegetable Division of the Service, or any officer or employee of the Division to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated by the Director to act in his stead.

(g) *Produce* means all fresh fruits and fresh vegetables generally considered by the trade as perishable fruits and vegetables, melons, dairy or poultry products, or any perishable farm products of any kind or character.

(h) *Truly and correctly to account* means, unless otherwise stipulated by the parties, that the consignee of produce shall, within ten days after the final sale is made of any produce received for sale on consignment in interstate commerce or in the District of Columbia, render to the consignor thereof a true and correct itemized statement of the gross sales as well as all selling charges and all other charges or expenses paid and a statement of the net proceeds or deficit, and make full payment to the consignor of the net proceeds so received together with a full explanation of the disposition of any and all produce not sold.

(i) *Good and sufficient cause* means, with respect to destroyed, abandoned, discarded, or dumped produce, that the produce so dealt with had no commercial value, or that some other legal justification for so dealing with such produce existed, such as an order of condemnation by a health officer or definite authority from the shipper.

(j) *Commercial value* means any value that the produce may have for any purpose that can be ascertained in the exercise of due diligence by the consignee without unreasonable expense on loss of time.

ADMINISTRATION

**§ 48.3 Director.**

The Director shall perform, for and under the supervision of the Secretary and the Deputy Administrator, such duties as the Secretary or the Deputy Administrator may require in enforcing the provisions of the Act and the regulations issued thereunder.

VIOLATIONS

**§ 48.4 Destroying or dumping.**

Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another who, without good and sufficient cause, shall destroy or abandon, discard as refuse, or dump any produce, directly or indirectly or through collusion with any person, shall be considered to have violated the Act.

**§ 48.5 False report or statement.**

Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another shall be considered to have violated the Act if, knowingly and with intent to defraud, he makes any false report or statement to the person from whom such produce was received concerning the handling, condition, quality, quantity, sale, or disposition thereof.

**§ 48.6 Failure to account.**

Any person receiving produce in interstate commerce or in the District of Columbia for or on behalf of another shall be considered to have violated the Act if, knowingly and with intent to defraud, he fails truly and correctly to account to the person from whom such produce was received.

JUSTIFICATION FOR DUMPING

**§ 48.7 Evidence to justify dumping.**

Any person, receiving produce in interstate commerce or in the District of Columbia, having reason to destroy, abandon, discard as refuse or dump such produce, should, prior to such destroying, abandoning, discarding or dumping, obtain a dumping certificate or other evidence of justification for such action. Certification, showing that the produce has no commercial value, should be obtained from:

(a) An inspector authorized by the United States Department of Agriculture to inspect produce; or (b) a health officer, or food inspector of any State, county, parish, city or municipality or of the District of Columbia. When no inspector or health officer, as designated in paragraph (a) or (b) of this section is available, affidavits as to the condition of the produce should be obtained from two disinterested persons having no financial interest in the produce involved or in the business of a person financially interested therein, and who are unrelated by blood or marriage to any such financially interested person, and who, at the time of certification, and for a period of at least one year immediately prior thereto, have been engaged in the handling of the same general kind or class of produce with respect to which such affidavits are to be made. The certificate or affidavit obtained for justifying dumping should identify the produce to be dumped by giving the name of the shipper, any identifying marks or brands on the original container, the type of container, the commodity, the quantity, the date of inspection, and contain a short description of the condition of the produce to be dumped at the time of inspection. The name, address and title of the person or persons making such inspection should also be designated on the certificate or affidavit.

COMPLAINTS

**§ 48.8 Filing of complaints.**

Any person having reason to believe that the Act or the regulations in this part have been violated should submit promptly all available facts with respect thereto to the Director for investigation and appropriate action.

# PART 50—RULES OF PRACTICE GOVERNING WITHDRAWAL OF INSPECTION AND GRADING SERVICES

## Subpart A—General

Sec.
50.1 Scope and applicability of rules of practice.

## Subpart B—Supplemental Rules of Practice

50.10 Definitions.
50.11 Conditional withdrawal of service.
50.12 Summary suspension of service.

AUTHORITY: 7 U.S.C. 1621 *et seq.*; 7 CFR 2.35, 2.41.

SOURCE: 60 FR 8463, Feb. 14, 1995, unless otherwise noted.

## Subpart A—General

### § 50.1 Scope and applicability of rules of practice.

(a) The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§ 1.130 through 1.151 of this title are rules of practice applicable to adjudicatory proceedings under the regulations promulgated under 7 U.S.C. 1621 *et seq.* for denial or withdrawal of inspection, certification, or grading service. In addition, the supplemental rules of practice in subpart B of this part shall be applicable to adjudicatory proceedings under the regulations promulgated under 7 U.S.C. 1621 *et seq.* for denial or withdrawal of inspection, certification, or grading service.

(b) Neither the rules of practice in §§ 1.130 through 1.151 of this title nor the supplemental rules of practice in subpart B of this part modify existing procedures for refusing to inspect, grade, or certify a specific lot of a product because of adulteration, improper preparation of the lot for grading, improper presentation of the lot for grading, or because of failure to comply with any similar requirements set forth in applicable regulations.

## Subpart B—Supplemental Rules of Practice

### § 50.10 Definitions.

*Director.* The Director of the Division or any employee of the Division to whom authority to act in his or her stead is delegated.

*Division.* The Division of the Agricultural Marketing Service, United States Department of Agriculture, initiating the withdrawal of inspection, certification, or grading service.

*Mailing.* Depositing an item in the United States mail with postage affixed and addressed as necessary to cause the item to be delivered to the address shown by ordinary mail, certified mail, or registered mail.

### § 50.11 Conditional withdrawal of service.

(a) The Director may withdraw grading or inspection service from a person for correctable cause. The grading or inspection service withdrawn, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader or inspector can be made available.

(b) Written notice of withdrawal of grading or inspection service under this section shall be given to the person from whom grading or inspection services will be withdrawn in advance of withdrawal, whenever it is feasible to provide such an advance written notice. If advance written notice is not given, the withdrawal action and the reasons for the withdrawal shall be confirmed as promptly as circumstances permit, unless the deficiency which is the basis for the withdrawal has already been corrected.

### § 50.12 Summary suspension of service.

(a) *General.* In any situation in which the integrity of grading or inspection service would be jeopardized if the grading or inspection service were continued pending a decision in a proceeding to withdraw grading or inspection service, such service to the respondent may be suspended effective on the third day after mailing of a written notice of the suspension of service to the respondent's last known address or

designated address or upon actual receipt of the written notice, whichever is earlier.

(b) *Actual or threatened physical violence.* In any case of actual or threatened physical violence to an inspector or grader, grading and inspection services to the respondent may be suspended prior to the transmittal of the written notice of suspension to the respondent. A written notice shall be given as promptly as circumstances permit.

# SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946 AND THE EGG PRODUCTS INSPECTION ACT

## PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS[1] [2] (INSPECTION, CERTIFICATION, AND STANDARDS)

### Subpart—Regulations

ADMINISTRATIVE


Sec.
51.1 Administration of regulations.


DEFINITIONS


51.2 Terms defined.
51.3 Designation of official certificates, memoranda, marks, other identifications and devices for purposes of the Agricultural Marketing Act.


INSPECTION SERVICE


51.4 Where inspection service is offered.
51.5 Who may obtain inspection service.
51.6 How to make application.
51.7 Form of application.
51.8 Filing of application.
51.9 When application may be rejected.
51.10 When application may be withdrawn.
51.11 Authority to request inspection.
51.12 Accessibility of products.
51.13 Basis of service.
51.14 Order of inspection service.
51.15 Financial interest of inspector.
51.16 Postponing inspection service.
51.17 Official sampling.
51.18 Certificate forms.
51.19 Issuance of certificates.
51.20 Issuance of corrected certificates.
51.21 Disposition of inspection certificates.
51.22 Disposition of samples.
51.23 Report of inspection results prior to issuance of formal report.


APPEAL INSPECTION


51.24 When appeal inspection may be requested.
51.25 Where to file for an appeal inspection and information required.
51.26 Record of filing time.
51.27 When appeal inspection may be refused.
51.28 When an application for an appeal inspection may be withdrawn.
51.29 Order in which made.
51.30 Who shall perform appeal inspections.
51.31 Appeal inspection certificate.


LICENSING OF INSPECTORS


51.32 Who may be licensed.
51.33 Application to become a licensed inspector.
51.34 Suspension or revocation of license of a licensed inspector.
51.35 Surrender of license.
51.36 Expiration and renewal of license.


SCHEDULE OF FEES AND CHARGES AT DESTINATION MARKETS


51.37 Charges for fees, rates, and expenses.
51.38 Basis for fees and rates.
51.39 Fees for appeal inspections.
51.40 Traveling and other expenses.
51.41 Fees for additional copies of inspection certificates.
51.42 Charges for inspection services on a contract basis.
51.43 How fees shall be paid.
51.44 Disposition of fees.


SCHEDULE OF FEES AND CHARGES AT SHIPPING POINT AREAS


51.45 Fees and charges at shipping point areas.


MISCELLANEOUS


51.46 Denial of inspection service.
51.47 Political activity.
51.48 Inspector's identification.
51.49 Approved identifications.
51.50 Custody of official inspection marking devices.
51.51 Prohibited uses of approved identification.
51.52 Licensing and identification of certain official devices.


REQUIREMENTS FOR PLANTS OPERATING UNDER CONTINUOUS INSPECTION ON A CONTRACT BASIS


51.53 Continuous inspections.
51.54 Plant survey.
51.55 Premises.
51.56 Buildings and structures.
51.57 Facilities.
51.58 Equipment.
51.59 Operations and operating procedures.
51.60 Termination of contracts.
51.61 Congressional interest in contracts.


[1] Among such other products are the following: Raw nuts, Christmas trees and evergreens; flowers and flower bulbs; and onion sets.

[2] None of the requirements in the regulations of this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations in this part.

51.62 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

**Subpart—United States Standards for Grades of Apples**

GRADES

51.300 U.S. Extra Fancy.
51.301 U.S. Fancy.
51.302 U.S. No. 1.
51.303 U.S. Utility.
51.304 Combination grades.

COLOR REQUIREMENTS

51.305 Color requirements.

TOLERANCES

51.306 Tolerances.

APPLICATION OF TOLERANCES

51.307 Application of tolerances.

METHODS OF SAMPLING AND CALCULATION OF PERCENTAGES

51.308 Methods of sampling and calculation of percentages.

CONDITION AFTER STORAGE OR TRANSIT

51.309 Condition after storage or transit.

PACKING REQUIREMENTS

51.310 Packing requirements.

MARKING REQUIREMENTS

51.311 Marking requirements.

DEFINITIONS

51.312 Mature.
51.313 Overripe.
51.314 Clean.
51.315 Fairly well formed.
51.316 Injury.
51.317 Damage.
51.318 Serious damage.
51.319 Seriously deformed.
51.320 Diameter.

U.S. CONDITION STANDARDS FOR EXPORT

51.321 U.S. Condition Standards for Export.

METRIC CONVERSION TABLE

51.322 Metric conversion table.

**Subpart—United States Standards for Grades of Apples for Processing**

GRADES

51.340 U.S. No. 1.
51.341 U.S. No. 2.
51.342 U.S. Cider.

CULLS

51.343 Culls.

SIZE

51.344 Size.

APPLICATION OF STANDARDS

51.345 Application of standards.

TOLERANCES

51.346 Tolerances.

APPLICATION OF TOLERANCES

51.347 Application of tolerances.

DEFINITIONS

51.348 One variety.
51.349 Overripe.

**Subpart—United States Standards for Grades of Cantaloups**

GRADES

51.475 U.S. Fancy.
51.476 U.S. No. 1.
51.477 U.S. Commercial.
51.478 U.S. No. 2.

UNCLASSIFIED

51.479 Unclassified.

APPLICATION OF TOLERANCES

51.480 Application of tolerances.

DEFINITIONS

51.481 Very good internal quality.
51.482 Uniform in appearance.
51.483 One type.
51.484 Mature.
51.485 Good internal quality.
51.486 Soft.
51.487 Wilted.
51.488 Well formed.
51.489 Well netted.
51.490 Decay.
51.491 Wet slip.
51.492 Sunscald.
51.493 Damage.
51.494 Serious damage.
51.494a Permanent defects.
51.494b Fairly well netted.
51.494c Condition defects.

**Subpart—United States Standards for Celery**

GRADES

51.560 U.S. Extra No. 1.
51.561 U.S. No. 1.
51.562 U.S. No. 2.

UNCLASSIFIED

51.563 Unclassified.

COUNT

51.564 Requirements as to count.

APPLICATION OF TOLERANCES

51.565 Application of tolerances.

DEFINITIONS

51.566 Stalk.
51.567 Similar varietal characteristics.
51.568 Well developed.
51.569 Well formed.
51.570 Clean.
51.571 Well trimmed.
51.572 Compact.
51.573 Damage.
51.574 Green.
51.575 Fairly well blanched.
51.576 Mixed blanch.
51.577 Average midrib length.
51.578 Branch.
51.579 Length of stalk.
51.580 Fairly well developed.
51.581 Fairly well formed.
51.582 Fairly compact.
51.583 Reasonably well developed.
51.584 Reasonably well formed.
51.585 Fairly well trimmed.
51.586 Serious damage.
51.587 Diameter.
51.588 Length of seedstem.

**Subpart—United States Consumer Standards for Celery Stalks**

GENERAL

51.595 General.

GRADES

51.596 U.S. Grade AA.
51.597 U.S. Grade A.
51.598 U.S. Grade B.

BLANCHING; LENGTH OF STALKS

51.599 Blanching.
51.600 Length of stalks.

OFF-GRADE

51.601 Off-Grade celery.

DEFINITIONS

51.602 Stalk.
51.603 Similar varietal characteristics.
51.604 Well developed.
51.605 Good heart formation.
51.606 Clean.
51.607 Well trimmed.
51.608 Fairly compact.
51.609 Damage.
51.610 Midrib length.
51.611 Fairly well developed.
51.612 Fairly good heart formation.
51.613 Serious damage.

**Subpart—United States Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona)**

GRADES

51.620 U.S. Fancy.
51.621 U.S. No. 1.
51.622 U.S. No. 1 Bright.
51.623 U.S. No. 1 Bronze.
51.624 U.S. Combination.
51.625 U.S. No. 2.
51.626 U.S. No. 2 Russet.
51.627 U.S. No. 3.

TOLERANCES

51.628 Tolerances.

SAMPLE FOR GRADE OR SIZE DETERMINATION

51.629 Sample for grade or size determination.

STANDARD PACK

51.630 Standard pack.

DEFINITIONS

51.631 Mature.
51.632 Similar varietal characteristics.
51.633 Well colored.
51.634 Firm.
51.635 Well formed.
51.636 Smooth texture.
51.637 Injury.
51.638 Discoloration.
51.639 Fairly well colored.
51.640 Fairly well formed.
51.641 Fairly smooth texture.
51.642 Damage.
51.643 Fairly firm.
51.644 Slightly misshapen.
51.645 Slightly rough texture.
51.646 Serious damage.
51.647 Slightly colored.
51.648 Misshapen.
51.649 Slightly spongy.
51.650 Very serious damage.
51.651 Diameter.
51.652 Classification of defects.

METRIC CONVERSION TABLE

51.653 Metric conversion table.

**Subpart—United States Standards for Grades of Oranges (Texas and States Other Than Florida, California, and Arizona)**

GENERAL

51.680 General.

GRADES

51.681 U.S. Fancy.

51.682 U.S. No. 1.
51.683 U.S. No. 1 Bright.
51.684 U.S. No. 1 Bronze.
51.685 U.S. Combination.
51.686 U.S. No. 2.
51.687 U.S. No. 2 Russet.
51.688 U.S. No. 3.

TOLERANCES

51.689 Tolerances.

SAMPLE FOR GRADE OR SIZE DETERMINATION

51.690 Sample for grade or size determination.

STANDARD PACK

51.691 Standard pack for oranges except Temple variety.

STANDARD SIZING

51.692 Standard sizing.

DEFINITIONS

51.693 Mature.
51.694 Similar varietal characteristics.
51.695 Well colored.
51.696 Firm.
51.697 Well formed.
51.698 Smooth texture.
51.699 Injury.
51.700 Discloration.
51.701 Fairly smooth texture.
51.702 Damage.
51.703 Fairly well colored.
51.704 Reasonably well colored.
51.705 Fairly firm.
51.706 Slightly misshapen.
51.707 Slightly rough texture.
51.708 Serious damage.
51.709 Misshapen.
51.710 Slightly spongy.
51.711 Very serious damage.
51.712 Diameter.
51.713 Classification of defects.

METRIC CONVERSION TABLE

51.714 Metric conversion table.

**Subpart—United States Standards for Grades of Florida Grapefruit**

GRADES

51.750 U.S. Fancy.
51.751 U.S. No. 1 Bright.
51.752 U.S. No. 1.
51.753 U.S. No. 1 Golden.
51.754 U.S. No. 1 Bronze.
51.755 U.S. No. 1 Russet.
51.756 U.S. No. 2 Bright.
51.757 U.S. No. 2.
51.758 U.S. No. 2 Russet.
51.759 U.S. No. 3.

TOLERANCES

51.760 Tolerances.

APPLICATION OF TOLERANCES

51.761 Application of tolerances.

SIZE

51.762 Size.

DEFINITIONS

51.763 Similar varietal characteristics.
51.764 Well colored.
51.765 Firm.
51.766 Well formed.
51.767 Mature.
51.768 Smooth texture.
51.769 Injury.
51.770 Discoloration.
51.771 Fairly well colored.
51.772 Fairly smooth texture.
51.773 Damage.
51.774 Fairly firm.
51.775 Slightly misshapen.
51.776 Slightly rough texture.
51.777 Serious damage.
51.778 Slightly colored.
51.779 Poorly colored.
51.780 Misshapen.
51.781 Slightly spongy.
51.782 Very serious damage.
51.783 Diameter.
51.784 Classification of defects.

**Subpart—United States Standards for Grades of Table Grapes (European or Vinifera Type)**

GRADES

51.880 U.S. Extra Fancy Table.
51.881 U.S. Extra Fancy Export.
51.882 U.S. Fancy Table.
51.883 U.S. Fancy Export.
51.884 U.S. No. 1 Table.
51.885 U.S. No. 1 Institutional.

TOLERANCES

51.886 Tolerances.

APPLICATION OF TOLERANCES

51.887 Application of tolerances.

MATURITY REQUIREMENTS

51.888 Maturity requirements.

DEFINITIONS

51.889 Well developed grapes.
51.890 One variety.
51.891 Uniform in appearance.
51.892 Color terms.
51.893 Firm.
51.894 Weak.
51.895 Shriveled at capstem.
51.896 Shattered.
51.897 Wet.
51.898 Decay.
51.899 Waterberry.
51.900 Sunburn.

51.901 Damage.
51.902 Fairly well filled.
51.903 Excessively tight.
51.904 Shot berries.
51.905 Dried berries.
51.906 Well developed and strong.
51.907 Diameter.
51.908 Serious damage.
51.909 Materially shriveled at capstem.
51.910 Straggly.
51.911 Container.
51.912 Export.
51.913 Clusters.

METRIC CONVERSION TABLE

51.914 Metric conversion table.

## Subpart—United States Standards for Persian (Tahiti) Limes

GRADES

51.1000 U.S. No. 1.
51.1001 U.S. Combination.
51.1002 U.S. No. 2.

UNCLASSIFIED

51.1003 Unclassified.

APPLICATION OF TOLERANCES

51.1004 Application of tolerances.

STANDARD PACK

51.1005 Standard pack.

DEFINITIONS

51.1006 Firm.
51.1007 Fairly well formed.
51.1008 Fairly smooth texture.
51.1009 Stylar end breakdown.
51.1010 Damage.
51.1011 Good green color.
51.1012 Fairly firm.
51.1013 Badly deformed.
51.1014 Excessively rough texture.
51.1015 Serious damage.
51.1016 Diameter.

## Subpart—United States Standards for Grades of Florida Oranges and Tangelos

GENERAL

51.1140 General.

GRADES

51.1141 U.S. Fancy.
51.1142 U.S. No. 1 Bright.
51.1143 U.S. No. 1.
51.1144 U.S. No. 1 Golden.
51.1145 U.S. No. 1 Bronze.
51.1146 U.S. No. 1 Russet.
51.1147 U.S. No. 2 Bright.
51.1148 U.S. No. 2.
51.1149 U.S. No. 2 Russet.
51.1150 U.S. No. 3.

TOLERANCES

51.1151 Tolerances.

APPLICATION OF TOLERANCES

51.1152 Application of tolerances.

SIZE

51.1153 Size.

DEFINITIONS

51.1154 Similar varietal characteristics.
51.1155 Well colored.
51.1156 Firm.
51.1157 Well formed.
51.1158 Mature.
51.1159 Smooth texture.
51.1160 Injury.
51.1161 Discoloration.
51.1162 Fairly smooth texture.
51.1163 Damage.
51.1164 Fairly well colored.
51.1165 Reasonably well colored.
51.1166 Poorly colored.
51.1167 Fairly firm.
51.1168 Slightly misshapen.
51.1169 Slightly rough texture.
51.1170 Serious damage.
51.1171 Misshapen.
51.1172 Slightly spongy.
51.1173 Very serious damage.
51.1174 Diameter.
51.1175 Classification of defects.

STANDARDS FOR INTERNAL QUALITY OF COMMON SWEET ORANGES (CITRUS SINENSIS (L) OSBECK)

51.1176 U.S. Grade AA Juice (Double A).
51.1177 U.S. Grade A Juice.
51.1178 Maximum anhydrous citric acid permissible for corresponding total soluble solids.
51.1179 Method of juice extraction.

## Subpart—United States Standards for Grades of Peaches

GRADES

51.1210 U.S. Fancy.
51.1211 U.S. Extra No. 1.
51.1212 U.S. No. 1.
51.1213 U.S. No. 2.

TOLERANCES

51.1214 Tolerances.

APPLICATION OF TOLERANCES

51.1215 Application of tolerances to individual packages.

SIZE

51.1216 Size requirements.

STANDARD PACK

51.1217 Standard pack.

DEFINITIONS

51.1218 Mature.
51.1219 Well formed.
51.1220 Leaf or limb rub injury.
51.1221 Damage.
51.1222 Serious damage.
51.1223 Badly misshapen.

**Subpart—United States Standards for Cleaned Virginia Type Peanuts in the Shell**

GRADES

51.1235 U.S. Jumbo Hand Picked.
51.1236 U.S. Fancy Hand Picked.

UNCLASSIFIED

51.1237 Unclassified.

DEFINITIONS

51.1238 Mature.
51.1239 Pops.
51.1240 Paper ends.
51.1241 Damage.
51.1242 Count per pound.

**Subpart—United States Standards for Summer and Fall Pears**

GENERAL

51.1260 General.

GRADES

51.1261 U.S. No. 1.
51.1262 U.S. Combination.
51.1263 U.S. No. 2.

UNCLASSIFIED

51.1264 Unclassified.

TOLERANCES

51.1265 Tolerances.

APPLICATION OF TOLERANCES

51.1266 Application of tolerances.

BASIS FOR CALCULATING PERCENTAGES

51.1267 Basis for calculating percentages.

CONDITION AFTER STORAGE OR TRANSIT

51.1268 Condition after storage or transit.

STANDARD PACK

51.1269 Sizing.
51.1270 Packing.
51.1271 Tolerances for standard pack.

DEFINITIONS

51.1272 Mature.
51.1273 Overripe.
51.1274 Carefully hand-picked.
51.1275 Clean.
51.1276 Black end.
51.1277 Fairly well formed.
51.1278 Damage.
51.1279 Seriously misshapen.
51.1280 Serious damage.

**Subpart—United States Standards for Winter Pears**

GENERAL

51.1300 General.

GRADES

51.1301 U.S. Extra No. 1.
51.1302 U.S. No. 1.
51.1303 U.S. Combination.
51.1304 U.S. No. 2.

UNCLASSIFIED

51.1305 Unclassified.

TOLERANCES

51.1306 Tolerances.

APPLICATION OF TOLERANCES

51.1307 Application of tolerances.

BASIS FOR CALCULATING PERCENTAGES

51.1308 Basis for calculating percentages.

CONDITION AFTER STORAGE OR TRANSIT

51.1309 Condition after storage or transit.

STANDARD PACK

51.1310 Sizing.
51.1311 Packing.
51.1312 Tolerances for standard pack.

DEFINITIONS

51.1313 Mature.
51.1314 Overripe.
51.1315 Carefully hand-picked.
51.1316 Clean.
51.1317 Well formed.
51.1318 Black end.
51.1319 Injury.
51.1320 Fairly well formed.
51.1321 Damage.
51.1322 Seriously misshapen.
51.1323 Serious damage.

**Subpart—United States Standards for Pears for Canning**

GENERAL

51.1345 General.

GRADES

51.1346 U.S. No. 1.
51.1347 U.S. No. 2.

CULLS

51.1348 Culls.

SIZE

51.1349 Size.

APPLICATION OF STANDARDS

51.1350 Application of standards.

DEFINITIONS

51.1351 Mature.
51.1352 Handpicked.
51.1353 Firm.
51.1354 Well formed.
51.1355 Damage.
51.1356 Pears grown from late blooms.
51.1357 Seriously deformed.
51.1358 Serious damage.
51.1359 Diameter.

**Subpart—United States Standards for Grades of Pecans in the Shell**

GRADES

51.1400 U.S. No. 1.
51.1401 U.S. No. 2.

SIZE CLASSIFICATION

51.1402 Size classification.

KERNEL COLOR CLASSIFICATION

51.1403 Kernel color classification.

TOLERANCES

51.1404 Tolerances.

APPLICATION OF TOLERANCES

51.1405 Application of tolerances.

SAMPLE FOR GRADE OR SIZE DETERMINATION

51.1406 Sample for grade or size determination.

DEFINITIONS

51.1407 Fairly uniform in color.
51.1408 Loose extraneous or foreign material.
51.1409 Well developed.
51.1410 Fairly well developed.
51.1411 Poorly developed.
51.1412 Well cured.
51.1413 Damage.
51.1414 Serious damage.
51.1415 Inedible kernels.

OPTIONAL DETERMINATIONS

51.1416 Optional determinations.

**Subpart—United States Standards for Grades of Shelled Pecans**

GRADES

51.1430 U.S. No. 1 Halves.
51.1431 U.S. No. 1 Halves and Pieces.
51.1432 U.S. No. 1 Pieces.
51.1433 U.S. Commercial Halves.
51.1434 U.S. Commercial Halves and Pieces.
51.1435 U.S. Commercial Pieces.

COLOR CLASSIFICATIONS

51.1436 Color classifications.

SIZE CLASSIFICATIONS

51.1437 Size classifications for halves.
51.1438 Size classifications for pieces.

TOLERANCES FOR DEFECTS

51.1439 Tolerances for defects.

APPLICATION OF STANDARDS

51.1440 Application of standards.

DEFINITIONS

51.1441 Half-kernel.
51.1442 Piece.
51.1443 Particles and dust.
51.1444 Well dried.
51.1445 Fairly well developed.
51.1446 Poorly developed.
51.1447 Fairly uniform in color.
51.1448 Fairly uniform in size.
51.1449 Damage.
51.1450 Serious damage.

METRIC CONVERSION TABLE

51.1451 Metric conversion table.

**Subpart—United States Standards for Grades of Fresh Plums and Prunes**

GRADES

51.1520 U.S. Fancy.
51.1521 U.S. No. 1.
51.1522 U.S. Combination.
51.1523 U.S. No. 2.
51.1524 [Reserved]

TOLERANCES

51.1525 Tolerances.

APPLICATION OF TOLERANCES

51.1526 Application of tolerances.

STANDARD PACK

51.1527 Standard pack.

DEFINITIONS

51.1528 Well formed.
51.1529 Clean.
51.1530 Mature.
51.1531 Sunscald.
51.1532 Damage.
51.1533 Well colored.
51.1534 Fairly well colored.
51.1535 Badly misshapen.
51.1536 Serious damage.
51.1537 Diameter.

METRIC CONVERSION TABLE

51.1538 Metric conversion table.

## Subpart—United States Standards for Grades of Potatoes

GRADES

51.1540 [Reserved]
51.1541 U.S. No. 1.
51.1542 U.S. Commercial.
51.1543 U.S. No. 2.

UNCLASSIFIED

51.1544 [Reserved]

SIZE

51.1545 Size.

TOLERANCES

51.1546 Tolerances.

APPLICATION OF TOLERANCES

51.1547 Application of tolerances.

SAMPLES FOR GRADE AND SIZE DETERMINATION

51.1548 Samples for grade and size determination.

SKINNING

51.1549 Skinning.

DEFINITIONS

51.1550 Similar varietal characteristics.
51.1551 Firm.
51.1552 Clean.
51.1553 Fairly clean.
51.1554 Mature.
51.1555 Fairly well matured.
51.1556 Well shaped.
51.1557 Fairly well shaped.
51.1558 Seriously misshapen.
51.1559 [Reserved]
51.1560 Damage.
51.1561 Serious damage.
51.1562 Freezing.
51.1563 Soft rot or wet breakdown.
51.1564 External defects.
51.1565 Internal defects.

METRIC CONVERSION TABLE

51.1566 Metric conversion table.

## Subpart—United States Consumer Standards for Potatoes

GRADES

51.1575 U.S. Grade A Small; U.S. Grade A Medium; U.S. Grade A Medium to Large; U.S. Grade A Large.
51.1576 U.S. Grade B Small; U.S. Grade B Medium; U.S. Grade B Medium to Large; U.S. Grade B Large.

SIZE

51.1577 Size range requirements.

OFF-GRADE

51.1578 Off-Grade potatoes.

APPLICATION OF TOLERANCES

51.1579 Application of tolerances to individual containers.

DEFINITIONS

51.1580 Fairly well shaped.
51.1581 Fairly clean.
51.1582 Soft rot or wet breakdown.
51.1583 Damage.
51.1584 Internal discoloration.
51.1585 Mature.
51.1586 Serious damage.
51.1587 Diameter.

## Subpart—United States Standards for Grades of Florida Tangerines

GRADES

51.1810 U.S. Fancy.
51.1811 U.S. No. 1 Bright.
51.1812 U.S. No. 1.
51.1813 U.S. No. 1 Golden.
51.1814 U.S. No. 1 Bronze.
51.1815 U.S. No. 1 Russet.
51.1816 U.S. No. 2 Bright.
51.1817 U.S. No. 2.
51.1818 U.S. No. 2 Russet.
51.1819 U.S. No. 3.

TOLERANCES

51.1820 Tolerances.

APPLICATION OF TOLERANCES

51.1821 Application of tolerances.

SIZE

51.1822 Size.

DEFINITIONS

51.1823 Mature.
51.1824 Firm.
51.1825 Well formed.
51.1826 Damage.
51.1827 Highly colored.
51.1828 Discoloration.
51.1829 Well colored.
51.1830 Fairly well colored.
51.1831 Fairly firm.
51.1832 Fairly well formed.
51.1833 Serious damage.
51.1834 Reasonably well colored.
51.1835 Very serious damage.
51.1836 Diameter.
51.1837 Classification of defects.

## Subpart—United States Standards for Fresh Tomatoes

GRADES

51.1855 U.S. No. 1.
51.1856 U.S. Combination.

51.1857 U.S. No. 2.
51.1858 U.S. No. 3.

SIZE

51.1859 Size.

COLOR CLASSIFICATION

51.1860 Color classification.

TOLERANCES

51.1861 Tolerances.

APPLICATION OF TOLERANCES

51.1862 Application of tolerances.

STANDARD WEIGHT

51.1863 Standard weight.

DEFINITIONS

51.1864 Similar varietal characteristics.
51.1865 Mature.
51.1866 Soft.
51.1867 Clean.
51.1868 Well developed.
51.1869 Fairly well formed.
51.1870 Fairly smooth.
51.1871 Damage.
51.1872 Reasonably well formed.
51.1873 Slightly rough.
51.1874 Serious damage.
51.1875 Misshapen.
51.1876 Very serious damage.
51.1877 Classification of defects.

**Subpart—United States Consumer Standards for Fresh Tomatoes**

GENERAL

51.1900 General.

GRADES

51.1901 U.S. Grade A.
51.1902 U.S. Grade B.

SIZE AND MATURITY CLASSIFICATION

51.1903 Size classification.
51.1904 Maturity classification.

OFF-GRADE

51.1905 Off-Grade tomatoes.

DEFINITIONS

51.1906 Similar varietal characteristics.
51.1907 Mature.
51.1908 Well developed.
51.1909 Fairly well formed.
51.1910 Fairly smooth.
51.1911 Damaged.
51.1912 Badly misshapen.
51.1913 Serious damage.

**Subpart—United States Standards for Grades of Filberts in the Shell**

GRADE

51.1995 U.S. No. 1.

APPLICATION OF STANDARDS

51.1996 Application of standards.

DEFINITIONS

51.1997 Similar type.
51.1998 Dry.
51.1999 Well formed.
51.2000 Clean and bright.
51.2001 Blank.
51.2002 Split shell.
51.2003 Damage.
51.2004 Reasonably well developed.
51.2005 Badly misshapen.
51.2006 Rancidity.
51.2007 Moldy.
51.2008 Insect injury.

METRIC CONVERSION TABLE

51.2009 Metric conversion table.

**Subpart—United States Standards for Grades of Almonds in the Shell**

GRADES

51.2075 U.S. No. 1.
51.2076 U.S. No. 1 Mixed.
51.2077 U.S. No. 2.
51.2078 U.S. No. 2 Mixed.

APPLICATION OF TOLERANCES

51.2079 Application of tolerances.

DETERMINATION OF GRADE

51.2080 Determination of grade.

DEFINITIONS

51.2081 Similar varietal characteristics.
51.2082 Loose extraneous and foreign material.
51.2083 Clean.
51.2084 Fairly bright.
51.2085 Fairly uniform color.
51.2086 Well dried.
51.2087 Decay.
51.2088 Rancidity.
51.2089 Damage.
51.2090 Serious damage.
51.2091 Thickness.

**Subpart—United States Standards for Grades of Shelled Almonds**

GRADES

51.2105 U.S. Fancy.
51.2106 U.S. Extra No. 1.
51.2107 U.S. No. 1.
51.2108 U.S. Select Sheller Run.
51.2109 U.S. Standard Sheller Run.

51.2110 U.S. No. 1 Whole and Broken.
51.2111 U.S. No. 1 Pieces.

MIXED VARIETIES

51.2112 Mixed varieties.

SIZE

51.2113 Size requirements.
51.2114 Tolerances for size.

APPLICATION OF TOLERANCES

51.2115 Application of tolerances.

DEFINITIONS

51.2116 Similar varietal characteristics.
51.2117 Whole.
51.2118 Clean.
51.2119 Well dried.
51.2120 Decay.
51.2121 Rancidity.
51.2122 Insect injury.
51.2123 Foreign material.
51.2124 Doubles.
51.2125 Split or broken kernels.
51.2126 Particles and dust.
51.2127 Injury.
51.2128 Damage.
51.2129 Serious damage.
51.2130 Diameter.
51.2131 Fairly uniform in size.

**Subpart—United States Standards for Shelled English Walnuts (Juglans Regia)**

GENERAL

51.2275 Application.
51.2276 Color chart.

GRADES

51.2277 U. S. No. 1.
51.2278 U. S. Commercial.

UNCLASSIFIED

51.2279 Unclassified.

TOLERANCES FOR GRADE DEFECTS

51.2280 Tolerances for grade defects.

COLOR REQUIREMENTS

51.2281 Color classifications.
51.2282 Tolerances for color.
51.2283 Off color.

SIZE REQUIREMENTS

51.2284 Size classification.
51.2285 Tolerances for size.

APPLICATION OF TOLERANCES

51.2286 Application of tolerances.

DEFINITIONS

51.2287 Well dried.
51.2288 Clean.
51.2289 Shell.
51.2290 Insect injury.
51.2291 Rancidity.
51.2292 Damage.
51.2293 Serious damage.
51.2294 Very serious damage.
51.2295 Half kernel.
51.2296 Three-fourths half kernel.

**Subpart—United States Standards for Grades of Kiwifruit**

51.2335 Grades.
51.2336 Tolerances.
51.2337 Application of tolerances.
51.2338 Standard pack.
51.2339 Definitions.
51.2340 Classification of defects.
51.2341 Sample size for grade determination.

**Subpart—United States Standards for Grades of Pistachio Nuts in the Shell**

51.2540 General.
51.2541 U.S. Fancy, U.S. Extra No. 1, U.S. No. 1 and U.S. Select Grades.
51.2542 U.S. Artificially opened.
51.2543 U.S. Non-Split.
51.2544 Tolerances.
51.2545 Application of tolerances.
51.2546 Size.
51.2547 Definitions.
51.2548 Average moisture content determination.
51.2549 Metric conversion table.

**Subpart—United States Standards for Grades of Shelled Pistachio Nuts**

51.2555 General.
51.2556 Grades.
51.2557 Tolerances.
51.2558 Application of tolerances.
51.2559 Size classifications.
51.2560 Definitions.
51.2561 Average moisture content.
51.2562 Metric conversion table.

**Subpart—United States Standards for Grades for Sweet Cherries**

GRADES

51.2646 U.S. No. 1.
51.2647 U.S. Commercial.

TOLERANCES

51.2648 Tolerances.

APPLICATION OF TOLERANCES

51.2649 Application of tolerances.

DEFINITIONS

51.2650 Similar varietal characteristics.
51.2651 Mature.
51.2652 Fairly well colored.
51.2653 Well formed.
51.2654 Clean.

51.2655 Damage.
51.2656 Diameter.
51.2657 Serious damage.
51.2658 Permanent defects.
51.2659 Condition defects.

METRIC CONVERSION TABLE

51.2660 Metric conversion table.

## Subpart—United States Standards for Shelled Runner Type Peanuts

GRADES

51.2710 U.S. No. 1 Runner.
51.2711 U.S. Runner Splits.
51.2712 U. S. No. 2 Runner.

APPLICATION OF TOLERANCES

51.2713 Application of tolerances.

DEFINITIONS

51.2714 Similar vertical characteristics.
51.2715 Whole.
51.2716 Split.
51.2717 Broken.
51.2718 Foreign material.
51.2719 Unshelled.
51.2720 Minor defects.
51.2721 Damage.

## Subpart—United States Standards for Grades of Shelled Spanish Type Peanuts

GRADES

51.2730 U.S. No. 1 Spanish.
51.2731 U.S. Spanish Splits.
51.2732 U.S. No. 2 Spanish.

APPLICATION OF TOLERANCES

51.2733 Application of tolerances.

DEFINITIONS

51.2734 Spanish type.
51.2735 Whole.
51.2736 Split.
51.2737 Broken.
51.2738 Foreign material.
51.2739 Damage.
51.2740 Minor defects.
51.2741 Unshelled.

## Subpart—United States Standards for Shelled Virginia Type Peanuts

GRADES

51.2750 U.S. Extra Large Virginia.
51.2751 U.S. Medium Virginia.
51.2752 U.S. No. 1 Virginia.
51.2753 U.S. Virginia Splits.
51.2754 U.S. No. 2 Virginia.

APPLICATION OF TOLERANCES

51.2755 Application of tolerances.

DEFINITIONS

51.2756 Similar varietal characteristics.
51.2757 Whole.
51.2758 Split.
51.2759 Broken.
51.2760 Foreign material.
51.2761 Unshelled.
51.2762 Minor defects.
51.2763 Damage.

## Subpart—United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types)

GRADES

51.2830 U.S. No. 1.
51.2831 U.S. Export No. 1.
51.2832 U.S. Commercial.
51.2833 U.S. No. 1 Boilers.
51.2834 U.S. No. 1 Picklers.
51.2835 U.S. No. 2.

SIZE CLASSIFICATIONS

51.2836 Size classifications.

TOLERANCES

51.2837 Tolerances.

SAMPLES FOR GRADE AND SIZE DETERMINATION

51.2838 Samples for grade and size determination.

APPLICATION OF TOLERANCES

51.2839 Application of tolerances.

EXPORT PACKING REQUIREMENTS

51.2840 Export packing requirements.

DEFINITIONS

51.2841 Mature.
51.2842 Dormant.
51.2843 Fairly firm.
51.2844 Fairly well shaped.
51.2845 Wet sunscald.
51.2846 Doubles.
51.2847 Bottlenecks.
51.2848 Scallions.
51.2849 Damage.
51.2850 Diameter.
51.2851 Badly misshapen.
51.2852 Serious damage.
51.2853 One type.

METRIC CONVERSION TABLE

51.2854 Metric conversion table.

## Subpart—United States Standards for Grades of Apricots

GRADES

51.2925 U.S. No. 1.
51.2926 U.S. No. 2.

MARKING AND PACKING REQUIREMENTS

51.2927 Marking and packing requirements.

TOLERANCES

51.2928 Tolerances.

APPLICATION OF TOLERANCES

51.2929 Application of tolerances.

DEFINITIONS

51.2930 Mature.
51.2931 Well-formed.
51.2932 Damage.
51.2933 Serious damage.
51.2934 Diameter.

## Subpart—United States Standards for Grades of Walnuts in the Shell

GENERAL

51.2945 Application.
51.2946 Color chart.
51.2947 Method of inspection.

GRADES

51.2948 U.S. No. 1.
51.2949 U.S. No. 2.
51.2950 U.S. No. 3.

UNCLASSIFIELD

51.2951 Unclassified.

SIZE SPECIFICATIONS

51.2952 Size specifications.

VARIETY OR TYPE SPECIFICATIONS

51.2953 Variety or type specifications.

TOLERANCES FOR GRADE DEFECTS

51.2954 Tolerances for grade defects.

APPLICATION OF TOLERANCES

51.2955 Application of tolerances.

DEFINITIONS

51.2956 Practically clean.
51.2957 Bright.
51.2958 Splits.
51.2959 Injury by discoloration.
51.2960 Damage.
51.2961 Well dried.
51.2962 Decay.
51.2963 Dark discoloration.
51.2964 Rancidity.
51.2965 Fairly clean.
51.2966 Serious damage.

## Subpart—United States Standards for Florida Avocados

GRADES

51.3050 U.S. No. 1.
51.3051 U.S. Combination.
51.3052 U.S. No. 2.
51.3053 U.S. No. 3.

UNCLASSIFIED

51.3054 Unclassified.

STANDARD PACK

51.3055 Standard pack.

APPLICATION OF TOLERANCES

51.3056 Application of tolerances.

DEFINITIONS

51.3057 Similar varietal characteristics.
51.3058 Mature.
51.3059 Overripe.
51.3060 Well formed.
51.3061 Clean.
51.3062 Well colored.
51.3063 Well trimmed.
51.3064 Damage.
51.3065 Fairly well formed.
51.3066 Fairly well colored.
51.3067 Serious damage.
51.3068 Badly misshapen.
51.3069 Very serious damage.

## Subpart—United States Standards for Grades of Nectarines

GRADES

51.3145 U.S. Fancy.
51.3146 U.S. Extra No. 1.
51.3147 U.S. No. 1.
51.3148 U.S. No. 2.
51.3149 [Reserved]

TOLERANCES

51.3150 Tolerances.

APPLICATION OF TOLERANCES

51.3151 Application of tolerances.

STANDARD PACK

51.3152 Standard pack.

DEFINITIONS

51.3153 Mature.
51.3154 Well formed.
51.3155 Clean.
51.3156 Injury.
51.3157 Damage.
51.3158 Badly misshapen.
51.3159 Serious damage.

METRIC CONVERSION TABLE

51.3160 Metric conversion table.

## Subpart—United States Standards for Grades of Bermuda-Granex-Grano Type Onions

GRADES

51.3195 U.S. No. 1.

51.3196 U.S. Combination.
51.3197 U.S. No. 2.

SIZE CLASSIFICATIONS

51.3198 Size classifications.

TOLERANCES

51.3199 Tolerances.

SAMPLES FOR GRADE AND SIZE DETERMINATION

51.3200 Samples for grade and size determination.

APPLICATION OF TOLERANCES

51.3201 Application of tolerances.

DEFINITIONS

51.3202 Similar varietal characteristics.
51.3203 Mature.
51.3204 Fairly firm.
51.3205 Fairly well shaped.
51.3206 Wet sunscald.
51.3207 Doubles.
51.3208 Bottlenecks.
51.3209 Damage.
51.3210 Serious damage.
51.3211 Diameter.

METRIC CONVERSION TABLE

51.3212 Metric conversion table.

**Subpart—United States Standards for Grades of Potatoes for Processing**

51.3410 Grades.
51.3411 Usable piece.
51.3412 Unusable material.
51.3413 Size.
51.3414 Application of standards.
51.3415 Definitions.
51.3416 Classification of defects.
51.3417 Optional test for specific gravity.
51.3418 Optional test for fry color.

**Subpart—United States Standards for Grades of Honey Dew and Honey Ball Type Melons**

GRADES

51.3740 U.S. No. 1.
51.3741 U.S. Commercial.
51.3742 U.S. No. 2.

UNCLASSIFIED

51.3743 Unclassified.

TOLERANCES

51.3744 Tolerances.

APPLICATION OF TOLERANCES

51.3745 Application of tolerances.

DEFINITIONS

51.3746 Mature.
51.3747 Well formed.
51.3748 Damage.
51.3749 Serious damage.

AUTHORITY: 7 U.S.C. 1621–1627.

## Subpart—Regulations [1]

SOURCE: 32 FR 15066, Nov. 1, 1967, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

ADMINISTRATIVE

### §51.1 Administration of regulations.

(a) The Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, is charged with the administration of the regulations in this part, except at his discretion, he may delegate any or all such functions to any other officer or employee of the Agricultural Marketing Service of the Department.

(b) The conduct of all services and the hiring and licensing of inspection, grading and sampling personnel under these regulations shall be accomplished without discrimination as to race, color, religion, sex or national origin.

[39 FR 40937, Nov. 22, 1974. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

DEFINITIONS

### §51.2 Terms defined.

Words in the regulations in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:

(a) *Act.* ''Act'' means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 *et seq.*) as amended; (7 U.S.C. 1621 *et seq.*) or

[1] None of the requirements in the regulations of this subpart shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to products covered in the regulations of this subpart.

any other act of Congress conferring like authority.

(b) *Administrator.* ''Administrator'' means the Administrator of Agricultural Marketing Service.

(c) *Applicant.* ''Applicant'' means any interested party who has applied for inspection service under the regulations in this part.

(d) *Carlot.* ''Carlot''means any number of containers which contain a product of the same kind located on or unloaded from the same conveyance and available for inspection at the same time and location: *Provided,* That:

(1) Product of the same carlot shall be considered to be separate lots whenever the product differs markedly as to quality and/or condition, and such differences are definitely associated with certain brands, varieties, sizes or container markings;

(2) If the applicant requests more than one inspection certificate covering portions of the same carlot, the quantity of the carlot covered by each certificate shall be considered to be a separate carlot;

(3) If product of the same carlot is packed in more than one size or type container, each such size or type shall be considered to be a separate lot.

(e) *Carlot equivalent.* ''Carlot equivalent'' shall be the quantity of an individual product customarily loaded in common highway trailers.

(f) *Condition.* (1) ''Condition'' means the relative degree of soundness of a product which may affect its merchantability and includes those factors which are subject to change and may result from, but not necessarily limited to, age, improper handling, storage or lack of refrigeration.

(2) Examples of condition factors include maturity or stage of ripeness; state of freshness, such as crispness, tenderness, or toughness; wilting; shriveling or flabbiness; mechanical injuries resulting from improper handling after packing; progressive pathological, physiological, and virus diseases, including fungal and bacterial roots; and freezing damage which may occur in transit or storage; or any other factor which may occur, develop, or progress in the marketing channels.

(g) *Agricultural Marketing Service.* ''Agricultural Marketing Service'' means the Agricultural Marketing Service of the Department.

(h) *Department.* ''Department'' means the U.S. Department of Agriculture.

(i) *Federal-State Inspection Agency.* ''Federal-State Inspection Agency'' means any State agency, business association or trade organization, private firm, or other person or corporation with which the Department has entered into a cooperative agreement for inspection service.

(j) *Grade.* ''Grade'' means a class or rank of quality.

(k) *Inspector.* ''Inspector'' means any employee of the Department authorized by the Secretary or any other person licensed by the Secretary, to investigate, sample, inspect, and certify, in accordance with the regulations in this part, to any interested party the quality, quantity and/or condition of any fresh product covered in this part, and to perform related duties in connection with the inspection service.

(l) *Inspection service.* ''Inspection service'' means:

(1) The Service established and conducted under the regulations in this part for the determination and certification or other identification as to the grade, the quality and/or condition of fresh fruits or vegetables and related products including the condition of container.

(2) Performance by an inspector of any related services such as reporting the temperatures of loads or lots of fresh products.

(3) To observe conditions under which a product is being packed, to observe plant sanitation as a prerequisite to inspection of the packed product either on a continuous or periodic basis, or checkload the inspected product in connection with the marketing of the product.

(4) The issuance of inspection certificates or reports relating to paragraphs (j)(1), (2), and (3) of this section.

(m) *Interested party.* ''Interested party'' means any person who has a financial interest in the product for which inspection is requested.

(n) *Person.* ''Person'' means any individual, partnership, association, business trust, corporation, any organized group of persons (whether incorporated or not), the United States (including,

but not limited to, any corporate agencies thereof), and any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

(o) *Packing plant.* ''Packing plant'' means the premises, buildings, structures, and equipment including but not limited to, machines, utensils, fixtures, employed or used with respect to preparation and packing the product.

(p) *Quality.* ''Quality'' means the combination of the inherent properties or attributes of a product which determines its relative degree of excellence.

(q) *Regulations.* ''Regulations'' means the regulations in this subpart.

(r) *Sample.* ''Sample'' means any number of sample units to be used for inspection.

(s) *Sample unit.* ''Sample unit'' means a container and/or its entire contents, a portion of the contents of a container or other unit of a commodity, or a composite mixture of a commodity to be used for inspection.

(t) *Sampling.* ''Sampling'' means the act of selecting samples of a commodity for the purpose of inspection under the regulations in this part.

(u) *Secretary.* ''Secretary'' means the Secretary of Agriculture of the United States or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

[32 FR 15066, Nov. 1, 1967. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; 56 FR 55799, Oct. 30, 1991]

### §51.3 Designation of official certificates, memoranda, marks, other identifications and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purpose of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) *Inspection certificate.* ''Inspection certificate'' means any form of certification, either written or printed, used under this part to certify with respect to the inspection, identification, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) *Official memorandum.* ''Official memorandum'' means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) *Official mark.* ''Official mark'' means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations in such marks, including those prescribed in §51.49, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected, or both, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected, or both, under this part.

(d) *Official identification.* ''Official identification'' means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label or seal indicating that the product has been graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) *Official device.* ''Official device'' means a stamping appliance, branding device, stencil, printed label, or any

other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof; or any device approved and designated by the Administrator as a USDA official device for use as a color standard, defect guide, or other similar aid to interpret the U.S. Department of Agriculture grade standards and to facilitate conduct of the Inspection Service.

INSPECTION SERVICE

### § 51.4 Where inspection service is offered.

Products will be inspected at appropriate points indicated in paragraphs (a), (b), and (c) of this section whenever inspectors are available.

(a) *Shipping points.* Inspection service is available in all areas covered by cooperative agreements entered into on behalf of the Department with Cooperating Federal-State Inspection Agencies providing for this inspection work pursuant to authority contained in any Act of Congress, or may be provided in any other area which is not covered by a cooperative agreement if the Administrator determines that it is practicable to provide inspection service.

(b) *Destination markets.* Inspection is available in all central markets in which an inspection office is located.

(c) *Other destination points.* Inspection may be made at any point which may be conveniently reached from any terminal market in which an inspection office is located to the extent inspection personnel is available.

(d) *Addresses of offices.* Any prospective applicant may obtain an up-to-date list of inspection offices by addressing an inquiry to Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

### § 51.5 Who may obtain inspection service.

An application for inspection service may be made by any interested party including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent in behalf of the foregoing.

### § 51.6 How to make application.

An application for inspection service may be filed in an office of inspection at any market referred to in § 51.4 (b), (c), or (d) or with any inspector. It may be made in writing, orally, by telegraph, or by telephone. If made orally or by telephone, the inspector may require that it be confirmed by applicant in writing or by telegraph. An application may be made for one or more lots, or it may be in the nature of a blanket application for inspection of all designated lots of a given commodity within a particular period, or for all designated lots loaded or received at a specified point.

### § 51.7 Form of application.

Each application for inspection service shall state (a) the name and address of the applicant and the name and capacity of the person, if any, making the application in his behalf; (b) the name and address of the shipper; (c) the kind and quantity of the products involved; (d) the interest of the applicant therein; (e) the identification of the products by (1) grade, brand, or other marks, if practicable, (2) car number of carrier or number of truck or name of boat, if practicable, and (3) the name and location of the store, warehouse, or other place where the products are located; (f) the particular quality or condition concerning which inspection is requested, to which may be added the time and place at which it is desired that the inspection be made; (g) when the lot is to be inspected in a receiving market, the name and address of the receiver; (h) the name of the shipping point and of the destination, when known; and (i) such other information as may be necessary for identification of the product, or as may be required by the inspector or the Administrator.

### § 51.8 Filing of application.

An application shall be regarded as filed only when made at the office of inspection nearest the place where the

commodity is located. A record showing the date and time of filing shall be made and kept in such office.

### §51.9 When application may be rejected.

An application may be rejected by the inspector in charge of the appropriate office of inspection if the applicant objects to the inspector cutting an adequate number of specimens to determine the interior quality or condition of the product to be inspected, or for failure of the applicant (a) to observe the regulations of this part, (b) to furnish necessary information or to make the commodity reasonably available or accessible for inspection, (c) to pay for previous inspection services rendered, or (d) when it appears that to perform the inspection and certification service would not be to the best interest of the Government. Such applicant shall be notified promptly of the reason for such rejection.

### §51.10 When application may be withdrawn.

An application may be withdrawn by the applicant at any time before the inspection is performed: *Provided*, That the applicant shall pay any travel expenses, telephone, telegraph, or other expenses which have been incurred by the Inspection Service in connection with such application.

### §51.11 Authority to request inspection.

Proof of the interest of an applicant in the product involved, or of the authority of any person applying for inspection in behalf of another may be required, at the discretion of the inspector.

### §51.12 Accessibility of products.

The applicant shall cause the products for which inspection is requested to be made reasonably accessible for sampling or inspection and to be so placed as to disclose their quality or condition. Samples of the products drawn for examination shall be inspected only under such conditions as, in the opinion of the inspector, will permit a true and correct determination to be made of their quality or condition.

### §51.13 Basis of service.

Inspection and certification service for quality and/or condition shall be based upon the appropriate standards promulgated by the U.S. Department of Agriculture, applicable standards prescribed by the laws of the State where the particular product was produced, specifications of any governmental agency, written buyer and seller contract specifications, or any written specification by an applicant which is approved by the Administrator: *Provided*, That if such product is regulated pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), or the comparable laws of any State, such inspection and certification shall be on the basis of the standards, if any, prescribed in, or pursuant to, the marketing order and/or agreement effective thereunder.

### §51.14 Order of inspection service.

Inspection service shall be performed, insofar as practicable, in the order of which applications are received, except that precedence shall be given (a) to the inspection of lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 (U.S.C. 449a *et seq.*), and (b) to appeal inspections. Precedence may also be given to applications made on behalf of the Federal or State Government.

### §51.15 Financial interest of inspector.

No inspector shall inspect any product in which he is directly or indirectly financially interested.

### §51.16 Postponing inspection service.

If the inspector has reason to believe that, because of latent defects due to climatic or other conditions, he is unable to determine the true quality or condition of the product, he shall postpone examination for such period as may, in his judgment, be reasonably necessary to enable him to determine its true quality or condition. Inspection shall also be postponed by the inspector, unless otherwise directed by the applicant, if in his judgment examination of the product when exposed to

low temperatures may result in damage to the product.

### § 51.17 Official sampling.

Samples may be officially drawn by any duly authorized inspector and delivered, or shipped, for analysis and certification to the nearest designated market or to such market as shall be directed by the Administrator. The container in which such samples are delivered, or shipped, shall contain a statement, signed by the inspector who drew the samples, showing the time and place of the sampling and the brands or other identifying marks of the containers from which the samples were drawn. The certificate based on such samples shall show the time and place of drawing the samples, and the name of the inspector by whom they were drawn.

### § 51.18 Certificate forms.

Certificates shall be issued on forms approved by the Administrator.

### § 51.19 Issuance of certificates.

(a) A separate certificate shall be issued for each lot inspected, except that when an application covers more than one lot a single certificate may be issued to cover all such lots. The person signing and issuing the certificate shall be one of the following:

(1) The inspector who performed the inspection;

(2) Another employee of the Inspection Service who has been given power of attorney by the inspector and authorized by the Administrator to affix the inspector's signature to an inspection certificate;

(3) Another employee of the Inspection Service who has been authorized by the Administrator to act in a supervisory capacity;

(4) With the approval of the administrator, the signature of the person performing the inspection or that of an employee of the Inspection Service who has been authorized to act in a supervisory capacity may be affixed by computer to an official certificate.

*Provided,* That in all cases the inspection certificate shall be prepared in accordance with the official memoranda of the inspector or inspectors who performed the inspection: *And provided further,* That whenever a certificate issued is signed by a person given power of attorney by the inspector, that person's signature must appear along with the name of the inspector.

(b) When the inspection is made for the purpose of determining whether food products for use by the applicant comply with contract specifications therefor, a formal certificate need not be issued, but the fact of such compliance or noncompliance may be indicated by affixing an appropriate stamp or mark on such products or the containers thereof, at the discretion of the inspector.

[35 FR 13571, Aug. 26, 1970. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; 51 FR 8478, Mar. 12, 1986]

### § 51.20 Issuance of corrected certificates.

A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, grade statements, lot or car numbers, identification marks, types of containers, sizes, weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate which was issued in error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

### § 51.21 Disposition of inspection certificates.

(a) The original certificate, and not to exceed four copies (if requested by applicant prior to issuance), shall be delivered or mailed promptly to the applicant or to a person designated by him. One copy shall be delivered or mailed to the shipper of the inspected product. One copy shall be filed in the office of the inspector when the inspection is made by a Federal Government employee, otherwise, it shall be filed in the appropriate office of the cooperating Federal-State Inspection Agency. Unless otherwise directed by the Administrator, two copies of each official certificate issued on products received

in destination markets shall be forwarded to the Administrator to be kept on file in Washington and no copies of official certificates issued at shipping point need be so forwarded. In the case of any product covered by a marketing agreement and/or order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), at least one copy of each certificate covering the inspection of such product shall, on request, be delivered to the administrative agency established thereunder, subject to such terms and conditions as the Administrator may prescribe. Copies may be furnished to other interested parties as outlined in § 51.41.

(b) [Reserved]

[63 FR 15277, Mar. 31, 1998]

### § 51.22 Disposition of samples.

If it is necessary to take samples of the product to the inspection office for further examination, the inspector, after completion of inspection of such samples shall dispose of them or any usable portion as follows: (a) Ascertain from the applicant if the owner wants the samples returned to him at his expense, (b) if he does not want them returned at his expense, give them to a nonsectarian charitable organization or, (c) if they have a substantial monetary value, sell them and remit the proceeds to the Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or if applicable, to the cooperating State Agency. Such proceeds shall be deposited to the credit of the Inspection Trust Fund, Federal or cooperating agency, whichever is applicable.

### § 51.23 Report of inspection results prior to issuance of formal report.

Upon request of an applicant, all or any part of the contents of a certificate covering an inspection requested by him may be telegraphed or telephoned to him, or to any person designated by him, at his expense. If the application for such information is received after the certificate has been issued, it will be considered as an application for an extra copy of the certificate, and the fees prescribed in § 51.41 shall apply.

APPEAL INSPECTION

### § 51.24 When appeal inspection may be requested.

An application for appeal inspection may be made by any financially interested person who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot can be positively identified by the Inspection Service as the lot which was previously inspected.

### § 51.25 Where to file for an appeal inspection and information required.

An appeal inspection may be obtained by the applicant, or other person financially interested in the product, by filing a request (a) with the Inspection Office nearest the point where the product is located, or (b) with the inspector who made the original inspection, or (c) with any district supervisory inspection office, or (d) with the Administrator. The application for the appeal inspection shall state the reasons therefor, and shall be accompanied by a copy of any previous inspection certificate or inspection report, and any other information which the applicant received regarding the quality or condition of the product at the time of the original inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

### § 51.26 Record of filing time.

A record showing the date and time of filing an application for appeal inspection shall be made promptly by the receiving office.

### § 51.27 When appeal inspection may be refused.

An application for an appeal inspection may be refused if: (a) The reasons for the appeal inspection are frivolous or not substantial; (b) the quality or condition of the product has undergone a material change since the inspection covering the product on which the appeal inspection is requested; (c) the lot in question is not, or cannot be, made accessible for the inspection; (d) the lot relative to which appeal inspection is requested cannot be identified positively by the inspector as the lot which

was previously inspected; or (e) there is noncompliance with the regulations in this part. Such an applicant shall be notified promptly of the reason for refusal.

### § 51.28 When an application for an appeal inspection may be withdrawn.

An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That the applicant shall pay any travel expenses, telephone, telegraph or other expenses which have been incurred by the Inspection Service in connection with such application.

### § 51.29 Order in which made.

Appeal inspections shall be made, as soon as practicable, following the time requested by the applicant and in the order in which applications are received. They shall take precedence over all other pending applications, except applications for inspections covering lots involved in complaints filed pursuant to the Perishable Agricultural Commodities Act, 1930 as amended (7 U.S.C. 499a *et seq.*).

### § 51.30 Who shall perform appeal inspections.

Appeal inspections shall be performed by an inspector or inspectors authorized for this purpose by the Administrator and whenever practical, such appeal inspections shall be made by two inspectors.

### § 51.31 Appeal inspection certificate.

After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality described therein. The inspector or inspectors issuing an appeal inspection certificate shall sign the certificate and forward notice of such issuance to such persons as considered necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms of certificates and issuance of certificates, shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished all interested parties who receive copies of the superseded certificate.

## LICENSING OF INSPECTORS

### § 51.32 Who may be licensed.

Persons who are employed by a cooperative Federal-State Inspection Agency and possess adequate qualifications, as determined by such examinations as the Administrator may consider to be appropriate, may be licensed as inspectors of products which may be inspected under the regulations in this part. Such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. A licensed inspector shall perform his duties pursuant to the regulations in this subpart as directed by the Administrator.

### § 51.33 Application to become a licensed inspector.

Application to become a licensed inspector shall be made to the Administrator on forms furnished for that purpose. Each such application shall be filled in and signed by the applicant in his own handwriting, and the application shall contain or be accompanied by:

(a) A statement of present address, age, height, and weight of the applicant;

(b) A statement showing education and present and previous occupations, together with names of all employers for whom he has worked with periods of service, during the last 5 years previous to the date of his application;

(c) A statement by the applicant that he agrees to comply with all terms and conditions of the regulations in this part relating to the duties of inspectors; and

(d) Such other information as may be required by the Administrator.

### § 51.34 Suspension or revocation of license of a licensed inspector.

Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the license of any licensed inspector issued pursuant to the regulations in this part by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of the reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

### § 51.35 Surrender of license.

Upon termination of his services as a licensed inspector, or suspension or revocation of his license, a licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in case of an expired license.

### § 51.36 Expiration and renewal of license.

An inspector's license issued pursuant to the regulations in this subpart shall expire on December 31 of each year in which it is issued. The license of an inspector may be renewed by the issuance of a new license and the renewal shall subject the inspector to the terms and conditions of the regulations of this subpart.

[37 FR 11313, June 7, 1972. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

## SCHEDULE OF FEES AND CHARGES AT DESTINATION MARKETS

### § 51.37 Charges for fees, rates, and expenses.

For each carlot of product inspected, a fee or rate determined in accordance with §§ 51.38 and 51.39, and expenses determined in accordance with § 51.40, shall be paid by the applicant.

[56 FR 55800, Oct. 30, 1991]

### § 51.38 Basis for fees and rates.

(a) When performing inspections of product unloaded directly from land or air transportation, the charges shall be determined on the following basis:

(1) Quality and condition inspections of products in quantities of 51 or more packages and unloaded from the same air or land conveyance:

(i) $131 ($151, on or after March 1, 2008) for over a half carlot equivalent of an individual product;

(ii) $109 ($125, on or after March 1, 2008) for a half carlot equivalent or less of an individual product;

(iii) $60 ($69, on or after March 1, 2008) for each additional lot of the same product.

(2) Condition only inspection of products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:

(i) $109 ($125, on or after March 1, 2008) for over a half carlot equivalent of an individual product;

(ii) $100 ($115, on or after March 1, 2008) for a half carlot equivalent or less of an individual product;

(iii) $60 ($69, on or after March 1, 2008) for each additional lot of the same product.

(3) For quality and condition inspection and condition only inspection of products in quantities of 50 or less packages unloaded from the same conveyance:

(i) $60 ($69, on or after March 1, 2008) for each individual product:

(ii) $60 ($69, on or after March 1, 2008) for each additional lot of any of the same product. Lots in excess of carlot equivalents will be charged proportionally by the quarter carlot.

(b) When performing inspections of palletized products unloaded directly from sea transportation or when palletized product is first offered for

inspection before being transported from the dock-side facility, charges shall be determined on the following basis:

(1) Dock side inspections of an individual product unloaded directly from the same ship:

(i) 3.3 (3.8, on or after March 1, 2008) cents per package weighing less than 30 pounds;

(ii) 5.1 (5.9, on or after March 1, 2008) cents per package weighing 30 or more pounds;

(iii) Minimum charge of $131 ($151, on or after March 1, 2008) per individual product;

(iv) Minimum charge of $60 ($69, on or after March 1, 2008) for each additional lot of the same product.

(2) [Reserved]

(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dock-side, the carlot fees in ''a'' of this section shall apply.

(d) When performing inspections for Government agencies, or for purposes other than those prescribed in paragraphs (a) through (c) of this section, including weight-only and freezing-only inspections, fees for inspections shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of $64 ($74, on or after March 1, 2008) per hour;

*Provided*, that:

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one-half hour for other inspections;

(3) When weight certification is provided in addition to quality and/or condition inspection, a one hour charge shall be added to the carlot fee;

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(e) When performing inspections at the request of the applicant during periods which are outside the grader's regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of $33 for overtime and $66 for holiday work ($38 for overtime and $74 for holiday work, on or after March 1, 2008) per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.

(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.

[72 FR 41887 , Aug. 1, 2007]

### § 51.39 Fees for appeal inspections.

The fee to be charged to an applicant, including any Government agency, for appeal inspections on all products shall be at the same rate as those set forth in this part, except that when a material error is found in the determination of the original inspection, no fee will be charged.

[56 FR 55800, Oct. 30, 1991]

### § 51.40 Traveling and other expenses.

Costs including travel incurred by the Agricultural Marketing Service in providing inspection service or appeal inspections may be charged to the applicant, including any Government agency. These charges shall be included with the fee for inspection on the bill furnished the applicant.

[56 FR 55800, Oct. 30, 1991]

### § 51.41 Fees for additional copies of inspection certificates.

Additional copies of any inspection certificate other than those copies provided for in § 51.21, or copies of official memoranda, may be mailed, faxed, or

otherwise provided to any interested party upon payment of a fee of $5.00 for each copy.

[56 FR 55800, Oct. 30, 1991]

### § 51.42 Charges for inspection services on a contract basis.

Irrespective of fees and charges prescribed in the foregoing sections, the Administrator may enter into contracts with applicants to perform inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection services provided for in such contracts shall be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of conducting such inspection service, including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses, as may be determined by the Administrator.

### § 51.43 How fees shall be paid.

Fees shall be paid by the applicant in accordance with the directions on the fee bill furnished him by the billing office, and in advance, if required by the inspector.

### § 51.44 Disposition of fees.

(a) The fees collected for services rendered shall be disposed of as follows:

(1) Fees for inspections made by inspectors acting exclusively for the Agricultural Marketing Service shall be remitted promptly to the Agricultural Marketing Service.

(2) Fees for inspections made by an inspector acting under a cooperative agreement with a State or other organization shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement with a State or other cooperating bodies as may be due the United States shall be remitted to the Agricultural Marketing Service.

(b) Fees and charges collected pursuant to §§ 51.40 to 51.41 shall be remitted to the Agricultural Marketing Service.

(c) Fees and charges collected pursuant to § 51.42 shall be disposed of in accordance with the terms of the contract.

## SCHEDULE OF FEES AND CHARGES AT SHIPPING POINT AREAS

### § 51.45 Fees and charges at shipping point areas.

Fees for inspection performed under cooperative agreements pursuant to authority contained in any Act of Congress shall be those provided by such agreements.

## MISCELLANEOUS

### § 51.46 Denial of inspection service.

Any or all benefits of the act may be denied any person for any of the following reasons: (a) Any willful misrepresentation or deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application for inspection service; (b) any fradulent or unauthorized use, alteration, or imitation of any certificate issued pursuant to the regulations in this subpart; (c) any interference with or obstruction of any inspector or official sampler in the performance of his duties, by intimidation, threat, assault or any other improper means; or (d) any willful violation of the regulations in this subpart may be deemed sufficient cause for debarring the person found guilty thereof from any or all benefits of the acts, after notice and opportunity for hearing has been accorded him. The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§ 1.130 through 1.151 of this title and the Supplemental Rules of Practice in part 50 of this chapter shall govern proceedings conducted pursuant to this section.

[32 FR 15066, Nov. 1, 1967. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 60 FR 8464, Feb. 14, 1995]

### § 51.47 Political activity.

All inspectors are forbidden, during the period of their respective appointments or while holding a valid inspectors' license to take an active part in political campaigns and a violation by a licensee shall constitute grounds for revocation of his license. All Federal employees are subject to the applicable

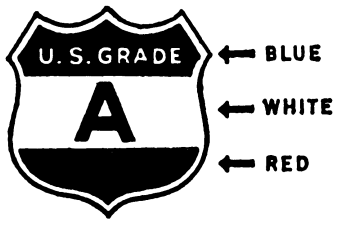
provisions of the Department's administrative regulations relating to political activity.

### § 51.48 Inspector's identification.

Each inspector shall have in his possession at all times, and present upon request, while on duty, the means of identification furnished by the Department to such person.

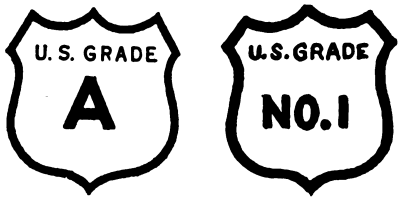
### § 51.49 Approved identifications.

(a) *Grade marks.* The approved shield mark with the appropriate U.S. grade designation may be used on containers, labels or otherwise indicated on the package when: (1) The product has been packed under continuous inspection as provided by the Inspection Service, (2) the plant in which the product is packed is maintained under good commercial sanitary practices, and (3) the product has been certified by an inspector as meeting the requirements of U.S. Grade A, U.S. Grade No. 1, or a higher U.S. grade as shown within the shield. The shields with approved grade designation for use shall be similar in form and design to the examples in figures 1 and 2 of this section.




**Shield using red, white and blue background**

FIGURE 1




**Shields with plain background.**

FIGURE 2

(b) *Inspection legends.* The approved continuous inspection legends may be used on containers, labels or otherwise indicated on the package when: (1) The product has been packed under continuous inspection provided by the Inspection Service, (2) the plant in which the product is packed is maintained under good commercial sanitary practices, and (3) the product meets the requirements of such quality, grade, or specification as may be approved by the Administrator. The continuous inspection legends approved for use shall be similar in form and design to the examples in figures 3 and 4.

PACKED UNDER
CONTINUOUS
INSPECTION
OF THE
U. S. DEPT. OF
AGRICULTURE

FIGURE 3

PACKED BY

---

---

UNDER CONTINUOUS
FEDERAL-STATE
INSPECTION

FIGURE 4

(c) *Combined grade and inspection legends.* The grade marks set forth in paragraph (a) of this section and illustrated by figures 1 and 2 of this section and the inspection legends set forth in paragraph (b) of this section and illustrated by figures 3 and 4 of paragraph (b) of this section may be combined into a consolidated grade and inspection legend for use on products which meet the requirements of both of these paragraphs. See figure 5.

FIGURE 5

(d) *Packer identification.* The packer's name and address or assigned code number or other mark identifying the packer as may be approved by the Administrator, shall appear on any container bearing grade marks or inspection legends approved under paragraph (a), (b), or (c) of this section, as illustrated by the example in figure 6.

FIGURE 6

(e) *Other identification marks.* Products may be inspected on a lot inspection basis as provided in this part and identified by an official inspection mark similar in form and design to figure 7 of this paragraph. The use of this mark or other comparable identification marks may be required by the Administrator whenever he determines that such identification is necessary in order to maintain the identity of lots which have been inspected and certified.

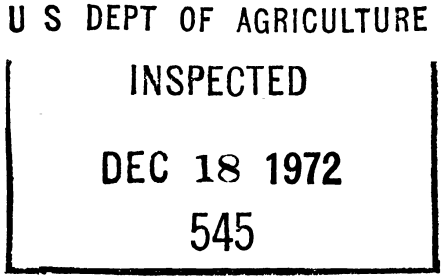



FIGURE 7

[38 FR 7448, Mar. 22, 1973. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### §51.50 Custody of official inspection marking devices.

All official inspection marking devices as shown in figure 6 of §51.49 shall be kept in the custody of the Agricultural Marketing Service and accurate records shall be kept of these devices. Each inspection office shall keep a record of the devices assigned to it. Such devices shall be distributed only to authorized employees of the Department who shall keep the devices in their official possession or control at all times and keep complete records of such devices.

### §51.51 Prohibited uses of approved identification.

No label or advertising material used on, or in conjunction with any product, shall bear a brand name, trademark, product name or any other descriptive material that incorporates, resembles, simulates, or alludes to any official U.S. Department of Agriculture grade mark, grade statement, continuous inspection legend, sampling mark or sampling statement, or combination of one or more thereof.

### § 51.52 Licensing and identification of certain official devices.

The Administrator may issue licenses permitting the manufacture, identification, distribution, and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses shall be available to all persons meeting conditions prescribed by the Administrator, shall be nonexclusive, and shall be revocable for cause. No person shall manufacture, identify, distribute or sell any such official device except at the direction of or under license from the Administrator. Such official devices may be marked, tagged or otherwise designated with the prefix ''USDA'' together with other identifying words or symbols, as prescribed by the license.

REQUIREMENTS FOR PLANTS OPERATING UNDER CONTINUOUS INSPECTION ON A CONTRACT BASIS

### § 51.53 Continuous inspections.

Continuous inspection service which is associated with the use of the approved shield showing the U.S. grade, the approved continuous inspection legend, or both, on the container may be furnished whenever inspectors are available, the facilities and conditions are satisfactory for the conduct of the service, and there is a signed contract between the applicant and the Department or a cooperative Federal-State Inspection Agency in which it is agreed that such service will be conducted subject to regulations governing the inspection and certification of fresh fruits, vegetables, and other products, contained in this part and any additional and supplemental instructions issued by the Department or such instructions issued by a cooperating agency which are not inconsistent with those issued by the Department.

### § 51.54 Plant survey.

Prior to the inauguration of continuous Federal or Federal-State Inspection Service on a contract basis, the Administrator will make or cause to be made a survey and inspection where such service is to be performed to determine whether the premises, plant and facilities are suitable and adequate for the performance of such service in accordance with the regulations in this part, including, but not limited to requirements contained in §§ 51.54 through 51.59.

### § 51.55 Premises.

The premises shall be free from conditions objectionable to packing operations, including, but not limited to litter, waste and refuse within the immediate vicinity of the plant buildings, excessively dusty roads, yards or parking lots, and poorly drained areas.

### § 51.56 Buildings and structures.

The packing plant buildings shall be properly constructed and maintained in a sanitary condition, including, but not limited to the following requirements:

(a) There shall be sufficient light consistent with the use to which the particular portion of the building is devoted and to permit efficient cleaning. The grading belts and bins shall be provided with sufficient proper nonglaring light to insure adequacy of grading and inspection operations;

(b) If the product is washed there shall be ample supply of water of a safe and sanitary quality with adequate facilities for its distribution throughout the plant and washing machinery;

(c) There shall also be an efficient waste disposal and plumbing system maintained in good repair;

(d) Each room in which the product is graded or stored shall be designed and constructed as to insure operating conditions of a clean and orderly character and shall be maintained in a clean and sanitary manner; and,

(e) Every practical precaution shall be taken to exclude dogs, cats, rodents and other vermin from the rooms in which the products are to be graded or stored.

### § 51.57 Facilities.

Each packing plant shall be equipped with adequate sanitary facilities and accommodations, including but not being limited to the following:

(a) There shall be a sufficient number of adequately lighted toilet rooms, ample in size and conveniently located. Toilet rooms shall be adequately

screened and equipped with self-closing doors, and shall have independent outside ventilation;

(b) Adequate lavatory accommodations and supplies shall be placed at such locations in or near toilet rooms as to insure the cleanliness of each person who grades or handles the product to be inspected; and

(c) Suitable facilities for cleaning shall be provided at convenient locations in the plant.

### §51.58 Equipment.

All equipment used for receiving, washing, grading, packaging or storing shall be of such design, material and construction that it may be kept clean.

### §51.59 Operations and operating procedures.

(a) The inspector shall refuse to permit the use of the official shield with grade mark or continuous inspection legend on packages if the produce is from a field or orchard having a disease or other condition which may not be apparent on individual specimens at packing time but which may cause the product to materially decrease in quality after packing.

(b) All products which are certified shall be subjected to continuous inspection throughout the packing operations.

(c) The inspectors are available for consultation purposes but shall not become involved in plant operations.

(d) The Inspection Service will not be responsible for damages occurring through any act of commission or omission on the part of its inspectors when engaged in rendering continuous inspection service; for packing errors or misbranding of products; or for failure to supply enough inspectors during any period of service provided under the contract.

(e) The applicant for continuous inspection shall:

(1) Conform to all applicable regulations under which the continuous inspection service is conducted.

(2) Use only raw material which has been handled or stored under conditions which insures its suitability for packing; maintain the plant designated herein in such sanitary condition and to employ such methods of handling raw materials for packing as may be necessary to conform to the sanitary requirements prescribed in this part.

(3) Not permit any of his marks or labels or buyers' and distributors' marks or labels applied by him on which reference is made to continuous inspection to be used on any product not packed under this continuous inspection service; or permit any of his marks or labels or buyers' and distributors' marks or labels applied by him on which reference is made to any U.S. Grade to be used on any product which does not meet the requirements of such grade; or to supply labels bearing reference to continuous inspection service to another plant unless the products to which such labels are to be applied have been packed under continuous inspection.

(4) Furnish any reports of packaging and output of products inspected, as may be requested by the inspection agencies.

(5) Make available to inspectors adequate office space in the designated plant and furnish suitable desks and office equipment for the proper care of inspection records.

(6) Make his laboratory or other facilities and necessary equipment available for the use of inspectors in making inspection of samples.

(7) Furnish if required, such stenographic and clerical assistance as may be necessary in the typing of certificates and reports and the handling of official correspondence, as well as the labor incident to drawing of samples and facilitating adequate inspection procedure when necessary.

(8) Submit to the Chief of the Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, for approval prior to printing, drawings or printers' proofs of each packer's or distributor's label bearing or referring in any manner to official inspection legends or grade marks.

(9) Not make deceptive, fraudulent, or unauthorized use in his advertising, or otherwise, of the continuous inspection service, the inspection certificates or reports issued, or the containers on which the shield of the Department is identified, in connection with the sale of any of the packaged products; and to

submit to the Agricultural Marketing Service through the inspector assigned to the plant or other representative of the Inspection Service, for approval to use any proposed advertising in which reference is made to the Inspection Service.

[32 FR 15066, Nov. 1, 1967, as amended at 38 FR 7448, Mar. 22, 1973. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.60 Termination of contracts.

In case the applicant wishes to terminate the contract he agrees either to continue the service until all unused containers, labels and advertising material on hand or in the possession of his supplier bearing the Department shield, or reference to continuous inspection service have been used, or to destroy such containers, labels and advertising material, or to obliterate the Department shield and all other reference to the continuous inspection service on said containers, labels, and advertising material, or otherwise furnish assurance satisfactory to the Agricultural Marketing Service that such containers, labels and advertising material will not be used in violation of the terms and conditions of this agreement. In case the continuous inspection service is terminated for cause by the Agricultural Marketing Service, the applicant agrees to destroy all unused containers, labels and advertising material on hand bearing the Department shield, or reference to continuous inspection service, or to obliterate the Department shield, and all reference to the continuous inspection service on said containers, labels and advertising material or otherwise furnish assurance satisfactory to the Agricultural Marketing Service that such containers, labels and advertising material will not be used in violation of the terms and conditions of the agreement.

### § 51.61 Congressional interest in contracts.

No member of, or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in the regulations in this subpart or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a member of, or delegate to Congress, or a Resident Commissioner in his capacity as a farmer.

### § 51.62 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581–0125.

(44 U.S.C. Chap. 35)

[49 FR 23826, June 8, 1984]

## Subpart—United States Standards for Grades of Apples

SOURCE: 67 FR 69663, Nov. 19, 2002, unless otherwise noted.

GRADES

### § 51.300 U.S. Extra Fancy.

''U.S. Extra Fancy'' consists of apples of one variety (except when more than one variety is printed on the container) which are mature but not overripe, clean, fairly well formed, free from decay, internal browning, internal breakdown, soft scald, scab, freezing injury, visible water core, and broken skins. The apples are also free from injury caused by bruises, brown surface discoloration, smooth net-like russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, disease, insects, or other means. The apples are free from damage caused by bitter pit or Jonathan spot and by smooth solid, slightly rough or rough russeting, or stem or calyx cracks, as well as damage by invisible water core after January 31st of the year following the year of production except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances. For the apple varieties listed in table I of § 51.305, each apple of this grade has the amount of color specified for the variety. (*See* §§ 51.305 and 51.306.)

**§ 51.301 U.S. Fancy.**

''U.S. Fancy'' consists of apples of one variety (except when more than one variety is printed on the container) which are mature but not overripe, clean, fairly well formed, and free from decay, internal browning, internal breakdown, soft scald, freezing injury, visible water core, and broken skins. The apples are also free from damage caused by bruises, brown surface discoloration, russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, disease, insects, bitter pit, Jonathan spot, or damage by other means, or invisible water core after January 31st of the year following the year of production, except for the Fuji variety of apples. Invisible water core shall not be scored against the Fuji variety of apples under any circumstances. For the apple varieties listed in table I of § 51.305, each apple of this grade has the amount of color specified for the variety. (*See* §§ 51.305 and 51.306.)

**§ 51.302 U.S. No. 1.**

''U.S. No. 1'' consists of apples which meet the requirements of U.S. Fancy grade except for color, russeting, and invisible water core. In this grade, less color is required for all varieties listed in table I of § 51.305. Apples of this grade are free from excessive damage caused by russeting which means that apples meet the russeting requirements for U.S. Fancy as defined under the definitions of ''damage by russeting,'' except the aggregate area of an apple which may be covered by smooth netlike russeting shall not exceed 25 percent; and the aggregate area of an apple which may be covered by smooth solid russeting shall not exceed 10 percent: *Provided*, That, in the case of the Yellow Newtown or similar varieties, the aggregate area of an apple which may be covered with smooth solid russeting shall not exceed 20 percent. Each apple of this grade has the amount of color specified in § 51.305 for the variety. Invisible water core shall not be scored in this grade. (*See* §§ 51.305 and 51.306.)

(a) *U.S. No. 1 Hail:* ''U.S. No. 1 Hail'' consists of apples which meet the requirements of U.S. No. 1 grade except that hail marks where the skin has not been broken and well healed hail marks where the skin has been broken, are permitted, provided the apples are fairly well formed. (*See* §§ 51.305 and 51.306.)

(b) [Reserved]

**§ 51.303 U.S. Utility.**

''U.S. Utility'' consists of apples of one variety (except when more than one variety is printed on the container) which are mature but not overripe, not seriously deformed and free from decay, internal browning, internal breakdown, soft scald, and freezing injury. The apples are also free from serious damage caused by dirt or other foreign matter, broken skins, bruises, brown surface discoloration, russeting, sunburn or sprayburn, limb rubs, hail, drought spots, scars, stem or calyx cracks, visible water core, bitter pit or Jonathan spot, disease, insects, or other means. (*See* § 51.306.)

**§ 51.304 Combination grades.**

(a) Combinations of the above grades may be used as follows:

(1) Combination U.S. Extra Fancy and U.S. Fancy;

(2) Combination U.S. Fancy and U.S. No. 1; and

(3) Combination U.S. No. 1 and U.S. Utility.

(b) Combinations other than these are not permitted in connection with the U.S. apple grades. When Combination grades are packed, at least 50 percent of the apples in any lot shall meet the requirements of the higher grade in the combination. (*See* § 51.306.)

COLOR REQUIREMENTS

**§ 51.305 Color requirements.**

In addition to the requirements specified for the grades set forth in §§ 51.300 to 51.304, apples of these grades shall have the percentage of color specified for the variety in table I appearing in this section. All apple varieties other than those appearing in table I shall have no color requirements pertaining to these grades. For the solid red varieties, the percentage stated refers to the area of the surface which must be covered with a good shade of solid red characteristic of the variety: *Provided*, That an apple having color of a lighter shade of solid red or striped red than

that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade. For the striped red varieties, the percentage stated refers to the area of the surface in which the stripes of a good shade of red characteristic of the variety shall predominate over stripes of lighter red, green, or yellow. However, an apple having color of a lighter shade than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of stripes of a good red characteristic of the variety required for the grade. Faded brown stripes shall not be considered as color. (A) Color standards USDA Visual Aid APL-CC–1 (Plates a—e) consists of a folder containing the color requirements for apples set forth in this section and five plates illustrating minimum good shade of solid red or striped red color, minimum compensating color and shade not considered color, for the following 12 varieties: Red Delicious, Red Rome, Empire, Idared, Winesap, Jonathan, Stayman, McIntosh, Cortland, Rome Beauty, Delicious, and York.

These color standards will be available for examination and purchasing information in the Fresh Products Branch, Fruit and Vegetable Programs, AMS, U.S. Department of Agriculture, South Building, Washington, DC 20250; in any field office of the Fresh Products Branch; or upon request of any authorized inspector of the Fresh Fruit and Vegetable Inspection Service.

TABLE 1 [1]

[Only the varieties listed below shall be required to meet a minimum color requirement]

| Variety | U.S. extra fancy (Percent) | U.S. fancy (Percent) | U.S. No. 1 (Percent) |
|---|---|---|---|
| Red Delicious | 66 | 40 | 25 |
| Red Rome | 66 | 40 | 25 |
| Empire | 66 | 40 | 25 |
| Idared | 66 | 40 | 25 |
| Winesap | 66 | 40 | 25 |
| Jonathan | 66 | 40 | 25 |
| Stayman | 50 | 33 | 25 |
| McIntosh | 50 | 33 | 25 |
| Cortland | 50 | 33 | 25 |
| Rome Beauty | 50 | 33 | 25 |
| Delicious | 50 | 33 | 25 |
| York | 50 | 33 | 25 |

[1] Variations on varietal designations listed above must meet or exceed those color requirements listed.

TOLERANCES

### § 51.306 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the grades in 51.300, 51.301, 51.302, 51.303, and 51.304 the following tolerances are provided as specified:

(a) *Defects:* (1) U.S. Extra Fancy, U.S. Fancy, U.S. No. 1, and U.S. No. 1 Hail grades: 10 percent of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half of this amount, or 5 percent, shall be allowed for apples which are seriously damaged, including therein not more than 1 percent for apples affected by decay or internal breakdown.

(2) *U.S. Utility grade:* 10 percent of the apples in any lot may fail to meet the requirements of the grade, but not more than one-half of this amount, or 5 percent, shall be allowed for apples which are seriously damaged by insects, and including in the total tolerance not more than 1 percent for apples affected by decay or internal breakdown.

(b) When applying the foregoing tolerances to Combination grades, no part

of any tolerance shall be allowed to reduce, for the lot as a whole, the 50 percent of apples of the higher grade required in the combination, but individual containers shall have not less than 40 percent of the higher grade.

(c) *Size:* When size is designated by the numerical count for a container, not more than 10 percent of packages in the lot may fail to be fairly uniform.[1] When size is designated by minimum or maximum diameter, not more than 5 percent of the apples in any lot may be smaller than the designated minimum, and not more than 10 percent may be larger than the designated maximum. For Red Delicious or Golden Delicious varieties only, a combination of minimum diameter and/or weight may be used. When this designation is used, an individual apple will be considered to have met the minimum size requirement even if the apple is smaller than the minimum diameter, provided it is equal to or greater than the weight provided in table II of this section. However, not more than 5 percent of the apples in any lot may fail to meet either the minimum diameter or minimum weight when so designated. In addition, when Red Delicious or Golden Delicious apples are designated with diameter/weight combinations, they may only be designated according to the following table:

TABLE II

| Red delicious | Golden delicious |
|---|---|
| 2⅛ inches or 65 grams | 63 grams |
| 2¼ inches or 75 grams | 70 grams |
| 2⅜ inches or 84 grams | 82 grams |
| 2½ inches or 100 grams | 95 grams |
| 2⅝ inches or 115 grams | 109 grams |
| 2¾ inches or 139 grams | 134 grams |

APPLICATION OF TOLERANCES

### § 51.307 Application of tolerances.

The contents of individual packages in the lot, are subject to the following limitations: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade:

(a) Packages which contain more than 10 pounds:

(1) Shall have not more than one and one-half times a specified tolerance of 10 percent or more and not more than double a tolerance of less than 10 percent, except that at least one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.

(2) [Reserved]

(b) Packages which contain 10 pounds or less:

(1) No package may have more than 3 times the tolerance specified, except that at least three defective apples may be permitted in any package: *Provided*, That not more than three apples or more than 18 percent (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.

(2) [Reserved]

METHODS OF SAMPLING AND CALCULATION OF PERCENTAGES

### § 51.308 Methods of sampling and calculation of percentages.

(a) When the numerical count is marked on the container, containers are packed to weigh ten pounds or less, or in any container where the minimum diameter of the smallest apple does not vary more than ½ inch from the minimum diameter of the largest apple, percentages shall be calculated on the basis of count.

(b) In all other cases except those listed in paragraph (a) of this section, they shall be calculated on the basis of weight.

CONDITION AFTER STORAGE OR TRANSIT

### § 51.309 Condition after storage or transit.

Decay, scald, or any other deterioration which may have developed on apples after they have been in storage or transit shall be considered as affecting condition and not the grade.

PACKING REQUIREMENTS

### § 51.310 Packing requirements.

(a) Apples tray packed or cell packed in cartons shall be arranged according to approved and recognized methods.

[1] ''Fairly uniform'' means the size of the fruit within the container does not vary more than ½ inch diameter from the smallest to largest fruit.

Packs shall be at least fairly tight[2] or fairly well filled.[3]

(b) Closed cartons containing apples not tray or cell packed shall be fairly well filled or the pack shall be sufficiently tight to prevent any appreciable movement of the apples.

(c) Packs in wooden boxes or baskets shall be sufficiently tight to prevent any appreciable movement of apples within containers when the packages are closed. Each wrapped apple shall be completely enclosed by its individual wrapper.

(d) Apples on the shown face of any container shall be reasonably representative in size, color and quality of the contents.

(e) Tolerances: In order to allow for variations incident to proper packing, not more than 10 percent of the containers in any lot may fail to meet these requirements.

MARKING REQUIREMENTS

### § 51.311 Marking requirements.

Variety (or varieties if more than one is packed in the container), grade, and the numerical count or minimum diameter of apples packed in a closed container shall be indicated on the container. For apple lots utilizing the combined diameter/weight designations for Red Delicious and Golden Delicious varieties, the minimum diameter and minimum weight of apples packed in a closed container shall be indicated on the container.

(a) When the numerical count is not shown, the minimum diameter or, in the case of Red Delicious or Golden Delicious lots where minimum diameter/weight designations have been chosen, the minimum diameter and weight as designated in table II, shall be plainly stamped, stenciled or otherwise marked on the container in terms of whole inches, or whole inches and not less than eighth inch fractions thereof in the following manner: ''A'' inches or ''B'' grams, where ''A'' corresponds to one of the diameter measurements in terms of inches listed in table II and ''B'' corresponds to the weight measurement in grams as indicated in table II. Both diameter and weight must be shown using the word ''or'' between the given measurements.

(b) The word ''minimum,'' or its abbreviation, when following a diameter size marking, means that the apples are of the size marked or larger. (*See* §§ 51.306 and 51.307.)

DEFINITIONS

### § 51.312 Mature.

''*Mature*'' means that the apples have reached the stage of development which will insure the proper completion of the ripening process. Before a mature apple becomes overripe it will show varying degrees of firmness, depending upon the stage of the ripening process. The following terms are used for describing different stages of firmness of apples:

(a) ''*Hard*'' means apples with a tenacious flesh and starchy flavor.

(b) ''*Firm*'' means apples with a tenacious flesh but which are becoming crisp with a slightly starchy flavor, except the Delicious variety.

(c) ''*Firm ripe*'' means apples with crisp flesh except that the flesh of the Gano, Ben Davis, and Rome Beauty varieties may be slightly mealy.

(d) ''*Ripe*'' means apples with mealy flesh and soon to become soft for the variety.

### § 51.313 Overripe.

''*Overripe*'' means apples which have progressed beyond the stage of ripe, with flesh very mealy or soft, and past commercial utility.

### § 51.314 Clean.

''*Clean*'' means that the apples are free from excessive dirt, dust, spray residue, and other foreign material.

### § 51.315 Fairly well formed.

''*Fairly well formed*'' means that the apple may be slightly abnormal in

[2] ''Fairly tight'' means that apples are of the proper size for molds or cell compartments in which they are packed, and that molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible.

[3] ''Fairly well filled'' means that the net weight of apples in containers ranging from 2,100 to 2,900 cubic inch capacity is not less than 37 pounds for Cortland, Gravenstein, Jonathan, McIntosh and Golden Delicious varieties and not less than 40 pounds for all other varieties.

shape but not to an extent which detracts materially from its appearance.

### § 51.316 Injury.

''*Injury*'' means any specific defect defined in this section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which more than slightly detract from the appearance or the edible or shipping quality of the apple. In addition, specific defect measurements are based on an apple three inches in diameter. Corresponding smaller or larger areas would be allowed on smaller or larger fruit. Any reference to ''*inch*'' or ''*inches in diameter*'' refers to that of a circle of the specified diameter. Any reference to ''*aggregate area,*'' ''*total area,*'' or ''*aggregate affected area*'' means the gathering together of separate areas into one mass for the purpose of comparison to determine the extent affected. The following specific defects shall be considered as injury:

(a) Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether an apple is injured by russeting. Smooth net-like russeting outside of the stem cavity or calyx basin shall be considered as injury when an aggregate area of more than 10 percent of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the amount permitted above.

(b) Sunburn or sprayburn, when the discolored area does not blend into the normal color of the fruit.

(c) Dark brown or black limb rubs which affect a total area of more than one-fourth inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of injury by russeting.

(d) Hail marks, drought spots, other similar depressions or scars:

(1) When the skin is broken, whether healed or unhealed;

(2) When there is appreciable discoloration of the surface;

(3) When any surface indentation exceeds one-sixteenth inch in depth;

(4) When any surface indentation exceeds one-eighth inch in diameter; or

(5) When the aggregate affected area of such spots exceeds one-half inch in diameter.

(e) Bruises which are not slight and incident to proper handling and packing, and which are greater than:

(1) ⅛ inch in depth;

(2) ⅝ inch in diameter;

(3) any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in paragraphs (e)(1) or (2) of this section.

(f) Brown surface discoloration when caused by delayed sunburn, surface scald, or any other means and affects an area greater than ¼ inch in diameter.

(g) Disease: (1) Cedar rust infection which affects a total area of more than three-sixteenths inch in diameter.

(2) Sooty blotch or fly speck which is thinly scattered over more than 5 percent of the surface, or dark, heavily concentrated spots which affect an area of more than one-fourth inch in diameter.

(3) Red skin spots which are thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-fourth inch in diameter.

(h) Insects: (1) Any healed sting or healed stings which affect a total area of more than one-eighth inch in diameter including any encircling discolored rings.

(2) Worm holes.

[67 FR 69663, Nov. 19, 2002; 67 FR 79516, Dec. 30, 2002]

### § 51.317 Damage.

''*Damage*'' means any specific defect defined in this section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detract from the appearance, or the edible or shipping quality of the apple. In addition, specific defect measurements are based on an apple three inches in diameter. Corresponding smaller or larger areas would be allowed on smaller or larger fruit. Any

reference to ''*inch*'' or ''*inches in diameter*'' refers to that of a circle of the specified diameter. Any reference to ''*aggregate area,*'' ''*total area,*'' or ''*aggregate affected area*'' means the gathering together of separate areas into one mass for the purpose of comparison to determine the extent affected. The following specific defects shall be considered as damage:

(a) Russeting in the stem cavity or calyx basin which cannot be seen when the apple is placed stem end or calyx end down on a flat surface shall not be considered in determining whether an apple is damaged by russeting, except that excessively rough or bark-like russeting in the stem cavity or calyx basin shall be considered as damage when the appearance of the apple is materially affected. The following types and amounts of russeting outside of the stem cavity or calyx basin shall be considered as damage:

(1) Russeting which is excessively rough on Roxbury Russet and other similar varieties.

(2) Smooth net-like russeting, when an aggregate area of more than 15 percent of the surface is covered, and the color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous net-like russeting when the appearance is affected to a greater extent than the amount permitted above.

(3) Smooth solid russeting, when an aggregate area of more than 5 percent of the surface is covered, and the pattern and color of the russeting shows no very pronounced contrast with the background color of the apple, or lesser amounts of more conspicuous solid russeting when the appearance is affected to a greater extent than the above amount permitted.

(4) Slightly rough russeting which covers an aggregate area of more than one-half inch in diameter.

(5) Rough russeting which covers an aggregate area of more than one-fourth inch in diameter.

(b) Sunburn or sprayburn which has caused blistering or cracking of the skin, or when the discolored area does not blend into the normal color of the fruit unless the injury can be classed as russeting.

(c) Limb rubs which affect a total area of more than one-half inch in diameter, except that light brown limb rubs of a russet character shall be considered under the definition of damage by russeting.

(d) Hail marks, drought spots, other similar depressions, or scars:

(1) When any unhealed mark is present;

(2) When any surface indentation exceeds one-eighth inch in depth;

(3) When the skin has not been broken and the aggregate affected area exceeds one-half inch in diameter; or

(4) When the skin has been broken and well healed, and the aggregate affected area exceeds one-fourth inch in diameter.

(e) Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of one-fourth inch.

(f) Invisible water core existing around the core and extending to water core in the vascular bundles, or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce, or existing in more than a slight degree outside the circular area formed by the vascular bundles. *Provided*, That invisible water core shall not be scored as damage against the Fuji variety of apples under any circumstances.

(g) Bruises which are not slight and incident to proper handling and packing, and which are greater than:

(1) 3⁄16 inch in depth;

(2) 7⁄8 inch in diameter;

(3) any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in paragraphs (g)(1) or (2) of this section.

(h) Brown surface discoloration when caused by delayed sunburn, surface scald, or any other means and affects an area greater than ½ inch in diameter.

(i) Disease: (1) Scab spots which affect a total area of more than one-fourth inch in diameter.

(2) Cedar rust infection which affects a total area of more than one-fourth inch in diameter.

(3) Sooty blotch or fly speck which is thinly scattered over more than one-

tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-half inch in diameter.

(4) Red skin spots which are thinly scattered over more than one-tenth of the surface, or dark, heavily concentrated spots which affect an area of more than one-half inch in diameter.

(5) Bitter pit or Jonathan spot when one or more spots affects the surface of the apple.

(j) Insects: (1) Any healed sting or healed stings which affect a total area of more than three-sixteenths inch in diameter including any encircling discolored rings.

(2) Worm holes.

[67 FR 69663, Nov. 19, 2002; 67 FR 79517, Dec. 30, 2002]

### § 51.318 Serious damage.

''*Serious damage*'' means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detract from the appearance, or the edible or shipping quality of the apple. In addition, specific defect measurements are based on an apple three inches in diameter. Corresponding smaller or larger areas would be allowed on smaller or larger fruit. Any reference to ''inch'' or ''inches in diameter'' refers to that of a circle of the specified diameter. Any reference to ''aggregate area,'' ''total area,'' or ''aggregate affected area'' means the gathering together of separate areas into one mass for the purpose of comparison to determine the extent affected. The following specific defects shall be considered as serious damage:

(a) The following types and amounts of russeting shall be considered as serious damage:

(1) Smooth solid russeting, when more than one-half of the surface in the aggregate is covered, including any russeting in the stem cavity or calyx basin, or slightly rough, or excessively rough or bark-like russeting, which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted: *Provided,* That any amount of russeting shall be permitted on Roxbury Russet and other similar varieties.

(2) [Reserved]

(b) Sunburn or sprayburn which seriously detracts from the appearance of the fruit.

(c) Limb rubs which affect more than one-tenth of the surface in the aggregate.

(d) Hail marks, drought spots, or scars, if they materially deform or disfigure the fruit, or if such defects affect more than one-tenth of the surface in the aggregate: *Provided,* That no hail marks which are unhealed shall be permitted and not more than an aggregate area of one-half inch shall be allowed for well healed hail marks where the skin has been broken.

(e) Stem or calyx cracks which are not well healed, or well healed stem or calyx cracks which exceed an aggregate length of one-half inch.

(f) Visible water core which affects an area of more than one-half inch in diameter.

(g) *Disease:* (1) Scab spots which affect a total area of more than three-fourths inch in diameter.

(2) Cedar rust infection which affects a total area of more than three-fourths inch in diameter.

(3) Sooty blotch or fly speck which affects more than one-third of the surface.

(4) Red skin spots which affect more than one-third of the surface.

(5) Bitter pit or Jonathan spot which is thinly scattered over more than one-tenth of the surface.

(h) *Insects:* (1) Healed stings which affect a total area of more than one-fourth inch in diameter including any encircling discolored rings.

(2) Worm holes.

(i) Bruises which are not slight and incident to proper handling and packing, and which are greater than:

(1) ⅜ inch in depth;

(2) 1⅛ inches in diameter;

(3) any combination of lesser bruises which detract from the appearance or edible quality of the apple to an extent greater than any one bruise described in paragraph (i)(1) or (2) of this section.

(j) Brown surface discoloration when caused by delayed sunburn, surface scald, or any other means and affects an area greater than ¾ inch in diameter.

### § 51.319 Seriously deformed.

''*Seriously deformed*'' means that the apple is so badly misshapen that its appearance is seriously affected.

### § 51.320 Diameter.

When measuring for minimum size, ''diameter'' means the greatest dimension of the apple measured at right angles to a line from stem to blossom end. When measuring for maximum size, ''diameter'' means the smallest dimension of the apple determined by passing the apple through a round opening in any position.

U.S. CONDITION STANDARDS FOR EXPORT

### § 51.321 U.S. Condition Standards for Export.[4]

(a) Not more than 5 percent of the apples in any lot shall be further advanced in maturity than firm ripe.

(b) Not more than 5 percent of the apples in any lot shall be damaged by storage scab.

(c) Not more than a total of 5 percent of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, or decay; or damaged by bitter pit, Jonathan spot, water core[5] except that invisible water core shall not be scored as damage when these condition standards are applied to the Fuji variety of apples, or other condition factors: *Provided*, That:

(1) Not more than a total of 2 percent shall be allowed for apples affected by decay and soft scald;

(2) Not more than 2 percent shall be allowed for apples affected by internal breakdown;

(d) Container packs shall comply with packing requirements specified in § 51.310 of the United States Standards for Grades of Apples.

(e) Any lot of apples shall be considered as meeting the U.S. Condition Standards for Export if the entire lot averages within the requirements specified: *Provided*, That no package in any lot shall have more than double the percentages specified, except that for packages which contain 10 pounds or less, individual packages in any lot may have not more than three times the tolerance or three apples (whichever is the greater amount).

METRIC CONVERSION TABLE

### § 51.322 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 1/16 equals | 1.6 |
| 1/8 equals | 3.2 |
| 3/16 equals | 4.8 |
| 1/4 equals | 6.4 |
| 3/8 equals | 9.5 |
| 1/2 equals | 12.7 |
| 5/8 equals | 15.9 |
| 3/4 equals | 19.1 |
| 7/8 equals | 22.2 |
| 1 1/8 equals | 28.6 |
| 2 1/8 equals | 54.0 |
| 2 1/4 equals | 57.2 |
| 2 3/8 equals | 60.3 |
| 2 1/2 equals | 63.5 |
| 2 3/4 equals | 69.9 |

| Cubic Inches | Cubic Centimeters (cc) |
|---|---|
| 2100 equals | 34,412.7 |
| 2900 equals | 47,522.3 |

| Pounds | Grams (g) |
|---|---|
| 10 equals | 4,536.0 |
| 37 equals | 16,783.2 |
| 40 equals | 18,144.0 |

## Subpart—United States Standards for Grades of Apples for Processing

SOURCE: 26 FR 3604, Apr. 27, 1961, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.340 U.S. No. 1.

''U.S. No. 1'' consists of apples of one variety, unless designated as mixed varieties, which are not overripe, which

[4] These standards may be applied to domestic shipments of apples as well as export lots, and may be referred to as ''U.S. Condition Standards.''

[5] ''Damage by water core'' means externally invisible water core existing around the core and extending to water core in the vascular bundles, or surrounding the vascular bundles when the affected areas surrounding three or more vascular bundles meet or coalesce, or existing in more than slight degree outside the circular area formed by the vascular bundles, or any externally visible water core.

are free from decay, worm holes, freezing injury and internal breakdown and free from any other defect, or combination of defects, the removal of which in the usual commercial preparation for use will cause a loss of more than 5 percent, by weight, of the apple.

### § 51.341 U.S. No. 2.

''U.S. No. 2'' consists of apples of one variety, unless designated as mixed varieties, which are not overripe, which are free from decay, worm holes, freezing injury and internal breakdown and free from any other defect, or combination of defects, the removal of which in the usual commercial preparation for use will cause a loss of more than 12 percent, by weight, of the apple.

### § 51.342 U.S. Cider.

''U.S. Cider'' consists of apples which are free from decay, worm holes and internal breakdown.

CULLS

### § 51.343 Culls.

''Culls'' consist of apples which fail to meet the requirements of U.S. Cider Grade.

SIZE

### § 51.344 Size.

(a) The minimum and maximum sizes or range of sizes shall be determined as agreed upon by buyer and seller.

(b) Unless otherwise specified, the minimum and maximum sizes or range of sizes shall be determined by the use of an approved sizing chain of the exact dimension specified in the agreement between buyer and seller.

(c) Size is the dimension of the apples determined by the smallest opening through which it will pass.

APPLICATION OF STANDARDS

### § 51.345 Application of standards.

(a) When a lot of apples is required to meet a specific U.S. grade, the tolerances as set forth in § 51.346 shall apply. When packed in closed packages the application of tolerances in § 51.347 shall apply. The application of tolerances shall not apply to apples in open or bulk containers.

(b) In the application of these standards to determine the percentage of the lot which meets the requirements of each of the grades, tolerances shall not apply.

TOLERANCES

### § 51.346 Tolerances.

When a lot of apples is required to meet one of the U.S. grades, the apples shall not be further advanced in maturity than generally firm ripe, and the following tolerances, by weight, shall apply:

(a) *For defects.* 10 percent for apples which fail to meet the requirements of the grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for the defects listed:

(1) 2 percent for apples which are affected by decay;

(2) 2 percent for apples which are affected by internal breakdown; and,

(3) 5 percent for apples which are affected by worm holes.

(b) *For off-size.* 5 percent for apples which are smaller than any specified minimum size, and 10 percent for apples larger than any specified maximum size.

APPLICATION OF TOLERANCES

### § 51.347 Application of tolerances.

Apples in closed packages are subject to the following limitations provided the averages for the entire lot are within the tolerances specified for the grade:

(a) For a tolerance of 10 percent, individual packages shall have not more than one and one-half times the tolerance specified. For a tolerance of less than 10 percent, individual packages shall have not more than double the tolerances specified.

DEFINITIONS

### § 51.348 One variety.

*One variety* within the meaning of these standards shall include all bud sports and strains of the specified variety.

### § 51.349 Overripe.

*Overripe* means apples which are dead ripe, and with flesh very mealy or soft.

## Subpart—United States Standards for Grades of Cantaloups [1]

SOURCE: 26 FR 2217, Mar. 16, 1961, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.475 U.S. Fancy.

''U.S. Fancy'' consists of cantaloups which meet the requirements of U.S. No. 1 grade except that the cantaloups have very good internal quality and have uniform appearance.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted, except that these tolerances shall not apply to the requirements relating to internal quality and uniformity of appearance:

(1) *At shipping point.*[2] 8 percent for cantaloups in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of 1 percent for cantaloups which are affected by decay or mold.

(2) *En route or at destination.* 12 percent for cantaloups in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for cantaloups which fail to meet the requirements of this grade because of permanent defects; or,

(ii) 6 percent for cantaloups which are seriously damaged, including therein not more than 4 percent for cantaloups which are seriously damaged by permanent defects and not more than 2 percent for cantaloups which are affected by decay. (See § 51.480.)

### § 51.476 U.S. No. 1.

''U.S. No. 1'' consists of cantaloups of one type which are mature and have good internal quality but are not overripe or soft or wilted, which are well formed, well netted, and free from decay, wet slip and sunscald, and free from damage caused by liquid in the seed cavity, sunburn, hail, dirt, surface mold or other disease, aphis or other insects, scars, cracks, sunken areas, ground spot, bruises, or mechanical or other means.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted, except that these tolerances shall not apply to the requirement relating to internal quality.

(1) *At shipping point.*[2] 8 percent for cantaloups in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of 1 percent for cantaloups which are affected by decay or mold.

(2) *En route or at destination.* 12 percent for cantaloups in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for cantaloups which fail to meet the requirements of this grade because of permanent defects; or,

(ii) 6 percent for cantaloups which are seriously damaged, including therein not more than 4 percent for cantaloups which are seriously damaged by permanent defects and not more than 2

[1] Packing in the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

[2] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

[2] See footnote 2 to § 51.475.

percent for cantaloups which are affected by decay. (See § 51.480.)

### § 51.477 U.S. Commercial.

''U.S. Commercial'' consists of cantaloups of one type which are mature but not overripe or soft or wilted, which are well formed and fairly well netted, and free from decay, wet slip and sunscald, and free from damage caused by liquid in the seed cavity, sunburn, hail, dirt, surface mold or other disease, aphis or other insects, scars, cracks, sunken areas, ground spot, bruises, or mechanical or other means.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted:

(1) *At shipping point.* 16 percent for cantaloups in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 12 percent for cantaloups which fail to meet the requirements of this grade because of condition defects;

(ii) 4 percent for cantaloups which are seriously damaged, including therein not more than one-half of 1 percent for cantaloups affected by decay or mold.

(2) *En route or at destination.* 24 percent for cantaloups in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 16 percent for cantaloups which fail to meet the requirements of this grade because of permanent defects;

(ii) 12 percent for cantaloups which fail to meet the requirements of this grade because of condition defects; or,

(iii) 8 percent for cantaloups which are seriously damaged, including therein not more than 4 percent for cantaloups which are seriously damaged by permanent defects and not more than 2 percent for cantaloups which are affected by decay. (See § 51.480.)

[26 FR 2217, Mar. 16, 1961; 27 FR 2307, Mar. 10, 1962, as amended at 33 FR 7619, May 23, 1968. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.478 U.S. No. 2.

''U.S. No. 2'' consists of cantaloups of one type which are mature but not overripe or soft or wilted, which are fairly well formed and fairly well netted, which are free from decay, wet slip and sunscald, and free from serious damage caused by liquid in the seed cavity, sunburn, hail, dirt, surface mold or other disease, aphis or other insects, scars, cracks, sunken areas, bruises, or mechanical or other means.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted:

(1) *At shipping point.* 8 percent for cantaloups in any lot which fail to meet the requirements of this grade including therein not more than one-half of 1 percent for cantaloups which are affected by decay or mold.

(2) *En route or at destination.* 12 percent for cantaloups in any lot which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for the defects listed:

(i) 8 percent for cantaloups which fail to meet the requirements of this grade because of defects of a permanent nature; or,

(ii) 2 percent for cantaloups which are affected by decay. (See § 51.480.)

UNCLASSIFIED

### § 51.479 Unclassified.

''Unclassified'' consists of cantaloups which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

APPLICATION OF TOLERANCES

### § 51.480 Application of tolerances.

The contents of individual packages are subject to the following limitation: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade:

(a) A package may contain not more than double any specified tolerance except that at least two defective specimens may be permitted in any package.

DEFINITIONS

**§ 51.481 Very good internal quality.**

*Very good internal quality* means that the combined juice from the edible portion of a sample of cantaloups selected at random contains not less than 11 percent soluble solids as determined by an approved hand refractometer.

**§ 51.482 Uniform in appearance.**

*Uniform in appearance* means that not more than one-tenth of the packages in any lot contain cantaloups which show sufficient variation in shape, size, ground color or netting to materially detract from the appearance of the contents of the individual packages, or which are not packed according to the approved and recognized methods for the package.

**§ 51.483 One type.**

*One type* means that the cantaloups in any container are similar in color of flesh and are not decidely different in shape, character of netting and prominence of ribbing.

**§ 51.484 Mature.**

*Mature* means that the cantaloup has reached the stage of maturity which will insure the proper completion of the normal ripening process.

**§ 51.485 Good internal quality.**

*Good internal quality* means that the combined juice from the edible portion of a sample of cantaloups selected at random contains not less than 9 percent soluble solids as determined by an approved hand refractometer.

**§ 51.486 Soft.**

*Soft* means that the cantaloup yields readily to slight pressure.

**§ 51.487 Wilted.**

*Wilted* means that the cantaloup lacks turgidity and is somewhat flabby, spongy and pliable under moderate pressure.

**§ 51.488 Well formed.**

*Well formed* means that the cantaloup has the normal shape characteristic of the variety.

**§ 51.489 Well netted.**

*Well netted* means that to an extent characteristic of the variety the cantaloup is well covered with fully developed, well raised netting, some portion of which is well rounded with practically no crease.

**§ 51.490 Decay.**

*Decay* means breakdown, disintegration or fermentation of the flesh or rind of the cantaloup caused by bacteria or fungi; except that *dry type* decays will only be scored when penetrating the rind and extending into the edible flesh of the melon.

[63 FR 20522, Apr. 27, 1998]

**§ 51.491 Wet slip.**

*Wet slip* means a condition present at time of packing in which the stem scar is abnormally large, excessively wet and slippery, yields to slight pressure, and is frequently accompanied by fresh radial growth cracks at the edge of the stem scar.

**§ 51.492 Sunscald.**

*Sunscald* means discolored or bleached, sunken areas of the surface having tough epidermis with underlying flesh leathery and usually off-color.

**§ 51.493 Damage.**

*Damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the cantaloup. The following specific defects shall be considered as damage:

(a) Liquid in the seed cavity under the following circumstances:

(1) At shipping point when more than a slight amount of liquid is present in the seed cavity; or,

(2) En route or at destination when an objectionably large amount of liquid is present in the seed cavity, or

when the flesh of the cavity wall is mushy or noticeably discolored;

(b) Sunburn when the color of the flesh is materially changed; when the rind is hard, tough, thin, or definitely flattened; when distinct flattening of the netting or dark yellow surface discoloration affects an aggregate area exceeding 20 percent of the surface of the cantaloup; or when brown, gray, purple or dark green surface discoloration detracts from the appearance of the cantaloup to a greater extent than the area of dark yellow discoloration permitted;

(c) Hail when the injury is unhealed or deep;

(d) Surface mold under the following circumstances:

(1) At shipping point when any surface mold is visible; or,

(2) En route or at destination when the color, character, or location of the mold materially detracts from the appearance or marketing quality of the cantaloup;

(e) Aphis when aphis honeydew is more than slightly sticky, or when resulting discoloration more than slightly detracts from the appearance of the cantaloup;

(f) Scars when healed, shallow, smooth and light colored and the aggregate area affected exceeds 5 percent of the surface of the cantaloup; or when deep, rough or dark colored and detracting from the appearance to a greater extent than the area of healed, shallow, smooth and light colored scars permitted. Smooth scarring at the blossom end and coalesced netting should not be considered in determining damage caused by scarring unless materially detracting from the appearance of the cantaloup;

(g) Cracks when deep or not dry. Slight, dry cracks at the ends or in the sutures of the cantaloup shall not be considered damage;

(h) Ground spot when the rind of the affected area is thin or weak, or when the size or color of the affected area or the character of netting on the area in relation to the remainder of the surface of the cantaloup materially detracts from the appearance of the cantaloup;

(i) Bruises when the surface of the cantaloup is definitely flattened or indented, or when the underlying flesh is noticeably discolored; and,

(j) Mechanical means when cuts or gouges are deep or when any skin break is unhealed.

### §51.494 Serious damage.

*Serious damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or shipping quality of the cantaloup. The following specific defects shall be considered as serious damage:

(a) Liquid in the seed cavity under the following circumstances:

(1) At shipping point when a large amount of liquid is present in the seed cavity or the flesh of the cavity wall is noticeably soft or discolored or when any fermentation is present; or,

(2) En route or at destination when there is any fermentation of the liquid in the seed cavity, or when the flesh of the cavity wall shows fermentation or is badly discolored;

(b) Sunburn when the flesh is seriously discolored, when causing cracking of the rind, or when causing flattening of the rind which seriously detracts from the appearance of the cantaloup;

(c) Hail when the injury is unhealed;

(d) Surface mold under the following circumstances:

(1) At shipping point when any surface mold is visible; or,

(2) En route or at destination when the color, character, or location of the mold seriously detracts from the appearance or marketing quality of the cantaloup;

(e) Cracks when fresh and deep;

(f) Bruises when the surface of the cantaloup is seriously flattened or indented or when a material portion of the underlying flesh is broken down; and,

(g) Mechanical means when fresh cuts or gouges extend into the edible portion of the cantaloup.

### §51.494a Permanent defects.

*Permanent defects* means defects which are not subject to change during shipping or storage; including, but not

limited to factors of shape, netting, scarring, sunscald, sunburn and injury caused by hail or insects, and mechanical injury which is so located as to indicate that it occurred prior to shipment.

[26 FR 2217, Mar. 16, 1961. Redesignated at 27 FR 2307, Mar. 10, 1962, 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.494b Fairly well netted.

*Fairly well netted* means that to an extent characteristic of the variety the cantaloup is fairly well covered with fairly good netting.

[26 FR 2217, Mar. 16, 1961. Redesignated at 27 FR 2307, Mar. 10, 1962, 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.494c Condition defects.

*Condition defects* means defects which may develop or change during shipment or storage; including, but not limited to decayed or soft cantaloups and such factors as liquid in the seed cavity, surface mold, sunken areas, fresh cracks, and bruising which is so located as to indicate that it occurred after packing.

[26 FR 2217, Mar. 16, 1961. Redesignated at 27 FR 2307, Mar. 10, 1962, 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

## Subpart—United States Standards for Celery

SOURCE: 24 FR 2640, Apr. 7, 1959, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### GRADES

### § 51.560 U.S. Extra No. 1.

''U.S. Extra No. 1'' consists of stalks of celery of similar varietal characteristics which are well developed, well formed, clean, well trimmed, compact, and which are free from blackheart, brown stem, soft rot, doubles and free from damage caused by freezing, growth cracks, horizontal cracks, pithy branches, seedstems, suckers, wilting, blight, other disease, insects or mechanical or other means. Stalks shall be green unless specified as fairly well blanched, or mixed blanch.

(a) The average midrib length of the outer whorl of branches shall be not less than 7 inches.

(b) Unless otherwise specified in connection with the grade, stalks shall be of such length as to extend from one side, end or bottom of the container to within 1½ inches of the corresponding opposite side, end or top of the container. Such measurement shall not include the bulge. In any container when stalk length is specified, it shall be the minimum length in terms of whole inches of even number, as 12 inches, 14 inches, etc., in accordance with the facts.

(c) In order to allow for variations incident to proper grading and handling, the following tolerances shall be permitted:

(1) *For defects.* 10 percent, by count, in any lot for stalks which fail to meet the requirements of the grade, including therein not more than 2 percent for soft rot;

(2) *For off-length stalks.* 5 percent, by count, in any lot for stalks which fail to meet the minimum length required or specified; and,

(3) *For off-length midribs.* 5 percent, by count, in any lot for stalks which fail to meet the requirements as to average midrib length.

### § 51.561 U.S. No. 1.

''U.S. No. 1'' consists of stalks of celery of similar varietal characteristics which are fairly well developed, fairly well formed, well trimmed, fairly compact, and which are free from blackheart and soft rot and free from damage caused by freezing, growth cracks, horizontal cracks, pithy branches, seedstems, suckers, dirt, doubles, wilting, blight, other disease, insects or mechanical or other means. Stalks shall be green unless specified as fairly well blanched, or mixed blanch.

(a) Unless otherwise specified, the average midrib length of the outer whorl of branches shall be not less than 6 inches.

(b) Unless otherwise specified in connection with the grade, stalks shall be of such length as to extend from one side, end or bottom of the container to within 1½ inches of the corresponding

opposite side, end or top of the container. Such measurement shall not include the bulge. In any container when stalk length is specified, it shall be the minimum length in terms of whole inches of even number, as 12 inches, 14 inches, etc., in accordance with the facts.

(c) In order to allow for variations incident to proper grading and handling, the following tolerances shall be permitted:

(1) *For defects.* 10 percent, by count, in any lot for stalks which fail to meet the requirements of the grade, including therein not more than 2 percent for soft rot;

(2) *For off-length stalks.* 5 percent, by count, in any lot for stalks which fail to meet the minimum length required or specified; and,

(3) *For off-length midribs.* 5 percent, by count, in any lot for stalks which fail to meet the requirements as to average midrib length.

### § 51.562 U.S. No. 2.

''U.S. No. 2'' consists of stalks of celery of similar varietal characteristics which are reasonably well developed, reasonably well formed, fairly well trimmed and are free from blackheart and soft rot and free from serious damage caused by freezing, growth cracks, horizontal cracks, pithy branches, seedstems, dirt, doubles, wilting, blight, other disease, insects or mechanical or other means. Stalks shall be green unless specified as fairly well blanched, or mixed blanch.

(a) Unless otherwise specified, the average midrib length of the outer whorl of branches shall be not less than 4 inches.

(b) Unless otherwise specified in connection with the grade, stalks shall be of such length as to extend from one side, end or bottom of the container to within 1½ inches of the corresponding opposite side, end or top of the container. Such measurement shall not include the bulge. In any container when stalk length is specified, it shall be the minimum length in terms of whole inches of even number, as 12 inches, 14 inches, etc., in accordance with the facts.

(c) In order to allow for variations incident to proper grading and handling, the following tolerances shall be permitted:

(1) *For defects.* 10 percent, by count, in any lot for stalks which fail to meet the requirements of the grade, including therein not more than 2 percent for soft rot;

(2) *For off-length stalks.* 5 percent, by count, in any lot for stalks which fail to meet the minimum length required or specified; and,

(3) *For off-length midribs.* 5 percent, by count, in any lot for stalks which fail to meet the requirements as to average midrib length.

## UNCLASSIFIED

### § 51.563 Unclassified.

''Unclassified'' consists of stalks of celery which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

## COUNT

### § 51.564 Requirements as to count.

(a) The number of stalks of celery in the container may be specified by numerical count or in terms of dozens or half-dozens. Variations from the number specified shall be permitted as follows: *Provided*, That the average for the lot is not less than the number specified:

| Specified number per package | Variations permitted in individual packages |
|---|---|
| 24 stalks or less | 1 stalk variation. |
| 25 to 50 stalks, inclusive | 3 stalk variation. |
| 51 to 70 stalks, inclusive | 4 stalk variation. |
| More than 70 stalks | 5 stalk variation. |

## APPLICATION OF TOLERANCES

### § 51.565 Application of tolerances.

(a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided*, That the averages for the entire lot are within the tolerances specified:

(1) For packages which contain 20 specimens or more and a tolerance of 10 percent or more is provided, individual packages in any lot may contain not

more than one and one-half times the tolerance specified. For packages which contain 20 specimens or more and a tolerance of less than 10 percent is provided, individual packages may contain not more than double the tolerance specified except that at least one defective and one off-size specimen may be permitted in any package; and,

(2) For packages which contain less than 20 specimens, individual packages in any lot may contain not more than double the tolerance specified, except that at least one defective and one off-size specimen may be permitted in any package: *Provided,* That for packages which contain 6 specimens or less, individual packages in any lot are not restricted as to the percentage of defects: *And provided further,* That not more than one specimen which is affected by decay or otherwise seriously damaged and one off-size specimen may be permitted in any package.

DEFINITIONS

### § 51.566 Stalk.

*Stalk* means an individual plant.

### § 51.567 Similar varietal characteristics.

*Similar varietal characteristics* means that the stalks in any package have the same general appearance and character of growth.

### § 51.568 Well developed.

*Well developed* means that the branches are of good width and thickness in relation to the length of midribs and type of celery and that the heart branches are of reasonable number, length and stockiness.

### § 51.569 Well formed.

*Well formed* means that the branches are fairly straight and not more than slightly curved or twisted.

### § 51.570 Clean.

*Clean* means that the stalk is practically free from dirt or other foreign material. Stalks shall be permitted to have a small amount of dirt on the inside of the branches or in the heart branches which cannot be removed by good commercial methods of washing.

### § 51.571 Well trimmed.

*Well trimmed* means that not more than 2 relatively thin, short or spindly, or coarse and fibrous outer branches remain; that the main root has been cut off so as not to extend more than 1½ inches below the point of attachment of the lowest outer branch; that secondary rootlets are not of such number or length as to materially affect the appearance of the stalk; and, that the appearance is not materially affected by the presence of discolored leaves or by excessive removal of leaves or portions of leaves.

### § 51.572 Compact.

*Compact* means that the branches on the stalk are fairly close together throughout most of their length.

### § 51.573 Damage.

*Damage,* unless otherwise specifically defined in this section, means any defect which materially affects the appearance, or the edible or shipping quality of the celery stalk or the general appearance of the stalks in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Growth cracks when more than 2 branches are affected by growth cracks which are over one-half inch in length, or when more than 6 branches have growth cracks;

(b) Horizontal cracks when more than 3 branches have horizontal cracks which are over one-half inch in length, or when more than 6 branches have horizontal cracks;

(c) Pithy branches when more than 2 are pithy in that portion of the midrib between a point 1½ inches above the point of attachment to the base and the first node, or between a point 1½ inches below the first node and the point of attachment to the base, or when pith occurs at both ends of the midrib and more than a total of 1½ inches is affected: *Provided,* That stalks having 6 outer branches or less shall have not more than one-third of the outer branches affected by pith as described above;

(d) Seedstems when the length of seedstem exceeds twice the diameter of

the stalk or 8 inches in length (see §§ 51.587 and 51.588);

(e) Dirt when there is caked dirt on the stalk, or when dirt is present between the branches to the extent that the appearance is materially affected;

(f) Doubles when not separated and the appearance is materially affected, or when separated and either of the stalks is badly curved;

(g) Disease: (1) Brown stem, cracked stem and crater blotch when materially affecting more than 2 branches, or when the aggregate area exceeds two-thirds of a square inch on the branches; and,

(2) Discoloration when each of more than 2 branches or ¼ of the branches of the stalk, whichever is less, has more than 3 distinct hair-like lines more than 3 inches long occurring on the outer side of the branch or an aggregate area of more than ¼ by 1 inch of blotch or solid type discoloration occurring on the inner side;

(h) Insects when worms are present, or when insect injury occurs on heart branches, or when insect injury affects the midrib portion of more than 2 branches, or when injury or other portions materially affects the appearance of the stalk; and,

(i) Mechanical injury when the root has been cut off too closely leaving the branches without support; when more than 2 branches are materially scuffed or bruised; when the branches have been broken above the first node to an extent which materially affects the appearance; or when more than 2 branches are broken below the first node except that all branches may be cut below the first node provided the stalk is of the length specified.

### § 51.574 Green.

*Green* means that the middle portions of the outer branches on the stalk are generally green to light green color.

### § 51.575 Fairly well blanched.

*Fairly well blanched* means that the midrib portions of the outer branches on the stalk are generally of a creamy white to pale green color.

### § 51.576 Mixed blanch.

*Mixed blanch* consists of green and fairly well blanched stalks of celery in the same container.

### § 51.577 Average midrib length.

*Average midrib length* means the average length of all the branches in the outer whorl measured from the point of attachment at the base to the first node.

### § 51.578 Branch.

*Branch* means the leaf of a stalk and consists of the edible stem-like portion and the tops or leaf blades.

### § 51.579 Length of stalk.

*Length of stalk* means the distance from where the root is cut off to a point which represents the average length of the longest branches.

### § 51.580 Fairly well developed.

*Fairly well developed* means that the branches are of fairly good width and thickness in relation to the length of midribs and type of celery and that there is not excessive open space in the center of the stalk.

### § 51.581 Fairly well formed.

*Fairly well formed* means that the branches are reasonably straight and not more than moderately curved or twisted.

### § 51.582 Fairly compact.

*Fairly compact* means that the branches on the stalk are reasonably close together throughout most of their length.

### § 51.583 Reasonably well developed.

*Reasonably well developed* means that the branches are of reasonable width and thickness in relation to the length of midribs and type of celery.

### § 51.584 Reasonably well formed.

*Reasonably well formed* means that the branches are not crooked, curved or twisted to the extent that the appearance of the stalk is seriously affected.

### § 51.585 Fairly well trimmed.

*Fairly well trimmed* means that the main root has been cut off so that it does not extend more than 3 inches below the point of attachment of the lowest outer branch, and that secondary rootlets are not of such number or length as to seriously affect the appearance of the stalk.

### § 51.586 Serious damage.

*Serious damage,* unless otherwise specifically defined in this section, means any defect which seriously affects the appearance, or the edible or shipping quality of the celery stalk or the general appearance of the stalks in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Growth cracks when more than 4 branches are affected by growth cracks which are over one-half inch in length, or when more than 8 branches have growth cracks;

(b) Horizontal cracks when more than 5 branches have horizontal cracks which are over one-half inch in length, or when more than 8 branches have horizontal cracks;

(c) Pithy branches when more than 4 are pithy in that portion of the midrib between a point 1½ inches above the point of attachment to the base and the first node, or between a point 1½ inches below the first node and the point of attachment to the base, or when pith occurs at both ends of the midrib and more than a total of 1½ inches is affected: *Provided,* That stalks having 6 outer branches or less shall have not more than one-half of the outer branches affected by pith as described above;

(d) Seedstems when the length of seedstem exceeds 3 times the diameter of the stalk (see §§ 51.587 and 51.588);

(e) Dirt when dirt is badly caked on the stalk;

(f) Doubles when the inner branches are not fairly well protected;

(g) Disease: (1) Brown stem, cracked stem and crater blotch when seriously affecting more than 4 branches, or when the aggregate area exceeds 1 square inch on the branches; and,

(2) Discoloration when each of more than 5 branches or ½ of the branches of the stalk, whichever is less, has more than 3 distinct hair-like lines more than 3 inches long occurring on the outer side of the branch or an aggregate area of more than ¼ by 1 inch of blotch or solid type discoloration occurring on the inner side;

(h) Insects when worms are present, or when insect injury affects the midrib portion of more than 4 branches, or when injury on other portions seriously affects the appearance of the stalk; and,

(i) Mechanical injury when the root has been cut off too closely leaving the branches without support; when more than 4 branches are materially scuffed or bruised; when the branches have been broken above the first node to an extent which seriously affects the appearance; or when more than 4 branches are broken below the first node except all branches may be cut below the first node provided the stalk is of the length specified.

### § 51.587 Diameter.

*Diameter* means the greatest dimension of the stalk measured at a point 2 inches above the point of attachment of the lowest outer branch to the base.

### § 51.588 Length of seedstem.

*Length of seedstem* means the distance from the base of the outer branches of the stalk to the top of the actual seedstem, exclusive of any leaves or leafstems attached to the top of the seedstem.

## Subpart—United States Consumer Standards for Celery Stalks

SOURCE: 18 FR 7089, Nov. 11, 1953, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GENERAL

### § 51.595 General.

These standards do not apply to celery hearts.

GRADES

### § 51.596 U.S. Grade AA.

U.S. Grade AA shall consist of stalks of celery of similar varietal characteristics, which are well developed, and have good heart formation; which are clean, well trimmed, fairly compact, and are free from blackheart, brown stem, decay (except dry type crater rot), doubles, and from damage caused by crater rot, wilting, cutworms, freezing, suckers, growth cracks, hollow crown, pithy branches, seedstems, rust, cracked stem, other diseases, insects or mechanical or other means.

(a) The average midrib length of the outer whorl of branches on stalks in this grade shall be not less than 7 inches. (See §§ 51.599 and 51.600.)

(b) Incident to proper grading and handling other than for average midrib length of branches not more than 5 percent, by count, of the stalks in any lot may fail to meet the requirements of the grade including not more than 1 percent for stalks affected by moist type decay. In addition, not more than 3 percent, by count, of the stalks in any lot may fail to meet the requirements as to average midrib length of the stalks.

### § 51.597 U.S. Grade A.

U.S. Grade A shall consist of stalks of celery of similar varietal characteristics which are fairly well developed and have fairly good heart formation; which are clean, well trimmed, and not badly spread, and which are free from blackheart, decay (except dry type crater rot), doubles, and from damage caused by crater rot, brown stem, wilting, cutworms, freezing, suckers, growth cracks, hollow crown, pithy branches, seedstems, rust, cracked stem, other diseases, insects, or mechanical or other means.

(a) The average midrib length of the outer whorl of branches on stalks in this grade shall be not less than 5 inches. (See §§ 51.599 and 51.600.)

(b) Incident to proper grading and handling other than for average midrib length of branches, not more than 5 percent, by count, of the stalks in any lot may fail to meet the requirements of the grade including not more than 1 percent for stalks affected by moist type decay. In addition, not more than 3 percent, by count, of the stalks in any lot may fail to meet the requirements as to average midrib length of the stalks.

### § 51.598 U.S. Grade B.

U.S. Grade B shall consist of stalks of celery of similar varietal characteristics which are fairly well developed, which are clean, well trimmed and free from blackheart, decay (except dry type crater rot), doubles, and from serious damage caused by crater rot, brown stem, wilting, cutworms, freezing, suckers, growth cracks, hollow crown, pithy branches, seedstems, rust, cracked stem, other diseases, insects, or mechanical or other means.

(a) The average midrib length of the outer whorl of branches on stalks in this grade shall be not less than 4 inches. (See §§ 51.599 and 51.600.)

(b) Incident to proper grading and handling other than for average midrib length of branches, not more than 5 percent, by count, of the stalks in any lot may fail to meet the requirements of this grade including not more than 1 percent for stalks affected by moist type decay. In addition not more than 3 percent, by count, of the stalks in any lot may fail to meet the requirements as to average midrib length of the stalks.

BLANCHING; LENGTH OF STALKS

### § 51.599 Blanching.

There are no requirements in the grades as to blanching. However, celery stalks may be classed as ''green'' when they have a medium to dark green appearance, fairly ''well blanched'' when the midrib portions of the branches on the stalks are generally of a light greenish to creamy white color, or ''well blanched'' when the midrib portions of the branches on the stalks are generally of a creamy white color. Not more than 5 percent of the stalks in any lot may fail to meet the requirements of any of the above classes.

### § 51.600 Length of stalks.

There are no requirements in the grades as to stalk length. However, when the stalk length is specified it shall be determined by measuring the

distance from where the main root is cut off, to a point which represents the average length of the longest branches and leaves expressed in terms of the nearest whole inch. Incident to proper sizing, not more than 5 percent, by count, of the stalks in any lot may fail to meet any specified stalk length.

OFF-GRADE

### § 51.601 Off-Grade celery.

Celery stalks which fail to meet the requirements of any of the foregoing grades shall be Off-Grade celery stalks.

DEFINITIONS

### § 51.602 Stalk.

*Stalk* means an individual plant.

### § 51.603 Similar varietal characteristics.

*Similar varietal characteristics* means that the stalks in any container have the same character of growth. For example, celery of Giant Pascal and Golden Self Blanching types must not be mixed.

### § 51.604 Well developed.

*Well developed* means that the outer branches are of good width in relation to the length of midribs and type of celery.

### § 51.605 Good heart formation.

*Good heart formation* means that the stalk has a reasonable number of stocky inner heart branches for its size.

### § 51.606 Clean.

*Clean* means that the stalk is practically free from dirt or other foreign materials. Stalks shall be permitted to have a small amount of dirt on the inside of the branches or in the heart branches which cannot be removed by good commercial methods of washing.

### § 51.607 Well trimmed.

*Well trimmed* means that the outside coarse and damaged branches have been removed and that the root or roots have been neatly trimmed to a reasonable length for the size of the stalk.

### § 51.608 Fairly compact.

*Fairly compact* means that the branches are fairly close together on the stalk.

### § 51.609 Damage.

*Damage* means any injury or defect which materially affects the appearance, or edible or shipping quality. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as damage:

(a) Crater rot, when moist, or when occurring on more than 2 branches, or when aggregating more than two-thirds of a square inch on the branch or branches.

(b) Cutworms, when the worms are present, or when worm injury occurs on the heart branches, or when occurring on the midrib portion of more than two branches, or when aggregating more than one-half of a square inch on the midrib portion of the branch or branches.

(c) Growth cracks, when the stalk has more than one branch affected by growth cracks any of which are more than one-half inch long.

(d) Pithy branches, when the midribs of more than one branch are pithy. Pithy branches means those which have a distinctly open texture with air spaces in the central portion.

(e) Seedstems, when the stalk has a seedstem the length of which is more than one and one-half times the greatest diameter of the stalk. The greatest diameter of the stalk shall be measured at a point two inches above the point of attachment of the outer branches to the root. The length of the seedstem shall be measured from the point of attachment of the outer branches at the base of the seedstem to the top of the actual seedstem, exclusive of any leaves or leaf stems attached to the top of the seedstem.

(f) Rust, when there are more than five hair-like lines of any length on one or more heart branches, or when there is more than one square inch in the aggregate on branches other than heart branches.

(g) Cracked stem, when there is more than one-half of a square inch in the aggregate on any or all branches.

### § 51.610 Midrib length.

*Midrib length* of a branch means the distance between the point of attachment to the root and the first node.

### § 51.611 Fairly well developed.

*Fairly well developed* means that the outer branches are not spindly or abnormally short and thin.

### § 51.612 Fairly good heart formation.

*Fairly good heart formation* means that the stalk has a moderate number of fairly stocky inner heart branches for its size.

### § 51.613 Serious damage.

*Serious damage* means any injury or defect which seriously affects the appearance, or edible or shipping quality. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Crater rot, when moist, or when occurring on more than three branches, or when aggregating more than one square inch on the branch or branches.

(b) Cutworms, when the worms are present, or when worm injury occurs on the heart branches, or when occurring on the midrib portion of more than three branches, or when aggregating more than one square inch on the midrib portion of the branch or branches.

(c) Growth cracks, when the stalk has more than two branches affected by growth cracks any of which are more than one-half inch long.

(d) Pithy branches, when the midribs of more than two branches are pithy. Pithy branches means those which have a distinctly open texture with air spaces in the central portion.

(e) Seedstems, when the stalk has a seedstem the length of which is more than three times the greatest diameter of the stalk. The greatest diameter of the stalk shall be measured at a point two inches above the point of attachment of the outer branches to the root. The length of the seedstem shall be measured from the point of attachment of the outer branches at the base of the seedstem to the top of the actual seedstem, exclusive of any leaves or leafstems attached to the top of the seedstem.

(f) Rust, when there are more than fifteen hair-like lines of any length on one or more heart branches, or when there are more than one and one-half square inches in the aggregate on branches other than heart branches.

(g) Cracked stem, when there is more than one square inch in the aggregate on any or all branches.

## Subpart—United States Standards for Grades of Grapefruit (Texas and States Other Than Florida, California, and Arizona)

SOURCE: 34 FR 13905, Aug. 30, 1969, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.620 U.S. Fancy.

''U.S. Fancy'' consists of grapefruit which meet the following requirements:

(a) Basic requirements:

(1) Discoloration:

(i) Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.638.)

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Smooth texture;

(6) Well formed; and,

(7) Well colored.

(b) Free from:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Cuts not healed;

(5) Skin breakdown;

(6) Decay;

(7) Growth cracks;

(8) Scab;

(9) Sprayburn; and,

(10) Wormy fruit.

(c) Not injured by:

(1) Green spots;

(2) Oil spots;

(3) Scale;

(4) Scars; and,

(5) Thorn scratches.

(d) Not damaged by any other cause.

(e) For tolerances see § 51.628.

**§ 51.621 U.S. No. 1.**

''U.S. No. 1'' consists of grapefruit which meet the following requirements:

(a) Basic requirement:

(1) Discoloration:

(i) Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.638.)

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Fairly well colored;

(6) Fairly smooth texture; and,

(7) Fairly well formed.

(b) Free from:

(1) Bruises;

(2) Cuts not healed;

(3) Caked melanose;

(4) Growth cracks;

(5) Sprayburn;

(6) Decay; and,

(7) Wormy fruit.

(c) Not damaged by any other cause.

(d) For tolerances see § 51.628.

**§ 51.622 U.S. No. 1 Bright.**

The requirements for this grade are the same as for U.S. No. 1 except that no fruit may have more than one-tenth of its surface, in the aggregate, affected by discoloration.

(a) For tolerances see § 51.628.

**§ 51.623 U.S. No. 1 Bronze.**

The requirements for this grade are the same as for U.S. No. 1 except that all fruit must show some discoloration. Not less than the number of fruits required in § 51.628, Tables I and II, shall have more than one-half of their surface, in the aggregate, affected by discoloration. The predominating discoloration on these fruits shall be of rust mite type.

(a) For tolerances see § 51.628.

**§ 51.624 U.S. Combination.**

''U.S. Combination'' consists of a combination of U.S. No. 1 and U.S. No. 2 grapefruit: *Provided,* That the number of U.S. No. 2 fruits specified in § 51.628, Tables I and II, are not exceeded.

**§ 51.625 U.S. No. 2.**

''U.S. No. 2'' consists of grapefruit which meet the following requirements:

(a) Basic requirements:

(1) Discoloration:

(i) Not more than two-thirds of the surface, in the aggregate, may be affected by discoloration. (See § 51.638.)

(2) Fairly firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) May be slightly colored;

(6) Not more than slightly misshapen; and,

(7) Not more than slightly rough texture.

(b) Free from:

(1) Bruises;

(2) Cuts not healed;

(3) Growth cracks;

(4) Decay; and,

(5) Wormy fruit.

(c) Not seriously damaged by any other cause.

(d) For tolerances see § 51.628.

**§ 51.626 U.S. No. 2 Russet.**

The requirements for this grade are the same as for U.S. No. 2 except that not less than the number of fruits required in § 51.628, Tables I and II, shall have more than two-thirds of their surface, in the aggregate, affected by discoloration.

(a) For tolerances see § 51.628.

**§ 51.627 U.S. No. 3.**

''U.S. No. 3'' consists of grapefruit which meet the following requirements:

(a) Basic requirements:

(1) Mature;

(2) Similar varietal characteristics;

(3) May be misshapen;

(4) May be slightly spongy;

(5) May have rough texture;

(6) Not seriously lumpy or cracked; and,

(7) May be poorly colored.

(i) Not more than 25 percent of the surface may be of a solid dark green color.

(b) Free from:

(1) Cuts not healed;

(2) Decay; and,

(3) Wormy fruit.

(c) Not very seriously damaged by any other cause.

(d) For tolerances see § 51.628.

TOLERANCES

### § 51.628 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective or off-size specimens in the individual sample, and the number of defective or off-size specimens in the lot, shall be within the limitations specified in Tables I and II. No tolerance shall apply to wormy fruit.

## TABLE I—SHIPPING POINT [1]

(A) FOR 1 THROUGH 20 SAMPLES

| Factor | Grades | AL [2] | Number of 33-count samples [3] | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| | Acceptance numbers (maximum permitted) [4] | | | | | | | | | | | | | | | | | | | | | |
| Decay | U.S. Fancy.<br>U.S. No. 1.<br>U.S. Combination.<br>U.S. No. 2. | 1 | 0 | 0 | 0 | 1 | [5]1 | 2 | 2 | 2 | 2 | [5]2 | 2 | 2 | 3 | 3 | 3 | [5]3 | 3 | 4 | 4 | 4 |
| | U.S. No. 3. | 1 | 0 | 1 | [5]1 | 1 | 2 | [2]2 | 2 | 3 | 3 | [3]3 | 3 | 4 | 4 | 4 | [5]4 | 5 | 5 | 5 | [5]5 | 5 |
| Very serious damage including decay. | U.S. Fancy.<br>U.S. No. 1.<br>U.S. Combination.<br>U.S. No. 2. | 4 | 3 | 5 | 7 | 8 | 10 | 11 | 13 | 14 | 16 | 17 | 18 | 20 | 21 | 23 | 24 | 25 | 27 | 28 | 30 | 32 |
| Total defects including decay and very serious damage. | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S. No. 3. | 5 | 5 | 9 | 12 | 16 | 19 | 22 | 25 | 28 | 31 | 34 | 37 | 40 | 44 | 46 | 49 | 52 | 55 | 58 | 61 | 64 |
| | U.S. Combination (U.S. No. 2's permitted). | 21 | 18 | 33 | 47 | 62 | 76 | 90 | 104 | 119 | 133 | 147 | 161 | 174 | 188 | 202 | 216 | 230 | 244 | 257 | 271 | 285 |
| Off-size | | 7 | 5 | 9 | 12 | 16 | 19 | 22 | 25 | 28 | 31 | 34 | 37 | 40 | 44 | 46 | 49 | 52 | 55 | 58 | 61 | 64 |
| Discoloration. | U.S. No. 1.<br>U.S. No. 1 Bright.<br>U.S. No. 2.<br>U.S. Combination. | 7 | 5 | 9 | 12 | 16 | 19 | 22 | 25 | 28 | 31 | 34 | 37 | 40 | 44 | 46 | 49 | 52 | 55 | 58 | 61 | 64 |
| | Acceptance numbers (minimum required) [4] | | | | | | | | | | | | | | | | | | | | | |
| | U.S. No. 1 Bronze.<br>U.S. No. 2 Russet. | 0 | 2 | 4 | 8 | 11 | 14 | 18 | 21 | 25 | 28 | 32 | 36 | 39 | 43 | 47 | 50 | 53 | 57 | 61 | 64 | 68 |

## TABLE I—SHIPPING POINT[1] (CONTINUED)

(B) FOR 21 THROUGH 40 SAMPLES

| Factor | Grades | AL[2] | Number of 33-count samples[3] | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |
| | | | Acceptance numbers (maximum permitted)[4] | | | | | | | | | | | | | | | | | | | |
| Decay | U.S. Fancy. U.S. No. 1. U.S. Combination. U.S. No. 2. | 1 | 4 | 4 | [5]4 | 4 | 4 | 5 | 5 | 5 | 5 | 5 | [3]5 | 5 | 5 | 6 | 6 | 6 | 6 | 6 | [3]6 | 6 |
| | U.S. No. 3. | 1 | 5 | 6 | 6 | 6 | [5]6 | 6 | 7 | 7 | 7 | [5]7 | 7 | 8 | 8 | 8 | 8 | [5]8 | 9 | 9 | 9 | 9 |
| Very serious damage including decay. | U.S. Fancy. U.S. No. 1. U.S. Combination. U.S. No. 2. | 4 | 32 | 34 | 35 | 36 | 38 | 39 | 40 | 42 | 43 | 44 | 45 | 47 | 48 | 49 | 51 | 52 | 53 | 54 | 56 | 57 |
| Total defects including decay and very serious damage. | U.S. Fancy. U.S. No. 1. U.S. No. 2. U.S. No. 3. | 5 | 67 | 70 | 73 | 76 | 79 | 82 | 84 | 87 | 90 | 93 | 96 | 99 | 102 | 105 | 107 | 110 | 113 | 116 | 119 | 122 |
| | U.S. Combination (U.S. No. 2's permitted). | 21 | 298 | 312 | 326 | 339 | 353 | 367 | 380 | 394 | 408 | 421 | 435 | 449 | 462 | 476 | 489 | 503 | 517 | 530 | 544 | 557 |
| Off-size | | 7 | 67 | 70 | 73 | 76 | 79 | 82 | 84 | 87 | 90 | 93 | 96 | 99 | 102 | 105 | 107 | 110 | 113 | 116 | 119 | 122 |
| Discoloration | U.S. No. 1. U.S. No. 1 Bright. U.S. No. 2. U.S. Combination. | 7 | 67 | 70 | 73 | 76 | 79 | 82 | 84 | 87 | 90 | 93 | 96 | 99 | 102 | 105 | 107 | 110 | 113 | 116 | 119 | 122 |
| | | | Acceptance numbers (minimum required)[4] | | | | | | | | | | | | | | | | | | | |
| | U.S. No. 1 Bronze. U.S. No. 2 Russet. | 0 | 72 | 76 | 80 | 84 | 88 | 92 | 96 | 99 | 103 | 107 | 110 | 114 | 118 | 122 | 126 | 130 | 134 | 137 | 141 | 145 |

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.
[2] AL—Absolute limit permitted in individual 33-count sample.
[3] Same size 33-count.
[4] Acceptance number—maximum or minimum number of defective or off-size fruit permitted.
[5] Preferred number of samples for this acceptance number.

TABLE II—EN ROUTE OR AT DESTINATION

| Factor | Grades | AL [1] | Number of 33-count samples [2] | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| | | Acceptance numbers (maximum permitted) [3] | | | | | | | | | | | | | | | | | | | | |
| Decay | All. | 3 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | [4]13 | 14 | 15 | 16 | 17 | 18 | [4]18 | 19 |
| Very Serious damage other than decay. | U.S. Fancy. U.S. No. 1. U.S. No. 2. U.S. Combination. | 4 | 3 | 5 | 7 | 8 | 10 | 11 | 13 | 14 | 16 | 17 | 18 | 20 | 21 | 23 | 24 | 25 | 27 | 28 | 30 | 31 |
| Total defects including very serious damage. other than decay. | U.S. Fancy. U.S. No. 1. U.S. No. 2. U.S. No. 3. | 5 | 5 | 9 | 12 | 16 | 19 | 22 | 25 | 28 | 31 | 34 | 37 | 40 | 44 | 46 | 49 | 52 | 55 | 58 | 61 | 64 |
| | U.S. Combination (U.S. No. 2's permitted). | 21 | 18 | 33 | 47 | 62 | 76 | 90 | 104 | 119 | 133 | 147 | 161 | 174 | 188 | 202 | 216 | 230 | 244 | 257 | 271 | 28 |
| Off-size | | 7 | 5 | 9 | 12 | 16 | 19 | 22 | 25 | 28 | 31 | 34 | 37 | 40 | 44 | 46 | 49 | 52 | 55 | 58 | 61 | 64 |
| Discoloration | U.S. No. 1. U.S. No. 1 Bright. U.S. No. 2. U.S. Combination. | 7 | 5 | 9 | 12 | 16 | 19 | 22 | 25 | 28 | 31 | 34 | 37 | 40 | 44 | 46 | 49 | 52 | 55 | 58 | 61 | 64 |
| | | Acceptance numbers (minimum required) [3] | | | | | | | | | | | | | | | | | | | | |
| | U.S. No. 1 Bronze. U.S. No. 2 Russet. | 0 | 2 | 4 | 8 | 11 | 14 | 18 | 21 | 25 | 28 | 32 | 36 | 39 | 43 | 47 | 50 | 53 | 57 | 61 | 64 | 68 |

[1] Absolute limit permitted in individual 33-count sample
[2] Sample size—33-count
[3] Acceptance number—maximum or minimum number of defective or off-size fruit permitted
[4] Preferred number of samples for this acceptance number

SAMPLE FOR GRADE OR SIZE DETERMINATION

### § 51.629 Sample for grade or size determination.

Each sample shall consist of 33 grapefruit. When individual packages contain at least 33 grapefruit, the sample is drawn from one package; when individual packages contain less than 33 grapefruit, a sufficient number of adjoining packages are opened to form a 33-count sample. When practicable, at point of packaging, the sample may be obtained from the grading belt or bins after sorting has been completed.

STANDARD PACK

### § 51.630 Standard Pack.

(a) Fruits shall be fairly uniform in size, unless specified as uniform in size. When packed in approved containers, fruit shall be arranged according to the approved and recognized methods.

(b) ''Fairly uniform in size'' means that not more than the number of fruit permitted in § 51.628, Tables I and II, are outside the ranges of diameters given in Table III.

TABLE III—7/10 BUSHEL CARTON

| Pack size/number of grapefruit | Diameter in inches | |
|---|---|---|
| | Minimum | Maximum |
| 18 | 4 15/16 | 5 9/16 |
| 23 | 4 5/16 | 5 |
| 27 | 4 2/16 | 4 12/16 |
| 32 | 3 15/16 | 4 8/16 |
| 36 | 3 13/16 | 4 5/16 |
| 40 | 3 10/16 | 4 2/16 |
| 48 | 3 9/16 | 3 14/16 |
| 56 | 3 5/16 | 3 10/16 |

(c) ''Uniform in size'' means that not more than the number of fruit permitted in § 51.628, Tables I and II, vary more than the following amounts:

(1) 32 size and smaller—not more than six-sixteenths inch in diameter; and

(2) 27 size and larger—not more than nine-sixteenths inch in diameter.

(d) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

[66 FR 48788, Sept. 24, 2001]

DEFINITIONS

### § 51.631 Mature.

*Mature* shall have the same meaning currently assigned that term in the laws and regulations of the State in which the grapefruit is grown; or as the definition of such term may hereafter be amended.

### § 51.632 Similar varietal characteristics.

*Similar varietal characteristics* means that the fruits in any container are similar in color and shape.

### § 51.633 Well colored.

*Well colored* means that the fruit is yellow in color with practically no trace of green color.

### § 51.634 Firm.

*Firm* means that the fruit is not soft, or noticeably wilted or flabby, and the skin is not spongy or puffy.

### § 51.635 Well formed.

*Well formed* means that the fruit has the shape characteristic of the variety.

### § 51.636 Smooth texture.

*Smooth texture* means that the skin is thin and smooth for the variety and size of the fruit.

### § 51.637 Injury.

*Injury* means any specific defect described in § 51.652, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.638 Discoloration.

*Discoloration* means russeting of light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth, superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck type melanose or

other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed in the grade.

### § 51.639 Fairly well colored.

*Fairly well colored* means that except for a 1-inch circle in the aggregate of green color, the yellow color predominates over the green color on that part of the fruit which is not discolored.

### § 51.640 Fairly well formed.

*Fairly well formed* means that the fruit may not have the shape characteristic of the variety but is not elongated or pointed or otherwise deformed.

### § 51.641 Fairly smooth texture.

*Fairly smooth texture* means that the skin is not materially rough or coarse and that the skin is not thick for the variety.

### § 51.642 Damage.

*Damage* means any specific defect described in § 51.652, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.643 Fairly firm.

*Fairly firm* means that the fruit may be slightly soft, but not bruised, and the skin is not spongy or puffy.

### § 51.644 Slightly misshapen.

*Slightly misshapen* means that the fruit is not of the shape characteristic of the variety but is not appreciably elongated or pointed or otherwise deformed.

### § 51.645 Slightly rough texture.

*Slightly rough texture* means that the skin is not smooth or fairly smooth but is not excessively rough or excessively thick, or materially ridged, grooved or wrinkled.

### § 51.646 Serious damage.

*Serious damage* means any specific defect described in § 51.652, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.647 Slightly colored.

*Slightly colored* means that, except for a 2-inch circle in the aggregate of green color, the portion of the fruit surface which is not discolored shows some yellow color.

### § 51.648 Misshapen.

*Misshapen* means that the fruit is decidedly elongated, pointed or flat sided.

### § 51.649 Slightly spongy.

*Slightly spongy* means that the fruit is puffy or slightly wilted but not flabby.

### § 51.650 Very serious damage.

*Very serious damage* means any specific defect described in § 51.652, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.651 Diameter.

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end.

### § 51.652 Classification of defects.

TABLE IV

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Ammoniation ..... | ..... | Not occurring as light speck type. | Scars are cracked or dark and aggregating more than a circle ¾ inch in diameter on a 70 size grapefruit. | Aggregating more than 25 percent of the surface. |

TABLE IV—Continued

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Buckskin | ..... | Aggregating more than a circle 1¼ inches in diameter on a 70 size grapefruit. | Aggregating more than 25 percent of the surface. | Aggregating more than 50 percent of the surface. |
| Caked melanese | ..... | ..... | Aggregating more than a circle 1 inch in diameter on a 70 size grapefruit. | Aggregating more than 25 percent of the surface. |
| Dryness or mushy condition. | ..... | Affecting all segments more than ¼ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than ½ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than ¾ inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. |
| Green spots or oil spots. | More than slightly affecting appearance. | Aggregating more than a circle 1 inch in diameter on a 70 size grapefruit. | Aggregating more than a circle 1½ inches in diameter on a 70 size grapefruit. | |
| Hail | Not well healed, or aggregating more than a circle ⅔ inch in diameter on a 70 size grapefruit. | Not well healed, or aggregating more than a circle ½ inch in diameter on a 70 size grapefruit. | Not well healed, or aggregating more than a circle ⅝ inch in diameter on a 70 size grapefruit. | Not well healed, or aggregating more than a circle 1 inch in diameter on a 70 size grapefruit. |
| Scab | ..... | Materially detracts from the shape or texture, or aggregating more than a circle ¾ inch in diameter on a 70 size grapefruit. | Seriously detracts from the shape or texture, or aggregating more than a circle 1 inch in diameter on a 70 size grapefruit. | Aggregating more than 25 percent of the surface. |
| Scale | More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit. | Blotch aggregating more than a circle ¾ inch in diameter, or occurring as a ring more than a circle 1¼ inches in diameter on a 70 size grapefruit. | Blotch aggregating more than a circle 1 inch in diameter, or occurring as a ring more than a circle 1½ inches in diameter on a 70 size grapefruit. | Aggregating more than 25 percent of the surface. |
| Skin breakdown | ..... | Aggregating more than a circle ⅜ inch in diameter on a 70 size grapefruit. | Aggregating more than a circle ⅝ inch in diameter on a 70 size grapefruit. | Aggregating more than a circle 1¼ inches in diameter on a 70 size grapefruit. |
| Scars | Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.. | Very deep or very rough aggregating more than a circle ½ inch in diameter; deep or rough aggregating more than 1 inch in diameter; slightly rough or of slight depth aggregating more than 10 percent of fruit surface. All areas based on a 70 size grapefruit. | Very deep or very rough aggregating more than a circle 1 inch in diameter; deep or rough aggregating more than 5 percent of fruit surface; slight depth or slightly rough aggregating more than 15 percent of fruit surface. All areas based on a 70 size grapefruit. | Very deep or very rough or unsightly that appearance is very seriously affected. |
| Sprayburn | Hard or aggregating more than a circle 1¼ inches in diameter on a 70 size grapefruit. | Aggregating more than 25 percent of the surface. | | |
| Sunburn | Skin is flattened, dry, darkened, or hard, aggregating more than 25 percent of fruit surface. | Skin is hard, fruit is decidedly one-sided, aggregating more than one-third of fruit surface. | Aggregating more than 50 percent of fruit surface. | |
| Sprouting | More than 6 seeds are sprouted, including not more than 1 sprout extending to the rind, remainder average not over ¼ inch in length. | More than 6 seeds are sprouted, including not more than 2 sprouts extending to the rind, remainder average not over ½ inch in length. | More than 6 seeds are sprouted, including not more than 3 sprouts extending to the rind, remainder average not over ¾ inch in length. | |

TABLE IV—Continued

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Thorn scratches | Not well healed, or more unsightly than discoloration permitted in the grade. | Not well healed, hard concentrated thorn injury aggregating more than a circle 3/4 inch in diameter, or slight scratches aggregating more than a circle 1 inch in diameter. All areas based on a 70 size grapefruit.. | Not well healed, hard concentrated thorn injury aggregating more than a circle 7/8 inch in diameter, or slight scratches aggregating more than a circle 1 1/4 inches in diameter. All areas based on a 70 size grapefruit. | Aggregating more than 25 percent of the surface. |

METRIC CONVERSION TABLE

### § 51.653 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 1/4 equals | 6.4 |
| 3/8 equals | 9.5 |
| 1/2 equals | 12.7 |
| 9/16 equals | 14.3 |
| 5/8 equals | 15.9 |
| 3/4 equals | 19.1 |
| 7/8 equals | 22.2 |
| 1 equals | 25.4 |
| 1 1/4 equals | 31.8 |
| 1 1/2 equals | 38.1 |
| 3 equals | 76.2 |
| 3 2/16 equals | 79.4 |
| 3 6/16 equals | 85.7 |
| 3 8/16 equals | 88.9 |
| 3 10/16 equals | 92.1 |
| 3 13/16 equals | 96.8 |
| 3 14/16 equals | 98.4 |
| 3 15/16 equals | 100.0 |
| 4 2/16 equals | 104.8 |
| 4 5/16 equals | 109.5 |
| 4 8/16 equals | 114.3 |
| 4 12/16 equals | 120.7 |
| 5 equals | 127.0 |

## Subpart—United States Standards for Grades of Oranges (Texas and States Other Than Florida, California, and Arizona)

SOURCE: 34 FR 13909, Aug. 30, 1969; 34 FR 14325, Sept. 12, 1969, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GENERAL

### § 51.680 General.

The standards in this subpart apply only to the common or sweet orange group and varieties belonging to the Mandarin group except tangerines for which separate U.S. Standards are issued.

GRADES

### § 51.681 U.S. Fancy.

''U.S. Fancy'' consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Discoloration:

(i) Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.)

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Well colored;

(6) Well formed; and,

(7) Smooth texture.

(b) Free from:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Caked melanose;

(5) Creasing;

(6) Cuts not healed;

(7) Decay;

(8) Growth cracks;

(9) Scab;

(10) Skin breakdown;

(11) Sprayburn;

(12) Undeveloped segments; and,

(13) Wormy fruit.

(c) Not injured by:

(1) Green spots;

(2) Oil spots;

(3) Split navels;

(4) Rough, wide or protruding navels;

(5) Scale;

(6) Scars; and,

(7) Thorn scratches.

(d) Not damaged by any other cause.

(e) For tolerances see § 51.689.

### § 51.682 U.S. No. 1.

''U.S. No. 1'' consists of oranges which meet the following requirements:

(a) Basic requirements:
(1) Discoloration:
(i) Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.)
(2) Firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Well formed;
(6) Fairly smooth texture; and,
(7) Color:
(i) Early and midseason varieties shall be fairly well colored.
(ii) For Valencia and other late varieties, not less than 50 percent, by count, shall be fairly well colored and the remainder reasonably well colored.
(b) Free from:
(1) Bruises;
(2) Cuts not healed;
(3) Caked melanose;
(4) Decay;
(5) Growth cracks;
(6) Sprayburn;
(7) Undeveloped segments; and,
(8) Wormy fruit.
(c) Not damaged by any other cause.
(d) For tolerances see § 51.689.

### § 51.683 U.S. No. 1 Bright.

The requirements for this grade are the same as for U.S. No. 1 except that no fruit may have more than one-tenth of its surface, in the aggregate, affected by discoloration.
(a) For tolerances see § 51.689.

### § 51.684 U.S. No. 1 Bronze.

The requirements for this grade are the same as for U.S. No 1 except that all fruit must show some discoloration. Not less than the number of fruits required in § 51.689, Tables I and II, shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on these fruits shall be of rust mite type.

### § 51.685 U.S. Combination.

''U.S. Combination'' consists of a combination of U.S. No. 1 and U.S. No. 2 oranges: *Provided,* That the number of U.S. No. 2 fruits specified in § 51.689, Tables I and II, are not exceeded.

### § 51.686 U.S. No. 2.

''U.S. No. 2'' consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Discoloration:
(i) Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.700.)
(2) Fairly firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Reasonably well colored;
(6) Not more than slightly misshapen, and,
(7) Not more than slightly rough.
(b) Free from:
(1) Bruises;
(2) Cuts not healed;
(3) Decay;
(4) Growth cracks; and,
(5) Wormy fruit.
(c) Not seriously damaged by any other cause.
(d) For tolerances see § 51.689.

### § 51.687 U.S. No. 2 Russet.

The requirements for this grade are the same as for U.S. No. 2 except that not less than the number of fruits required in § 51.689, Tables I and II, shall have more than one-half of their surface, in the aggregate, affected by discoloration.

### § 51.688 U.S. No. 3.

''U.S. No. 3'' consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Mature;
(2) Similar varietal characteristics;
(3) May be misshapen;
(4) May be slightly spongy;
(5) May have rough texture;
(6) Not seriously lumpy or cracked; and,
(7) May be poorly colored.
(i) Not more than 25 percent of the surface may be of a solid dark green color.
(b) Free from:
(1) Cuts not healed;
(2) Decay; and,
(3) Wormy fruit.
(c) Not very seriously damaged by any other cause.
(d) For tolerances see § 51.689.

TOLERANCES

### § 51.689 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective or off-size specimens in the lot, shall be within the limitations specified in Tables I and II. No tolerance shall apply to wormy fruit.

## TABLE I—SHIPPING POINT [1]

(A) FOR 1 THROUGH 20 SAMPLES

[See footnotes at end of Table I]

| Factor | Grades | AL [2] | Number of 50-count samples [3] | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| | | | Acceptance number (maximum permitted) [4] | | | | | | | | | | | | | | | | | | | |
| Decay | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S. Combination. | 1 | 0 | 1 | [5]1 | 1 | 2 | [5]2 | 2 | 3 | 3 | 3 | [5]3 | 3 | 4 | 4 | [5]4 | 4 | 5 | 5 | 5 | 5 |
| | U.S. No. 3. | 2 | 0 | 1 | 2 | [5]2 | 2 | [5]3 | 3 | 4 | 4 | [5]4 | 5 | 5 | [5]5 | 6 | 6 | [5]6 | 6 | 7 | 7 | 7 |
| Very serious damage including decay. | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S. Combination. | 6 | 4 | 6 | 9 | 11 | 14 | 16 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 33 | 35 | 37 | 39 | 41 | 43 | 45 |
| Total defects including decay and very serious damage. | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S. No. 3. | 8 | 7 | 12 | 17 | 22 | 27 | 32 | 36 | 41 | 45 | 50 | 54 | 59 | 63 | 68 | 72 | 76 | 81 | 85 | 90 | 94 |
| | U.S. Combination (U.S. No. 2's permitted). | 29 | 26 | 48 | 70 | 91 | 112 | 134 | 155 | 176 | 197 | 218 | 239 | 260 | 281 | 301 | 322 | 343 | 364 | 384 | 405 | 425 |
| Off-size | | 10 | 7 | 12 | 17 | 22 | 27 | 32 | 36 | 41 | 45 | 50 | 54 | 59 | 63 | 68 | 72 | 76 | 81 | 85 | 90 | 94 |
| Discoloration | U.S. No. 1.<br>U.S. No. 1 Bright.<br>U.S. No. 2.<br>U.S. Combination. | 10 | 7 | 12 | 17 | 22 | 27 | 32 | 36 | 41 | 45 | 50 | 54 | 59 | 63 | 68 | 72 | 76 | 81 | 85 | 90 | 94 |
| | | | Acceptance number (minimum required) [4] | | | | | | | | | | | | | | | | | | | |
| | U.S. No. 1 Bronze.<br>U.S. No. 2 Russet. | 1 | 3 | 8 | 12 | 18 | 23 | 29 | 34 | 40 | 45 | 51 | 56 | 62 | 68 | 74 | 79 | 85 | 91 | 97 | 102 | 108 |

## TABLE I—SHIPPING POINT [1]—CONTINUED

(B) FOR 21 THROUGH 40 SAMPLES

[See footnotes at end of Table I]

| Factor | Grades | AL [2] | Number of 50-count samples [3] | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |
| | Acceptance numbers (maximum permitted) [4] | | | | | | | | | | | | | | | | | | | | | |
| Decay | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S. Combination. | 1 | [5] 5 | 6 | 6 | 6 | 6 | [5] 6 | 6 | 7 | 7 | 7 | 7 | [5] 7 | 7 | 8 | 8 | 8 | [5] 8 | 8 | 9 | 9 |
| | U.S. No. 3. | 2 | 8 | 8 | [5] 8 | 8 | 9 | 9 | [5] 9 | 9 | 10 | 10 | [5] 10 | 11 | 11 | [5] 11 | 11 | 12 | 12 | [5] 12 | 12 | 13 |
| Very serious damage including decay. | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S. Combination. | 6 | 47 | 49 | 51 | 53 | 54 | 56 | 58 | 60 | 62 | 64 | 66 | 68 | 70 | 72 | 74 | 76 | 78 | 80 | 81 | 83 |
| Total defects including decay and very serious damage. | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S. No. 3. | 8 | 98 | 103 | 107 | 111 | 116 | 120 | 124 | 129 | 133 | 137 | 141 | 146 | 150 | 154 | 159 | 163 | 167 | 171 | 176 | 180 |
| | U.S. Combination (U.S. No. 2's permitted). | 29 | 446 | 467 | 487 | 508 | 529 | 549 | 570 | 590 | 611 | 631 | 652 | 672 | 693 | 713 | 734 | 754 | 775 | 795 | 816 | 836 |
| Off-size | | 10 | 98 | 103 | 107 | 111 | 116 | 120 | 124 | 129 | 133 | 137 | 141 | 146 | 150 | 154 | 159 | 163 | 167 | 171 | 176 | 180 |
| Discoloration | U.S. No. 1.<br>U.S. No. 1 Bright.<br>U.S. No. 2.<br>U.S. Combination. | 10 | 98 | 103 | 107 | 111 | 116 | 120 | 124 | 129 | 133 | 137 | 141 | 146 | 150 | 154 | 159 | 163 | 167 | 171 | 176 | 180 |
| | Acceptance number (minimum required) [4] | | | | | | | | | | | | | | | | | | | | | |
| | U.S. No. 1 Bronze.<br>U.S. No. 2 Russet. | 1 | 114 | 119 | 125 | 131 | 137 | 143 | 149 | 155 | 161 | 166 | 172 | 178 | 184 | 190 | 196 | 202 | 208 | 214 | 220 | 226 |

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.

[2] AL—Absolute limit permitted in individual 33-count sample.

[3] Sample size—33-count.

[4] Acceptance number—maximum or minimum number of defective or off-size fruit permitted.

[5] Preferred number of samples for this acceptance number.

TABLE II—EN ROUTE OR AT DESTINATION

| Factor | Grades | AL [1] | Number of 50-count samples [2] | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| | | Acceptance numbers (maximum permitted) | | | | | | | | | | | | | | | | | | | | |
| Decay | All. | 4 | 3 | 4 | 6 | 7 | 9 | 10 | 11 | 13 | 14 | 15 | 16 | 18 | 19 | 20 | 21 | 23 | 24 | 25 | 26 | 27 |
| Very serious damage other than decay. | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S Combination. | 6 | 4 | 6 | 9 | 11 | 14 | 16 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 33 | 35 | 37 | 39 | 41 | 43 | 45 |
| Total defects including very serious damage other than decay. | U.S. Fancy.<br>U.S. No. 1.<br>U.S. No. 2.<br>U.S. No. 3. | 8 | 7 | 12 | 17 | 22 | 27 | 32 | 36 | 41 | 45 | 50 | 54 | 59 | 63 | 68 | 72 | 76 | 81 | 85 | 90 | 94 |
| | U.S. Combination (U.S. No. 2's permitted). | 29 | 26 | 48 | 70 | 91 | 112 | 134 | 155 | 176 | 197 | 218 | 239 | 260 | 281 | 301 | 322 | 343 | 364 | 384 | 405 | 425 |
| Off-size | | 10 | 7 | 12 | 17 | 22 | 27 | 32 | 36 | 41 | 45 | 50 | 54 | 59 | 63 | 68 | 72 | 76 | 81 | 85 | 90 | 94 |
| Discoloration | U.S. No. 1.<br>U.S. No. 1 Bright.<br>U.S. No. 2.<br>U.S. Combination. | 10 | 7 | 12 | 17 | 22 | 27 | 32 | 36 | 41 | 45 | 50 | 54 | 59 | 63 | 68 | 72 | 76 | 81 | 85 | 90 | 94 |
| | | Acceptance number (minimum required) [3] | | | | | | | | | | | | | | | | | | | | |
| | U.S. No. 1 Bronze.<br>U.S. No. 2 Russet. | 1 | 3 | 8 | 12 | 18 | 23 | 29 | 34 | 40 | 45 | 51 | 56 | 62 | 68 | 74 | 79 | 85 | 91 | 97 | 102 | 108 |

[1] AL—Absolute limit permitted in individual 50-count sample.
[2] Sample size-50-count.
[3] Acceptance number—maximum or minimum number of defective or off-size fruit permitted.

SAMPLE FOR GRADE OR SIZE DETERMINATION

### § 51.690 Sample for grade or size determination.

Each sample shall consist of 50 oranges. When individual packages contain at least 50 oranges, the sample is drawn from one package; when individual packages contain less than 50 oranges, a sufficient number of adjoining packages are opened to form a 50-count sample. When practicable, at point of packaging, the sample may be obtained from the grading belt or bins after sorting has been completed.

STANDARD PACK

### § 51.691 Standard pack for oranges except Temple variety.

(a) Fruit shall be fairly uniform in size. When packed in approved containers, fruit shall be arranged according to the approved and recognized methods.

(b) ''Fairly uniform in size'' means that not more than the number of fruit permitted in § 51.689, Tables I and II, are outside the ranges of diameters given in Table III:

TABLE III—7/10 BUSHEL CARTON

| Pack size/number of oranges | Diameter in inches | |
|---|---|---|
| | Minimum | Maximum |
| 24 | 3 12/16 | 5 1/16 |
| 32 | 3 6/16 | 4 9/16 |
| 36 | 3 4/16 | 4 6/16 |
| 40 | 3 2/16 | 4 4/16 |
| 48 | 2 15/16 | 4 |
| 56 | 2 13/16 | 3 13/16 |
| 64 | 2 11/16 | 3 10/16 |
| 72 | 2 9/16 | 3 8/16 |
| 88 | 2 8/16 | 3 4/16 |
| 113 | 2 7/16 | 3 |
| 138 | 2 6/16 | 2 12/16 |

(c) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

[66 FR 48788, Sept. 24, 2001]

STANDARD SIZING

### § 51.692 Standard sizing.

(a) Boxes, cartons, bag packs, or bulk loads in which oranges are not packed according to a definite pattern do not meet the requirements of standard pack, but may be certified as meeting the requirements of standard sizing: *Provided*, that the ranges are fairly uniform in size as defined in § 51.691.

(b) In order to allow for variations incident to proper packing, not more than 5 percent of the containers in any lot may fail to meet the requirements of standard sizing.

[34 FR 13909, Aug. 30, 1969; 34 FR 14325, Sept. 12, 1969. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; as amended at 66 FR 48788, Sept. 24, 2001]

DEFINITIONS

### § 51.693 Mature.

*Mature* shall have the same meaning currently assigned that term in the laws and regulations of the State in which the orange is grown; or as the definition of such term may hereafter be amended.

### § 51.694 Similar varietal characteristics.

*Similar varietal characteristics* means that the fruits in any container are similar in color and shape.

### § 51.695 Well colored.

*Well colored* means that the fruit is yellow or orange in color with practically no trace of green color.

### § 51.696 Firm.

*Firm* as applied to common oranges, means that the fruit is not soft, or noticeably wilted or flabby; as applied to oranges of the Mandarin group (Satsuma, King, Mandarin), means that the fruit is not extremely puffy, although the skin may be slightly loose.

### § 51.697 Well formed.

*Well formed* means that the fruit has the shape characteristic of the variety.

### § 51.698 Smooth texture.

*Smooth texture* means that the skin is thin and smooth for the variety and size of the fruit.

### § 51.699 Injury.

*Injury* means any specific defect described in § 51.713, Table IV; or an equally objectionable variation of any

one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.700 Discoloration.**

*Discoloration* means russeting of light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth, superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by melanose or other means may affect the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed for the grade.

**§ 51.701 Fairly smooth texture.**

*Fairly smooth texture* means that the skin is not materially rough or coarse and that the skin is not thick for the variety.

**§ 51.702 Damage.**

*Damage* means any specific defect described in § 51.713, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.703 Fairly well colored.**

*Fairly well colored* means that except for a one inch circle in the aggregate of green color, the yellow or orange color predominates over the green color on that part of the fruit which is not discolored.

**§ 51.704 Reasonably well colored.**

*Reasonably well colored* means that the yellow or orange color predominates over the green color on at least two-thirds of the fruit surface in the aggregate which is not discolored.

**§ 51.705 Fairly firm.**

*Fairly firm* as applied to common oranges, means that the fruit may be slightly soft, but not bruised; as applied to oranges of the Mandarin group (Satsuma, King, Mandarin) means that the fruit is not extremely puffy or the skin extremely loose.

**§ 51.706 Slightly misshapen.**

*Slightly misshapen* means that the fruit is not of the shape characteristic of the variety but is not appreciably elongated or pointed or otherwise deformed.

**§ 51.707 Slightly rough texture.**

*Slightly rough texture* means that the skin is not smooth or fairly smooth but is not excessively rough or excessively thick, or materially ridged, grooved or wrinkled.

**§ 51.708 Serious damage.**

*Serious damage* means any specific defect described in § 51.713, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.709 Misshapen.**

*Misshapen* means that the fruit is decidedly elongated, pointed or flatsided.

**§ 51.710 Slightly spongy.**

*Slightly spongy* means that the fruit is puffy or slightly wilted but not flabby.

**§ 51.711 Very serious damage.**

*Very serious damage* means any specific defect described in § 51.713, Table IV; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.712 Diameter.**

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

### § 51.713 Classification of defects.

TABLE IV

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Ammoniation .. | ..... | Not occurring as light speck type. | Scars are cracked or dark and aggregating more than a circle 3/4 inch in diameter or light colored and aggregating more than a circle 1 1/4 inches in diameter on a 200 size orange. | Aggregating more than 25 percent of the surface. |
| Buckskin ..... | ..... | Aggregating more than a circle 1 inch in diameter on a 200 size orange.. | Aggregating more than 25 percent of the surface. | Aggregating more than 50 percent of the surface. |
| Caked melanose. | ..... | ..... | Aggregating more than a circle 3/4 inch in diameter on a 200 size orange. | Aggregating more than 25 percent of the surface. |
| Creasing ..... | ..... | Materially weakens the skin, or extends over more than one-third of the surface. | Seriously weakens the skin, or extends over more than one-half of the surface. | Very seriously weakens the skin, or is distributed over practically the entire surface. |
| Dryness or mushy condition. | ..... | Affecting all segments more than 1/4 inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than 1/2 inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than 3/4 inch at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. |
| Green spots or oil spots. | More than slightly affecting appearance. | Aggregating more than a circle 7/8 inch in diameter on a 200 size orange. | Aggregating more than a circle 1 1/4 inches in diameter on a 200 size orange. | |
| Hail ..... | Not well healed, or aggregating more than a circle 1/4 inch in diameter on a 200 size orange. | Not well healed, or aggregating more than a circle 3/8 inch in diameter on a 200 size orange. | Not well healed, or aggregating more than a circle 1/2 inch in diameter on a 200 size orange. | Not well healed, or aggregating more than a circle 3/4 inch in diameter on a 200 size orange. |
| Scab ..... | ..... | Materially detracts from the shape or texture, or aggregating more than a circle 5/8 inch in diameter on a 200 size orange. | Seriously detracts from the shape or texture, or aggregating more than a circle 3/4 inch in diameter on a 200 orange. | Aggregating more than 25 percent of the surface. |
| Scale ..... | More than a few adjacent to the ''button'' at the stem end, or more than 6 scattered on other portions of the fruit. | Aggregating more than a circle 5/8 inch in diameter on a 200 size orange. | Aggregating more than a circle 3/4 inch in diameter on a 200 size orange. | Aggregating more than 25 percent of the surface. |
| Scars ..... | Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade. | Deep, rough or hard aggregating more than a circle 1/4 inch in diameter; slightly rough with slight depth aggregating more than a circle 7/8 inch in diameter; smooth or fairly smooth with slight depth aggregation more than a circle 1 1/4 inches in diameter. All areas based on a 200 size orange. | Deep, rough aggregating more than a circle 1/2 inch in diameter; slightly rough with slight depth aggregating more than a circle 1 1/4 inches in diameter. All areas based on a 200 size orange. | Deep, rough or unsightly that appearance is very seriously affected. |
| Skin breakdown. | ..... | Aggregating more than a circle 1/4 inch in diameter on a 200 size orange. | Aggregating more than a circle 5/8 inch in diameter on a 200 size orange. | Aggregating more than 25 percent of the surface. |

TABLE IV—Continued

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Sunburn | | Skin is flattened, dry, darkened or hard, aggregating more than 25 percent of the surface. | Affecting more than 1/3 of the surface, hard, decidedly one-sided, or light brown and aggregating more than a circle 1¼ inches in diameter on a 200 size orange. | Aggregating more than 50 percent of the surface. |
| Sprayburn | | | Hard, or aggregating more than a circle 1¼ inches in diameter on a 200 size orange. | Aggregating more than 25 percent of the surface. |
| Split, rough or protruding navels. | Split is unhealed; navel protrudes beyond general contour; opening is so wide, growth so folded and ridged that it detracts noticeably from appearance. | Split is unhealed, or more than ¼ inch in length, or more than 3 well healed splits, or navel protrudes beyond the general contour, and opening is so wide, folded or ridged that it detracts materially from appearance. | Split is unhealed, or more than ½ inch in length, or aggregate length of all splits exceed 1 inch, or navel protrudes beyond general contour, and opening is so wide, folded and ridged that it seriously detracts from appearance. | Split is unhealed or fruit is seriously weakened. |
| Thorn scratches. | Not slight, not well healed, or more unsightly than discoloration permitted in the grade. | Not well healed, or hard concentrated thorn injury aggregating more than a circle 5/8 inch in diameter on a 200 size orange. | Not well healed, or hard concentrated thorn injury aggregating more than a circle ¾ inch in diameter on a 200 size orange. | Aggregating more than 5 percent of the surface. |

METRIC CONVERSION TABLE

### § 51.714 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 1/4 equals | 6.4 |
| 5/16 equals | 7.9 |
| 3/8 equals | 9.5 |
| 1/2 equals | 12.7 |
| 5/8 equals | 15.9 |
| 3/4 equals | 19.1 |
| 7/8 equals | 22.2 |
| 1 equals | 25.4 |
| 1 1/4 equals | 31.8 |
| 2 3/16 equals | 55.6 |
| 2 4/16 equals | 57.2 |
| 2 7/16 equals | 61.9 |
| 2 8/16 equals | 63.5 |
| 2 9/16 equals | 65.1 |
| 2 11/16 equals | 68.3 |
| 2 12/16 equals | 69.9 |
| 2 15/16 equals | 74.6 |
| 3 1/16 equals | 77.8 |
| 3 3/16 equals | 81.0 |
| 3 5/16 equals | 84.1 |
| 3 7/16 equals | 87.3 |
| 3 9/16 equals | 90.5 |
| 3 13/16 equals | 96.8 |

## Subpart—United States Standards for Grades of Florida Grapefruit

SOURCE: 61 FR 20703, May 8, 1996, unless otherwise noted.

GRADES

### § 51.750 U.S. Fancy.

''U.S. Fancy'' consists of grapefruit which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.770.);

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Smooth texture;

(6) Well colored; and,

(7) Well formed.

(b) Free from:

(1) Ammoniation;

(2) Buckskin;

(3) Caked melanose;

(4) Decay;

(5) Scab;

(6) Sprayburn;

(7) Unhealed skin breaks; and,

(8) Wormy fruit.

(c) Free from injury caused by:

(1) Bruises;

(2) Green spots;

(3) Oil spots;

(4) Scale;

(5) Scars;

(6) Skin breakdown; and,
(7) Thorn scratches.
(d) Free from damage caused by:
(1) Dirt or other foreign material;
(2) Disease;
(3) Dryness or mushy condition;
(4) Hail;
(5) Insects;
(6) Sprouting;
(7) Sunburn; and,
(8) Other means.
(e) For tolerances see § 51.760.

### § 51.751 U.S. No. 1 Bright.

The requirements for this grade are the same as for U.S. No. 1 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see § 51.760.

### § 51.752 U.S. No. 1.

''U.S. No. 1'' consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See § 51.770.);
(2) Fairly smooth texture;
(3) Fairly well colored;
(4) Firm;
(5) Mature;
(6) Similar varietal characteristics; and,
(7) Well formed.
(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and,
(3) Wormy fruit.
(c) Free from damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Dirt or other foreign material;
(6) Disease;
(7) Dryness or mushy condition;
(8) Green spots;
(9) Hail;
(10) Insects;
(11) Oil spots;
(12) Scab;
(13) Scale;
(14) Scars;
(15) Skin breakdown;
(16) Sprayburn;
(17) Sprouting;
(18) Sunburn;
(19) Thorn scratches; and,
(20) Other means.
(d) For tolerances see § 51.760.

### § 51.753 U.S. No. 1 Golden.

The requirements for this grade are the same as for U.S. No. 1 except that not more than 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. For tolerances see § 51.760.

### § 51.754 U.S. No. 1 Bronze.

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on each of these fruits shall be of rust mite type. For tolerances see § 51.760.

### § 51.755 U.S. No. 1 Russet.

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.760.

### § 51.756 U.S. No. 2 Bright.

The requirements for this grade are the same as for U.S. No. 2 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see § 51.760.

### § 51.757 U.S. No. 2.

''U.S. No. 2'' consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.770.);
(2) Fairly firm;
(3) Mature;
(4) Similar varietal characteristics;
(5) Slightly colored;
(6) Not more than slightly misshapen; and,
(7) Not more than slightly rough texture.

(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and,
(3) Wormy fruit.
(c) Free from serious damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Dirt or other foreign material;
(6) Disease;
(7) Dryness or mushy condition;
(8) Green spots;
(9) Hail;
(10) Insects;
(11) Oil spots;
(12) Scab;
(13) Scale;
(14) Scars;
(15) Skin breakdown;
(16) Sprayburn;
(17) Sprouting;
(18) Sunburn;
(19) Thorn scratches; and,
(20) Other means.
(d) For tolerances see § 51.760.

### § 51.758 U.S. No. 2 Russet.

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.760.

### § 51.759 U.S. No. 3.

''U.S. No. 3'' consists of grapefruit which meet the following requirements:
(a) Basic requirements:
(1) Mature;
(2) Misshapen;
(3) Poorly colored;
(4) Rough texture, not seriously bumpy;
(5) Similar varietal characteristics; and,
(6) Slightly spongy.
(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and,
(3) Wormy fruit.
(c) Free from very serious damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Disease;
(6) Dryness or mushy condition;
(7) Hail;
(8) Insects;
(9) Oil spotting;
(10) Scab;
(11) Scale;
(12) Scars;
(13) Skin breakdown;
(14) Sprayburn;
(15) Sprouting;
(16) Sunburn; and,
(17) Other means.
(d) For tolerances see § 51.760.

TOLERANCES

### § 51.760 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

(a) *Defects.* (1) U.S. Fancy, U.S. No. 1 Bright, U.S. No. 1, U.S. No. 1 Golden, U.S. No. 1 Bronze, U.S. No. 1 Russet, U.S. No. 2 Bright, U.S. No. 2, and U.S. No. 2 Russet.

(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

more than 3 percent for decay or wormy fruit.

(2) U.S. No. 3.

(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided*, that included in this amount not more than 1 percent shall be for decay or wormy fruit.

(ii) *For defects en route or at destination*. Not more than 12 percent of the fruit which fail to meet the requirements of the grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 3 percent for decay or wormy fruit.

(b) *Discoloration*—(1) *U.S. No. 1 Bright, U.S. No. 1, U.S. No. 2 Bright, and U.S. No. 2*. Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within percentage specified.

(2) *U.S. No. 1 Golden*. Not more than 30 percent of the fruit shall have in excess of one-third of their surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to increase this percentage. No sample may have more than 40 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(3) *U.S. No. 1 Bronze, and U.S. No. 1 Russet*. At least 30 percent of the fruit shall have in excess of one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 20 percent of the fruit with required discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(4) *U.S. No. 2 Russet*. At least 10 percent of the fruit shall have in excess of one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *And provided further*, that the entire lot averages within the percentage specified.

[61 FR 20703, May 8, 1996, as amended at 61 FR 40290, Aug. 2, 1996; 62 FR 2897, Jan. 21, 1997]

APPLICATION OF TOLERANCES

### § 51.761 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.760. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, that at least one decayed or wormy fruit may be permitted in any sample: *And provided further*, that the averages for the entire lot are within the tolerances specified for the grade.

[62 FR 2897, Jan. 21, 1997]

SIZE

### § 51.762 Size.

(a) Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.

(b) ''Fairly uniform in size'' means that not more than 10 percent of the grapefruit per sample may vary more than one-half inch in diameter.

(c) In order to allow for variations incident to proper sizing, not more than 10 percent of the samples in any lot may fail to meet the requirements of size.

DEFINITIONS

### § 51.763 Similar varietal characteristics.

*Similar varietal characteristics* means that the fruits in any container are similar in color and shape.

### § 51.764 Well colored.

*Well colored* means that the fruit has characteristic color for the variety with practically no trace of green color.

### § 51.765 Firm.

*Firm* means that the fruit is not soft, or noticeably wilted or flabby, and the skin is not spongy or puffy.

**§ 51.766 Well formed.**

*Well formed* means that the fruit has the shape characteristic of the variety.

**§ 51.767 Mature.**

*Mature* shall have the same meaning assigned the term in the Florida Citrus Code, Chapter 601, 1995 Edition, and the Official Rules Affecting the Florida Citrus Industry, in effect as of February 12, 1995. These grapefruit maturity requirements are contained in the Florida Citrus Code, Chapter 601, Florida Statutes, Sections 601.16, 601.17, and 601.18, 1995 Edition, and the State of Florida Department of Citrus Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20–13 Market Classification, Maturity Standards and Processing or Packing Restrictions for Hybrids in effect as of February 12, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from, Florida Department of Citrus, Post Office Box 148, Lakeland, Florida 33802 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065–S, 14th and Independence Ave., Washington, DC 20250 or 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.*

**§ 51.768 Smooth texture.**

*Smooth texture* means that the skin is thin and smooth for the variety and size of the fruit. ''Thin'' means that the skin thickness does not average more than ⅜ inch (9.5 mm), on a central cross section, on grapefruit 4⅛ inches (104.8 mm) in diameter.

**§ 51.769 Injury.**

*Injury* means any specific defect described in § 51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.770 Discoloration.**

*Discoloration* means russeting of a light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck-type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed in the grade.

**§ 51.771 Fairly well colored.**

*Fairly well colored* means that except for an aggregate area of green color which does not exceed the area of a circle 1 inch (25.4 mm) in diameter, the characteristic color predominates over the green color.

**§ 51.772 Fairly smooth texture.**

*Fairly smooth texture* means that the skin is fairly thin and not coarse for the variety and size of the fruit. ''Fairly thin'' means that the skin thickness does not average more than ½ inch (12.7 mm), on a grapefruit 4⅛ inches (104.8 mm) in diameter.

**§ 51.773 Damage.**

*Damage* means any specific defect described in § 51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.774 Fairly firm.**

*Fairly firm* means that the fruit may be slightly soft, but not bruised, and the skin is not spongy or puffy.

**§ 51.775 Slightly misshapen.**

*Slightly misshapen* means that the fruit has fairly good shape characteristic of the variety and is not more than slightly elongated or pointed or otherwise deformed.

### § 51.776 Slightly rough texture.

*Slightly rough texture* means that the skin may be slightly thick but not excessively thick, materially ridged or grooved. ''Slightly thick'' means that the skin thickness does not average more than 5/8 inch (15.9 mm), on a central cross section, on a grapefruit 4 1/8 inches (104.8 mm) in diameter.

### § 51.777 Serious damage.

*Serious damage* means any specific defect described in § 51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.778 Slightly colored.

*Slightly colored* means that except for an aggregate area of green color which does not exceed the area of a circle 2 inches (50.8 mm) in diameter, the fruit surface shows some characteristic color.

### § 51.779 Poorly colored.

*Poorly colored* means that not more than 25 percent of the surface may be of a solid dark green color.

### § 51.780 Misshapen.

*Misshapen* means that the fruit is decidedly elongated, pointed, or flatsided.

### § 51.781 Slightly spongy.

*Slightly spongy* means that the fruit is puffy or slightly wilted but not flabby.

### § 51.782 Very serious damage.

*Very serious damage* means any specific defect described in § 51.784, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.783 Diameter.

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end.

### § 51.784 Classification of defects.

TABLE I

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Ammoniation | | Not occurring as light speck type. | Scars are cracked or dark and aggregating more than a circle 1 inch (25.4 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Bruises | Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured. | Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured. | Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured. | Fruit is split open, peel is badly watersoaked, or rag is ruptured and juice sacs are ruptured causing a mushy condition affecting all segments more than 3/4 inch (19.1 mm) at bruised area or the equivalent of this amount, by volume, when affecting more than one area on the fruit. |
| Buckskin | | Aggregating more than a circle 1–1/4 inches (31.8 mm) in diameter. | Aggregating more than 25 percent of the surface. | Aggregating more than 50 percent of the surface. |
| Caked melanose | | Aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Aggregating more than a circle 1 inch (25.4 mm) in diameter. | Aggregating more than 25 percent of the surface. |

TABLE I—Continued

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Dryness or mushy condition. | ..... | Affecting all segments more than ¼ inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than ½ inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than ¾ inch (19.1 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. |
| Green spots ..... | Aggregating more than a circle ½ inch (12.7 mm) in diameter, caused by scale. | Aggregating more than a circle ¾ inch (19.1 mm) in diameter, caused by scale. | Aggregating more than a circle 1 inch (25.4 mm) in diameter, caused by scale. | Aggregating more than ⅓ of the surface, caused by scale. |
| Oil spots ..... | Aggregating more than a circle ½ inch (12.7 mm) in diameter. | Aggregating more than a circle 1 inch (25.4 mm) in diameter. | Aggregating more than a circle 1½ inches (38.1 mm) in diameter. | Aggregating more than ⅓ of the surface. |
| Scab ..... | ..... | Materially detracts from the shape or texture, or aggregating more than a circle ¾ inch (19.1 mm) in diameter. | Seriously detracts from the shape or texture, or aggregating more than a circle ⅞ inch (22.2 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Scale ..... | More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit. | Blotch aggregating more than a circle ¾ inch (19.1 mm) in diameter, or occurring as a ring more than a circle 1¾ inches (31.8 mm) in diameter. | Blotch aggregating more than a circle 1 inch (25.4 mm) in diameter, or occurring as a ring more than a circle 1½ inches (38.1 mm) in diameter.. | Aggregating more than 25 percent of the surface. |
| Scars, Hail, or Thorn scratches [For smooth or fairly smooth superficial scars see § 51.770.]. | Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade. | Very deep or very rough aggregating more than a circle ½ inch (12.7 mm) in diameter; deep or rough aggregating more than a circle 1 inch (25.4 mm) in diameter; slightly rough or of slight depth aggregating more than 10 percent of fruit surface. | Very deep or very rough aggregating more than a circle 1 inch (25.4 mm) in diameter; deep or rough aggregating more than 5 percent of fruit surface; slight depth or slightly rough aggregating more than 15 percent of fruit surface. | Very deep or very rough or unsightly that appearance is very seriously affected. |
| Skin breakdown ..... | Aggregating more than a circle ⅜ inch (9.5 mm) in diameter. | Aggregating more than a circle ¾ inch (19.1 mm) in diameter. | Aggregating more than a circle 1 inch (25.4 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Sprayburn ..... | ..... | Aggregating more than a circle ¾ inch (19.1 mm) in diameter. | Hard and aggregating more than a circle 1½ inches (38.1 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Sprouting ..... | ..... | More than six seeds have sprouts of more than ¼ inch (6.4 mm) in length, or more than 3 seeds with sprouts over ¾ inch (19.1 mm) in length. | More than six seeds have sprouts of more than ½ inch (12.7 mm) in length, or more than 3 seeds with sprouts over 1 inch (25.4 mm) in length. | More than six seeds have sprouts of more than ¾ inch (19.1 mm) in length, or more than 3 seeds with sprouts over 1¼ inches (31.8 mm) in length. |
| Sunburn ..... | ..... | Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface. | Skin is hard and affects more than one-third of the surface. | Aggregating more than 50 percent of the surface. |

**Note:** All references to area or aggregating area, or length in this standard are based on a grapefruit 4⅛ inches (104.8 mm) in diameter, allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

## Subpart—United States Standards for Grades of Table Grapes (European or Vinifera Type) [1]

GRADES

### § 51.880 U.S. Extra Fancy Table.

''U.S. Extra Fancy Table'' consists of bunches of well developed grapes of one variety, except when designated as assorted varieties, which are uniform in appearance, well colored, and which meet the following requirements:

(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.

(b) Basic requirements for bunches:
(1) Fairly well filled;
(2) Not excessively tight for the variety.

(c) Basic requirements for stems:
(1) Well developed and strong;
(2) Not dry and brittle;
(3) At least yellowish-green in color except for Cardinal, Robin, Exotic, and Beauty Seedless varieties.

(d) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn;
(4) Almeria Spot.

(e) Stems free from:
(1) Mold;
(2) Decay.

(f) Berries not damaged by:
(1) Any other cause.

(g) Bunches not damaged by:
(1) Shot berries;
(2) Dried berries;
(3) Other defective berries;
(4) Trimming away of defective berries;
(5) Any other cause.

(h) Stems not damaged by:
(1) Freezing;
(2) Any other cause.

(i) Size:
(1) For berries: Exclusive of shot berries and dried berries, not less than 90 percent, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:
(i) Ribier, Cardinal, Robin, Exotic, Queen, Italia Muscat, and other similar varieties thirteen-sixteenths of an inch.
(ii) Other varieties eleven-sixteenths of an inch.
(2) For bunches:
(i) Not less than one-half pound.

(j) For tolerances see § 51.886.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 56 FR 15802, Apr. 18, 1991]

### § 51.881 U.S. Extra Fancy Export.

''U.S. Extra Fancy Export'' consists of grapes which meet the requirements for U.S. Extra Fancy Table and, in addition, meet the packaging requirements set forth in § 51.911.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.882 U.S. Fancy Table.

''U.S. Fancy Table'' consists of bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least reasonably well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:

(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.

(b) Basic requirements for bunches:
(1) Fairly well filled;
(2) Not excessively tight for the variety.

(c) Basic requirements for stems:
(1) Well developed and strong;
(2) Not dry and brittle.

(d) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn;

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

(4) Almeria Spot.
(e) Stems free from:
(1) Mold;
(2) Decay.
(f) Berries not damaged by:
(1) Any other cause.
(g) Bunches not damaged by:
(1) Shot berries;
(2) Dried berries;
(3) Other defective berries;
(4) Trimming away of defective berries;
(5) Any other cause.
(h) Stems not damaged by:
(1) Freezing;
(2) Any other cause.
(i) Size:
(1) For berries: Exclusive of shot berries and dried berries, the following percentages, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:
(i) For Ribier, Cardinal, Robin, Exotic, Queen, Italia Muscat, and other similar varieties, 90 percent shall be at least twelve-sixteenths of an inch;
(ii) For Thompson Seedless, Perlette, Delight, Beauty Seedless, Sugraone, Flame Seedless and other seedless varieties, 75 percent shall be at least ten-sixteenths of an inch; and,
(iii) For other varieties 90 percent shall be at least ten-sixteenths of an inch.
(2) For bunches:
(i) Not less than one-fourth pound.
(j) For tolerances see § 51.886.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 48 FR 19350, Apr. 29, 1983; 56 FR 15802, Apr. 18, 1991; 64 FR 14576, Mar. 26, 1999]

### § 51.883 U.S. Fancy Export.

''U.S. Fancy Export'' consists of grapes which meet the requirements for U.S. Fancy Table, except that bunches shall weigh not less than one-half pound, and in addition meet the packaging requirements set forth in § 51.912.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 56 FR 15802, Apr. 18, 1991]

### § 51.884 U.S. No. 1 Table.

''U.S. No. 1 Table'' consists of bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least fairly well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:
(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not materially shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.
(b) Basic requirements for bunches:
(1) Not straggly.
(c) Basic requirements for stems:
(1) Not weak, or dry and brittle.
(d) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn.
(e) Stems free from:
(1) Mold;
(2) Decay.
(f) Berries not damaged by:
(1) Any other cause.
(g) Bunches not damaged by:
(1) Shot berries;
(2) Dried berries;
(3) Other defective berries;
(4) Trimming away of defective berries;
(5) Any other cause.
(h) Stems not damaged by:
(1) Freezing;
(2) Any other cause.
(i) Size:
(1) For berries: Exclusive of shot berries and dried berries, 75 percent, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:
(i) Thompson Seedless, Perlette, Delight, Beauty Seedless, Sugraone, Flame Seedless and other seedless varieties nine-sixteenths of an inch.
(ii) Other varieties ten-sixteenths of an inch.
(2) For bunches:
(i) Not less than one-fourth pound.

(j) For tolerances see § 51.886.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 48 FR 19350, Apr. 29, 1983; 56 FR 15802, Apr. 18, 1991; 64 FR 14576, Mar. 26, 1999]

### § 51.885 U.S. No. 1 Institutional.

''U.S. No. 1 Institutional'' grapes must have no less than 95 percent of the containers in the lot legibly marked ''Institutional Pack.'' Further requirements for this grade include grapes which consist of clusters and/or bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least fairly well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:

(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not materially shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.

(b) Basic requirements for stems: Not weak, or dry and brittle.

(c) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn.

(d) Stems free from:
(1) Mold;
(2) Decay.

(e) Berries not damaged by: Any other cause.

(f) Bunches not damaged by:
(1) Shot berries;
(2) Dried berries;
(3) Other defective berries;
(4) Any other cause.

(g) Stems not damaged by:
(1) Freezing;
(2) Any other cause.

(h) Size:

(1) For berries: Exclusive of shot berries and dried berries, 75 percent, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:

(i) Thompson Seedless, Perlette, Delight, Beauty Seedless, Sugraone, Flame Seedless and other seedless varieties nine-sixteenths of an inch.

(ii) Other varieties ten-sixteenths of an inch.

(2) For clusters/bunches: In this grade grapes shall consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. See section 51.913.

(i) For tolerances see section 51.886.

[61 FR 11126, Mar. 19, 1996, as amended at 64 FR 14576, Mar. 26, 1999]

TOLERANCES

### § 51.886 Tolerances.

(a) No tolerances are provided in these standards for grapes which fail to meet the applicable maturity requirements other than the allowances specified in § 51.888 or in the sampling and testing procedures of State maturity regulations.

(b) In order to allow for variations incident to proper grading and handling in each of the foregoing grades except U.S. No. 1 Institutional, tolerances, by weight, other than for maturity, are provided as set forth in Tables I and II.

TABLE I—TOLERANCES AT SHIPPING POINT [1]

[Percent]

| Factor | U.S. Extra fancy table | U.S. Fancy table | U.S. No. 1 table |
|---|---|---|---|
| (A) For bunches failing to meet color requirements | 10 | 10 | 10 |
| (B) For bunches failing to meet requirements for minimum diameter of berries | 10 | 10 | 10 |
| (C) For bunches failing to meet stem color requirements | 10 | | |
| (D) For offsize bunches and for bunches and berries failing to meet the remaining requirements for the grade | 8 | 8 | 8 |
| Including in (D): | | | |
| (a) For serious damage | 2 | 2 | 2 |

TABLE I—TOLERANCES AT SHIPPING POINT [1]—Continued

[Percent]

| Factor | U.S. Extra fancy table | U.S. Fancy table | U.S. No. 1 table |
|---|---|---|---|
| And, including in (a): | | | |
| (i) For decay | ½ of 1 | ½ of 1 | ½ of 1 |

[1] Shipping Point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

TABLE II—TOLERANCES EN ROUTE OR AT DESTINATION

| | | | |
|---|---|---|---|
| (A) For bunches failing to meet color requirements | 10 | 10 | 10 |
| (B) For bunches failing to meet requirements for minimum diameter of berries | 10 | 10 | 10 |
| (C) For bunches failing to meet stem color requirements | 10 | | |
| (D) For offsize bunches and for bunches and berries failing to meet the remaining requirements for the grade | 12 | 12 | 12 |
| Including in (D): | | | |
| (a) For permanent defects | 8 | 8 | 8 |
| (b) For serious damage | 4 | 4 | 4 |
| And, including in (b): | | | |
| (i) For serious damage by permanent defects | 2 | 2 | 2 |
| (ii) For decay | 1 | 1 | 1 |

(c) In order to allow for variations incident to proper grading and handling in the U.S. No. 1 Institutional grade only, tolerances, by weight, other than for maturity, are provided as set forth in Tables Ia and IIa of this section.

TABLE IA—TOLERANCES AT SHIPPING POINT FOR U.S. NO. 1 INSTITUTIONAL GRADE ONLY [1]

[Percent]

| Factor | U.S. No. 1 institutional |
|---|---|
| (A) For clusters/bunches failing to meet color requirements. | 10. |
| (B) For clusters/bunches failing to meet requirements for minimum diameter of berries. | 10. |
| (C) For offsize clusters/bunches | 4. |
| (D) For clusters/bunches and berries failing to meet the remaining requirements for the grade. | 8. |
| Including in (D): | |
| (a) For serious damage | 2 |
| And, including in (a): | |
| (i) For decay | ½ of 1. |

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

TABLE IIA—TOLERANCES EN ROUTE OR AT DESTINATION FOR U.S. NO. 1 INSTITUTIONAL GRADE ONLY

| Factor | U.S. No. 1 institutional |
|---|---|
| (A) For clusters/bunches failing to meet color requirements | 10. |
| (B) For clusters/bunches failing to meet requirements for minimum diameter of berries | 10. |
| (C) For offsize clusters/bunches | 4. |
| (D) For clusters/bunches and berries failing to meet the remaining requirements for the grade | 12. |
| Including in (D): | |
| (a) For permanent defects | 8. |
| (b) For serious damage | 4. |
| And, including in (b): | |
| (i) For serious damage by permanent defects | 2. |
| (ii) For decay | 1. |

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 52 FR 22437, June 12, 1987. Redesignated and amended at 56 FR 15802, Apr. 18, 1991; 61 FR 11127, Mar. 19, 1996]

APPLICATION OF TOLERANCES

### § 51.887 Application of tolerances.

The contents of the individual packages in any lot, based on sample inspection, are subject to the following

limitations: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade:

(a) For tolerances of 10 percent or more, individual packages may contain not more than one and one-half times the specified tolerance.

(b) For a tolerance of less than 10 percent, individual packages may contain not more than double the specified tolerance.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

MATURITY REQUIREMENTS

### § 51.888 Maturity requirements.

(a) In the case of grapes grown in Arizona or California, ''mature'' means grapes in any lot shall meet the maturity requirements for the variety as set forth in the applicable State Agricultural Laws and Regulations referenced in this section. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from, in the case of Arizona maturity regulations, Arizona Department of Agriculture, Citrus, Fruit and Vegetable Standardization, 1688 W. Adams, Phoenix, AZ 85007 or in the case of California maturity regulations, California Department of Food and Agriculture, Fruit and Vegetable Quality Control, Standardization Section, 1220 N Street, P.O. Box 942871, Sacramento, California 94271–0001 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065–S, 14th and Independence Avenue, Washington, DC 20250 or 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*.

(1) Arizona maturity regulations are contained in Chapter 4—Plant Services Division, Article 7, Fruit And Vegetable Standardization, Section R3–4–733 Table Grape Standards, Effective January 6, 1994.

(2) California maturity regulations are contained in The California Code of Regulations, Title 3, Subchapter 4. Fresh Fruits, Nuts and Vegetables, Article 25, Table Grapes and Raisins, November 16, 1996.

(b) Grapes subject to U.S. import regulations shall meet the maturity requirements specified in such regulations.

(c) Grapes produced in States other than Arizona or California, or grapes imported from countries outside the United States during periods in which U.S. import regulations do not apply, shall meet the minimum percentage of soluble solids set forth in Table III as determined by use of a standard hand refractometer.

TABLE III

| Variety | Percent of soluble solids |
|---|---|
| Muscat | 17.5 |
| All varieties not listed in this table | 16.5 |
| Cardinal, Emperor, Perlette, Ribier, Olivette Blanche, Rish Baba, Red Malaga, and similar varieties | 15.5 |

(1) The minimum percentage of soluble solids for any lot shall be determined from the juice of at least 10 percent, by weight, of whole bunches of the least mature grapes in that container which appears to have the least mature grapes. No lot shall be considered as failing to meet these requirements unless samples from two containers which appear to have the least mature grapes test below the required percentage of soluble solids.

[48 FR 19350, Apr. 29, 1983, as amended at 52 FR 22437, June 12, 1987. Redesignated at 56 FR 15802, Apr. 18, 1991; 61 FR 11127, Mar. 19, 1996; 64 FR 14577, Mar. 26, 1999]

DEFINITIONS

### § 51.889 Well developed grapes.

*Well developed grapes* means grapes which are not abnormally small for the variety.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.890 One variety.

*One variety* means that the grapes show similar varietal characteristics.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.891 Uniform in appearance.

*Uniform in appearance* means that not more than one-tenth of the containers in any lot show sufficient variation in color or size of berries to materially detract from the appearance of the contents of the individual container, and that the stems are well developed and strong.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.892 Color terms.

The color terms *well colored, reasonably well colored,* and *fairly well colored* are defined in Table IV.

TABLE IV

| Color terms | Black varieties | Red varieties | White varieties |
|---|---|---|---|
| Well colored (U.S. Extra Fancy). | Each bunch shall have not less than 95 percent, by count, of berries showing good characteristic color.[1] | Each bunch shall have not less than 75 percent, by count, of berries showing good characteristic color.[1] | No requirement. |
| Reasonably well colored (U.S. Fancy). | Each bunch shall have not less than 85 percent, by count, of berries showing good characteristic color.[1] | Each bunch shall have not less than 66⅔ percent, by count, of berries showing good characteristic color[1] except the Tokay and Cardinal varieties shall have not less than 75 percent, by count, of berries showing characteristic color.[2] | No requirement. |
| Fairly well colored (U.S. No. 1). | Each bunch shall have not less than 75 percent, by count, of berries showing characteristic color.[2] | Each bunch shall have not less than 60 percent, by count, of berries showing characteristic color.[2] | No requirement. |

[1] Good characteristic color for black varieties means purple to black except that Ribier or similar varieties of grapes shall have at least two-thirds of the surface of the berry showing purple to black color.
For red varieties good characteristic color means at least two-thirds of the surface of the berry is light red through dark red color; except, for the Tokay variety pink through dark red, and for the Cardinal variety light red through purple shall be permitted.
[2] Characteristic color for black varieties means reddish-purple to black except that Ribier or similar varieties of grapes shall have at least two-thirds of the surface of the berry showing reddish-purple to black color.
For red varieties characteristic color means at least two-thirds of the surface of the berry is pink to dark red; except, for the Tokay variety light pink through dark red and for the Cardinal variety light pink through purple color shall be permitted.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.893 Firm.

*Firm* means that the berry does not yield more than slightly to moderate pressure and is not flabby or wilted.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.894 Weak.

*Weak* means that individual berries are somewhat translucent, watery and soft, may have relatively low sugar content, inferior flavor, or are of poor keeping quality.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.895 Shriveled at capstem.

*Shriveled at capstem* means that the berry shows more than slight wrinkling of the skin surrounding the capstem.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.896 Shattered.

*Shattered* means that the berry is separated from the bunch and may or may not have the capstem attached.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.897 Wet.

*Wet* means that the grapes are wet from moisture from crushed, leaking, or decayed berries or from rain. Grapes which are moist from dew or other moisture condensation such as that resulting from removing grapes from a refrigerator car or cold storage to a warmer location shall not be considered as wet.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.898 Decay.

*Decay* means any soft breakdown of the flesh or skin of the berry resulting from bacterial or fungus infection. Slight surface development of green mold (Cladosporium) shall not be considered decay.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.899 Waterberry.

*Waterberry* means a watery, soft, or flabby condition of the berry. Affected berries are low in sugar content, have tender skins, and are easily crushed. This is an advanced or more pronounced stage of the condition referred to as ''weak''.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated 56 FR 15802, Apr. 18, 1991]

### § 51.900 Sunburn.

*Sunburn* means injury to the berry caused by exposure to the sun, including ''sulphur burn,'' usually occurring as a sunken and discolored or dried area on the exposed surface.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.901 Damage.

*Damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects which materially detracts from the appearance, or the edible or marketing quality of the individual berry, the appearance of the bunch as a whole, or the marketing quality of the stems.

(a) The following shall be considered as damage to the individual berry:

(1) Scarring such as that caused by thrips, mildew, rubs, and similar injuries when materially detracting from the appearance of the berry;

(2) Discoloration when any light brown, tan, or darker discoloration of the skin materially detracts from the appearance of the berry: *Provided*, That ''sunkissed'' berries of the white Malaga variety which show discoloration of amber or light brown color shall not be considered as damaged. ''Buckskin'' berries of the Tokay variety, and similar injury to other varieties, shall be considered as damaged by discoloration;

(3) Heat when the flesh of the berry is affected;

(4) Almeria Spot when any spot is distinctly sunken or dark in color;

(5) Mildew when active powdery mildew is present;

(6) Freezing when the berry is frozen or when the flesh of the berry is affected by freezing;

(7) Insect injury when penetrating the skin of the berry or when there is noticeable insect infestation on the bunch; when mealybug residue or aphis honeydew are present in noticeable amounts; or when leafhopper residue materially detracts from the appearance of the individual berry or of the bunch.

(b) The following shall be considered as damage to stems:

(1) Active powdery mildew or any other disease when present on the stems to the extent that it detracts

from the appearance of the bunch or when scars caused by mildew or other disease constrict or weaken any part of the main or lateral stems; and,

(2) Freezing when the stems are frozen or the capstems are swollen or dried, or when the main or lateral stems are water-soaked and limp, or dried, as a result of freezing.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.902 Fairly well filled.

*Fairly well filled* means that the berries are reasonably closely spaced on main and lateral stems and that the bunch is not very loose or stringy.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.903 Excessively tight.

*Excessively tight* means that the berries are so wedged together that the bunch is extremely compact for the variety and resulting distorted berries materially detract from the appearance of the bunch.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.904 Shot berries.

*Shot berries* means very small berries resulting from insufficient pollination, usually seedless in those varieties which normally develop seeds.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.905 Dried berries.

*Dried berries* means berries which are dry and shriveled to the extent that practically no moisture is present.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.906 Well developed and strong.

*Well developed and strong* means that the main and lateral stems are firm, fibrous, and pliable; not distinctly immature or spindly or threadlike at time of packing.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.907 Diameter.

*Diameter* means the greatest dimension of the berry taken at right angles to a line running from the stem to the blossom end.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.908 Serious damage.

*Serious damage* means any defect or any combination of defects which seriously detracts from the appearance, or the edible or marketing quality of the grapes and includes berries which are split, crushed, wet, affected by decay or waterberry, or affected by heat or freezing. Grapes which show healed cracks at the blossom and shall not be considered as seriously damaged.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.909 Materially shriveled at capstem.

*Materially shriveled at capstem* means that the skin of the berry is definitely wrinkled adjacent to the capstem and the surface is materially sunken.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.910 Straggly.

*Straggly* means that the berries are so widely spaced on main and laterial stems that the bunch is distinctly open or very stemmy or stringy in structure.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.911 Container.

*Container* as used in these standards shall, for the purposes of determining maturity and other factors of grade of grapes in packages containing 5 pounds or less, mean the master container in which the individual packages are packed for shipment.

[52 FR 22437, June 12, 1987. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.912 Export.

When designated as Export, grapes shall be packed with any of the customary protective materials such as cushions, liners, or wraps, or properly packed in sawdust or granulated cork. The so-called ''semi-sawdust packs'' which are cushioned and/or covered with sawdust are not approved as protective packaging for export.

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991]

### § 51.913 Clusters.

*Clusters* as used in these standards in reference to the U.S. No. 1 Institutional grade only shall be defined as two or more berries sharing a common point of attachment.

[61 FR 11127, Mar. 19, 1996]

METRIC CONVERSION TABLE

### § 51.914 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 3/16 equals | 12.7 |
| 9/16 equals | 14.3 |
| 10/16 equals | 15.9 |
| 11/16 equals | 17.5 |
| 12/16 equals | 19.1 |
| 13/16 equals | 20.6 |
| 14/16 equals | 22.2 |
| 15/16 equals | 28.8 |
| 1 equals | 25.4 |

| Pounds | Grams |
|---|---|
| ¼ equals | 113.4 |
| ½ equals | 226.8 |
| ¾ equals | 340.2 |
| 1 equals | 453.6 |
| 2 equals | 907.2 |
| 3 equals | 1,360.8 |
| 4 equals | 1,814.4 |
| 5 equals | 2,268.0 |
| 10 equals | 4,536.0 |

[36 FR 9126, May 20, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981. Redesignated at 56 FR 15802, Apr. 18, 1991, and further redesignated at 61 FR 11127, Mar. 19, 1996]

## Subpart—United States Standards for Persian (Tahiti) Limes

SOURCE: 23 FR 4446, June 20, 1958, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.1000 U.S. No. 1.

''U.S. No. 1'' consists of Persian limes which are firm, fairly well formed, of fairly smooth texture, which are free from decay, stylar end breakdown or other internal discoloration, broken skins which are not healed, bruises (except those incident to proper handling and packing), hard or dry skins, and free from damage caused by freezing, dryness or mushy condition, sprayburn, exanthema (ammoniation), scars, thorn scratches, scale, sunburn, scab, blanching, yellow color, discoloration, buckskin, dirt or other foreign material, disease, insects or mechanical or other means.

(a) Each fruit in this grade shall have not less than an aggregate area of three-fourths of the surface of the fruit which shows good green color characteristic of the Persian lime: *Provided*, That lots of limes which fail to meet the U.S. No. 1 grade requirements only because of blanching shall be designated as ''U.S. No. 1, Mixed Color'': *And provided further*, That lots of limes which fail to meet the U.S. No. 1 or U.S. No. 1 Mixed Color grade requirements only because of turning yellow or yellow color, caused by the ripening process, shall be designated as ''U.S. No. 1, Turning''.

(b) The fruit shall have a juice content of not less than 42 percent, by volume.

(c) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the fruit in any lot may fail to meet the color requirements. In addition, not more than 10 percent, by count, of the fruit in any lot may be below the

remaining requirements of this grade, but not more than one-half of this amount, or 5 percent, shall be allowed for decay, stylar end breakdown, broken skins which are not healed, or defects causing serious damage including not more than one-half of 1 percent for decay at shipping point: *Provided,* That an additional tolerance of 2½ percent, or a total of not more than 3 percent, shall be allowed for decay en route or at destination.

### § 51.1001 U.S. Combination.

''U.S. Combination'' consists of a combination of U.S. No. 1 and U.S. No. 2 limes: *Provided,* That at least 60 percent, by count, of the limes in the lot meet the requirements of U.S. No. 1 grade.

(a) In this grade the U.S. No. 1 limes shall meet the color requirements of the U.S. No. 1 grade and the U.S. No. 2 limes shall meet the color requirements of the U.S. No. 2 grade: *Provided,* That lots of limes which fail to meet the U.S. Combination grade requirements only because of blanching shall be designated as ''U.S. Combination, Mixed Color'': *And provided further,* That lots of limes which fail to meet the U.S. Combination or U.S. Combination Mixed Color grade requirements only because of turning yellow or yellow color, caused by the ripening process, shall be designated as ''U.S. Combination, Turning''.

(b) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the fruit in any lot may fail to meet the color requirements. In addition, not more than 10 percent, by count, of the fruit in any lot may be below the remaining requirements of the lower grade in the combination, but not more than one-half of this amount, or 5 percent, shall be allowed for limes affected by decay, stylar end breakdown and broken skins which are not healed, including not more than one-half of 1 percent for decay at shipping point: *Provided,* That an additional tolerance of 2½ percent, or a total of not more than 3 percent, shall be allowed for decay en route or at destination.

(c) No part of the above tolerances shall be allowed to reduce for the lot as a whole, the 60 percent of U.S. No. 1 limes required in the U.S. Combination grade, but individual containers may have not less than 50 percent of the higher grade.

### § 51.1002 U.S. No. 2.

''U.S. No. 2'' consists of Persian limes which are fairly firm, which are not badly deformed, and not of excessively rough texture, which are free from decay, stylar end breakdown or other internal discoloration, broken skins which are not healed, bruises (except those incident to proper handling and packing), and hard or dry skins, and free from serious damage caused by freezing, dryness or mushy condition, sprayburn, exanthema (ammoniation), scars, thorn scratches, scale, sunburn, scab, blanching, yellow color, discoloration, buckskin, dirt or other foreign material, disease, insects or mechanical or other means.

(a) Each fruit in this grade shall have not less than an aggregate area of one-half of the surface of the fruit which shows good green color characteristic of the Persian lime: *Provided,* That lots of limes which fail to meet the U.S. No. 2 grade requirements only because of blanching shall be designated as ''U.S. No. 2, Mixed Color''; *And provided further,* That lots of limes which fail to meet the U.S. No. 2 or U.S. No. 2 Mixed Color grade requirements only because of turning yellow or yellow color, caused by the ripening process, shall be designated as ''U.S. No. 2, Turning''.

(b) The fruit shall have a juice content of not less than 42 percent, by volume.

(c) In order to allow for variations incident to proper grading and handling, not more than 10 percent, by count, of the fruit in any lot may fail to meet the color requirements. In addition, not more than 10 percent, by count, of the fruit in any lot may be below the remaining requirements of this grade, but not more than one-half of this amount, or 5 percent, shall be allowed for decay, stylar end breakdown, and broken skins which are not healed, including not more than one-half of 1 percent for decay at shipping point: *Provided,* That an additional tolerance of 2½ percent, or a total of not more than 3 percent, shall be allowed for decay en route or at destination.

UNCLASSIFIED

**§ 51.1003 Unclassified.**

''Unclassified'' consists of Persian limes which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

APPLICATION OF TOLERANCES

**§ 51.1004 Application of tolerances.**

(a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 3 pounds and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 3 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one decayed fruit may be permitted in any package; and,

(2) For packages which contain 3 pounds or less, individual packages in any lot are not restricted as to the percentage of defects: *Provided*, That not more than 10 percent of the packages may have more than one decayed fruit.

STANDARD PACK

**§ 51.1005 Standard pack.**

(a) Fruit shall be fairly uniform in size, and when place packed in crates or cartons, the fruit shall be arranged according to the approved and recognized methods.

(b) All packages shall be well filled but the contents shall not show excessive or unnecessary bruising because of over-filled packages.

(c) ''Fairly uniform in size'' means that not more than 10 percent, by count of the fruit in any container may vary more than four-sixteenths of an inch in diameter.

(d) In order to allow for variations, other than sizing, incident to proper packing, not more than 5 percent of the packages in any lot may fail to meet the requirements of standard pack.

DEFINITIONS

**§ 51.1006 Firm.**

*Firm* means that the fruit is not soft or flabby.

**§ 51.1007 Fairly well formed.**

*Fairly well formed* means that the fruit shows normal characteristic shape for the Persian variety and is not materially flattened on one side.

**§ 51.1008 Fairly smooth texture.**

*Fairly smooth texture* means that the fruit is comparatively free from lumpiness and that pebbling is not abnormally coarse. Coarse pebbling is not objectionable as it is indicative of good keeping quality and is characteristic of the fruit, especially that from young trees.

**§ 51.1009 Stylar end breakdown.**

*Stylar end breakdown* is a physiological breakdown starting at the base of the nipple as a grayish tan water-soaked spot. A brownish discoloration develops in the rind. As it progresses the color of the affected area becomes darker and usually sinks below the healthy surface, but the area remains firm unless infected with secondary organisms that cause soft decay.

**§ 51.1010 Damage.**

*Damage* means any defect which materially affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Dryness or mushy condition which extends into all segments more than one-eighth of an inch at the stem end, or more than the equivalent of this amount, by volume, when occurring in other portions of the fruit;

(b) Sprayburn which changes the color to such an extent that the appearance of the fruit is materially affected, or which causes scarring that in

the aggregate exceeds the area of a circle one-fourth inch in diameter;

(c) Exanthema (ammoniation) which materially detracts from the appearance of the fruit, or which occurs as small, thinly scattered spots over more than 10 percent of the fruit surface, or as solid scarring (not cracked) or depressions which in the aggregate exceed the area of a circle one-half inch in diameter;

(d) Scars which are dark, rough, or deep and in the aggregate exceed the area of a circle one-fourth inch in diameter, or scars which are fairly light in color, slightly rough, or of slight depth and in the aggregate exceed the area of a circle one-half inch in diameter, or scars which are light colored, fairly smooth, with no depth and aggregate more than 10 percent of the fruit surface;

(e) Thorn scratches when the injury is not well healed, or when dark colored, rough or deep and in the aggregate exceeds the area of a circle one-fourth inch in diameter, or when light colored, fairly smooth and concentrated and in the aggregate exceeds the area of a circle one-half inch in diameter, or light colored and scattered thorn injury which detracts from the appearance of the fruit to a greater extent than the aggregate area of one-half inch permitted for light colored concentrated injury;

(f) Scale when the appearance of the fruit is affected to a greater extent than that of a lime which has 10 medium to large California red or purple scale attached;

(g) Sunburn which causes appreciable flattening of the fruit, drying of the skin, material change in the color of the skin, appreciable drying of the flesh underneath the affected area, or which affects more than 5 percent of the fruit surface;

(h) Scab which materially affects the shape or texture;

(i) Blanching when more than 25 percent, in the aggregate, of the fruit surface shows a whitish to yellowish green area or areas because of shading, resting on the surface of the ground, or contact with other fruit on the tree. Such areas are not to be confused with limes which are turning yellow due to the ripening process;

(j) Yellow color when plainly visible and caused by the ripening process;

(k) Discoloration caused by rust mite, melanose or other means, when fairly smooth and more than 10 percent of the fruit surface is affected, or when slightly rough and in the aggregate exceeds the area of a circle one-half inch in diameter; and,

(l) Buckskin when more unsightly than the maximum discoloration allowed, or the fruit texture is materially affected.

### §51.1011 Good green color.

*Good green color* means that the skin of the lime is of a good green color characteristic of the Persian variety.

### §51.1012 Fairly firm.

*Fairly firm* means that the fruit is not soft or excessively flabby.

### §51.1013 Badly deformed.

*Badly deformed* means that the fruit is seriously misshapen from any cause.

### §51.1014 Excessively rough texture.

*Excessively rough texture* means that the skin is badly ridged or very decidedly lumpy.

### §51.1015 Serious damage.

*Serious damage* means any defect which seriously affects the appearance, or the edible or shipping quality of the fruit. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Dryness or mushy condition which extends into all segments more than one-fourth of an inch at the stem end, or more than the equivalent of this amount, by volume, when occurring in other portions of the fruit;

(b) Sprayburn which changes the color to such an extent that the appearance of the fruit is seriously injured or which causes scarring that in the aggregate exceeds the area of a circle one-half inch in diameter;

(c) Exanthema (ammoniation) which occurs as small spots over more than 25 percent of the fruit surface, or as solid scarring (not cracked) or depressions which aggregate more than 10 percent of the fruit surface;

(d) Scars which are dark, rough, or deep and aggregate more than 5 percent of the fruit surface, or scars which are fairly light in color, slightly rough, or of slight depth and aggregate more than 10 percent of the fruit surface, or scars which are light colored, fairly smooth, with no depth and aggregate more than 25 percent of the fruit surface;

(e) Thorn scratches when the injury is not well healed, or when dark colored, rough or deep and aggregates more than 5 percent of the fruit surface, or when light colored, fairly smooth and concentrated and aggregates more than 10 percent of the fruit surface, or light colored and scattered thorn injury which detracts from the appearance of the fruit to a greater extent than the 10 percent light colored concentrated injury;

(f) Scale when the appearance of the fruit is affected to a greater extent than that of a lime which has a blotch the area of a circle one-half inch in diameter;

(g) Sunburn which causes decided flattening of the fruit, marked drying or dark discoloration of the skin, material drying of the flesh underneath the affected area, or which affects more than 10 percent of the fruit surface;

(h) Scab which seriously affects shape or texture;

(i) Blanching when more than 50 percent, in the aggregate, of the fruit surface shows a whitish to yellowish green area or areas because of shading, resting on the surface of the ground, or contact with other fruit on the tree. Such areas are not to be confused with limes which are turning yellow due to the ripening process;

(j) Yellow color when plainly visible and caused by the ripening process;

(k) Discoloration caused by rust mite, melanose or other means, when fairly smooth and more than 50 percent of the fruit surface is affected, or when slightly rough and more than 25 percent of the fruit surface is affected; and,

(l) Buckskin when more unsightly than the maximum discoloration allowed, or the fruit texture is seriously affected.

### § 51.1016 Diameter.

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

## Subpart—United States Standards for Grades of Florida Oranges and Tangelos

SOURCE: 61 FR 20708, May 8, 1996, unless otherwise noted.

GENERAL

### § 51.1140 General.

The standards contained in this subpart apply only to the common or sweet orange group and varieties and hybrids of varieties belonging to the Mandarin group, except tangerines, and to the citrus fruit commonly known as ''tangelo''—a hybrid between tangerine or mandarin orange (citrus reticulata) with either the grapefruit or pomelo (C. paradisi and C. grandis). Separate U.S. standards apply to tangerines. The standards for internal quality contained in §§ 51.1176 through 51.1179 apply only to common sweet oranges (citrus sinensis (L) Osbeck).

GRADES

### § 51.1141 U.S. Fancy.

''U.S. Fancy'' consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.1161.);

(2) Firm;

(3) Mature;

(4) Similar varietal characteristics;

(5) Smooth texture;

(6) Well colored; and,

(7) Well formed.

(b) Free from:

(1) Ammoniation;

(2) Buckskin;

(3) Caked melanose;

(4) Creasing;

(5) Decay;

(6) Scab;

(7) Split navels;

(8) Sprayburn;

(9) Undeveloped segments;

(10) Unhealed skin breaks; and,

(11) Wormy fruit.
(c) Free from injury caused by:
(1) Bruises;
(2) Green spots;
(3) Oil spots;
(4) Rough, wide or protruding navels;
(5) Scale;
(6) Scars;
(7) Skin breakdown; and,
(8) Thorn scratches.
(d) Free from damage caused by:
(1) Dirt or other foreign material;
(2) Disease;
(3) Dryness or mushy condition;
(4) Hail;
(5) Insects;
(6) Riciness or woodiness;
(7) Sunburn; and,
(8) Other means.
(e) For tolerances see § 51.1151.
(f) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1142 U.S. No. 1 Bright.

The requirements for this grade are the same as for U.S. No. 1 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration.
(a) For tolerances see § 51.1151.
(b) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1143 U.S. No. 1.

''U.S. No. 1'' consists of oranges which meet the following requirements:
(a) Basic requirements:
(1) Color;
(i) Early and midseason varieties shall be fairly well colored.
(ii) For Valencia and other late varieties, not less than 50 percent, by count, shall be fairly well colored and the remainder reasonably well colored.
(2) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See § 51.1161.);
(3) Fairly smooth texture;
(4) Firm;
(5) Mature;
(6) Similar varietal characteristics; and,
(7) Well formed.
(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and,
(3) Wormy fruit.
(c) Free from damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Creasing;
(6) Dirt or other foreign material;
(7) Disease;
(8) Dryness or mushy condition;
(9) Green spots;
(10) Hail;
(11) Insects;
(12) Oil spots;
(13) Riciness or woodiness;
(14) Scab;
(15) Scale;
(16) Scars;
(17) Skin breakdown;
(18) Split, rough or protruding navels;
(19) Sprayburn;
(20) Sunburn;
(21) Thorn scratches; and,
(22) Other means.
(d) For tolerances see § 51.1151.
(e) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1144 U.S. No. 1 Golden.

The requirements for this grade are the same as for U.S. No. 1 except that not more than 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration.
(a) For tolerances see § 51.1151.
(b) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1145 U.S. No. 1 Bronze.

The requirements for this grade are the same as for U.S. No. 1 except at least 30 percent, by count, of the fruit shall have more than one-third of their

surface, in the aggregate, affected by discoloration. The predominating discoloration on each fruit shall be of rust mite type.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1146 U.S. No. 1 Russet.

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by any type of discoloration.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1147 U.S. No. 2 Bright.

The requirements for this grade are the same as for U.S. No. 2 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1148 U.S. No. 2.

''U.S. No. 2'' consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.1161.)

(2) Fairly firm;

(3) Mature;

(4) Reasonably well colored;

(5) Similar varietal characteristics;

(6) Not more than slightly misshapen; and

(7) Not more than slightly rough texture.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and

(3) Wormy fruit.

(c) Free from serious damage caused by:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Caked melanose;

(5) Creasing;

(6) Dirt or other foreign material;

(7) Disease;

(8) Dryness or mushy condition;

(9) Green spots;

(10) Hail;

(11) Insects;

(12) Oil spots;

(13) Riciness or woodiness;

(14) Scab;

(15) Scale;

(16) Scars;

(17) Skin breakdown;

(18) Split, rough or protruding navels;

(19) Sprayburn;

(20) Sunburn;

(21) Thorn scratches; and

(22) Other means.

(d) For tolerances see § 51.1151.

(e) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1149 U.S. No. 2 Russet.

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration.

(a) For tolerances see § 51.1151.

(b) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§ 51.1176–51.1179.)

### § 51.1150 U.S. No. 3.

''U.S. No. 3'' consists of oranges which meet the following requirements:

(a) Basic requirements:

(1) Mature;

(2) Misshapen;

(3) Poorly colored;

(4) Rough texture, not seriously lumpy;
(5) Similar varietal characteristics; and
(6) Slightly spongy.
(b) Free from:
(1) Decay;
(2) Unhealed skin breaks; and
(3) Wormy fruit.
(c) Free from very serious damage caused by:
(1) Ammoniation;
(2) Bruises;
(3) Buckskin;
(4) Caked melanose;
(5) Creasing;
(6) Disease;
(7) Dryness or mushy condition;
(8) Hail;
(9) Insects;
(10) Riciness or woodiness;
(11) Scab;
(12) Scale;
(13) Scars;
(14) Skin breakdown;
(15) Split navels;
(16) Sprayburn;
(17) Sunburn; and
(18) Other means.
(d) For tolerances see §51.1151.
(e) Internal quality: Lots meeting the internal requirements for ''U.S. Grade AA Juice (Double A)'' or ''U.S. Grade A Juice'' may be so specified in connection with the grade. (See §§51.1176–51.1179.)

TOLERANCES

**§51.1151 Tolerances.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

(a) *Defects.* (1) U.S. Fancy, U.S. No. 1 Bright, U.S. No. 1, U.S. No. 1 Golden, U.S. No. 1 Bronze, U.S. No. 1 Russet, U.S. No. 2 Bright, U.S. No. 2, and U.S. No. 2 Russet grades.

(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay or wormy fruit.

(2) U.S. No. 3.

(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: *Provided*, that included in this amount not more than 1 percent shall be for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 3 percent for decay or wormy fruit.

(b) *Discoloration*—(1) *U.S. No. 1 Bright, U.S. No. 1, U.S. No. 2 Bright, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(2) *U.S. No. 1 Golden.* Not more than 30 percent of the fruit shall have in excess of one-third of their surface, in the aggregate, and no part of any tolerance shall be allowed to increase this percentage. No sample may have more

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

than 40 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(3) *U.S. No. 1 Bronze, and U.S. No. 1 Russet.* At least 30 percent of the fruit shall have in excess of one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 20 percent of the fruit with required discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(4) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have in excess of one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *And provided further*, that the entire lot averages within the percentage specified.

[61 FR 20708, May 8, 1996, as amended at 61 FR 40290, Aug. 2, 1996; 62 FR 2897, Jan. 21, 1997]

APPLICATION OF TOLERANCES

### § 51.1152 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.1151. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, that at least one decayed or wormy fruit may be permitted in any sample: *And provided further*, that the averages for the entire lot are within the tolerances specified for the grade.

[62 FR 2897, Jan. 21, 1997]

SIZE

### § 51.1153 Size.

(a) Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.

(b) ''Fairly uniform in size'' means that not more than 10 percent of the oranges per sample may vary more than one-half inch in diameter.

(c) In order to allow for variations incident to proper sizing, not more than 10 percent of the samples in any lot may fail to meet the requirements of size.

DEFINITIONS

### § 51.1154 Similar varietal characteristics.

*Similar varietal characteristics* means that the fruits in any container are similar in color and shape.

### § 51.1155 Well colored.

*Well colored* as applied to common oranges and tangelos means that the fruit has characteristic color for the variety with practically no trace of green color.

### § 51.1156 Firm.

*Firm* as applied to common oranges and tangelos means that the fruit is not soft, or noticeably wilted or flabby; as applied to oranges of the Mandarin group (Satsumas, King, Mandarin), ''firm'' means that the fruit is not extremely puffy, although the skin may be slightly loose.

### § 51.1157 Well formed.

*Well formed* means that the fruit has the shape characteristic of the variety.

### § 51.1158 Mature.

*Mature* shall have the same meaning assigned the term in the Florida Citrus Code, Chapter 601, 1995 Edition, and the Official Rules Affecting the Florida Citrus Industry, in effect as of February 12, 1995. These orange maturity requirements are contained in the Florida Citrus Code, Chapter 601, Florida Statutes, Sections 601.19, and 601.20, 1995 Edition, and the State of Florida Department of Citrus Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20–13 Market Classification, Maturity Standards and Processing or Packing Restrictions for Hybrids in effect as of February 12, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from, Florida Department of Citrus, Post Office Box 148, Lakeland, Florida 33802 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065–S, 14th and Independence

Ave., Washington, DC 20250 or 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.*

**§51.1159 Smooth texture.**

*Smooth texture* means that the skin is thin and smooth for the variety and size of the fruit.

**§51.1160 Injury.**

*Injury* means any specific defect described in §51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which slightly detracts from the appearance, or the edible or marketing quality of the fruit.

**§51.1161 Discoloration.**

*Discoloration* means russeting of a light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed for the grade.

**§51.1162 Fairly smooth texture.**

*Fairly smooth texture* means that the skin is fairly thin and not coarse for the variety and size of the fruit.

**§51.1163 Damage.**

*Damage* means any specific defect described in §51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

**§51.1164 Fairly well colored.**

*Fairly well colored* as applied to common oranges and tangelos means that except for an aggregate area of green color which does not exceed the area of a circle 1 inch (25.4 mm) in diameter, the characteristic color predominates over the green color.

**§51.1165 Reasonably well colored.**

*Reasonably well colored* as applied to common oranges means that the characteristic color predominate over the green color on at least two-thirds of the fruit surface, in the aggregate.

**§51.1166 Poorly colored.**

*Poorly colored* as applied to common oranges means that not more than 25 percent of the surface may be solid dark green color.

**§51.1167 Fairly firm.**

*Fairly firm* as applied to common oranges and tangelos, means that the fruit may be slightly soft, but not bruised; as applied to oranges of the Mandarin group (Satsumas, King, Mandarin), means that the skin of the fruit is not extremely puffy or extremely loose.

**§51.1168 Slightly misshapen.**

*Slightly misshapen* means that the fruit is not of the shape characteristic of the variety but is not appreciably elongated or pointed or otherwise deformed.

**§51.1169 Slightly rough texture.**

*Slightly rough texture* means that the skin is not of smooth texture but is not materially ridged, grooved, or wrinkled.

**§51.1170 Serious damage.**

*Serious damage* means any specific defect described in §51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

**§51.1171 Misshapen.**

*Misshapen* means that the fruit is decidedly elongated, pointed or flatsided.

### § 51.1172 Slightly spongy.

*Slightly spongy* means that the fruit is puffy or slightly wilted but not flabby.

### § 51.1173 Very serious damage.

*Very serious damage* means any specific defect described in § 51.1175, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.1174 Diameter.

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end.

### § 51.1175 Classification of defects.

TABLE I

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Ammoniation | | Not occurring as light speck type. | Scars are cracked or dark and aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Bruises | Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured. | Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured. | Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured. | Fruit is split open, peel is badly watersoaked, or rag is ruptured and juice sacs are ruptured causing a mushy condition affecting all segments more than 3/4 inch (19.9 mm) at bruised area or the equivalent of this amount, by volume, when affecting more than one area on the fruit. |
| Buckskin | | Aggregating more than a circle 1 inch (25.4 mm) in diameter. | Aggregating more than 25 percent of the surface. | Aggregating more than 50 percent of the surface. |
| Caked melanose | | Aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Creasing | | Materially weakens the skin, or extends over more than one-third of the surface. | Seriously weakens the skin, or extends over more than one-half of the surface. | Very seriously weakens the skin, or is distributed over practically the entire surface. |
| Dryness or mushy condition. | | Affecting all segments more than 1/4 inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than 1/2 inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than 3/4 inch (19.1 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. |
| Green spots | Aggregating more than a circle 3/8 inch (9.5 mm) in diameter, caused by scale. | Aggregating more than a circle 5/8 inch (15.9 mm) in diameter, caused by scale. | Aggregating more than a circle 7/8 inch (22.2 mm) in diameter, caused by scale. | Aggregating more than 1/3 of the surface, caused by scale. |
| Oil spots | Aggregating more than a circle 3/8 inch (9.5 mm) in diameter. | Aggregating more than a circle 7/8 inch (22.2 mm) in diameter. | Aggregating more than a circle 1 1/4 inches (31.8 mm) in diameter. | Aggregating more than 1/3 of the surface. |
| Scab | | Materially detracts from the shape or texture, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Seriously detracts from the shape or texture, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Aggregating more than 25 percent of the surface. |

TABLE I—Continued

| Factor | Injury | Damage | Serious damage | Very serious damage |
|---|---|---|---|---|
| Scale | More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit. | Aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Scars, Hail, or Thorn scratches [For smooth or fairly smooth superficial scars see §51.1161.]. | Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade. | Deep or rough aggregating more than a circle 1/4 inch (6.4 mm) in diameter; slightly rough with slight depth aggregating more than a circle 7/8 inch (22.2 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than a circle 1 1/4 inches (31.8 mm) in diameter. | Deep or rough aggregating more than a circle 1/2 inch (12.7 mm) in diameter; slightly rough with depth aggregating more than a circle 1 1/4 inches (31.8 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than 10 percent of fruit surface. | Deep or rough or unsightly that appearance is very seriously affected. |
| Skin breakdown | Aggregating more than a circle 1/4 inch (6.4 mm) in diameter. | Aggregating more than a circle 1/2 inch (12.7 mm) in diameter. | Aggregating more than a circle 7/8 inch (22.2 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Sprayburn | | Aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Hard and aggregating more than a circle 1 1/2 inches (38.1 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Split, rough, protruding navels. | Split is unhealed, or more than 1/8 inch (3.2 mm) in length, or navel protrudes beyond the general contour, and opening is so wide, folded and ridged that it detracts from the appearance. | Split is unhealed, or more than 1/4 inch (6.4 mm) in length, or more than three well healed splits, or navel protrudes beyond the general contour, and opening is so wide, folded and ridged that it detracts from appearance. | Split is unhealed, or more than 1/2 inch (12.7 mm) in length, or two or more splits aggregate more than 1 inch (25.4 mm) in length, or navel protrudes beyond general contour, and opening is so wide, folded and ridged that it detracts from appearance. | Split is unhealed or fruit is seriously weakened. |
| Sunburn | | Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface. | Skin is hard and affects more than one-third of the surface. | Aggregating more than 50 percent of the surface. |

NOTE: All references to area or aggregating area, or length in this standard are based on an orange or tangelo 2 7/8 inches (73.0 mm) in diameter, allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

STANDARDS FOR INTERNAL QUALITY OF COMMON SWEET ORANGES (CITRUS SINENSIS (L) OSBECK)

### §51.1176 U.S. Grade AA Juice (Double A).

Any lot of oranges, the juice content of which meets the following requirements, may be designated "U.S. Grade AA Juice (Double A)":

(a) Each lot of fruit shall contain an average of not less than 5 gallons (18.9 liters) of juice per standard packed box of 1 3/5 bushels.

(b) The average juice content for any lot of fruit shall have not less than 10 percent total soluble solids, and not less than one-half of 1 percent anhydrous citric acid, or more than the permissible maximum acid specified in Table II of §51.1178.

### §51.1177 U.S. Grade A Juice.

Any lot of oranges, the juice content of which meets the following requirements, may be designated "U.S. Grade A Juice":

(a) Each lot of fruit shall contain an average of not less than 4 1/2 gallons (17.0 liters) of juice per standard packed box of 1 3/5 bushels.

(b) The average juice content for any lot of fruit shall have not less than 9 percent total soluble solids, and not less than one-half of 1 percent anhydrous citric acid, or more than the permissible maximum acid specified in Table II of § 51.1178.

### § 51.1178 Maximum anhydrous citric acid permissible for corresponding total soluble solids.

For determining the grade of juice, the maximum permissible anhydrous citric acid content in relation to corresponding total soluble solids in the fruit is set forth in the following Table II together with the minimum ratio of total soluble solids to anhydrous citric acid:

TABLE II

| Total soluble solids (average pct) | Maximum anhydrous citric acid (average pct) | Minimum ratio of total soluble solids to anhydrous citric acid |
|---|---|---|
| 9.0 | 0.947 | 9.50–1 |
| 9.1 | .963 | 9.45–1 |
| 9.2 | .979 | 9.40–1 |
| 9.3 | .995 | 9.35–1 |
| 9.4 | 1.011 | 9.30–1 |
| 9.5 | 1.027 | 9.25–1 |
| 9.6 | 1.043 | 9.20–1 |
| 9.7 | 1.060 | 9.15–1 |
| 9.8 | 1.077 | 9.10–1 |
| 9.9 | 1.094 | 9.05–1 |
| 10.0 | 1.111 | 9.00–1 |
| 10.1 | 1.128 | 8.95–1 |
| 10.2 | 1.146 | 8.90–1 |
| 10.3 | 1.164 | 8.85–1 |
| 10.4 | 1.182 | 8.80–1 |
| 10.5 | 1.200 | 8.75–1 |
| 10.6 | 1.218 | 8.70–1 |
| 10.7 | 1.237 | 8.65–1 |
| 10.8 | 1.256 | 8.60–1 |
| 10.9 | 1.275 | 8.55–1 |
| 11.0 | 1.294 | 8.50–1 |
| 11.1 | 1.306 | 8.50–1 |
| 11.2 | 1.318 | 8.50–1 |
| 11.3 | 1.329 | 8.50–1 |
| 11.4 | 1.341 | 8.50–1 |
| 11.5 | 1.353 | 8.50–1 |
| 11.6 | 1.365 | 8.50–1 |
| 11.7 | 1.376 | 8.50–1 |
| 11.8 | 1.388 | 8.50–1 |
| 11.9 | 1.400 | 8.50–1 |
| 12.0 | 1.412 | 8.50–1 |
| 12.1 | 1.424 | 8.50–1 |
| 12.2 | 1.435 | 8.50–1 |
| 12.3 | 1.447 | 8.50–1 |
| 12.4 | 1.459 | 8.50–1 |
| 12.5 | 1.471 | 8.50–1 |
| 12.6 | 1.482 | 8.50–1 |
| 12.7 | 1.494 | 8.50–1 |
| 12.8 | 1.506 | 8.50–1 |
| 12.9 | 1.517 | 8.50–1 |
| 13.0 | 1.530 | 8.50–1 |
| 13.1 | 1.541 | 8.50–1 |
| 13.2 | 1.553 | 8.50–1 |
| 13.3 | 1.565 | 8.50–1 |
| 13.4 | 1.576 | 8.50–1 |
| 13.5 | 1.588 | 8.50–1 |
| 13.6 | 1.600 | 8.50–1 |
| 13.7 | 1.612 | 8.50–1 |
| 13.8 | 1.624 | 8.50–1 |
| 13.9 | 1.635 | 8.50–1 |
| 14.0 | 1.647 | 8.50–1 |
| 14.1 | 1.659 | 8.50–1 |
| 14.2 | 1.671 | 8.50–1 |
| 14.3 | 1.682 | 8.50–1 |
| 14.4 | 1.694 | 8.50–1 |
| 14.5 | 1.705 | 8.50–1 |
| 14.6 | 1.718 | 8.50–1 |
| 14.7 | 1.729 | 8.50–1 |
| 14.8 | 1.741 | 8.50–1 |
| 14.9 | 1.753 | 8.50–1 |
| 15.0 | 1.765 | 8.50–1 |
| 15.1 | 1.776 | 8.50–1 |
| 15.2 | 1.788 | 8.50–1 |
| 15.3 | 1.800 | 8.50–1 |
| 15.4 | 1.812 | 8.50–1 |
| 15.5 | 1.824 | 8.50–1 |
| 15.6 or more | ..... | 8.50–1 |

### § 51.1179 Method of juice extraction.

The juice used in the determining of solids, acids and juice content shall be extracted from representative samples as thoroughly as possible with a hand reamer or by such mechanical extractor or extractors as may be approved. The juice shall be strained through cheese cloth or other approved straining device of extra fine mesh to prevent passage of juice cells, pulp, or seeds.

## Subpart—United States Standards for Grades of Peaches

SOURCE: 69 FR 9191, Feb. 27, 2004, unless otherwise noted.

### GRADES

### § 51.1210 U.S. Fancy.

''U.S. Fancy'' consists of peaches of one variety which are mature but not soft or overripe, well formed and which are free from decay, bacterial spot, cuts which are not healed, growth cracks, hail injury, scab, scale, split pits, worms, worm holes, leaf or limb rub injury; and free from damage caused by bruises, dirt or other foreign

material, other disease, insects or mechanical or other means. In addition to the above requirements, each peach shall have not less than one-third of its surface showing blushed, pink or red color.

### §51.1211 U.S. Extra No. 1.

Any lot of peaches may be designated ''U.S. Extra No. 1'' when the peaches meet the requirements of the U.S. No. 1 grade: *Provided,* That in addition to these requirements, 50 percent, by count, of the peaches in any lot shall have not less than one-fourth of the surface showing blushed, pink or red color.

### §51.1212 U.S. No. 1.

''U.S. No. 1'' consists of peaches of one variety which are mature but not soft or overripe, well formed, and which are free from decay, growth cracks, cuts which are not healed, worms, worm holes, and free from damage caused by bruises, dirt, or other foreign material, bacterial spot, scab, scale, hail injury, leaf or limb rubs, split pits, other disease, insects or mechanical or other means.

### §51.1213 U.S. No. 2.

''U.S. No. 2'' consists of peaches of one variety which are mature but not soft or overripe, not badly misshapen, and which are free from decay, cuts which are not healed, worms, worm holes, and free from serious damage caused by bruises, dirt or other foreign material, bacterial spot, scab, scale, growth cracks, hail injury, leaf or limb rubs, split pits, other disease, insects, or mechanical or other means.

TOLERANCES

### §51.1214 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the following grades, the following tolerances, by count, based on a minimum 50-count sample, except when packages contain less than 50 fruit, a minimum 25-count sample shall be examined, (when packages contain less than 25 fruit adjoining packages shall be opened to obtain the 25-count minimum sample), are provided as specified:

(a) *U.S. Fancy, U.S. Extra No. 1, and U.S. No. 1 grades*—(1) *For defects at shipping point.*[1] 10 percent of the peaches in any lot may fail to meet the requirements of the specified grade: *Provided,* That included in this amount, 5 percent shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for peaches which are affected by decay.

(2) *For defects en route or at destination.* 14 percent for peaches in any lot that fail to meet the requirements of the grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 10 percent for permanent defects;

(ii) 7 percent for defects causing serious damage, included therein not more than 5 percent for serious damage by permanent defects and not more than 2 percent for decayed peaches.

(3) *For color*—(i) *U.S. Fancy grade.* 10 percent for peaches in any lot which fail to meet the requirements of the grade:

(ii) *U.S. Extra No. 1 grade.* Individual packages may contain not less than 40 percent of peaches which meet the requirements of the grade: *Provided,* That the entire lot averages not less than 50 percent.

(b) *U.S. No. 2 grade*—(1) *For defects at shipping point.* 10 percent of the peaches in any lot may fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 1 percent for peaches which are affected by decay.

(2) *For defects en route or at destination.* 14 percent for peaches in any lot that fail to meet the requirements of the grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 10 percent for permanent defects;

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

(ii) 2 percent for peaches which are affected by decay.

[69 FR 9191, Feb. 27, 2004, as amended at 69 FR 29171, May 21, 2004]

APPLICATION OF TOLERANCES

### § 51.1215 Application of tolerances to individual packages.

(a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided (as in the case of oversize, where a tolerance of 15 percent is provided), individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one peach which is seriously damaged by insects or affected by decay may be permitted in any package.

(2) For packages which contain 10 pounds or less, individual packages in any lot are not restricted as to the percentage of defects: *Provided*, That not more than one peach which is seriously damaged by insects or affected by decay may be permitted in any package.

SIZE

### § 51.1216 Size requirements.

(a) The numerical count or a count-size based on equivalent tray pack size designations or the minimum diameter of the peaches packed in a closed container shall be indicated on the container.

(b) When the numerical count is not shown the minimum diameter shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches, whole and half inches, whole and quarter inches, or whole and eighth inches, as 2 inches minimum, 2¼ inches minimum, 1⅞ inches minimum, in accordance with the facts. The minimum and maximum diameters may both be stated, as 1⅞ to 2 inches, or 2 to 2¼ inches, in accordance with the facts.

(c) ''Diameter'' means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

(d) In order to allow for variations incident to proper sizing, not more than 10 percent, by count, of peaches in any lot may be below the specified minimum size and not more than 15 percent may be above any specified maximum size.

STANDARD PACK

### § 51.1217 Standard pack.

(a) Each package shall be packed so that the peaches in the shown face shall be reasonably representative in size, color and quality of the contents of the package.

(b) Peaches packed in U.S. Standard bushel baskets, or half-bushel baskets, shall be ring faced and tightly packed with sufficient bulge to prevent any appreciable movement of the peaches within the packages when lidded.

(c) Peaches packed in standard western boxes shall be reasonably uniform in size and arranged in the packages according to the approved and recognized methods. Each wrapped peach shall be fairly well enclosed by its individual wrapper. All packages shall be well filled and tightly packed but the contents shall not show excessive or unnecessary bruising because of overfilled packages. The number of peaches in the box shall not vary more than 4 from the number indicated on the box.

(d) Peaches packed in other type boxes such as wire-bound boxes and fiber-board boxes may be place packed, or jumble packed faced, and all packs shall be well filled.

(e) Peaches packed in boxes equipped with cell compartments or molded trays shall be of the proper size for the cells or the molds in which they are packed.

(f) Peaches placed in individual paper cups and packed in boxes shall be in cups of the proper size for the peaches.

(g) Peaches packed in loose or volume filled boxes shall be uniform in size and well filled.

(h) In order to allow for variations incident to proper packing, not more than 10 percent of the packages in any lot may not meet these requirements.

(i) ''Well filled'' means that the peaches packed in loose or volume filled containers are packed within 1 inch of the top of the container.

DEFINITIONS

### § 51.1218 Mature.

''Mature'' means that the peach has reached the stage of growth which will ensure a proper completion of the ripening process.

### § 51.1219 Well formed.

''Well formed'' means that the shape of the peach may be slightly irregular but not to the extent that its appearance is materially affected.

### § 51.1220 Leaf or limb rub injury.

''Leaf or limb rub injury'' means that the scarring is not smooth, not light colored, or aggregates more than ¼ inch in diameter.

### § 51.1221 Damage.

''Damage'' means any injury or defect which materially affects the appearance, or the edible or shipping quality of the peach. Any one of the following defects, or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Bacterial spot, when cracked, or when aggregating more than ⅜ inch in diameter;

(b) Scab spots, when cracked, or when aggregating more than ⅜ inch in diameter;

(c) Scale, when concentrated, or when scattered and aggregating more than ¼ inch in diameter;

(d) Hail injury which is unhealed, or deep, or when aggregating more than ¼ inch in diameter;

(e) Leaf or limb rubs, when not smooth, or when not light colored, or when aggregating more than ½ inch in diameter;

(f) Split pit, when causing any unhealed crack, or when causing any crack which is readily apparent, or when affecting shape to the extent that the fruit is not well formed.

### § 51.1222 Serious damage.

''Serious damage'' means any injury or defect which seriously affects the appearance or the edible or shipping quality of the peach. Any one of the following defects, or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Bacterial spot, when any cracks are not well healed, or when aggregating more than ¾ inch in diameter;

(b) Scab spots, when cracked, or when healed and aggregating more than one inch in diameter;

(c) Scale, when aggregating more than ½ inch in diameter;

(d) Growth cracks, when unhealed, or more than ½ inch in length;

(e) Hail injury, when unhealed, or shallow hail injury when aggregating more than ¾ inch in diameter, or deep hail injury which seriously deforms the fruit or which aggregates more than ½ inch in diameter;

(f) Leaf or limb rubs, when smooth and light colored and aggregating more than 1½ inches in diameter, or dark or slightly rough and barklike scars aggregating more than ¾ inch in diameter;

(g) Split pit, when causing any unhealed crack, or when healed and aggregating more than ½ inch in length including any part of the crack which may be covered by the stem;

(h) Soft or overripe peaches;

(i) Wormy fruit or worm holes.

### § 51.1223 Badly misshapen.

''Badly misshapen'' means that the peach is so decidedly deformed that its appearance is seriously affected.

## Subpart—United States Standards for Cleaned Virginia Type Peanuts in the Shell

SOURCE: 18 FR 7117, Nov. 11, 1953, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.1235 U.S. Jumbo Hand Picked.

U.S. Jumbo Hand Picked shall consist of cleaned Virginia type peanuts in the shell which are mature, dry, and free from loose peanut kernels, dirt or other foreign material, pops, paper ends, and from damage caused by cracked or broken shells, discoloration or other means. The kernels shall be free from damage from any cause. In addition, the peanuts shall not pass through a screen having $^{37}/_{64} \times 3$ inch perforations. Unless otherwise specified, the unshelled peanuts in any lot shall not average more than 176 count per pound.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 10.0 percent total for pops, peanuts having paper ends or damaged shells, loose undamaged peanut kernels, and dirt or other foreign material, but not more than one-twentieth of this amount, or 0.5 percent, shall be allowed for dirt or other foreign material.

(2) 5.0 percent for peanuts which will pass through the prescribed screen, but which are free from pops and from peanuts having paper ends or damaged shells.

(3) 3.5 percent for peanuts with damaged kernels, and damaged loose kernels.

### § 51.1236 U.S. Fancy Hand Picked.

U.S. Fancy Hand Picked shall consist of cleaned Virginia type peanuts in the shell which are mature, dry, and free from loose peanut kernels, dirt or other foreign material, pops, paper ends, and from damage caused by cracked or broken shells, discoloration or other means. The kernels shall be free from damage from any cause. In addition, the peanuts shall not pass through a screen having $^{32}/_{64} \times 3$ inch perforations. Unless otherwise specified, the unshelled peanuts in any lot shall not average more than 225 count per pound.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 11.0 percent total for pops, peanuts having paper ends or damaged shells, loose undamaged peanut kernels, and dirt or other foreign material, but not more than one twenty-second of this amount, or 0.5 percent, shall be allowed for dirt or other foreign material.

(2) 5.0 percent for peanuts which will pass through the prescribed screen, but which are free from pops and from peanuts having paper ends or damaged shells.

(3) 4.5 percent for peanuts with damaged kernels, and damaged loose kernels.

UNCLASSIFIED

### § 51.1237 Unclassified.

Unclassified shall consist of cleaned Virginia type peanuts in the shell which fail to meet the requirements of either of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no definite grade has been applied to the lot.

DEFINITIONS

### § 51.1238 Mature.

*Mature* means that the shells are firm and well developed.

### § 51.1239 Pops.

*Pops* means fully developed shells which contain practically no kernels.

### § 51.1240 Paper ends.

*Paper ends* means peanuts which have very soft and/or very thin ends.

### § 51.1241 Damage.

*Damage* means any injury or defect which materially affects the appearance edible or shipping quality of the individual peanut or the lot as a whole. The following shall be considered as damage:

(a) Cracked or broken shells which have been broken to the extent that the kernel within is plainly visible without minute examination and with no application of pressure, or the appearance of the individual peanut is materially affected.

(b) Discolored shells which have dark discoloration caused by mildew, staining or other means affecting one-half or more of the shell surface. Talc powder or other similar material which may have been applied to the shells during the cleaning process shall not be removed to determine the amount of discoloration beneath, but the peanut shall be judged as it appears with the talc.

(c) Kernels which are rancid or decayed.

(d) Moldy kernels.

(e) Kernels showing sprouts extending more than one-eighth inch from the end of the kernel.

(f) Distinctly dirty kernels.

(g) Kernels which are wormy, or have worm frass adhering, or have worm cuts which are more than superficial.

(h) Kernels which have dark yellow color penetrating the flesh, or yellow pitting extending deep into the kernel.

### § 51.1242 Count per pound.

*Count per pound* means the number of peanuts in a pound. When determining the count per pound, one single kernel peanut shall be counted as one-half peanut.

## Subpart—United States Standards for Summer and Fall Pears [1]

SOURCE: 20 FR 5620, Aug. 5, 1955, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GENERAL

### § 51.1260 General.

These standards apply to varieties such as Bartlett, Hardy and other similar varieties.

GRADES

### § 51.1261 U.S. No. 1.

''U.S. No. 1'' consists of pears of one variety which are mature, but not over-ripe, carefully hand-picked, clean, fairly well formed, free from decay, internal breakdown, scald, freezing injury, worm holes, black end, and from damage caused by hard end, bruises, broken skins, russeting, limb- rubs, hail, scars, drought spot, sunburn, sprayburn, stings or other insect injury, disease, or mechanical or other means. (See §§ 51.1265 and 51.1268.)

### § 51.1262 U.S. Combination.

A combination of U.S. No. 1 and U.S. No. 2 may be packed. When such a combination is packed, at least 50 percent of the pears in any container shall meet the requirements of U.S. No. 1. (See §§ 51.1265 and 51.1268.)

### § 51.1263 U.S. No. 2.

''U.S. No. 2'' consists of pears of one variety which are mature, but not over-ripe, carefully hand-picked, clean, not seriously misshapen, free from decay, internal breakdown, scald, freezing injury, worm holes, black end, and from damage caused by hard end, or broken skins. The pears shall also be free from serious damage caused by bruises, russeting, limbrubs, hail, scars, drought spot, sunburn, sprayburn, stings or other insect injury, disease, or mechanical or other means. (See §§ 51.1265 and 51.1268.)

UNCLASSIFIED

### § 51.1264 Unclassified.

''Unclassified'' consists of pears which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards, but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES

### § 51.1265 Tolerances.

(a) In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent of the pears in any lot may fail to meet the requirements of grade: *Provided*, That not more than 5 percent shall be seriously damaged by insects, and not more than 1 percent shall be allowed for decay or internal breakdown.

(b) When applying the foregoing tolerances to the combination grade no

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

part of any tolerance shall be used to reduce the percentage of U.S. No. 1 pears required in the combination, but individual containers may have not more than 10 percent less than the percentage of U.S. No. 1 required: *Provided*, That the entire lot averages within the percentage specified.

APPLICATION OF TOLERANCES

**§ 51.1266 Application of tolerances.**

(a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one pear which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.

(2) For packages which contain 10 pounds or less, individual packages in any lot are not restricted as to the percentage of defects or off-size: *Provided*, That not more than four times the tolerance specified may be permitted in any package for pears which are seriously damaged by insects or affected by decay or internal breakdown except that at least one defective pear may be permitted in any package.

BASIS FOR CALCULATING PERCENTAGES

**§ 51.1267 Basis for calculating percentages.**

(a) When the numerical count is marked on the container or when pears are packed in a container to weigh 5 pounds or less, percentages shall be calculated on the basis of count.

(b) When the minimum diameter or minimum and maximum diameters are marked on a container packed to weigh more than 5 pounds or when the pears are jumbled in a container packed to weigh more than 5 pounds, percentages shall be calculated on the basis of weight or an equivalent basis.

CONDITION AFTER STORAGE OR TRANSIT

**§ 51.1268 Condition after storage or transit.**

Decay, scald, or other deterioration which may have developed on pears after they have been in storage or transit shall be considered as affecting condition and not grade.

STANDARD PACK

**§ 51.1269 Sizing.**

(a) The numerical count, or the minimum size of the pears packed in closed containers shall be indicated on the package. The number of pears in the box shall not vary more than 3 from the number indicated on the box.

(b) When the numerical count is marked on western standard pear boxes the pears shall not vary more than three-eighths inch in their transverse diameter for counts 120 or less; one-fourth inch for counts 135 to 180, inclusive; and three-sixteenths inch for counts 193 or more.

(c) When the numerical count is marked on western standard half boxes or special half boxes packed three tiers deep, the pears shall not vary more than three-eighths inch for counts 75 or less; one-fourths inch for counts 80 to 110, inclusive; and three-sixteenths inch for counts 115 or more.

(d) When the numerical count is marked on western standard half boxes or special half boxes packed two tiers deep, the pears shall not vary more than three-eighths inch for counts 50 or less; one-fourth inch for counts 55 to 70, inclusive; and three-sixteenths inch for counts 80 or more.

(e) When the numerical count is not shown, the minimum size shall be plainly stamped, stenciled or otherwise marked on the container in terms of whole inches, whole and half inches, whole and quarter inches, or whole and eighth inches, as 2½ inches minimum, 2¼ inches minimum, or 2⅝ inches minimum, in accordance with the facts. It is suggested that both minimum and maximum sizes be marked on the container, as 2¼ to 2¾ inches, 2½ to 2¾ inches, as such marking is especially

desirable for pears marketed in the export trade.

(f) ''Size'' means the greatest transverse diameter of the pear taken at right angles to a line running from the stem to the blossom end.

### § 51.1270 Packing.

(a) Each package shall be packed so that the pears in the shown face shall be reasonably representative in size and quality of the contents of the package.

(b) Pears packed in any container shall be tightly packed. All packages shall be well filled but the contents shall not show excessive or unnecessary bruising because of overfilled packages.

(c) Pears packed in boxes shall be arranged in containers according to the approved and recognized methods with the pears packed lengthwise. A bridge shall not be allowed in any standard pack. When wrapped, each pear shall be fairly well enclosed by its individual wrapper.

(d) Pears packed in round stave bushel baskets, tubs or in barrels shall be ring faced.

### § 51.1271 Tolerances for standard pack.

(a) In order to allow for variations incident to proper sizing, not more than 5 percent of the pears in any lot may fail to meet the size requirements: *Provided*, That when the maximum and minimum sizes are both stated, an additional 10 percent tolerance shall be allowed for pears which are larger than the maximum size stated.

(b) In order to allow for variations incident to proper packing, not more than 10 percent of the containers in any lot may fail to meet these requirements, but no part of this tolerance shall be allowed for bridge packs, or for packs with different sizes and arrangements such as layers of 195 size and arrangement, and layers of 180 size and arrangement packed in the same box.

DEFINITIONS

### § 51.1272 Mature.

(a) *Mature* means that the pear has reached the stage of maturity which will insure the proper completion of the ripening process.

(b) Before a mature pear becomes overripe it will show varying degrees of firmness, depending upon the stage of the ripening process. Therefore, a statement of firmness should be given in order to indicate the stage of the ripening process. A description of the ground color should also be given.

(1) The following terms should be used for describing the ground color: *Green*, *Light Green*, *Yellowish Green*, and *Yellow*.

(2) The following terms should be used for describing the firmness of pears:

(i) *Hard* means that the flesh of the pear is solid and does not yield appreciably even to considerable pressure.

(ii) *Firm* means that the flesh of the pear is fairly solid but yields somewhat to moderate pressure.

(iii) *Firm ripe* means that the flesh of the pear yields readily to moderate pressure.

(iv) *Ripe* means that the pear is at the stage where it is in its most desirable condition for eating.

### § 51.1273 Overripe.

*Overripe* means dead ripe, very mealy or soft, past commercial utility.

### § 51.1274 Carefully hand-picked.

*Carefully hand-picked* means that the pears do not show evidence of rough handling or of having been on the ground.

### § 51.1275 Clean.

*Clean* means free from excessive dirt, dust, spray residue or other foreign material.

### § 51.1276 Black end.

*Black end* is evidenced by an abnormally deep green color around the calyx, or black spots usually occurring on the one-third of the surface nearest to the calyx, or by an abnormally shallow calyx cavity.

### § 51.1277 Fairly well formed.

*Fairly well formed* means that the pear may be slightly abnormal in shape but not to an extent which detracts materially from the appearance of the fruit.

**§ 51.1278 Damage.**

*Damage* means any injury or defect which materially affects the appearance, or the edible or shipping quality.

(a) Hard end shall be considered as damage if the pear shows a distinctly constricted protrusion at the blossom end, or an abnormally yellow color at the blossom end, or an abnormally smooth rounded base with little or no depression at the calyx, or if the flesh near the calyx is abnormally dry and tough or woody.

(b) Slight handling bruises and package bruises such as are incident to good commercial handling in the preparation of a tight pack shall not be considered damage.

(c) Any pear with one skin break larger than three-sixteenths inch in diameter or depth, or with more than one skin break one-eighth inch or larger in diameter or depth shall be considered damaged, and scored against the grade tolerance.[2]

(1) Small inconspicuous skin breaks, less than one-eighth inch in diameter or depth, shall not be considered damage. In addition, not more than 15 percent of the pears in any container may have not more than one skin break from one-eighth inch to three-sixteenths inch, inclusive, in diameter or depth.[2]

(d) Russeting which exceeds the following shall be considered as damage:

(1) On all varieties excessively rough russeting (russeting which shows ''frogging'' or slight cracking) when the aggregate area exceeds one-half inch in diameter.[2]

(2) On Bartlett and other smooth-skinned varieties, slightly rough russeting, or thick russeting such as is characteristic of frost injury, when the aggregate area exceeds three-fourths inch in diameter.[2]

(3) On Bartlett and other smooth-skinned varieties, smooth solid or smooth netlike russeting when the aggregate area exceeds 15 percent of the surface.

(4) On Hardy, Sand and other similar varieties, rough or thick russeting such as is characteristic of frost injury, when the aggregate area exceeds three-fourths inch in diameter. On any of these varieties any amount of characteristic russeting is permitted whether due to natural causes such as weather or stimulated by artificial means; leaf whips or light limbrubs which resemble and blend into russeted areas shall be considered as russet.[2]

(e) Any one of the following defects or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(1) Any limbrubs which are cracked, softened, or more than slightly depressed.

(2) Black discoloration caused by limbrubs, which exceeds an aggregate area of three-eighths inch in diameter.[2]

(3) Dark brown discoloration or excessive roughness caused by limbrubs which exceeds an aggregate area of one-half inch in diameter.[2]

(4) Slightly rough, light colored discoloration caused by limbrubs which exceeds an aggregate area of three-fourths inch in diameter.[2]

(5) Smooth, light colored discoloration caused by limbrubs which exceeds an aggregate area of 1 inch in diameter.[2]

(6) Hail marks or other similar depressions or scars which are not shallow or superficial, or where the injury affects an aggregate area of more than three-eighths inch in diameter.[2]

(7) Drought spot when more than one in number, or when the external injury exceeds an aggregate area of three-eighths inch in diameter, or when the appearance of the flesh is materially affected by corky tissue or brownish discoloration.[2]

(8) Sunburn or sprayburn where the skin is blistered, cracked, or shows any light tan or brownish color, or the shape of the pear is appreciably flattened, or the flesh is appreciably softened or changed in color, except that sprayburn of a russet character shall be considered under the definition of russeting.

(9) Insects: (i) More than two healed codling moth stings, or any insect sting which is over three thirty-seconds of an inch in diameter, or other insect stings affecting the appearance to an equal extent.[2]

[2] The area refers to that of a circle of the specified diameter.

(ii) Blister mite or canker worm injury which is not shallow or superficial, or where the injury affects an aggregate area of more than three-eighths inch in diameter.[2]

(10) Disease: (i) Scab spots which are black and which cover an aggregate area of more than one-fourth inch in diameter except that scab spots of a russet character shall be considered under the definition of russeting.

(ii) Sooty blotch which is thinly scattered over more than 5 percent of the surface, or dark, heavily concentrated spots which affect an area of more than three-eighths inch in diameter.[2]

### § 51.1279 Seriously misshapen.

*Seriously misshapen* means that the pear is excessively flattened or elongated for the variety, or is constricted or deformed so it will not cut three fairly uniform good quarters, or is so badly misshapen that the appearance is seriously affected.

### § 51.1280 Serious damage.

*Serious damage* means any injury or defect which seriously affects the appearance, or the edible or shipping quality.

(a) Russeting which in the aggregate exceeds the following shall be considered as serious damage:

(1) On all varieties, excessively rough russeting (russeting which shows ''frogging'' or slight cracking) when the aggregate area exceeds three-fourths inch in diameter.[2]

(2) On all varieties, thick russeting such as is characteristic of frost injury, 15 percent of the surface.

(b) Any one of the following defects or combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(1) Limbrubs which are more than slightly cracked, or excessively rough limbrubs or dark brown or black discoloration caused by limbrubs which exceeds an aggregate area of three-fourths inch in diameter. Other limbrubs which affect an aggregate area of more than one-tenth of the surface.[2]

(2) Hail marks or other similar depressions or scars which affect an aggregate area of more than three-fourths inch in diameter, or which materially deform or disfigure the fruit.[2]

(3) Drought spot when more than two in number, or where the external injury affects an aggregate area of more than three-fourths inch in diameter, or when the appearance of the flesh is seriously affected by corky tissue or brownish discoloration.[2]

(4) Sunburn or sprayburn where the skin is blistered, cracked or shows any brownish color, or where the shape of the pear is materially flattened, or the flesh is softened or materially changed in color, except that sprayburn of a russet character shall be considered under the definition of russeting.

(5) Insects: (i) Worm holes. More than three healed codling moth stings, of which not more than two may be over three thirty-seconds of an inch in diameter, or other insect stings affecting the appearance to an equal extent.[2]

(ii) Blister mite or canker worm injury which affects an aggregate area of more than three-fourths inch in diameter or which materially deforms or disfigures the fruit.[2]

(6) Disease: (i) Scab spots which are black and which cover an aggregate area of more than one-half inch in diameter, except that scab spots of a russet character shall be considered under the definition of russeting.[2]

(ii) Sooty blotch which is thinly scattered over more than 15 percent of the surface, or dark, heavily concentrated spots which affect an area of more than three-fourths inch in diameter.[2]

[2] The area refers to that of a circle of the specified diameter.

## Subpart—United States Standards for Winter Pears[1]

SOURCE: 20 FR 5752, Aug. 10, 1955, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

GENERAL

**§ 51.1300 General.**

These standards apply to varieties such as Anjou, Bosc, Winter Nelis, Comice, Flemish Beauty and other similar varieties.

GRADES

**§ 51.1301 U.S. Extra No. 1.**

''U.S. Extra No. 1'' consists of pears of one variety which are mature, but not overripe, carefully hand-picked, clean, well formed, free from decay, internal breakdown, scald, freezing injury, worm holes, black end, hard end, drought spot, and free from injury caused by russeting, limbrubs, hail, scars, cork spot, sunburn, sprayburn, stings or other insect injury, or mechanical or other means, except that they shall be free from damage caused by bruises, broken skins, or disease. (See §§ 51.1306 and 51.1309.)

**§ 51.1302 U.S. No. 1.**

''U.S. No. 1'' consists of pears of one variety which are mature, but not over-ripe, carefully hand-picked, clean, fairly well formed, free from decay, internal breakdown, scald, freezing injury, worm holes, black end, and from damage caused by hard end, bruises, broken skins, russeting, limbrubs, hail, scars, cork spot, drought spot, sunburn, sprayburn, stings or other insect injury, disease, or mechanical or other means. (See §§ 51.1306 and 51.1309.)

**§ 51.1303 U.S. Combination.**

A combination of U.S. No. 1 and U.S. No. 2 may be packed. When such a combination is packed, at least 50 percent of the pears in any container shall meet the requirements of U.S. No. 1. (See §§ 51.1306 and 51.1309.)

**§ 51.1304 U.S. No. 2.**

''U.S. No. 2'' consists of pears of one variety which are mature, but not overripe, carefully hand-picked, clean, not seriously misshapen, free from decay, internal breakdown, scald, freezing injury, worm holes, black end, and from damage caused by hard end, or broken skins. The pears shall also be free from serious damage caused by bruises, russeting, limbrubs, hail, scars, cork spot, drought spot, sunburn, sprayburn, stings or other insect injury, disease, or mechanical or other means. (See §§ 51.1306 and 51.1309.)

UNCLASSIFIED

**§ 51.1305 Unclassified.**

''Unclassified'' consists of pears which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards, but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES

**§ 51.1306 Tolerances.**

(a) In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent of the pears in any lot may fail to meet the requirements of grade: *Provided*, That not more than 5 percent shall be seriously damaged by insects, and not more than 1 percent shall be allowed for decay or internal breakdown.

(b) When applying the foregoing tolerances to the combination grade no part of any tolerance shall be used to reduce the percentage of U. S. No. 1 pears required in the combination, but individual containers may have not more than 10 percent less than the percentage of U.S. No. 1 required: *Provided*, That the entire lot averages within the percentage specified.

APPLICATION OF TOLERANCES

**§ 51.1307 Application of tolerances.**

(a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least

one pear which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.

(2) For packages which contain 10 pounds or less, individual packages in any lot are not restricted as to the percentage of defects or off-size: *Provided*, That not more than four times the tolerance specified may be permitted in any package for pears which are seriously damaged by insects or affected by decay or internal breakdown except that at least one defective pear may be permitted in any package.

BASIS FOR CALCULATING PERCENTAGES

### §51.1308 Basis for calculating percentages.

(a) When the numerical count is marked in the container or when pears are packed in a container to weigh 5 pounds or less, percentages shall be calculated on the basis of count.

(b) When the minimum diameter or minimum and maximum diameters are marked on a container packed to weigh more than 5 pounds or when the pears are jumbled in a container packed to weigh more than 5 pounds, percentages shall be calculated on the basis of weight or an equivalent basis.

CONDITION AFTER STORAGE OR TRANSIT

### §51.1309 Condition after storage or transit.

Decay, scald or other deterioration which may have developed on pears after they have been in storage or transit shall be considered as affecting condition and not the grade.

STANDARD PACK

### §51.1310 Sizing.

(a) The numerical count, or the minimum size of the pears packed in closed containers shall be indicated on the package. The number of pears in the box shall not vary more than 3 from the number indicated on the box.

(b) When the numerical count is marked on western standard pear boxes the pears shall not vary more than three-eighths inch in their transverse diameter for counts 120 or less; one-fourth inch for counts 135 to 180, inclusive; and three-sixteenths inch for counts 193 or more.

(c) When the numerical count is marked on western standard half boxes or special half boxes packed three tiers deep, the pears shall not vary more than three-eighths inch for coutns 75 or less; one-fourth inch for counts 80 to 110, inclusive; and three-sixteenths inch for counts 115 or more.

(d) When the numerical count is marked on western standard half boxes or special half boxes packed two tiers deep, the pears shall not vary more than three-eighths inch for counts 50 or less; one-fourth inch for counts 55 to 70, inclusive; and three-sixteenths inch for counts 80 or more.

(e) When the numerical count is not shown, the minimum size shall be plainly stamped, stenciled or otherwise marked on the container in terms of whole inches, whole and half inches, whole and quarter inches, or whole and eighth inches, as 2½ inches minimum, 2¼ inches minimum, or 2⅝ inches minimum, in accordance with the facts. It is suggested that both minimum and maximum sizes be marked on the container, as 2¼ to 2¾ inches, 2½ to 2¾ inches, as such marking is especially desirable for pears marketed in the export trade.

(f) ''Size'' means the greatest transverse diameter of the pear taken at right angles to a line running from the stem to the blossom end.

### §51.1311 Packing.

(a) Each package shall be packed so that the pears in the shown face shall be reasonably representative in size and quality of the contents of the package.

(b) Pears packed in any container shall be tightly packed. All packages shall be well filled but the contents shall not show excessive or unnecessary bruising because of overfilled packages.

(c) Pears packed in boxes shall be arranged in containers according to the approved and recognized methods with the pears packed lengthwise. A bridge shall not be allowed in any standard pack. When wrapped, each pear shall be fairly well enclosed by its individual wrapper.

(d) Pears packed in round stave bushel baskets, tubs, or in barrels shall be ring faced.

### § 51.1312 Tolerances for standard pack.

(a) In order to allow for variations incident to proper sizing, not more than 5 percent of the pears in any lot may fail to meet the size requirements: *Provided,* That when the maximum and minimum sizes are both stated, an additional 10 percent tolerance shall be allowed for pears which are larger than the maximum size stated.

(b) In order to allow for variations incident to proper packing, not more than 10 percent of the containers in any lot may fail to meet these requirements but no part of this tolerance shall be allowed for bridge packs, or for packs with different sizes and arrangements such as layers of 195 size and arrangement, and layers of 180 size and arrangement packed in the same box.

DEFINITIONS

### § 51.1313 Mature.

(a) *Mature* means that the pear has reached the stage of maturity which will insure the proper completion of the ripening process.

(b) Before a mature pear becomes overripe it will show varying degrees of firmness depending upon the stage of the ripening process. Therefore, a statement of firmness should be given in order to indicate the stage of the ripening process. A description of the ground color should also be given.

(1) The following terms should be used for describing the ground color: *Green, Light Green, Yellowish Green,* and *Yellow.*

(2) The following terms should be used for describing the firmness of pears:

(i) *Hard* means that the flesh of the pear is solid and does not yield appreciably even to considerable pressure.

(ii) *Firm* means that the flesh of the pear is fairly solid but yields somewhat to moderate pressure.

(iii) *Firm ripe* means that the flesh of the pear yields readily to moderate pressure.

(iv) *Ripe* means that the pear is at the stage where it is in its most desirable condition for eating.

### § 51.1314 Overripe.

*Overripe* means dead ripe, very mealy or soft, past commercial utility.

### § 51.1315 Carefully hand-picked.

*Carefully hand-picked* means that the pears do not show evidence of rough handling or of having been on the ground.

### § 51.1316 Clean.

*Clean* means free from excessive dirt, dust, spray residue or other foreign material.

### § 51.1317 Well formed.

*Well formed* means having the shape characteristic of the variety. Slight irregularities of shape from type which do not appreciably detract from the general appearance of the fruit shall be considered well formed.

### § 51.1318 Black end.

*Black end* is evidenced by an abnormally deep green color around the calyx, or black spots usually occurring on the one-third of the surface nearest to the calyx, or by an abnormally shallow calyx cavity.

### § 51.1319 Injury.

*Injury* means any blemish or defect, that more than slightly affects the appearance, or the edible or shipping quality. The following shall be considered as injury:

(a) Russeting which exceeds the following shall be considered as injury:

(1) On all varieties any excessively rough russeting (russeting which shows ''frogging'' or slight cracking).

(2) On Comice, and on Anjou and other smooth-skinned varieties, slightly rough russeting, or thick russeting, such as is characteristic of frost injury, when the aggregate area exceeds one-half inch in diameter.[2]

(3) On Anjou and other smooth-skinned varieties, smooth solid russeting when the aggregate area exceeds one-half inch in diameter and smooth net-like russeting when the aggregate area exceeds 15 percent of the surface, and on Comice, smooth solid

or smooth netlike russeting when the aggregate area exceeds one-third of the surface, except that, in addition, on these and similar varieties, any amount of characteristic smooth russeting shall be permitted on that portion of the calyx end not visible for more than one-half inch along the contour of the pear, when it is placed calyx end down on a flat surface.[2]

(4) On any of the following and other similar varieties, rough or thick russeting such as is characteristic of frost injury when the aggregate area exceeds one-half inch in diameter.[2] On any of these varieties any amount of characteristic russeting is permitted whether due to natural causes such as weather or stimulated by artificial means; leaf whips or light limbrubs which resemble and blend into russeted areas shall be considered as russet:

Bosc, Clairgeau, Easter Beurre, Flemish Beauty, Kieffer, P. Barry, Pound, Seckel, Sheldon, Winter Nelis, and other similar varieties.

(b) Any one of the following defects or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as injury:

(1) Limbrubs which are cracked, softened, more than very slightly depressed, not light in color, or exceeding an aggregate area of three-fourths inch in diameter.[2]

(2) Hail marks or other similar depressions or scars which are not very shallow or superficial, or which affect an aggregate area of more than one-fourth inch in diameter.[2]

(3) Cork spot when a pear shows depressions or the flesh of the pear is more than slightly affected.

(4) Sunburn or sprayburn if the normal color of the fruit has been materially changed, or if the skin is blistered or cracked, or the flesh softened or discolored.

(5) More than two healed slight stings or depressions, or any stings which materially affect the general appearance of the fruit.

(6) Blister mite or canker worm injury which is not very shallow and superficial or where the injury affects an aggregate area of more than one-fourth inch.[2]

### §51.1320 Fairly well formed.

*Fairly well formed* means that the pear may be slightly abnormal in shape but not to an extent which detracts materially from the appearance of the fruit. Winter Nelis pears with characteristic slight sutures or with slight flattening on one side and/or other slight irregularities which do not materially detract from the general appearance of the pear shall be considered fairly well formed.

### §51.1321 Damage.

*Damage* means any injury or defect which materially affects the appearance, or the edible or shipping quality.

(a) Hard end shall be considered as damage if the pear shows an abnormally yellow color at the blossom end, or an abnormally smooth rounded base with little or no depression at the calyx, or if the flesh near the calyx is abnormally dry and tough or woody.

(b) Slight handling bruises and package bruises such as are incident to good commercial handling in the preparation of a tight pack shall not be considered damage.

(c) Any pear with one skin break larger than three-sixteenths inch in diameter of depth, or with more than one skin break one-eighth inch or larger in diameter or depth, shall be considered damaged, and scored against the grade tolerance.[2]

(1) Small inconspicuous skin breaks, less than one-eighth inch in diameter or depth, shall not be considered damage. In addition, not more than 15 percent of the pears in any container may have not more than one skin break from one-eighth inch to three-sixteenths inch, inclusive, in diameter or depth.[2]

(d) Russeting which exceeds the following shall be considered as damage:

(1) On all varieties excessively rough russeting (russeting which shows ''frogging'' or slight cracking) when the aggregate area exceeds one-half inch in diameter.[2]

(2) On Anjou and other smooth-skinned varieties, slightly rough russeting, or thick russeting such as is characteristic of frost injury, when the aggregate area exceeds three-fourths inch in diameter.[2]

(3) On Anjou, smooth solid or smooth netlike russeting when the aggregate area exceeds one-third of the surface, and on other smooth-skinned varieties, 15 percent of the surface, except that, in addition, on Anjou and other smooth-skinned varieties, any amount of characteristic smooth russeting shall be permitted on that portion of the calyx end not visible for more than one-half inch along the contour of the pear, when it is placed calyx end down on a flat surface.

(4) On any of the following and other similar varieties, rough or thick russeting such as is characteristic of frost injury, when the aggregate area exceeds three-fourths inch in diameter. On any of these varieties any amount of characteristic russeting is permitted whether due to natural causes such as weather or stimulated by artificial means; leaf whips or light limbrubs which resemble and blend into russeted areas shall be considered as russet:

Bosc, Clairgeau, Comice, Easter Beurre, Flemish Beauty, Kieffer, P. Barry, Pound, Seckel, Sheldon, Winter Nelis, and other similar varieties.

(e) Any one of the following defects or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(1) Any limbrubs which are cracked, softened, or more than slightly depressed.

(2) Black discoloration caused by limbrubs which exceeds an aggregate area of three-eighths inch in diameter.

(3) Dark brown discoloration or excessive roughness caused by limbrubs which exceeds an aggregate area of one-half inch in diameter.

(4) Slightly rough, light colored discoloration caused by limbrubs which exceeds an aggregate area of three-fourths inch in diameter.

(5) Smooth, light colored discoloration caused by limbrubs which exceeds an aggregate area of 1 inch in diameter.[2]

(6) Hail marks or other similar depressions or scars which are not shallow or superficial, or where the injury affects an aggregate area of more than three-eighths inch in diameter.[2]

(7) Cork spot when more than one in number is visible externally or when the flesh is materially affected.

(8) Drought spot when more than one in number, or when the external injury exceeds an aggregate area of three-eighths inch in diameter, or when the appearance of the flesh is materially affected by corky tissue or brownish discoloration.[2]

(9) Sunburn or sprayburn where the skin is blistered, cracked, or shows any light tan or brownish color, or the shape of the pear is appreciably flattened, or the flesh is appreciably softened or changed in color, except that sprayburn of a russet character shall be considered under the definition of russeting.

(10) Insects: (i) More than two healed codling moth stings, or any insect sting which is over three thirty-seconds of an inch in diameter, or other insect stings affecting the appearance to an equal extent.[2]

(ii) Blister mite or canker worm injury which is not shallow or superficial, or where the injury affects an aggregate area of more than three-eighths inch in diameter.[2]

(11) Disease: (i) Scab spots which are black and which cover an aggregate area of more than one-fourth inch in diameter, except that scab spots of a russet character shall be considered under the definition of russeting.[2]

(ii) Sooty blotch which is thinly scattered over more than 5 percent of the surface, or dark, heavily concentrated spots which affect an area of more than three-eighths inch in diameter.[2]

### § 51.1322 Seriously misshapen.

*Seriously misshapen* means that the pear is excessively flattened or elongated for the variety, or is constricted or deformed so it will not cut three fairly uniform good quarters, or is so badly misshapen that the appearance is seriously affected.

### § 51.1323 Serious damage.

*Serious damage* means any injury or defect which seriously affects the appearance, or the edible or shipping quality.

(a) Russeting which in the aggregate exceeds the following shall be considered as serious damage:

(1) On all varieties, excessively rough russeting (russeting which shows ''frogging'' or slight cracking) when

the aggregate area exceeds three-fourths inch in diameter.[2]

(2) On all varieties, thick russeting such as is characteristic of frost injury, 15 percent of the surface.

(3) On Anjou, smooth solid or smooth netlike russeting when the aggregate area exceeds two-thirds of the surface, except that, in addition, any amount of characteristic smooth russeting shall be permitted on that portion of the calyx end not visible for more than one-half inch along the contour of the pear, when it is placed calyx end down on a flat surface. On Flemish Beauty smooth russeting shall be permitted on the entire surface.

(b) Any one of the following defects or combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(1) Limbrubs which are more than slightly cracked, or excessively rough limbrubs or dark brown or black discoloration caused by limbrubs which exceeds an aggregate area of three-fourths inch in diameter.[2]

(2) Other limbrubs which affect an aggregate area of more than one-tenth of the surface.

(3) Hail marks or other similar depressions or scars which affect an aggregate area of more than three-fourths inch in diameter, or which materially deform or disfigure the fruit.[2]

(4) Cork spot when more than two in number are visible externally or when the flesh is seriously affected.

(5) Drought spot when more than two in number, or where the external injury affects an aggregate area of more than three-fourths inch in diameter, or when the appearance of the flesh is seriously affected by corky tissue or brownish discoloration.[2]

(6) Sunburn or sprayburn where the skin is blistered, cracked or shows any brownish color, or where the shape of the pear is materially flattened, or the flesh is softened or materially changed in color, except that sprayburn of a russet character shall be considered under the definition of russeting.

(7) Insects: (i) Worm holes. More than three healed codling moth stings, of which not more than two may be over three thirty-seconds of an inch in diameter, or other insect stings affecting the appearance to an equal extent.[2]

(ii) Blister mite or canker worm injury which affects an aggregate area of more than three-fourths inch in diameter or which materially deforms or disfigures the fruit.[2]

(8) Disease: (i) Scab spots which are black, and which cover an aggregate area of more than one-half inch in diameter, except that scab spots of a russet character shall be considered under the definition of russeting.[2]

(ii) Sooty blotch which is thinly scattered over more than 15 percent of the surface, or dark heavily concentrated spots which affect an area of more than three-fourths inch in diameter.[2]

## Subpart—United States Standards for Pears for Canning

SOURCE: 35 FR 6957, May 1, 1970, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### GENERAL

### §51.1345 General.

All percentages shall be calculated on the basis of weight.

### GRADES

### §51.1346 U.S. No. 1.

''U.S. No. 1'' consists of pears of one variety which are mature, handpicked, firm, well formed, free from scald, hard end, black end, internal breakdown, decay, worms and worm holes, and from damage caused by broken skins, limbrubs, sprayburn, sunburn, scab, russeting, bruises, hail, frost, drought spot, disease, insects, mechanical or other means. Unless otherwise specified, the pears shall not be further advanced than yellowish green. Tree-ripened pears and pears grown from late blooms shall not be considered as meeting the requirements of this grade. (See §§51.1349 and 51.1350.)

### §51.1347 U.S. No. 2.

''U.S. No. 2'' consists of pears of one variety which are mature, handpicked, firm, not seriously deformed, free from scald, hard end, black end, internal breakdown, decay, worms and worm

holes, and free from serious damage by any other cause. Unless otherwise specified, the pears shall not be further advanced than yellowish green. Tree-ripened pears and pears grown from late blooms shall not be considered as meeting the requirements of this grade. (See §§ 51.1349 and 51.1350.)

CULLS

**§ 51.1348 Culls.**

''Culls'' are pears which do not meet the requirements of either of the foregoing grades.

SIZE

**§ 51.1349 Size.**

Size may be specified in connection with a grade by agreement between buyer and seller and stated in terms of minimum diameter or minimum and maximum diameters. Diameters shall be specified in inches and not less than eighth-inch fractions thereof. In addition, size may be stated in terms of ratio of length to diameter.

APPLICATION OF STANDARDS

**§ 51.1350 Application of standards.**

(a) Tolerances shall not apply in the application of the standards to determine the percentages of U.S. No. 1 and U.S. No. 2 quality, culls and off-size in a lot of pears; for example, when determining compliance with a grower-processor contract.

(b) *Tolerances.* The following tolerances, by weight, shall apply when a lot of pears has been sorted to meet a specific grade, such as a shipment to a processor which is intended to meet the requirements of the U.S. No. 1 grade:

(1) *For defects.* 10 percent for pears which fail to meet the requirements of the grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for the defects listed:

(i) 2 percent for pears which are affected by decay.

(ii) 5 percent for pears which are infested by worms or have worm holes.

(2) *For off-size.* 5 percent for pears which are smaller than any specified minimum size, and 10 percent for pears larger than any specified maximum size.

DEFINITIONS

**§ 51.1351 Mature.**

*Mature* means that the pear has reached the stage of maturity which will insure the proper completion of the ripening process.

**§ 51.1352 Handpicked.**

*Handpicked* means that the pears do not show evidence of having been on the ground.

**§ 51.1353 Firm.**

*Firm* means that the pear is fairly solid and yields only very slightly to moderate pressure, and is not wilted, shriveled, rubbery or flabby.

**§ 51.1354 Well formed.**

*Well formed* means that the pear has the shape characteristic of the variety, so that after paring, cutting in halves, and coring, each half of the pear shall be well formed. Bartlett pears shall have at least a fairly well developed neck.

[35 FR 6958, May 1, 1970, as amended at 35 FR 7249, May 8, 1970. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

**§ 51.1355 Damage.**

*Damage* means any injury or defect which materially affects the processing quality of the fruit. After paring, cutting in halves, and coring, each half of the pear shall be well formed or the pear is considered damaged. Pears showing surface blemishes shall be considered damaged when the injury cannot be completely removed in the ordinary process of paring for commercial use.

**§ 51.1356 Pears grown from late blooms.**

*Pears grown from late blooms.* Such pears often have excessively long stems (commonly termed ''rat tails''), or may be misshapen or slightly rough. Such pears do not ripen properly for ordinary canning use.

### § 51.1357 Seriously deformed.

*Seriously deformed* means that the pear is so badly misshapen as to cause a loss during the usual commercial preparation for use of over 20 percent, by weight, of the pear in excess of that which would occur if the pear were well formed. Round or apple-shaped pears shall not be considered seriously deformed.

### § 51.1358 Serious damage.

*Serious damage* means any injury or defect which cannot be removed during the usual commercial preparation for use without a loss of over 20 percent, by weight, of the pear in excess of that which would occur if the pear were not defective.

### § 51.1359 Diameter.

*Diameter* means the greatest dimension of the pear taken at right angles to a line running from the stem to the blossom end.

## Subpart—United States Standards for Grades of Pecans in the Shell [1]

SOURCE: 41 FR 39303, Sept. 15, 1976, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.1400 U.S. No. 1.

''U.S. No. 1'' consists of pecans in the shell which meet the following requirements:

(a) Free from loose extraneous or foreign material.

(b) Shells are: (1) Fairly uniform in color; and,

(2) Free from damage by any cause.

(c) Kernels are: (1) Free from damage by any cause.

(d) For tolerances see § 51.1404.

### § 51.1401 U.S. No. 2.

The requirements for this grade are the same as for U.S. No. 1 except for:

(a) No requirement for uniformity of color of shells; and,

(b) Increased tolerances for defects see § 51.1404.

SIZE CLASSIFICATION

### § 51.1402 Size classification.

Size of pecans may be specified in connection with the grade in accordance with one of the following classifications. To meet the requirements for any one of these classifications, the lot must conform to both the specified number of nuts per pound and the weight of the 10 smallest nuts per 100 nut sample.

| Size classification | Number of nuts per pound | Minimum weight of the 10 smallest nuts in a 100-nut sample |
|---|---|---|
| Oversize | 55 or less | In each classification, the 10 smallest nuts per 100 must weigh at least 7 pct of the total weight of a 100-nut sample. |
| Extra large | 56 to 63 | |
| Large | 64 to 77 | |
| Medium | 78 to 95 | |
| Small | 96 to 120 | |

KERNEL COLOR CLASSIFICATION

### § 51.1403 Kernel color classification.

(a) The skin color of pecan kernels may be described in terms of the color classifications provided in this section. When the color of kernels in a lot generally conforms to the ''light'' or ''light amber'' classification, that color classification may be used to describe the lot in connection with the grade.

(1) ''Light'' means that the outer surface of the kernel is mostly golden color or lighter, with not more than 25 percent of the outer surface darker than golden, none of which is darker than light brown.

(2) ''Light amber'' means that more than 25 percent of the outer surface of the kernel is light brown, with not more than 25 percent of the outer surface darker than light brown, none of which is darker than medium brown.

(3) ''Amber'' means that more than 25 percent of the outer surface of the kernel is medium brown, with not more than 25 percent of the outer surface darker than medium brown, none of which is darker than dark brown (very dark-brown or blackish-brown discoloration).

(4) ''Dark amber'' means that more than 25 percent of the outer surface of

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

the kernel is dark brown, with not more than 25 percent of the outer surface darker than dark brown (very dark-brown or blackish-brown discoloration).

(b) U.S. Department of Agriculture kernel color standards, Pec-MC-1, consisting of plastic models of pecan kernels, illustrate the color intensities implied by the terms ''golden,'' ''light brown,'' ''medium brown'' and ''dark brown'' referred to in paragraph (a) of this section. These color standards may be examined in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250; in any field office of the Fresh Fruit and Vegetable Inspection Service; or upon request of any authorized inspector of such service. Duplicates of the color standards may be purchased from NASCO, Fort Atkinson, Wisconsin 53538.

TOLERANCES

### § 51.1404 Tolerances.

In order to allow the variations incident to proper grading and handling in each of the foregoing grades, the following tolerances are provided as specified:

(a) *U.S. No. 1*—(1) *For shell defects, by count.* (i) 5 percent for pecans with damaged shells, including therein not more than 2 percent for shells which are seriously damaged.

(2) *For kernel defects, by count.* (i) 12 percent for pecans with kernels which fail to meet the requirements for the grade or any specified color classification, including therein not more than 7 percent for kernels which are seriously damaged: *Provided,* That not more than six-sevenths of this amount, or 6 percent, shall be allowed for kernels which are rancid, moldy, decayed or injured by insects: *And provided further,* That included in this 6 percent tolerance not more than one-half of one percent shall be allowed for pecans with live insects inside the shell.

(ii) In addition, 8 percent for kernels which fail to meet the color requirements for the grade or for any specified color classification, but which are not seriously damaged by dark discoloration of the skin: *Provided,* That these kernels meet the requirements for the grade other than for skin color.

(3) *For loose extraneous or foreign material, by weight.* (i) 0.5 percent (one-half of 1 percent).

(b) *U.S. No. 2*—(1) *For shell defects, by count.* (i) 10 percent for pecans with damaged shells, including therein not more than 3 percent for shells which are seriously damaged.

(2) *For kernel defects, by count.* (i) 30 percent for pecans with kernels which fail to meet the requirements of the U.S. No. 1 grade, including therein not more than 10 percent for pecans with kernels which are seriously damaged: *Provided,* That not more than seven-tenths of this amount, or 7 percent, shall be allowed for kernels which are rancid, moldy, decayed or injured by insects: *And provided further,* That included in this 7 percent tolerance not more than one-half of one percent shall be allowed for pecans with live insects inside the shell.

(3) *For loose extraneous or foreign material, by weight.* (i) 0.5 percent (one-half of 1 percent).

APPLICATION OF TOLERANCES

### § 51.1405 Application of tolerances.

Individual 100–count samples shall have not more than one and one-half times a specified tolerance of 5 percent or more and not more than double a tolerance of less than 5 percent, except that at least one pecan which is seriously damaged by live insects inside the shell is permitted: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade.

SAMPLE FOR GRADE OR SIZE DETERMINATION

### § 51.1406 Sample for grade or size determination.

Each sample shall consist of 100 pecans. The individual sample shall be drawn at random from a sufficient number of packages to form a 100-count composite sample. The number of such individual 100-count samples drawn for grade or size determination will vary with the size of the lot. When practicable, at point of packaging the sample may be obtained from the grading belt after sorting has been completed.

DEFINITIONS

### §51.1407 Fairly uniform in color.

*Fairly uniform in color* means that the shells do not show sufficient variation in color to materially detract from the general appearance of the lot.

### §51.1408 Loose extraneous or foreign material.

*Loose extraneous or foreign material* means loose hulls, empty broken shells, or any substance other than pecans in the shell or pecan kernels.

### §51.1409 Well developed.

*Well developed* means that the kernel has a large amount of meat in proportion to its width and length (see Figure 1).

### §51.1410 Fairly well developed.

*Fairly well developed* means that the kernel has at least a moderate amount of meat in proportion to its width and length. Shriveling and hollowness shall be considered only to the extent that they have reduced the meatiness of the kernel (see Figure 1).

### §51.1411 Poorly developed.

*Poorly developed* means that the kernel has a small amount of meat in proportion to its width and length (see Figure 1).

PECAN CROSS SECTION ILLUSTRATION

1. WELL DEVELOPED

Lower limit. Kernels having less meat content than these are not considered well developed.

2. FAIRLY WELL DEVELOPED

Lower limit for U.S. No. 1 grade. Kernels having less meat content than these are not considered fairly well developed and are classed as damaged.

3. POORLY DEVELOPED

Lower limit, damaged but not seriously damaged. Kernels having less meat content than these are considered undeveloped and are classed as seriously damaged.

FIGURE 1

**§ 51.1412 Well cured.**

*Well cured* means that the kernel separates freely from the shell, breaks cleanly when bent, without splintering, shattering, or loosening the skin; and the kernel appears to be in good shipping or storage condition as to moisture content.

**§ 51.1413 Damage.**

*Damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual pecan or the general appearance of the pecans in the lot. The following defects shall be considered as damage:

(a) Adhering hull material or dark stains affecting an aggregate of more than 5 percent of the surface of the individual shell;

(b) Split or cracked shells when the shell is spread apart or will spread upon application of slight pressure;
(c) Broken shells when any portion of the shell is missing;
(d) Kernels which are not well cured;
(e) Poorly developed kernels;
(f) Kernels which are dark amber in color;
(g) Kernel spots when more than one dark spot is present on either half of the kernel, or when any such spot is more than one-eighth inch (3 mm) in greatest dimension;
(h) Adhering material from the inside of the shell when firmly attached to more than one-third of the outer surface of the kernel and contrasting in color with the skin of the kernel; and,
(i) Internal flesh discoloration of a medium shade of gray or brown extending more than one-fourth inch (6 mm) lengthwise beneath the center ridge, or any equally objectionable amount in other portions of the kernel; or lesser areas of dark discoloration affecting the appearance to an equal or greater extent.

### §51.1414 Serious damage.

*Serious damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual pecan. The following defects shall be considered as serious damage:
(a) Adhering hull material or dark stains affecting an aggregate of more than 20 percent of the individual shell;
(b) Broken shells when the missing portion of shell is greater in area than a circle one-fourth inch (6 mm) in diameter;
(c) Worm holes when penetrating the shell;
(d) Rancidity when the kernel is distinctly rancid to the taste. Staleness of flavor shall not be classed as rancidity;
(e) Mold, on the surface or inside the kernel, which is plainly visible without magnification;
(f) Decay affecting any portion of the kernel;
(g) Insect injury when the insect, web or frass is present inside the shell, or the kernal shows distinct evidence of insect feeding;
(h) Kernel spots when more than three dark spots on either half of the kernel, or when any spot or the aggregate of two or more spots on one of the halves of the kernel affects more than 10 percent of the surface;
(i) Dark discoloration of the skin which is darker than dark amber over more than 25 percent of the outer surface of the kernel;
(j) Internal flesh discoloration of a dark shade extending more than one-third the length of the kernel beneath the ridge, or an equally objectionable amount of dark discoloration in other portions of the kernel; and,
(k) Undeveloped kernels having practically no food value, or which are blank (complete shell containing no kernel).

### §51.1415 Inedible kernels.

*Inedible kernels* means that the kernel or pieces of kernels are rancid, moldy, decayed, injured by insects or otherwise unsuitable for human consumption.

## Optional Determinations

### §51.1416 Optional determinations.

The determinations set forth herein are not requirements of these standards. They may be performed upon request in connection with the grade determination or as a separate determination. Samples of pecans for these determinations shall be taken at random from a composite sample drawn throughout the lot.
(a) *Edible kernel content.* A minimum sample of at least 500 grams of in-shell pecans shall be used for determination of edible kernel content. After the sample is weighed and shelled, edible appearing half kernels and pieces of kernels shall be separated from shells, center wall, and other non-kernel material, and inedible kernels (see §51.1415) and pieces of kernels, and weighed to determine edible kernel content for the lot.
(b) *Poorly developed kernel content.* A minimum sample of at least 500 grams of in-shell pecans shall be used for determination of poorly developed kernel

content. The amount of poorly developed kernels and pieces of kernels shall be weighed to determine poorly developed kernel content of the lot (see § 51.1411 and Figure 1).

(c) *Edible kernel content color classification.* The amount of ''Light,'' ''Light amber,'' ''Amber,'' ''Dark amber'' and darker shades of skin color shall be determined according to § 51.1403, Kernel Color Classification. The total weight of edible kernels and pieces of kernels shall be the basis for determining color classification content for the lot.

(d) *Kernel moisture content.* The sample of pecans for determination of kernel moisture content shall be shelled immediately before analysis and all shells, center wall and other non-kernel material removed. The air-oven or other methods or devices which give equivalent results shall be used for moisture content determination.

## Subpart—United States Standards for Grades of Shelled Pecans

SOURCE: 34 FR 9377, June 14, 1969, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### GRADES

### § 51.1430 U.S. No. 1 Halves.

''U.S. No. 1 Halves'' consists of pecan half-kernels which meet the following requirements:

(a) For quality:

(1) Well dried;

(2) Fairly well developed;

(3) Fairly uniform in color;

(4) Not darker than ''amber'' skin color;

(5) Free from damage or serious damage by any cause;

(6) Free from pieces of shell, center wall and foreign material; and,

(7) Comply with tolerances for defects (see § 51.1439); and,

(b) For size:

(1) Halves are fairly uniform in size;

(2) Halves conform to size classification or count specified; and,

(3) Comply with tolerances for pieces, particles, and dust (see § 51.1437).

### § 51.1431 U.S. No. 1 Halves and Pieces.

The requirements for this grade are the same as those for U.S. No. 1 Halves except:

(a) For size:

(1) At least 50 percent, by weight, are half-kernels;

(2) Both halves and pieces will not pass through a 5/16–inch round opening; and,

(3) Comply with tolerances for undersize. (See Table III.)

### § 51.1432 U.S. No. 1 Pieces.

The requirements for this grade are the same as those for U.S. No. 1 Halves except:

(a) For quality:

(1) No requirement for uniformity of color; and,

(b) For size:

(1) No requirement for percentage of half-kernels;

(2) Conform to any size classification or other size description specified; and,

(3) Comply with applicable tolerances for off-size. (See Table III.)

### § 51.1433 U.S. Commercial Halves.

The requirements for this grade are the same as those for U.S. No. 1 Halves except:

(a) For quality:

(1) No requirement for uniformity of color; and,

(2) Increased tolerances for defects (see § 51.1439); and,

(b) For size:

(1) No requirement for uniformity of size.

### § 51.1434 U.S. Commercial Halves and Pieces.

The requirements for this grade are the same as those for U.S. No. 1 Halves and Pieces except:

(a) For quality:

(1) No requirement for uniformity of color; and,

(2) Increased tolerances for defects. (See § 51.1439.)

### § 51.1435 U.S. Commercial Pieces.

The requirements for this grade are the same as those for U.S. No. 1 Pieces except for:

(a) Increased tolerances for defects. (See § 51.1439.)

COLOR CLASSIFICATIONS

### § 51.1436 Color classifications.

(a) The skin color of pecan kernels may be described in terms of the color classifications provided in this section. When the color of kernels in a lot generally conforms to the ''light'' or ''light amber'' classification, that color classification may be used to describe the lot in connection with the grade.

(1) ''Light'' means that the kernel is mostly golden color or lighter, with not more than 25 percent of the surface darker than golden, and none of the surface darker than light brown.

(2) ''Light amber'' means that the kernel has more than 25 percent of its surface light brown, but not more than 25 percent of the surface darker than light brown, and none of the surface darker than medium brown.

(3) ''Amber'' means that the kernel has more than 25 percent of the surface medium brown, but not more than 25 percent of the surface darker than medium brown, and none of the surface darker than dark brown (very dark-brown or blackish-brown discoloration).

(4) ''Dark amber'' means that the kernel has more than 25 percent of the surface dark brown, but not more than 25 percent of the surface darker than dark brown (very dark-brown or blackish-brown discoloration).

(b) U.S. Department of Agriculture kernel color standards, PEC-MC-1, consisting of plastic models of pecan kernels, illustrate the color intensities implied by the terms ''golden,'' ''light brown,'' ''medium brown,'' and ''dark brown'' referred to in paragraph (a) of this section. These color standards may be examined in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250; in any field office of the Fresh Fruit and Vegetable Inspection Service; or upon request of any authorized inspector of such Service. Duplicates of the color standards may be purchased from NASCO, Fort Atkinson, Wis. 53538.

SIZE CLASSIFICATIONS

### § 51.1437 Size classifications for halves.

The size of pecan halves in a lot may be specified in accordance with one of the size classifications shown in Table I:

TABLE I

| Size classifications for halves | Number of halves per pound |
|---|---|
| Mammoth | 250 or less. |
| Junior mammoth | 251–300. |
| Jumbo | 301–350. |
| Extra large | 351–450. |
| Large | 451–550. |
| Medium | 551–650. |
| Small (topper) | 651–750. |
| Midget | 751 or more. |

(a) The number of halves per pound shall be based upon the weight of half-kernels after all pieces, particles and dust, shell, center wall, and foreign material have been removed.

(b) In lieu of the size classifications in Table I, the size of pecan halves in a lot may be specified in terms of the number of halves or a range of numbers of halves per pound. For example, ''400'' or ''600–700''.

(c) Tolerance for count per pound: In order to allow for variations incident to proper sizing, a tolerance shall be permitted as follows:

(1) When an exact number of halves per pound is specified, the actual count per pound may vary not more than 5 percent from the specified number; and,

(2) When any size classification shown in Table I or a range in count per pound is specified, no tolerance shall be allowed for counts outside of the specified range.

(d) *Tolerances for pieces, particles, and dust.* In order to allow for variations incident to proper sizing and handling, not more than 15 percent, by weight, of any lot may consist of pieces, particles, and dust: *Provided,* That not more than one-third of this amount, or 5 percent, shall be allowed for portions less than one-half of a complete half-kernel, including not more than 1 percent for particles and dust.

### § 51.1438 Size classifications for pieces.

The size of pecan pieces in a lot may be specified in accordance with one of the size classifications shown in Table II.

TABLE II

| Size classification | Maximum diameter (will pass through round opening of following diameter) | Minimum diameter (will not pass through round opening of following diameter) (inch) |
|---|---|---|
| Mammoth pieces | No limitation | 8/16 |
| Extra large pieces | 9/16 inch | 7/16 |
| Halves and pieces | No limitation | 5/16 |
| Large pieces | 8/16 inch | 5/16 |
| Medium pieces | 6/16 inch | 3/16 |
| Small pieces | 4/16 inch | 2/16 |
| Midget pieces | 3/16 inch | 1/16 |
| Granules | 2/16 inch | 1/16 |

(a) In lieu of the size classifications in Table II, the size of pieces in a lot may be specified in terms of minimum diameter, or as a range described in terms of minimum and maximum diameters expressed in sixteenths or sixty-fourths of an inch.

(b) Tolerances for size of pieces: In order to allow for variations incident to proper sizing, tolerances are provided for pieces in a lot which fail to meet the requirements of any size specified. The tolerances, by weight, are shown in Table III.

TABLE III

[Percent]

| Size classification | Total tolerance for offsize pieces | Tolerance (included in total tolerance) for pieces smaller than | |
|---|---|---|---|
| | | 2/16 | 1/16 inch |
| Mammoth pieces | 15 | 1 | |
| Extra large pieces | 15 | 1 | |
| Halves and pieces | 15 | 1 | |
| Large pieces | 15 | 1 | |
| Medium pieces | 15 | 2 | |
| Small pieces | 15 | 2 | |
| Midget pieces | 15 | ..... | 2 |
| Granules | 15 | ..... | 5 |
| Other specified size | 15 | 1 | ..... |

## TOLERANCES FOR DEFECTS

### § 51.1439 Tolerances for defects.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by weight, are provided as specified:

(a) U.S. No. 1 Halves, U.S. No. 1 Halves and Pieces, and U.S. No. 1 Pieces grades:

(1) 0.05 percent for shell, center wall, and foreign material;

(2) 3 percent for portions of kernels which are ''dark amber'' or darker color, or darker than any specified lighter color classification but which are not otherwise defective; and,

(3) 3 percent for portions of kernels which fail to meet the remaining requirements of the grade, including therein not more than 0.50 percent for defects causing serious damage: *Provided*, That any unused portion of this tolerance may be applied to increase the tolerance for kernels which are ''dark amber'' or darker color, or darker than any specified lighter color classification.

(b) U.S. Commercial Halves, U.S. Commercial Halves and Pieces, and U.S. Commercial Pieces grades:

(1) 0.15 percent for shell, center wall, and foreign material;

(2) 25 percent for portions of kernels which are ''dark amber'' or darker color, or darker than any specified lighter color classification, but which are not otherwise defective; and,

(3) 8 percent for portions of kernels which fail to meet the remaining requirements of the grade, including therein not more than 1 percent for defects causing serious damage.

## APPLICATION OF STANDARDS

### § 51.1440 Application of standards.

The grade of a lot of shelled pecans shall be determined on the basis of a composite sample drawn at random from containers in various locations in the lot. However, any identifiable container or number of containers in which the pecans are obviously of a quality or size materially different from that in the majority of containers, shall be considered as a separate lot, and shall be sampled and graded separately.

DEFINITIONS

### § 51.1441 Half-kernel.

*Half-kernel* means one of the separated halves of an entire pecan kernel with not more than one-eighth of its original volume missing, exclusive of the portion which formerly connected the two halves of the kernel.

### § 51.1442 Piece.

*Piece* means a portion of a kernel which is less than seven-eighths of a half-kernel, but which will not pass through a round opening two-sixteenths inch in diameter.

### § 51.1443 Particles and dust.

*Particles and dust* means, for all size designations except ''midget pieces'' and ''granules,'' fragments of kernels which will pass through a round opening two-sixteenths inch in diameter.

### § 51.1444 Well dried.

*Well dried* means that the portion of kernel is firm and crisp, not pliable or leathery.

### § 51.1445 Fairly well developed.

*Fairly well developed* means that the kernel has at least a moderate amount of meat in proportion to its width and length. (See Figure 1.)

### § 51.1446 Poorly developed.

*Poorly developed* means that the kernel has a small amount of meat in proportion to its width and length. (See Figure 1.)

### § 51.1447 Fairly uniform in color.

*Fairly uniform in color* means that 90 percent or more of the kernels in the lot have skin color within the range of one or two color classifications.

### § 51.1448 Fairly uniform in size.

*Fairly uniform in size* means that, in a representative sample of 100 halves, the 10 smallest halves weigh not less than one-half as much as the 10 largest halves.

### § 51.1449 Damage.

*Damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual portion of the kernel or of the lot as a whole. The following defects should be considered as damage:

(a) Adhering material from inside the shell when attached to more than one-fourth of the surface on one side of the half-kernel or piece;

(b) Dust or dirt adhering to the kernel when conspicuous;

(c) Kernel which is not well dried;

(d) Kernel which is ''dark amber'' or darker color;

(e) Kernel having more than one dark kernel spot, or one dark kernel spot more than one-eighth inch in greatest dimension;

(f) Shriveling when the surface of the kernel is very conspicuously wrinkled;

(g) Internal flesh discoloration of a medium shade of gray or brown extending more than one-fourth the length of the half-kernel or piece, or lesser areas of dark discoloration affecting the appearance to an equal or greater extent; and,

(h) Poorly developed kernel. (See Figure 1.)

### § 51.1450 Serious damage.

*Serious damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual portion of kernel or of the lot as a whole. The following defects shall be considered as serious damage:

(a) Any plainly visible mold;

(b) Rancidity when the kernel is distinctly rancid to the taste. Staleness of flavor shall not be classed as rancidity;

(c) Decay affecting any portion of the kernel;

(d) Insects, web, or frass or any distinct evidence of insect feeding on the kernel;

(e) Internal discoloration which is dark gray, dark brown, or black and extends more than one-third the length of the half-kernel or piece;

(f) Adhering material from inside the shell when attached to more than one-

half of the surface on one side of the half-kernel or piece;

(g) Dark kernel spots when more than three are on the kernel, or when any dark kernel spot or the aggregate of two or more spots affect an area of more than 10 percent of the surface of the half-kernel or piece;

(h) Dark skin discoloration, darker than ''dark brown,'' when covering more than one-fourth of the surface of the half-kernel or piece; and,

(i) Undeveloped kernel. (See Figure 1.)

FIGURE 1

CROSS SECTION ILLUSTRATION

1. WELL DEVELOPED

Lower limit. Kernels having less meat content than these are not considered well developed.

2. FAIRLY WELL DEVELOPED

Lower limit for U. S. No. 1 grade. Kernels having less meat content than these are not considered fairly well developed and are classed as damaged.

3. POORLY DEVELOPED

Lower limit, damaged but not seriously damaged. Kernels having less meat content than these are considered undeveloped and are classed as seriously damaged.

METRIC CONVERSION TABLE

**§ 51.1451 Metric conversion table.**

| Inches | Millimeters (mm) |
|---|---|
| 8/16 | 12.7 |
| 7/16 | 11.1 |
| 6/16 | 9.5 |
| 5/16 | 7.9 |
| 4/16 | 6.4 |
| 3/16 | 4.8 |
| 2/16 | 3.2 |
| 6/64 | 2.4 |
| 5/64 | 2.0 |
| 1/16 | 1.6 |

## Subpart—United States Standards for Grades of Fresh Plums and Prunes

SOURCE: 69 FR 9193, Feb. 27, 2004, unless otherwise noted.

GRADES

### § 51.1520 U.S. Fancy.

''U.S. Fancy'' consists of plums or prunes of one variety which are well formed, clean, mature but not overripe or soft or shriveled; which are free from decay, sunscald, heat injury, sunburn, split pits and hail marks, and free from damage caused by broken skins, growth cracks, drought spots, gum spots, russeting, scars, other disease, insects or mechanical or other means.

(a) Italian type prunes shall be well colored and, unless otherwise specified, shall be not less than 1¼ inches in diameter. (*See* § 51.1525.)

(b) [Reserved]

### § 51.1521 U.S. No. 1.

''U.S. No. 1'' consists of plums or prunes of one variety which are well formed, clean, mature but not overripe or soft or shriveled; which are free from decay and sunscald, and free from damage caused by broken skins, heat injury, growth cracks, sunburn, split pits, hail marks, drought spots, gum spots, russeting, scars, other disease, insects or mechanical or other means.

(a) Italian type prunes shall be fairly well colored and, unless otherwise specified, shall be not less than 1¼ inches in diameter. (*See* § 51.1525.)

(b) [Reserved]

### § 51.1522 U.S. Combination.

''U.S. Combination'' consists of a combination of U.S. No. 1 and U.S. No. 2 plums or prunes: *Provided,* That at least 75 percent, by count, meet the requirements of U.S. No. 1 grade. (*See* § 51.1525.)

### § 51.1523 U.S. No. 2.

''U.S. No. 2'' consists of plums or prunes of one variety which are not badly misshapen, which are clean, mature but not overripe or soft or shriveled; which are free from decay and sunscald, and free from serious damage caused by broken skins, heat injury, growth cracks, sunburn, split pits, hail marks, drought spots, gum spots, russeting, scars, other disease, insects or mechanical or other means. (*See* § 51.1525.)

### § 51.1524 [Reserved]

TOLERANCES

### § 51.1525 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the following grades, the following tolerances, by count, based on a minimum 50-count sample, except when packages contain less than 50 fruit, a minimum 25-count sample shall be examined, (when packages contain less than 25 fruit adjoining packages shall be opened to obtain the 25-count minimum sample), are provided as specified:

(a) *U.S. Fancy and U.S. No. 1*—(1) *For defects of plums or prunes other than Italian type prunes at shipping point.*[1] 8 percent for fruit which fails to meet the requirements of the specified grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of 1 percent for fruit which is affected by decay.

(2) *For defects of plums or prunes other than Italian type prunes en route or at destination.* 12 percent for fruit which fails to meet the requirements of the specified grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for permanent defects;

(ii) 6 percent for defects causing serious damage, including therein not more than 4 percent for serious damage by permanent defects and not more than 2 percent for decay.

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

(3) *For defects of Italian type prunes at shipping point.*[1] Not more than a total of 12 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for the defects listed:

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

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

(iii) 8 percent for prunes which fail to meet the remaining requirements of the grade: *Provided,* That not more than one-half of this amount, or 4 percent, shall be allowed for defects causing serious damage, including in the latter amount not more than one-half of 1 percent for decay.

(4) For defects of Italian type prunes en route or at destination. Not more than a total of 18 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for the defects listed:

(i) 12 percent for permanent defects including therein not more than 10 percent which fail to meet the color requirement, 10 percent which fail to meet the minimum diameter requirement, and 8 percent which fail to meet the requirements of the grade because of other permanent defects;

(ii) 6 percent for defects causing serious damage, including therein not more than 4 percent for serious damage by permanent defects and not more than 2 percent for decay.

(b) *U.S. Combination and U.S. No. 2*—(1) *For defects at shipping point.*[1] 8 percent for fruit which fails to meet the requirements of the specified grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for sunscald, decay or serious damage by insects or heat injury, including in this latter amount not more than one-half of 1 percent for decay.

(2) *For defects en route or at destination.* 12 percent for fruit which fails to meet the requirements of the specified grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for permanent defects including therein not more than 4 percent for sunscald, or serious damage by insects or heat injury; and,

(ii) 2 percent for decay.

(3) When applying the tolerance for the U.S. Combination grade individual packages may have not more than 10 percent less than the percentage of U.S. No. 1 required: *Provided,* That the entire lot averages within the required percentage. (*See* § 51.1526.)

APPLICATION OF TOLERANCES

### § 51.1526 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(a) A package may contain not more than double any specified tolerance except that at least two defective and two off-size specimens may be permitted in any package: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade.

(b) [Reserved]

STANDARD PACK

### § 51.1527 Standard pack.

(a) *Packing.* (1) All packages shall be tightly packed or well filled, according to the approved and recognized methods.

(2) The plums or prunes in the top layer of any package shall be reasonably representative in quality and size of those in the remainder of the package.

(3) ''Well filled'' means that the plums or prunes packed in loose or volume filled containers are packed within 1 inch of the top of the container.

(4) ''Tightly packed'' means the plums or prunes are the proper size for the mold or cell compartments in which they are packed, and the molds or cells are filled in such a way that movement is not allowed.

(b) *Marking.* (1) The size of plums or prunes shall be marked on each package, and shall be indicated in terms of minimum diameter, or number of fruit per package, or in accordance with the arrangement of the top layer of fruit in the package or subcontainer. Size may

also be shown in terms of maximum number of fruit for a specified weight, such as ''8 per pound,'' ''6.4 per pound'' or ''7⅔ per pound'' or by a count-size designation based on the number of fruits contained in a 10 pound sample with the designation rounded to an applicable number which is divisible by 5 (example: 40 size, 45 size, 50 size, 55 size, etc.).

(i) *California peach boxes, lug boxes and small consumer packages.* In layer-packed California peach boxes or lug boxes, and in small layer packed consumer packages, the count of the entire contents shall be marked on the package. The number of plums or prunes in California peach boxes or lug boxes shall not vary more than 4 from the number indicated on the package. Loose filled consumer packs not in a master container shall have a count-size marked on the package or on a tag closure. Master containers of loose filled consumer packages shall have a count-size marked on the package describing the size of plums or prunes within the container.

(ii) *Face and fill packs in cartons and lug boxes.* In face and fill packs in cartons and lug boxes the number of rows in the face shall be marked on the packages, as ''6 row,'' ''8 row,'' etc.

(c) *Sizing.* (1) Not more than 5 percent, by count, of the plums or prunes in any package may vary more than one-fourth inch in diameter, except that not more than 5 percent, by count, of the plums or prunes 2–1/4 inches or larger in diameter and packed in loose or volume filled containers may vary more than three-eighths inch in diameter.

(2) When size is indicated in terms of minimum diameter, not more than 5 percent, by count, of the fruit in any package may be smaller than the size marked.

(d) *Tolerance for standard pack.* In order to allow for variations incident to proper sizing and packing, not more than 10 percent, by count, of the packages in any lot may fail to meet the requirements for standard pack.

DEFINITIONS

### §51.1528 Well formed.

''Well formed'' means that the fruit has the shape characteristic of the variety. Doubles shall not be considered well formed.

### §51.1529 Clean.

''Clean'' means that the fruit is practically free from dirt and other foreign material.

### §51.1530 Mature.

''Mature'' means that the fruit has reached the stage of maturity which will insure a proper completion of the ripening process.

### §51.1531 Sunscald.

''Sunscald'' means injury caused by the sun in which softening or collapse of the flesh is apparent.

### §51.1532 Damage.

''Damage'' means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit. The following specific defects shall be considered as damage:

(a) Broken skins which are unhealed except those caused by pulled stems where the skin is torn only slightly within the stem cavity. (Healed skin breaks shall be considered scars);

(b) Heat injury, sprayburn or sunburn:

(1) When the skin is blistered, cracked or decidedly flattened;

(2) When the normal color of the skin or flesh has materially changed;

(3) When there is more than one indentation; or,

(4) When an indentation exceeds three-sixteenths inch in diameter;

(c) Growth cracks:

(1) When not healed;

(2) When more than one in number;

(3) When more than one-eighth inch in depth;

(4) When more than three-eighths inch in length if within the stem cavity; or,

(5) When more than one-fourth inch in length if outside of the stem cavity;

(6) When extending from within to outside the stem cavity, when more than three-eighths inch in length if the major portion of the crack is within the stem cavity or when more than one-fourth inch in length if the major portion of the crack is outside the stem cavity;

(d) Split pit when causing any unhealed crack, or when healed and aggregating more than one-fourth inch in length, or when affecting the shape to the extent that the fruit is not well formed;

(e) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(f) Drought spots or external gum spots which have an aggregate area exceeding that of a circle one-fourth inch in diameter;

(g) Scale or scale marks when the aggregate area exceeds that of a circle one-fourth inch in diameter;

(h) Scars, including those caused by hail, when the surface of the fruit is depressed more than one-sixteenth inch, or when exceeding any of the following aggregate areas, or a combination of two or more types of scars the seriousness of which exceeds the maximum allowed for any one type:

(1) Dark or rough scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter.

(2) Fairly light colored, fairly smooth scars when, in the case of Italian type prunes, the area exceeds that of a circle one-half inch in diameter; or when, in the case of other types of plums, the area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle five-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(3) Light colored, smooth scars when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums, the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle seven-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(4) Twig or limb scratches which are not well healed or which have an aggregate length of more than one-half inch;

(i) Russeting which exceeds any of the following aggregate areas of any one type of russeting, or a combination of two or more types of russeting the seriousness of which exceeds the maximum allowed for any one type:

(1) Rough russeting when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;

(2) Slightly rough russeting when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums, the area exceeds that of a circle five-eighths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;

(3) Fairly smooth or smooth russeting when, in the case of Italian type prunes, the area exceeds one-twelfth of the fruit surface; or when, in the case of other types of plums the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle 1 inch in diameter on a fruit larger than 2 inches in diameter.

(j) Discoloration when definitely contrasting with the normal surface color of the fruit and affects more than 10 percent of the surface.

### § 51.1533 Well colored.

''Well colored,'' as applied to Italian type prunes, means that 95 percent of the surface of the prune is purple color.

### § 51.1534 Fairly well colored.

''Fairly well colored,'' as applied to Italian type prunes, means that at

least three-fourths of the surface of the prune is purple color.

### §51.1535 Badly misshapen.

''Badly misshapen'' means that the fruit is so malformed or rough that its appearance is seriously affected. Doubles shall be considered badly misshapen, except that doubles of Italian type prunes which have approximately equal halves shall not be considered badly misshapen.

### §51.1536 Serious damage.

''Serious damage'' means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the appearance, or the edible or marketing quality of the fruit. The following specific defects shall be considered as serious damage:

(a) Broken skins which are unhealed when aggregating more than one-eighth inch in diameter, length or depth. (Healed skin breaks shall be considered scars);

(b) Heat injury, sprayburn or sunburn:

(1) When the skin is blistered, cracked or decidedly flattened;

(2) When causing any dark discoloration of the flesh;

(3) When there are more than two indentations;

(4) When the aggregate area of indentations exceeds that of a circle three-eighths inch in diameter; or,

(5) When causing noticeable brownish or darker discoloration over more than one-fourth of the fruit surface;

(c) Growth cracks:

(1) When not healed and more than one-eighth inch in length or depth;

(2) When healed and more than three-sixteenths inch in depth;

(3) When healed and aggregating more than five-eighths inch in length if within the stem cavity; or,

(4) When healed and aggregating more than one-half inch in length if outside of the stem cavity;

(5) When extending from within to outside the stem cavity, when healed and aggregating more than five-eighths inch in length if the major portion of the crack is within the stem cavity or when healed and aggregating more than one-half inch in length if the major portion of the crack is outside the cavity;

(d) Split pit when causing any unhealed crack, or when healed and aggregating more than three-eighths inch in length, or when affecting the shape to the extent that the fruit is badly misshapen;

(e) Scab or bacterial spot, when the aggregate area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;

(f) Drought spots or external gum spots which have an aggregate area exceeding that of a circle one-half inch in diameter;

(g) Scale or scale marks when the aggregate area exceeds that of a circle three-eighths inch in diameter;

(h) Russeting and scars, including those caused by hail, when the surface of the fruit is depressed more than three-sixteenths inch, or when exceeding any of the following aggregate areas, or a combination of two or more types of russeting or scars the seriousness of which exceeds the maximum allowed for any one type:

(1) Dark or rough scars or rough russeting when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one inch in diameter on a fruit larger than 2 inches in diameter;

(2) Russeting and scars which are not dark or rough when the area exceeds one-fourth of the fruit surface.

(i) Soft or overripe or shriveled plums or prunes;

(j) Plums or prunes affected by decay; and

(k) Plums or prunes affected by sunscald.

(l) Discoloration when definitely contrasting with the normal surface color and affects more than 25 percent of the surface.

### §51.1537 Diameter.

''Diameter'' means the greatest dimension measured at right angles to a line from the stem to blossom end of the fruit.

METRIC CONVERSION TABLE

### § 51.1538 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 1/8 equals | 3.2 |
| 1/4 equals | 6.4 |
| 3/8 equals | 9.5 |
| 1/2 equals | 12.7 |
| 5/8 equals | 15.9 |
| 3/4 equals | 19.1 |
| 7/8 equals | 22.2 |
| 1 equals | 25.4 |
| 1 1/4 equals | 31.8 |
| 1 1/2 equals | 38.1 |
| 1 3/4 equals | 44.5 |
| 2 equals | 50.8 |
| 3 equals | 76.2 |
| 4 equals | 101.6 |

## Subpart—United States Standards for Grades of Potatoes [1]

SOURCE: 35 FR 18258, Dec. 1, 1970, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.1540 [Reserved]

### § 51.1541 U.S. No. 1.

''U.S. No. 1'' consists of potatoes which meet the following requirements:

(a) Similar varietal characteristics, except when designated as a mixed or specialty pack;

(b) Firm;

(c) Fairly clean; [2]

(d) Fairly well shaped;

(e) Free from:

(1) Freezing;

(2) Blackheart;

(3) Late blight, southern bacterial wilt and ring rot; and,

(4) Soft rot and wet breakdown.

(f) Free from damage by any other cause. See §§ 51.1564 and 51.1565.

(g) Size. Not less than 1⅞ inches in diameter, unless otherwise specified in connection with the grade.

(h) For tolerances see § 51.1546.

[35 FR 18258, Dec. 1, 1970, as amended at 76 FR 31789, June 2, 2011]

### § 51.1542 U.S. Commercial.

''U.S. Commercial'' consists of potatoes which meet the requirements of U.S. No. 1 grade except for the following:

(a) Free from serious damage caused by:

(1) Dirt or other foreign matter;

(2) Russet scab; and,

(3) Rhizoctonia.

(b) Increased tolerances for defects specified in § 51.1546.

### § 51.1543 U.S. No. 2.

''U.S. No. 2'' consists of potatoes which meet the following requirements:

(a) Similar varietal characteristics, except when designated as a mixed or specialty pack;

(b) Not seriously misshapen;

(c) Free from:

(1) Freezing;

(2) Blackheart;

(3) Late blight, southern bacterial wilt and ring rot; and,

(4) Soft rot and wet breakdown.

(d) Free from serious damage by any other cause. See §§ 51.1564 and 51.1565.

(e) Size. Not less than 1½ inches in diameter, unless otherwise specified in connection with the grade.

(f) For tolerances see § 51.1546.

[35 FR 18258, Dec. 1, 1970, as amended at 76 FR 31789, June 2, 2011]

UNCLASSIFIED

### § 51.1544 [Reserved]

SIZE

### § 51.1545 Size.

(a) The minimum size, or minimum and maximum sizes may be specified in connection with the grade in terms of diameter or weight of the individual potato, or in accordance with one of the size designations in Table I or Table II: *Provided,* That sizes so specified shall not be in conflict with the basic size requirements for the grade.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food and Drug Cosmetic Act or with applicable State laws and regulations.

[2] Potatoes in containers bearing official State Seed Certification Tags and Seals are not required to be fairly clean but shall be free from damage by dirt.

(b) When size is designated as shown in Table II, the corresponding weight ranges shall apply. These size designations may be applied to potatoes packed in any size container: Provided, that the weight ranges are within the limits specified.

TABLE 1

| Size designation | Minimum diameter [1] or weight | | Maximum diameter [1] or weight | |
|---|---|---|---|---|
| | Inches | Ounces | Inches | Ounces |
| Creamer | 3/4 | (3) | 1 5/8 | (3) |
| Chef | 2 3/4 | 8 | 4 1/2 | 28 |
| Size A[2] | 1 7/8 | (3) | (3) | (3) |
| Size B | 1 1/2 | (3) | 2 1/4 | (3) |
| Small | 1 3/4 | (3) | 2 1/2 | 6 |
| Medium | 2 1/4 | 5 | 3 1/4 | 10 |
| Large | 3 | 10 | 4 1/2 | 28 |

[1] Diameter means the greatest dimension at right angles to the longitudinal axis, without regard to the position of the stem end.
[2] In addition to the minimum size specified, a lot of potatoes designated as Size A shall contain at least 40 percent of potatoes which are 2½ inches in diameter or larger or 6 ounces in weight or larger.
[3] No requirement.

TABLE II

[Ounces]

| Size designation | Minimum weight | Maximum weight |
|---|---|---|
| Under 50 | 15 | |
| 50 | 12 | 19 |
| 60 | 10 | 16 |
| 70 | 9 | 15 |
| 80 | 8 | 13 |
| 90 | 7 | 12 |
| 100 | 6 | 10 |
| 110 | 5 | 9 |
| 120 | 4 | 8 |
| 130 | 4 | 8 |
| 140 | 4 | 8 |
| Over 140 | 4 | 8 |

[35 FR 18258, Dec. 1, 1970, as amended at 37 FR 2745, Feb. 5, 1972. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; amended at 56 FR 7553, Feb. 25, 1991; 73 FR 15055, Mar. 21, 2008; 73 FR 70585, Nov. 21, 2008]

TOLERANCES

### §51.1546 Tolerances.

To allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances by weight or equivalent basis, are provided as specified.

(a) *For defects*—(1) *U.S. No. 1.* (i) *At Shipping Point:* A total of 8 percent for potatoes in any lot which fail to meet the requirements for the grade: Provided, That included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(A) 5 percent for external defects;

(B) 5 percent for internal defects; and

(C) Not more than a total of 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See §51.1547.

(ii) *En route or at destination:* A total of 10 percent for potatoes in any lot which fail to meet the requirements for the grade: Provided, That included in this tolerance not more than a total of 8 percent shall be allowed for permanent defects: And provided further, the following percentages shall be allowed for the defects listed:

(A) 7 percent for external defects, including therein not more than 5 percent for permanent external defects;

(B) 7 percent for internal defects, including therein not more than 5 percent for permanent internal defects; and

(C) Not more than a total of 2 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See §51.1547.

(2) *U.S. Commercial:* A total of 20 percent for potatoes in any lot which fail to meet the requirements for the grade: Provided, That included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(i) 10 percent for potatoes which fail to meet the requirements for U.S. No. 2 grade, including therein not more than:

(ii) 6 percent for external defects;

(iii) 6 percent for internal defects; and

(iv) Not more than a total of 1 percent for potatoes which are frozen or

affected by soft rot or wet breakdown. See § 51.1547.

(3) *U.S. No. 2.* (i) *At Shipping Point:* A total of 10 percent for potatoes in any lot which fail to meet the requirements for the grade: Provided, That included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(A) 6 percent for external defects;

(B) 6 percent for internal defects; and

(C) Not more than a total of 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.

(ii) *En route or at destination:* A total of 12 percent for potatoes in any lot which fail to meet the requirements for the grade: Provided, That included in this tolerance not more than a total of 10 percent shall be allowed for permanent defects: And provided further, the following percentages shall be allowed for the defects listed:

(A) 8 percent for external defects, including therein not more than 6 percent for permanent external defects;

(B) 8 percent for internal defects, including therein not more than 6 percent for permanent internal defects; and

(C) Not more than a total of 2 percent for potatoes which are frozen or affected by soft rot or wet breakdown. See § 51.1547.

(b) *For off-size.* (1) Not more than 3 percent of the potatoes in any lot may be smaller than the required or specified minimum size except that a tolerance of 5 percent shall be allowed for potatoes packed to meet a minimum size of 2¼ inches or larger in diameter or 5 ounces or more in weight. In addition, not more than 10 percent may be larger than any required or specified maximum size. See § 51.1547.

(2) When a percentage of the potatoes is specified to be of a certain size and larger, individual samples shall have not less than one-half of the percentage specified: *Provided,* That the average for the entire lot is not less than the percentage specified.

[35 FR 18258, Dec. 1, 1970. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; amended at 56 FR 7553, Feb. 25, 1991; 73 FR 15055, Mar. 21, 2008; 73 FR 70585, Nov. 21, 2008; 76 FR 31789, June 2, 2011]

APPLICATION OF TOLERANCES

### § 51.1547 Application of tolerances.

Individual samples shall have not more than double the tolerances specified, except that at least one defective and one off-size potato may be permitted in any sample: *Provided,* That en route or at destination one-tenth of the samples may contain three times the tolerance permitted for potatoes which are frozen or affected by soft rot or wet breakdown: *And provided further,* That the averages for the entire lot are within the tolerances specified for the grade.

SAMPLES FOR GRADE AND SIZE DETERMINATION

### § 51.1548 Samples for grade and size determination.

Individual samples shall consist of at least 20 pounds. When individual packages contain at least 20 pounds, each individual sample is drawn from one package; when packages contain less than 20 pounds, a sufficient number of adjoining packages are opened to provide at least a 20-pound sample. The number of such individual samples drawn for grade and size determination will vary with the size of the lot.

SKINNING

### § 51.1549 Skinning.

(a) The following definitions provide a basis for describing lots of potatoes as to the degree of skinning whenever description may be appropriate:

(1) ''Practically no skinning'' means that not more than 5 percent of the potatoes in the lot have more than one-tenth of the skin missing or ''feathered'';

(2) ''Slightly skinned'' means that not more than 10 percent of the potatoes in the lot have more than one-fourth of the skin missing or ''feathered'';

(3) ''Moderately skinned'' means that not more than 10 percent of the potatoes in the lot have more than one-half of the skin missing or ''feathered''; and

(4) ''Badly skinned'' means that more than 10 percent of the potatoes in the lot have more than one-half of the skin missing or ''feathered''.

DEFINITIONS

### § 51.1550 Similar varietal characteristics.

*Similar varietal characteristics* means that the potatoes in any lot have the same general shape, color and character of skin, and color of flesh.

### § 51.1551 Firm.

*Firm* means that the potato is not shriveled or flabby.

### § 51.1552 Clean.

*Clean* means that at least 90 percent of the potatoes in any lot are practically free from dirt or staining and practically no loose dirt or other foreign matter is present in the container.

### § 51.1553 Fairly clean.

*Fairly clean* means that at least 90 percent of the potatoes in any lot are reasonably free from dirt or staining and not more than a slight amount of loose dirt or foreign matter is present in the container.

### § 51.1554 Mature.

*Mature* means that the skins of the potatoes are generally firmly set and not more than 5 percent of the potatoes in the lot have more than one-tenth of the skin missing or ''feathered.''

### § 51.1555 Fairly well matured.

*Fairly well matured* means that the skins of the potatoes are generally fairly firmly set and not more than 10 percent of the potatoes in the lot have more than one-fourth of the skin missing or ''feathered.''

### § 51.1556 Well shaped.

*Well shaped* means that the potato has the normal shape for the variety.

### § 51.1557 Fairly well shaped.

*Fairly well shaped* means that the potato is not materially pointed, dumbbell-shaped or otherwise materially deformed.

### § 51.1558 Seriously misshapen.

*Seriously misshapen* means that the potato is seriously pointed, dumbbell-shaped or otherwise badly deformed.

### § 51.1559 [Reserved]

### § 51.1560 Damage.

''Damage'' means any defect, or any combination of defects, which materially detracts from the edible or marketing quality, or the internal or external appearance of the potato, or any external defect which cannot be removed without a loss of more than 5 percent of the total weight of the potato. See Tables III, IV, V and VI in § 51.1564 and Table VII in § 51.1565.

[76 FR 31789, June 2, 2011]

### § 51.1561 Serious damage.

''Serious damage'' means any defect, or any combination of defects, which seriously detracts from the edible or marketing quality, or the internal or external appearance of the potato, or any external defect which cannot be removed without a loss of more than 10 percent of the total weight of the potato. See Tables III, IV, V and VI in § 51.1564 and Table VII in 5§ 1.1565.

[76 FR 31789, June 2, 2011]

### § 51.1562 Freezing.

*Freezing* means that the potato is frozen or shows evidence of having been frozen.

### § 51.1563 Soft rot or wet breakdown.

*Soft rot or wet breakdown* means any soft, mushy, or leaky condition of the tissue such as slimy soft rot, leak, or wet breakdown following freezing injury.

### § 51.1564 External defects.

*External defects* are defects which can be detected externally. However, cutting may be required to determine the extent of the injury. Some external defects are listed in Tables III, IV, V and VI.

TABLE III—EXTERNAL DEFECTS

| Defects | Damage | Serious damage[1] |
|---|---|---|
| Air Cracks | When removal causes a loss of more than 5 percent of the total weight of the potato or when the air crack(s) affects more than 1/3 the length or diameter of the potato (whichever is greater) in the aggregate. | When removal causes a loss of more than 10 percent of the total weight of the potato or when the air crack(s) affects more than 3/4 the length or diameter of the potato (whichever is greater) in the aggregate. |
| Artificial Coloring | When unsightly or when concealing any defect causing damage or when penetrating the flesh and removal causes loss of more than 5 percent of total weight of potato. | When concealing a serious defect or when penetrating into the flesh and removal causes loss of more than 10 percent of total weight of potato. |
| Bruises (Not including pressure bruise and sunken discolored areas). | When removal causes a loss of more than 5 percent of the total weight of the potato or when the area affected is more than 5 percent of the surface in the aggregate (i.e., 3/4 inch on a 2 1/2 inch or 6 oz. potato). Correspondingly lesser or greater areas in smaller or larger potatoes. | When removal causes a loss of more than 10 percent of the total weight of the potato or when the area affected is more than 10 percent of the surface in the aggregate (i.e., 1 1/4 inches on a 2 1/2 inch or 6 oz. potato). Correspondingly lesser or greater areas in smaller or larger potatoes. |
| Cuts | When one smooth cut affects more than 5 percent of the surface area. | Cut(s) that affect more than 10 percent of the surface area in the aggregate or when a single side cut extends beyond 1/2 the length of the potato. |
| Dirt | When materially detracting from the appearance of the potato. | When seriously detracting from the appearance of the potato. |
| Elephant Hide | When affecting over 10 percent of the surface area of the potato. | When affecting over 25 percent of the surface area. |
| Enlarged Lenticels | When materially detracting from the appearance of the potato. | When seriously detracting from the appearance of the potato. |
| External Discoloration (Areas that are light tan or lighter in color and blends should be ignored). | When more than 30 percent of the surface is affected by light tan or light brown colors which do not blend or when more than 15 percent of the surface is affected by colors darker than light tan or light brown. | When more than 60 percent of the surface is affected by light tan or light brown colors which do not blend or when more than 30 percent of the surface is affected by colors darker than light tan or light brown. |
| Flattened or Depressed Areas/Pressure Bruises. | When removal of underlying discolored flesh causes a loss of more than 5 percent of the total weight of the potato or when the flattened or depressed area(s) covers more surface area than allowed in Table IV. (See Table IV.). | When removal of underlying discolored flesh the causes a loss of more than 10 percent of the weight of the potato or when the flattened depressed area(s) covers more surface area than allowed in the Table IV. (See Table IV.) |
| Flea Beetle Injury | When materially detracting from the appearance or when removal causes a loss of more than 5 percent of the total weight of the potato or when the area affected is more than 5 percent of the surface in the aggregate. | When seriously detracting from the appearance of the potato or when removal causes a loss of more than 10 percent of the weight of the potato or when the area affected is more than 10 percent of the surface in the aggregate. |
| Greening | When removal causes a loss of more than 5 percent of the total weight of the potato or when green color affects more than 25 percent of the surface in the aggregate. | When removal causes a loss of more than 10 percent of the weight of the potato or when green color affects more than 50 percent of the surface in the aggregate. |
| Growth Cracks | When the growth crack(s) affects more than 1/2 the length of the potato in the aggregate on round varieties or more than 1/3 the length in the aggregate on long varieties; or, when the depth is greater than that as outlined in Table V. (*See* Table V.). | When the growth crack(s) affects more than 3/4 the length of the potato in the aggregate or when the depth is greater than that as outlined in Table V. (*See* Table V.). |
| Grub Damage | When removal causes a loss of more than 5 percent of the total weight of the potato or when affecting more than 5 percent of the surface area (i.e. more than 3/4 inch on a 2 1/2 inch or 6 ounce potato). Correspondingly lesser or greater areas in smaller or larger potatoes. | When removal causes a loss of more than 10 percent of the total weight of the potato or when affecting more than 10 percent of the surface area (i.e. more than 1 1/4 inch on a 2 1/2 inch or 6 ounce potato). Correspondingly lesser or greater areas in smaller or larger potatoes. |
| Insects or Worms | (See Serious Damage.) | When present inside the potato. |
| Nematode (Root Knot) | When removal causes loss of more than 5 percent of total weight of potato. | When removal causes loss of more than 10 percent of total weight of potato. |
| Rhizoctonia | When affecting more than 15 percent of the surface in the aggregate. | When affecting more than 50 percent of the surface in the aggregate. |
| Russeting (On Non Russet Type). | When more than 50 percent of the surface is affected in the aggregate. | N/A. |
| Rodent or Bird Damage | When removal causes a loss of more than 5 percent of the total weight of the potato or when affecting more than 5 percent of the surface area (i.e. more than 3/4 inch on a 2 1/2 inch or 6 ounce potato). Correspondingly lesser or greater areas in smaller or larger potatoes. | When removal causes a loss of more than 10 percent of the total weight of the potato or when affecting more than 10 percent of the surface area (i.e. more than 1 1/4 inch on a 2 1/2 inch or 6 ounce potato). Correspondingly lesser or greater areas in smaller or larger potatoes. |

TABLE III—EXTERNAL DEFECTS—Continued

| Defects | Damage | Serious damage[1] |
|---|---|---|
| Scab, Pitted | When removal causes a loss of more than 5 percent of the total weight of the potato or when scab affects an aggregate area of more than ½ inch. (Based on a potato 2½ inches in diameter or 6 oz. in weight.) Correspondingly lesser or greater areas in smaller or larger potatoes. | When the removal causes a loss of more than 10 percent of the total weight of the potato or when scab affects an aggregate area of more than 1 inch. (Based on a potato 2½ inches in diameter or 6 oz. in weight.) Correspondingly lesser or greater areas in smaller or larger potatoes. |
| Scab, Russet | Smooth and affecting more than ⅓ of the surface or rough russet scab which affects more than 10 percent of the surface in the aggregate. | Rough and affecting more than 25 percent of the surface in the aggregate. |
| Scab, Surface | When more than 5 percent of the surface in the aggregate is affected. | When more than 25 percent of the surface in the aggregate is affected. |
| Second Growth | When materially detracting from the appearance of the potato. | When seriously detracting from the appearance of the potato. |
| Silver Scurf | When affecting more than 50 percent of the surface area of the potato. | When its severity causes a wrinkling of the skin over more than 50 percent of the surface. |
| Sprouts | When more than 5 percent of the potatoes in any lot have any sprout more than ¼ inch in length at shipping point; more than ½ inch in length at destination; or have numerous individual and/or clusters of sprouts which materially detract from the appearance of the potato. | When more than 10 percent of the potatoes in any lot have any sprout more than ½ inch in length at shipping point; more than 1 inch in length at destination; or have numerous individual and/or clusters of sprouts which seriously detract from the appearance of the potato. Serious damage by sprouts shall only be scored against the U.S. Commercial and U.S. No. 2 grades. |
| Sunburn | When removal causes loss of more than 5 percent of total weight of potato. | When removal causes loss more than 10 percent of total weight of potato. |
| Sunken Discolored Areas | SEE TABLE VI | SEE TABLE VI. |
| Surface Cracks (Areas affected by fine net-like cracking should be ignored.). | When smooth shallow cracking affects more than ⅓ of the surface or when rough deep cracking affects more than 5 percent of the surface. | When rough deep cracking affects more than 10 percent of the surface. |
| Wireworm or Grass Damage. | When affecting the flesh of the potato and removal causes loss of more than 5 percent of total weight of potato.. | When affecting the flesh of the potato and removal causes loss of more than 10 percent of total weight of potato. |

The following defects are considered serious damage when present in any degree: 1. Freezing. 2. Late blight. 3. Ring rot. 4. Southern bacterial wilt. 5. Soft rot. 6. Wet breakdown.

TABLE IV—FLATTENED OR DEPRESSED AREAS—PRESSURE BRUISES MAXIMUM AREA ALLOWED

| Diameter | Weight | No. 1 (aggregate area) | No. 2 (aggregate area) |
|---|---|---|---|
| Potato is: | Potato is: | Not more than: | Not more than: |
| Less than 2 in | Less than 4 oz | ½ in | 1 in |
| 2 to 2½ in | 4 to 6 oz | 1 in | 1½ in |
| More than 2½ to 3 in | More than 6 to 8 oz | 1¼ in | 1¾ in |
| More than 3 to 3½ in | More than 8 to 14 oz | 1½ in | 1⅞ in |
| More than 3½ to 4 in | More than 14 to 20 oz | 1¾ in | 2 in |
| More than 4 to 4½ in | More than 20 to 28 oz | 2 in | 2¼ in |
| More than 4½ to 5 in | More than 28 to 36 oz | 2¼ in | 2¾ in |
| More than 5 in | More than 36 oz | 2½ in | 3¼ in |

TABLE V—DEPTH ALLOWED FOR GROWTH CRACKS

| Diameter | Weight | No. 1 (depth) | No. 2 (depth) |
|---|---|---|---|
| Potato is: | Potato is: | Not more than: | Not more than: |
| Less than 2 in | Less than 4 oz | ⅛ in | ¼ in |
| 2 to 2½ in | 4 oz to 6 oz | ¼ in | ⅜ in |
| More than 2½ to 3 in | More than 6 oz to 8 oz | ⅜ in | ½ in |
| More than 3 in | More than 8 oz | ½ in | ⅝ in |

TABLE VI—SUNKEN DISCOLORED AREAS MAXIMUM AREA ALLOWED

| Diameter | Weight | No. 1 (aggregate area) | No. 2 (aggregate area) |
|---|---|---|---|
| Potato is: | Potato is: | Not more than: | Not more than: |
| Less than 2 in | Less than 4 oz | 3/8 in | 3/4 in |
| 2 to 2 1/2 in | 4 to 6 oz | 3/4 in | 1 in |
| More than 2 1/2 to 3 in | More than 6 to 8 oz | 1 in | 1 1/4 in |
| More than 3 to 3 1/2 in | More than 8 to 14 oz | 1 1/4 in | 1 1/2 in |
| More than 3 1/2 to 4 in | More than 14 to 20 oz | 1 1/2 in | 1 3/4 in |
| More than 4 to 4 1/2 in | More than 20 to 28 oz | 1 3/4 in | 2 in |
| More than 4 1/2 to 5 in | More than 28 to 36 oz | 2 in | 2 1/4 in |
| More than 5 in | More than 36 oz | 2 1/4 in | 2 1/2 in |

[35 FR 18258, Dec. 1, 1970, as amended at 73 FR 15055, Mar. 21, 2008; 73 FR 70586, Nov. 21, 2008; 76 FR 31789, June 2, 2011]

### § 51.1565 Internal defects.

*Internal defects* are defects which cannot be detected without cutting the potato. Some internal defects are listed in Table VII.

TABLE VII—INTERNAL DEFECTS

| Defects | Damage Maximum Allowed | Serious Damage Maximum Allowed |
|---|---|---|
| **Occurring outside of or not entirely confined to the vascular ring** | | |
| Ingrown Sprouts, Internal Discoloration, Vascular Browning, Fusarium Wilt, Net Necrosis, Other Necrosis, Stem End Browning. | 5 percent waste | 10 percent waste. |
| Internal Black Spot | When the spot(s) are darker than the official color chip (POT–CC–2) after removing 5 percent of the total weight of the potato. | When the spot(s) are darker than the official color chip (POT–CC–2) after removing 10 percent of the total weight of the potato. |
| **Occurring entirely within the vascular ring** | | |
| Hollow Heart or Hollow Heart with Discoloration. | Area affected not to exceed that of a circle 1/2 inch in diameter in a potato 2 1/2–inches in diameter or 6 ounces in weight. [1] | Area affected not to exceed that of a circle 3/4 inch in diameter in a potato 2 1/2–inches in diameter or 6 ounces in weight.[1] |
| Light Brown Discoloration (Brown Center). | Area affected not to exceed that of a circle 1/2 inch in diameter in a potato 2 1/2 inches in diameter or 6 ounces in weight.[1] | Area affected not to exceed that of a circle 3/4 inch in diameter in a potato 2 1/2 inches in diameter or 6 ounces in weight.[1] |
| **Occurring entirely within the vascular ring** | | |
| Internal Brown Spot and Similar Discoloration (Heat Necrosis). | Not more than the equivalent of 3 scattered spots 1/8 inch in diameter in a potato 2 1/2–inches in diameter or 6 ounces in weight.[1] | Not more than the equivalent of 6 scattered spots 1/8 inch in diameter in a potato 2 1/2–inches in diameter or 6 ounces in weight.[1] |

[1]Note: Correspondingly lesser or greater areas in smaller or larger potatoes.

[35 FR 18258, Dec. 1, 1970. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981; amended at 56 FR 7553, Feb. 25, 1991; 56 FR 10302, Mar. 11, 1991; 73 FR 15058, Mar. 21, 2008 ; 73 FR 70586, Nov. 21, 2008; 76 FR 31789, June 2, 2011]

METRIC CONVERSION TABLE

### § 51.1566 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 1/8 equals | 3.2 |
| 1/4 equals | 6.4 |
| 1/2 equals | 12.7 |
| 3/4 equals | 19.1 |
| 1 equals | 25.4 |
| 1 1/2 equals | 38.1 |
| 2 equals | 50.8 |
| 2 1/2 equals | 63.5 |
| 3 equals | 76.2 |
| 3 1/2 equals | 88.9 |
| 4 equals | 101.6 |

| Inches | Millimeters (mm) |
|---|---|
| 4½ equals | 114.3 |

| Ounces | Grams |
|---|---|
| 1 equals | 28.35 |
| 4 equals | 113.40 |
| 5 equals | 141.75 |
| 6 equals | 170.10 |
| 7 equals | 198.45 |
| 8 equals | 226.80 |
| 9 equals | 255.15 |
| 10 equals | 283.50 |
| 12 equals | 340.20 |
| 14 equals | 396.90 |
| 16 equals | 453.60 |
| 18 equals | 510.30 |
| 19 equals | 538.60 |
| 20 equals | 567.00 |

## Subpart—United States Consumer Standards for Potatoes

SOURCE: 18 FR 7132, Nov. 11, 1953, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### §51.1575 U.S. Grade A Small; U.S. Grade A Medium; U.S. Grade A Medium to Large; U.S. Grade A Large.

Potatoes of each of these grades shall be of one variety or similar varietal characteristics which are fairly well shaped, fairly clean, free from freezing injury, blackheart, late blight, and soft rot or wet breakdown, and from damage caused by sunburn, second growth, growth cracks, air cracks, hollowheart, internal discoloration, cuts, shriveling, sprouting, scab, dry rot, rhizoctonia, other diseases, wireworm, other insects, or mechanical or other means. Potatoes of these grades shall also be mature: *Provided,* That potatoes which are not mature and the outer skin loosens or ''feathers'' readily under the usual handling practices need not meet this requirement if they are firm and are further designated as ''Early'' in connection with the grade, as for example ''U.S. Grade A Medium-Early.'' Potatoes on the shown face shall be reasonably representative in size and quality of the contents of the containers. (See §51.5177.)

(a) *Tolerances.* Incident to proper grading and handling, except for the tolerances for size, not more than a total of 5 percent, by weight, of the potatoes in any lot may fail to meet the requirements of the grade, including not more than 1 percent for potatoes affected by soft rot or wet breakdown. (See §51.1579.)

### §51.1576 U.S. Grade B Small; U.S. Grade B Medium; U.S. Grade B Medium to Large; U.S. Grade B Large.

Potatoes of each of these grades shall meet the requirements for U.S. Grade A Small; U.S. Grade A Medium; U.S. Grade A Medium to Large; and U.S. Grade A Large, except for the increased tolerance for defects specified below. (See §51.1577.)

(a) *Tolerances.* Incident to proper grading and handling, except for the tolerance for size, not more than a total of 20 percent, by weight, of the potaotes in any lot may fail to meet the requirements of the grade, but not more than 5 percent shall be allowed for potatoes which are seriously damaged by any cause, including not more than 1 percent for potatoes affected by soft rot or wet breakdown. (See §51.1579.)

SIZE

### §51.1577 Size range requirements.

In addition to the quality requirements specified for the above grades, potatoes shall also meet the requirements for minimum and maximum diameter or weight, and the tolerances as specified for the various grades in the table appearing in this section. Potatoes specified as meeting one of the grades may be of any size within its size range requirements, except that it is not permissible to specify a lot as ''U.S. Grade A Medium to Large,'' or ''U.S. Grade B Medium to Large,'' unless more than 15 percent, by weight, of the potatoes are larger than the maxiumum size required for U.S. Grade A Medium, or U.S. Grade B Medium, respectively. For example, a lot of round or intermediate-shaped potatoes to be specified as ''U.S. Grade A Medium to Large'' must have more than 15 percent, by weight, of potatoes from 3 to 4 inches in diameter.

| Grades | Size range requirements, round or intermediate shaped varieties | | Size range requirements, long varieties | | Tolerance for size | |
|---|---|---|---|---|---|---|
| | Minimum diameter (*Inches*) | Maximum diameter (*Inches*) | Minimum diam. or wt. | Maximum weight (*Ounces*) | Undersize (*Percent*) | Oversize (*Percent*) |
| U.S. Grades A & B small | 1½ | 2¼ | 1½ inches | 4 | 3 | 15 |
| U.S. Grades A & B medium | 2¼ | 3 | 4 ounces | 10 | 5 | 15 |
| U.S. Grades A & B medium to large | 2¼ | 4 | 4 ounces | 16 | 5 | 15 |
| U.S. Grades A & B large | 3 | 4 | 10 ounces | 16 | 5 | 15 |

OFF-GRADE

### § 51.1578 Off-Grade potatoes.

Potatoes which fail to meet the requirements of any of the foregoing grades shall be Off-Grade potatoes.

APPLICATION OF TOLERANCES

### § 51.1579 Application of tolerances to individual containers.

(a) Based on sample inspection, the contents of individual containers in the lot are subject to the following limitations: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade:

(1) When a tolerance is 10 percent or more, not more than one-tenth of the individual containers in any lot may contain more than one and one-half times the tolerance specified, except that at least one defective and one off-sized specimen may be permitted in a container.

(2) When a tolerance is less than 10 percent, not more than one-tenth of the individual containers in any lot may contain more than double the tolerance specified, but no package may contain more than four times the tolerance for soft rot or wet breakdown, except that at least one defective and one off-sized specimen may be permitted in a container.

DEFINITIONS

### § 51.1580 Fairly well shaped.

*Fairly well shaped* means that the appearance of the individual potato or the general appearance of the potatoes in the container is not materially injured by pointed, dumbbell-shaped or otherwise ill-formed potatoes.

### § 51.1581 Fairly clean.

*Fairly clean* means that from the viewpoint of general appearance, the potatoes in the container are reasonably free from dirt or other foreign matter, and that individual potatoes are not materially caked with dirt or materially stained.

### § 51.1582 Soft rot or wet breakdown.

*Soft rot or wet breakdown* means any soft, mushy, or leaky condition of the tissue such as slimy soft rot, leak, or wet breakdown following freezing injury, scald, or other injury.

### § 51.1583 Damage.

*Damage* means any injury or defect which materially injures the edible or shipping quality, or the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than 5 percent of the total weight of the potato including peel covering defective area. Loss of outer skin (epidermis) shall not be considered as damage when the potatoes are designated as ''Early'' unless the skinned surface is materially affected by dark discoloration. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Second growth or growth cracks which have developed to such an extent as to materially injure the appearance of the individual potato or the general appearance of the potatoes in the container.

(b) Air cracks which are deep, or shallow air cracks which materially injure the appearance of the individual potato or the general appearance of the potatoes in the container.

(c) Shriveling, when the potato is more than moderately shriveled, spongy, or flabby.

(d) Sprouting, when the sprouts are not dried and are more than one-half inch long.

(e) Surface scab which covers an area of more than 5 percent of the surface of the potato in the aggregate.

(f) Pitted scab which affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than 5 percent of the total weight of the potato including peel covering defective area.

(g) Rhizoctonia, when the general appearance of the potatoes in the container is materially injured or when individual potatoes are badly infected.

(h) Wireworm, grass root or similar injury, when any hole on potatoes ranging in size from 6 to 8 ounces is longer than three-fourths inch, or when the aggregate length of all holes is more than one and one-fourth inches; smaller potatoes shall have lesser amounts and larger potatoes may have greater amounts, provided, that the removal of the injury by proper trimming does not cause the appearance of such potatoes to be injured to a greater extent than that caused by the proper trimming of such injury permitted on a 6 to 8 ounce potato.

### §51.1584 Internal discoloration.

*Internal discoloration* means discoloration such as is caused by net necrosis or any other type of necrosis, stem-end browning, internal brown spot, or other similar types of discoloration not visible externally.

### §51.1585 Mature.

*Mature* means that the outer skin (epidermis) does not loosen or ''feather'' readily during the ordinary methods of handling.

### §51.1586 Serious damage.

*Serious damage* means any injury or defect which seriously injures the edible or shipping quality, or the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than 10 percent of the total weight of the potato including peel covering defective area. Any one of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

(a) Fairly smooth cuts such as are made by the digger, or by a knife to remove injury when both ends are clipped, or when more than an estimated one-fourth of the potato is cut away, or, in the case of long varieties, when the remaining portion of the clipped potato weighs less than 6 ounces; irregular types of cuts which seriously affect the appearance of the individual potato, or which cannot be removed without a loss of more than 10 percent of the total weight of the potato including peel covering defective area.

(b) Shriveling, when the potato is excessively shriveled, spongy, or flabby.

(c) Surface scab which covers an area of more than 50 percent of the surface of the potato in the aggregate.

(d) Pitted scab which affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than 10 percent of the total weight of the potato including peel covering defective area.

(e) Wireworm, grass root or similar injury, when any hole on potatoes ranging in size from 6 to 8 ounces is longer than one and one-fourth inches, or when the aggregate length of all holes is more than two inches; smaller potatoes shall have lesser amounts and larger potatoes may have greater amounts: *Provided,* That the removal of the injury by proper trimming, does not cause the appearance of such potatoes to be injured to a greater extent than that caused by the proper trimming of such injury permitted on a 6 to 8 ounce potato.

### §51.1587 Diameter.

*Diameter* means the greatest dimension at right angles to the longitudinal

axis. The long axis shall be used without regard to the position of the stem (rhizome).

## Subpart—United States Standards for Grades of Florida Tangerines

SOURCE: 61 FR 20713, May 8, 1996, unless otherwise noted.

GRADES

### § 51.1810 U.S. Fancy.

''U.S. Fancy'' consists of tangerines which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-tenth of the surface, in the aggregate, may be affected by discoloration. (See § 51.1828.);

(2) Firm;

(3) Highly colored;

(4) Mature; and,

(5) Well formed.

(b) Free from:

(1) Caked melanose;

(2) Decay;

(3) Unhealed skin breaks; and,

(4) Wormy fruit.

(c) Free from damage caused by:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Creasing;

(5) Dirt or other foreign material;

(6) Dryness or mushy condition;

(7) Disease;

(8) Green spots;

(9) Hail;

(10) Insects;

(11) Oil spots;

(12) Scab;

(13) Scale;

(14) Scars;

(15) Skin breakdown;

(16) Sprayburn;

(17) Sunburn; and,

(18) Other means.

(d) For tolerances see § 51.1820.

### § 51.1811 U.S. No. 1 Bright.

The requirements for this grade are the same as for U.S. No. 1 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see § 51.1820.

### § 51.1812 U.S. No. 1.

''U.S. No. 1'' consists of tangerines which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-third of the surface, in the aggregate, may be affected by discoloration. (See § 51.1828.);

(2) Fairly well colored;

(3) Firm;

(4) Mature; and,

(5) Well formed.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and,

(3) Wormy fruit.

(c) Free from damage caused by:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Caked melanose;

(5) Creasing;

(6) Dirt or other foreign material;

(7) Disease;

(8) Dryness or mushy condition;

(9) Green spots;

(10) Hail;

(11) Insects;

(12) Oil spots;

(13) Scab;

(14) Scale;

(15) Scars;

(16) Skin breakdown;

(17) Sprayburn;

(18) Sunburn; and

(19) Other means.

(d) For tolerances see § 51.1820.

### § 51.1813 U.S. No. 1 Golden.

The requirements for this grade are the same as for U.S. No. 1 except that not more than 30 percent, by count, of the fruit shall have than more one-third of their surface, in the aggregate, affected by discoloration. For tolerances see § 51.1820.

### § 51.1814 U.S. No. 1 Bronze.

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by discoloration. The predominating discoloration on each fruit shall be of rust mite type. For tolerances see § 51.1820.

**§ 51.1815 U.S. No. 1 Russet.**

The requirements for this grade are the same as for U.S. No. 1 except that at least 30 percent, by count, of the fruit shall have more than one-third of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.1820.

**§ 51.1816 U.S. No. 2 Bright.**

The requirements for this grade are the same as for U.S. No. 2 except that fruit shall have not more than one-fifth of its surface, in the aggregate, affected by discoloration. For tolerances see § 51.1820.

**§ 51.1817 U.S. No. 2.**

''U.S. No. 2'' consists of tangerines which meet the following requirements:

(a) Basic requirements:

(1) Discoloration: Not more than one-half of the surface, in the aggregate, may be affected by discoloration. (See § 51.1828.);

(2) Fairly firm;

(3) Fairly well formed;

(4) Mature; and

(5) Reasonably well colored.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and,

(3) Wormy fruit.

(c) Free from serious damage caused by:

(1) Ammoniation;

(2) Bruises;

(3) Buckskin;

(4) Caked melanose;

(5) Creasing;

(6) Dirt or other foreign material;

(7) Disease;

(8) Dryness or mushy condition;

(9) Green spots;

(10) Hail;

(11) Insects;

(12) Oil spots;

(13) Scab;

(14) Scale;

(15) Scars;

(16) Skin breakdown;

(17) Sprayburn;

(18) Sunburn; and

(19) Other means.

(d) For tolerances see § 51.1820.

**§ 51.1818 U.S. No. 2 Russet.**

The requirements for this grade are the same as for U.S. No. 2 except that at least 10 percent of the fruit shall have more than one-half of their surface, in the aggregate, affected by any type of discoloration. For tolerances see § 51.1820.

**§ 51.1819 U.S. No. 3.**

''U.S. No. 3'' consists of tangerines which meet the following requirements:

(a) Basic requirements:

(1) Mature;

(2) Not flabby; and

(3) Not seriously lumpy.

(b) Free from:

(1) Decay;

(2) Unhealed skin breaks; and

(3) Wormy fruit.

(c) Free from very serious damage caused by:

(1) Ammoniation;

(2) Bruises;

(3) Caked melanose;

(4) Creasing;

(5) Dirt or other foreign material;

(6) Disease;

(7) Dryness or mushy condition;

(8) Hail;

(9) Insects;

(10) Scab;

(11) Scale;

(12) Scars;

(13) Skin breakdown;

(14) Sprayburn;

(15) Sunburn; and,

(16) Other means.

(d) For tolerances see § 51.1820.

TOLERANCES

**§ 51.1820 Tolerances.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, based on a minimum 25 count sample, are provided as specified:

(a) *Defects.* (1) U.S. Fancy, U.S. No. 1 Bright, U.S. No. 1, U.S. No. 1 Golden, U.S. No. 1 Bronze, U.S. No. 1 Russet, U.S. No. 2 Bright, U.S. No. 2, and U.S. No. 2 Russet grades.

(i) *For defects at shipping point.*[1] Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than 5 percent shall be allowed for defects causing very serious damage, including in this latter amount not more than 1 percent for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the specified grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 7 percent for defects causing very serious damage, including therein not more than 5 percent for very serious damage by permanent defects and not more than 3 percent for decay or wormy fruit.

(2) U.S. No. 3.

(i) *For defects at shipping point.*[1] *Not more than 10 percent of the fruit in any lot may fail to meet the requirements of the grade: Provided*, that included in this amount not more than 1 percent shall be for decay or wormy fruit.

(ii) *For defects en route or at destination.* Not more than 12 percent of the fruit which fail to meet the requirements of the grade: *Provided*, that included in this amount not more than the following percentages shall be allowed for defects listed:

(A) 10 percent for fruit having permanent defects; or,

(B) 3 percent for decay or wormy fruit.

(b) *Discoloration*—(1) *U.S. No. 1 Bright, U.S. No. 1, U.S. No. 2 Bright, and U.S. No. 2.* Not more than 10 percent of the fruit in any lot may fail to meet the requirements relating to discoloration as specified in each grade. No sample may have more than 20 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(2) *U.S. No. 1 Golden.* Not more than 30 percent of the fruit shall have in excess of one-third of their surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to increase this percentage. No sample may have more than 40 percent of the fruit with excessive discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(3) *U.S. No. 1 Bronze, and U.S. No. 1 Russet.* At least 30 percent of the fruit shall have in excess of one-third of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage. No sample may have less than 20 percent of the fruit with required discoloration: *And provided further*, that the entire lot averages within the percentage specified.

(4) *U.S. No. 2 Russet.* At least 10 percent of the fruit shall have in excess of one-half of the surface, in the aggregate, affected by discoloration, and no part of any tolerance shall be allowed to reduce this percentage: *And provided further*, that the entire lot averages within the percentage specified.

[61 FR 20713, May 8, 1996, as amended at 61 FR 40290, Aug. 2, 1996; 62 FR 2897, Jan. 21, 1997]

APPLICATION OF TOLERANCES

### § 51.1821 Application of tolerances.

Individual samples are subject to the following limitations, unless otherwise specified in § 51.1820. Individual samples shall have not more than one and one-half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent: *Provided*, that at least one decayed or wormy fruit may be permitted in any sample: *And provided further*, that the averages for the entire lot are within the tolerances specified for the grade.

[62 FR 2898, Jan. 21, 1997]

SIZE

### § 51.1822 Size.

(a) Fruits shall be fairly uniform in size and shall be packed in containers according to approved and recognized methods.

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

(b) ''Fairly uniform in size'' means that not more than 10 percent of the tangerines per sample may vary more than one-half inch in diameter.

(c) In order to allow for variations incident to proper sizing, not more than 10 percent of the samples in any lot may fail to meet the requirements of size.

DEFINITIONS

**§ 51.1823 Mature.**

*Mature* shall have the same meaning assigned the term in the Florida Citrus Code, Chapter 601, 1995 Edition, and the Official Rules Affecting the Florida Citrus Industry, in effect as of February 12, 1995. These tangerine maturity requirements are contained in the Florida Citrus Code, Chapter 601, Florida Statutes, Sections 601.21, and 601.22, 1995 Edition, and the State of Florida Department of Citrus Official Rules Affecting the Florida Citrus Industry, Part 1, Chapter 20–13 Market Classification, Maturity Standards and Processing or Packing Restrictions for Hybrids in effect as of February 12, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from, Florida Department of Citrus, Post Office Box 148, Lakeland, Florida 33802 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065–S, 14th and Independence Ave., Washington, DC 20250 or 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*.

**§ 51.1824 Firm.**

*Firm* means that the flesh is not soft and the fruit is not badly puffy and that the skin has not become materially separated from the flesh of the tangerine.

**§ 51.1825 Well formed.**

*Well formed* means that the fruit has the characteristic tangerine shape and is not deformed.

**§ 51.1826 Damage.**

*Damage* means any specific defect described in § 51.1837, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit.

**§ 51.1827 Highly colored.**

*Highly colored* means that the ground color of each fruit is a deep tangerine color, or characteristic color for the variety, with practically no trace of yellow color.

**§ 51.1828 Discoloration.**

*Discoloration* means russeting of a light shade of golden brown caused by rust mite or other means. Lighter shades of discoloration caused by smooth or fairly smooth superficial scars or other means may be allowed on a greater area, or darker shades may be allowed on a lesser area, provided no discoloration caused by speck type melanose or other means may detract from the appearance of the fruit to a greater extent than the shade and amount of discoloration allowed in the grade.

**§ 51.1829 Well colored.**

*Well colored* means that a good yellow or better ground color predominates over the green color on the entire fruit surface with no distinct green color present, and that some portion of the surface has a reddish tangerine blush, or characteristic color for the variety.

**§ 51.1830 Fairly well colored.**

*Fairly well colored* means that the surface of the fruit may have green color which does not exceed the aggregate area of a circle 1–¼ inches (31.8 mm) in diameter and that the remainder of the surface has a yellow or better ground color with some portion of the surface showing reddish tangerine blush, or characteristic color for the variety.

**§ 51.1831 Fairly firm.**

*Fairly firm* means that the flesh may be slightly soft but is not bruised or badly puffy, and that the skin has not

become seriously separated from the flesh of the tangerine.

### § 51.1832 Fairly well formed.

*Fairly well formed* means that the fruit may not have the shape characteristic of the variety but that it is not badly deformed.

### § 51.1833 Serious damage.

*Serious damage* means any specific defect described in § 51.1837, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.1834 Reasonably well colored.

*Reasonably well colored* means that a good yellow or reddish tangerine color shall predominate over the green color on at least one-half of the fruit surface in the aggregate, and that each fruit shall show practically no lemon color.

### § 51.1835 Very serious damage.

*Very serious damage* means any specific defect described in § 51.1837, Table I; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the fruit.

### § 51.1836 Diameter.

*Diameter* means the greatest dimension measured at right angles to a line from stem to blossom end.

### § 51.1837 Classification of defects.

TABLE I

| Factor | Damage | Serious damage | Very serious damage |
|---|---|---|---|
| Ammoniation | Not occurring as light speck type, or detracts more than discoloration permitted in the grade. | Scars are cracked or dark and aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Bruises | Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured. | Segment walls are collapsed, or rag is ruptured and juice sacs are ruptured. | Fruit is split open, peel is badly watersoaked, or rag is ruptured and juice sacs are ruptured causing a mushy condition affecting all segments more than 1/2 inch (12.7 mm) at bruised area or the equivalent of this amount, by volume, when affecting more than one area on the fruit. |
| Buckskin | Aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Aggregating more than 25 percent of the surface. | Aggregating more than 50 percent of the surface. |
| Caked melanose | Aggregating more than a circle 3/8 inch (9.5 mm) in diameter. | Aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Creasing | Materially weakens the skin, or extends over more than one-third of the surface. | Seriously weakens the skin, or extends over more than one-half of the surface. | Very seriously weakens the skin, or is distributed over practically the entire surface. |
| Dryness or mushy condition | Affecting all segments more than 1/8 inch (3.2 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than 1/4 inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. | Affecting all segments more than 1/2 inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit. |
| Green spots | Aggregating more than a circle 1/2 inch (12.7 mm) in diameter. | Aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Oil spots | Aggregating more than a circle 1/2 inch (12.7 mm) in diameter. | Aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Aggregating more than 25 percent of the surface. |

TABLE I—Continued

| Factor | Damage | Serious damage | Very serious damage |
|---|---|---|---|
| Scab | Materially detracts from the shape or texture, or aggregating more than a circle 3/8 inch (9.5 mm) in diameter. | Seriously detracts from the shape or texture, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Scale | Aggregating more than a circle 3/8 inch (9.5 mm) in diameter. | Aggregating more than a circle 5/8 inch (15.9 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Scars, Hail, and Thorn scratches [For smooth or fairly smooth superficial scars see § 51.1828.]. | Deep or rough aggregating more than a circle 1/4 inch (6.4 mm) in diameter; slightly rough with slight depth aggregating more than a circle 3/4 inch (19.1 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than a circle 1 1/8 inches (28.6 mm) in diameter. | Deep or rough aggregating more than a circle 1/2 inch (12.7 mm) in diameter; slightly rough with slight depth aggregating more than a circle 1 1/8 inches (28.6 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than 10 percent of fruit surface. | Deep or rough or unsightly that appearance is very seriously affected. |
| Skin breakdown | Aggregating more than a circle 1/2 inch (12.7 mm) in diameter. | Aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Sprayburn | Skin is hard and aggregating more than a circle 3/4 inch (19.1 mm) in diameter. | Skin is hard and aggregating more than a circle 1 1/4 inches (31.8 mm) in diameter. | Aggregating more than 25 percent of the surface. |
| Sunburn | Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface. | Skin is hard and affects more than one-third of the surface. | Aggregating more than 50 percent of the surface. |

NOTE: All references to area or aggregate area, or length are based on a tangerine 2 1/2 inches in diameter (63.5 mm), allowing proportionately greater areas on larger fruit and lesser areas on smaller fruit.

## Subpart—United States Standards for Fresh Tomatoes [1]

SOURCE: 38 FR 23932, Sept. 5, 1973, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.1855 U.S. No. 1.

''U.S. No. 1'' consists of tomatoes which meet the following requirements:

(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed;
(6) Fairly well formed; and,
(7) Fairly smooth.
(b) Free from:
(1) Decay;
(2) Freezing injury; and
(3) Sunscald.
(c) Not damaged by any other cause.
(d) For tolerances see § 51.1861.

### § 51.1856 U.S. Combination.

''U.S. Combination'' consists of a combination of U.S. No. 1 and U.S. No. 2 tomatoes: *Provided*, That at least 60 percent, by count, meet the requirements of U.S. No. 1 grade.

(a) For tolerances see § 51.1861.

### § 51.1857 U.S. No. 2.

''U.S. No. 2'' consists of tomatoes which meet the following requirements:

(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed;
(6) Reasonably well formed; and,
(7) Not more than slightly rough.
(b) Free from:
(1) Decay;
(2) Freezing injury; and,

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

(3) Sunscald.
(c) Not seriously damaged by any other cause.
(d) For tolerances see § 51.1861.

### § 51.1858 U.S. No. 3.

''U.S. No. 3'' consists of tomatoes which meet the following requirements:
(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed; and,
(6) May be mishapen.
(b) Free from:
(1) Decay; and,
(2) Freezing injury.
(c) Not seriously damaged by:
(1) Sunscald.
(d) Not very seriously damaged by any other cause.
(e) For tolerances see § 51.1861.

SIZE

### § 51.1859 Size.

(a) The size of tomatoes packed in any standard type shipping container shall be specified and marked according to one of the size designations set forth in Table I. Individual containers shall not be marked with more than one size designation. Consumer packages and their master container are exempt; however, if they are marked, the same requirements would apply.

(1) When containers are marked in accordance with Table I, the markings on at least 85 percent of the containers in a lot must be legible.

(2) In determining compliance with the size designations, the measurement for minimum diameter shall be the largest diameter of the tomato measured at right angles to a line from the stem end to the blossom end. The measurement for maximum diameter shall be the smallest dimension of the tomato determined by passing the tomato through a round opening in any position.

(b) In lieu of marking containers in accordance with paragraph (a) of this section or specifying size in accordance with the dimensions defined in Table I, for Cerasiforme type tomatoes commonly referred to as cherry tomatoes and Pyriforme type tomatoes commonly referred to as pear shaped tomatoes, and other similar types, size may be specified in terms of minimum diameter or minimum and maximum diameter expressed in whole inches, and not less than thirty-second inch fractions thereof, or millimeters in accordance with the facts.

(1) Tomatoes of these types are exempt from marking requirements. However, when marked to a minimum or minimum and maximum diameter, the markings on at least 85 percent of the containers in a lot must be legible.

(c) For tolerances see § 51.1861.

TABLE I

| Size designation | Inches | |
|---|---|---|
| | Minimum diameter [1] | Maximum diameter [2] |
| Small | $2\frac{4}{32}$ | $2\frac{9}{32}$ |
| Medium | $2\frac{8}{32}$ | $2\frac{17}{32}$ |
| Large | $2\frac{16}{32}$ | $2\frac{25}{32}$ |
| Extra large | $2\frac{24}{32}$ | |

[1] Will not pass through a round opening of the designated diameter when tomato is placed with the greatest transverse diameter across the opening.
[2] Will pass through a round opening of the designated diameter in any position.

[56 FR 21915, May 13, 1991; 56 FR 32474, July 16, 1991]

COLOR CLASSIFICATION

### § 51.1860 Color classification.

(a) The following terms may be used, when specified in connection with the grade statement, in describing the color as an indication of the stage of ripeness of any lot of mature tomatoes of a red fleshed variety:

(1) *Green.* ''Green'' means that the surface of the tomato is completely green in color. The shade of green color may vary from light to dark;

(2) *Breakers.* ''Breakers'' means that there is a definite break in color from green to tannish-yellow, pink or red on not more than 10 percent of the surface;

(3) *Turning.* ''Turning'' means that more than 10 percent but not more than 30 percent of the surface, in the aggregate, shows a definite change in color from green to tannish-yellow, pink, red, or a combination thereof;

(4) *Pink.* ''Pink'' means that more than 30 percent but not more than 60

percent of the surface, in the aggregate, shows pink or red color;

(5) *Light red.* ''Light red'' means that more than 60 percent of the surface, in the aggregate, shows pinkish-red or red: *Provided,* That not more than 90 percent of the surface is red color; and,

(6) *Red.* ''Red'' means that more than 90 percent of the surface, in the aggregate, shows red color.

(b) Any lot of tomatoes which does not meet the requirements of any of the above color designations may be designated as ''Mixed Color''.

(c) For tolerances see §51.1861.

(d) Tomato color standards U.S.D.A. Visual Aid TM—L—1 consists of a chart containing twelve color photographs illustrating the color classification requirements, as set forth in this section. This visual aid may be examined in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250; in any field office of the Fresh Fruit and Vegetable Inspection Service; or upon request of any authorized inspector of such Service. Duplicates of this visual aid may be purchased from The John Henry Co., Post Office Box 1410, Lansing, Michigan 48904.

[38 FR 23932, Sept. 5, 1973, as amended at 40 FR 2791, Jan. 16, 1975. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

TOLERANCES

### §51.1861 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *U.S. No. 1*—(1) *For defects at shipping point.*[2] Ten percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided,* That not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing very serious damage, including therein not more than 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.* Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further,* That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(b) *U.S. Combination*—(1) *For defects at shipping point.*[2] Ten percent for tomatoes in any lot which fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing very serious damage, including 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.* Fifteen percent for tomatoes in any lot which fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further,* That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(c) *U.S. No. 2*—(1) *For defects at shipping point.*[2] Ten percent for tomatoes in any lot which fail to meet the requirements of this grade: *Provided,* That not more than one-half of this tolerance, or 5 percent, shall be allowed

[2] Shipping point, as used in these standards, means the point of origin of the shipment in producing area or at port of loading for ship stores or overseas shipment, or in the case of shipments from outside the continental United States, the port of entry into the United States.

for defects causing very serious damage, including therein not more than 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.* Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further,* That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(d) *U.S. No. 3*—(1) *For defects at shipping point.*[2] Ten percent for tomatoes in any lot which fail to meet the requirements of this grade: *Provided,* That not more than one-half of this tolerance, or 5 percent, shall be allowed for tomatoes which are very seriously damaged by insects and not more than one-tenth of the tolerance, or 1 percent, for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.* Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are very seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further,* That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by insects.

(e) *For off size.* Ten percent for tomatoes in any lot which are smaller than the specified minimum diameter, or larger than the specified maximum diameter.

(f) *For off color.* Ten percent for tomatoes in any lot which fail to meet the color specified, including therein not more than 5 percent for tomatoes which are green in color, when any term other than ''Green'' is specified.

APPLICATION OF TOLERANCES

### § 51.1862 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(a) For packages which contain more than 5 pounds (2.27 kg), and a tolerance of 10 percent or more is provided, individual packages shall have not more than 1½ times the tolerance specified, and for a tolerance of less than 10 percent individual packages shall have not more than double the tolerance specified, except that at least one defective and one off size specimen may be allowed in any package: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade; and,

(b) For packages which contain 5 pounds (2.27 kg) or less individual packages shall have not more than 4 times the tolerance specified, except that at least one tomato which is soft, or affected by decay, and one off-size specimen may be permitted in any package: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade.

STANDARD WEIGHT

### § 51.1863 Standard weight.

(a) When packages are marked to a net weight of 15 pounds (6.80 kg) or more, the net weight of the contents shall not be less than the designated net weight and shall not exceed the designated weight by more than 2 pounds (0.91 kg).

(b) In order to allow for variations incident to proper sizing, not more than 15 percent, by count, of the packages in any lot may fail to meet the requirements for standard weight.

DEFINITIONS

### §51.1864 Similar varietal characteristics.

*Similar varietal characteristics* means that the tomatoes are alike as to firmness of flesh and shade of color (for example, soft-fleshed, early maturing varieties are not mixed with firm-fleshed, midseason or late varieties, or bright red varieties mixed with varieties having a purplish tinge).

### §51.1865 Mature.

*Mature* means that the tomato has reached the stage of development which will insure a proper completion of the ripening process, and that the contents of two or more seed cavities have developed a jelly-like consistency and the seeds are well developed.

### §51.1866 Soft.

*Soft* means that the tomato yields readily to slight pressure.

### §51.1867 Clean.

*Clean* means that the tomato is practically free from dirt or other foreign material.

### §51.1868 Well developed.

*Well developed* means that the tomatoe shows normal growth. Tomatoes which are ridged and peaked at the stem end, contain dry tissue, and usually contain open spaces below the level of the stem scar, are not considered well developed.

### §51.1869 Fairly well formed.

*Fairly well formed* means that the tomato is not more than moderately kidney-shaped, lop-sided, elongated, angular, or otherwise moderately deformed.

### §51.1870 Fairly smooth.

*Fairly smooth* means that the tomato is not conspicuously ridged or rough.

### §51.1871 Damage.

*Damage* means any specific defect described in §51.1877, table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the tomato.

### §51.1872 Reasonably well formed.

*Reasonably well formed* means that the tomato is not decidedly kidney-shaped, lop-sided, elongated, angular, or otherwise decidedly deformed.

### §51.1873 Slightly rough.

*Slightly rough* means that the tomato is not decidedly ridged or grooved.

### §51.1874 Serious damage.

*Serious damage* means any specific defect described in §51.1877, table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the tomato.

### §51.1875 Misshapen.

*Misshapen* means that the tomato is decidedly kidney-shaped, lop-sided, elongated, angular or otherwise decidedly deformed: *Provided*, That the shape is not affected to an extent that the appearance or the edible quality of the tomato is very seriously affected.

### §51.1876 Very serious damage.

*Very serious damage* means any specific defect described in §51.1877, Table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the tomato.

### § 51.1877 Classification of defects.

TABLE II

REFERENCES TO AREA, AGGREGATE AREA, LENGTH OR AGGREGATE LENGTH ARE BASED ON A TOMATO HAVING A DIAMETER OF 2½ INCHES (64 MM) [1]

[See footnote at end of Table II]

| Factor | Damage | Serious damage | Very serious damage |
|---|---|---|---|
| Cuts and broken skins | Not shallow or not well healed, or shallow, well healed cut more than ½ inch (13 mm) in length, or other shallow, well healed skin breaks aggregating more than a circle ⅜ inch (10 mm) in diameter. | Not shallow or not well healed, or shallow, well healed cut more than ½ inch (13 mm) in length, or other shallow, well healed skin breaks aggregating more than a circle ½ inch (13 mm) in diameter. | Fresh or healed and extending through the tomato wall. |
| Puffiness | Open space in 1 or more locules materially detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end. | Open space in 1 or more locules seriously detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end. | Open space in 2 or more locules very seriously detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end. |
| Catfaces | Scars are rough or deep, channels are very deep or wide, channels extend into a locule, or a fairly smooth catface aggregating more than a circle ½ inch (13 mm) in diameter. | Scars are rough or deep, channels are very deep or wide, channels extend into a locule, or a fairly smooth catface aggregating more than a circle ¾ inch (19 mm) in diameter. | Channels extend into the locule, wall has been weakened to the extent that slight pressure will cause a tomato to leak, or a fairly smooth catface aggregating more than a circle 1 inch (25 mm) in diameter. |
| Scars (other than catfaces). | No depth and aggregating more than a circle ⅜ inch (10 mm) in diameter. | No depth and aggregating more than a circle ⅝ inch (16 mm) in diameter. | No depth and aggregating more than a circle 1 inch (25 mm) in diameter. |
| Growth cracks (radiating from or concentric to stem scar). | Not well healed, more than ⅛ inch (3 mm) in depth, individual radial cracks more than ½ inch (13 mm) in length, aggregate length of all radial cracks more than 1 inch (25 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking. | Not well healed, more than ⅛ inch (3 mm) in depth, individual radial cracks more than ¾ inch (19 mm) in length, aggregate length of all radial cracks more than 1¾ inches (44 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking. | Not well healed, more than ¼ inch (6 mm) in depth, individual radial cracks more than 1 inch (25 mm) in length, aggregate length of all radial cracks more than 2⅞ inches (73 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking, not more than ⅛ inch (3 mm) in depth, individual radial cracks are not more than ¾ inch (19 mm) in length. |
| Hail | Deep, rough, not well healed and corked over, or fairly smooth, shallow hailmarks aggregating more than a circle ⅜ inch (10 mm) in diameter. | Deep, rough, not well healed and corked over, or fairly smooth, shallow hailmarks aggregating more than a circle ⅝ inch (16 mm) in diameter. | Fresh, very deep or fairly smooth, shallow hailmarks aggregating more than a circle 1 inch (25 mm) in diameter. |
| Insect injury | Materially detracts from the appearance of any insect is present in the fruit. | Seriously detracts from the appearance of any insect is present in the fruit. | Very seriously detracts from the appearance of any insect is present in the fruit. |

[1] Conversion to metric equivalent, made to nearest whole millimeter.

[38 FR 23932, Sept. 5, 1973, as amended at 38 FR 32920, Nov. 29, 1973. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

## Subpart—United States Consumer Standards for Fresh Tomatoes

SOURCE: 18 FR 7144, Nov. 11, 1953, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GENERAL

### § 51.1900 General.

These standards apply only to fieldgrown tomatoes and not to tomatoes grown in greenhouses.

GRADES

### § 51.1901 U.S. Grade A.

U.S. Grade A shall consist of tomatoes of similar varietal characteristics which are mature and are at least turning (see § 51.1904), but are not overripe or soft which are well developed, at least fairly well formed, fairly smooth, free from soft rot, freezing injury, and from damage caused by dirt, bruises, cuts, shriveling, sunscald, sunburn, puffiness, catfaces, growth cracks, scars, dry rot, other diseases, insects, hail, or mechanical or other means. Tomatoes on the shown face shall be reasonably representative in size and quality of the contents of the container. (See § 51.1903.)

(a) Incident to proper grading and handling, except for maturity, not more than 5 percent, by count, of the tomatoes in any lot may fail to meet the requirements of the grade, including not more than 1 percent for tomatoes which are affected by soft rot.

### § 51.1902 U.S. Grade B.

U.S. Grade B shall consist of tomatoes of similar varietal characteristics which are mature and are at least turning (see § 51.1904), but are not overripe or soft and not badly misshapen; which are free from soft rot, freezing injury and from serious damage caused by dirt, bruises, cuts, shriveling, sunscald, sunburn, puffiness, catfaces, growth cracks, scars, dry rot, other diseases, insects hail, or mechanical or other means Tomatoes on the shown face shall be reasonably representative in size and quality of the contents of the container. (See § 51.1903.)

(a) Incident to proper grading and handling, except for maturity, not more than 5 percent, by count, of the tomatoes in any lot may fail to meet the requirements of the grade, including not more than 1 percent for tomatoes which are affected by soft rot.

SIZE AND MATURITY CLASSIFICATION

### § 51.1903 Size classification.

The following terms may be used for describing the size of the tomatoes in any lot:

| Small | Medium |
|---|---|
| Under 3 oz | 3 to 6 oz., inc. |
| **Large** | **Very Large** |
| Over 6 to 10 oz., inc | Over 10 oz. |

(a) The tomatoes may also be classed in terms of combinations of the above sizes, as ''Small to Medium,'' ''Medium to Large,'' ''Small to Very Large,'' etc., in accordance with the facts.

(b) Incident to proper sizing, not more than 10 percent, by count, of the tomatoes in any lot may vary from the size specified.

### § 51.1904 Maturity classification.

Tomatoes which are characteristically red when ripe, but are not overripe or soft, may be classified for maturity as follows:

(a) Turning, when at least some part of the surface of the tomato, but less than one-half of the surface in the aggregate, is covered with pink color.

(b) Pink, when the tomato shows from one-half to three-fourths of the surface in the aggregate covered with pink or red color.

(c) Hard ripe, when the tomato shows three-fourths or more of the surface in the aggregate covered with pink or red color.

(d) Firm ripe, when the tomato shows three-fourths or more of the surface in the aggregate covered with red color characteristic of reasonably well ripened tomatoes.

(e) Incident to proper maturity determination, not more than a total of 10 percent, by count, of the tomatoes in any lot may fail to meet the maturity specified: *Provided*, That not more than 5 percent shall be allowed for tomatoes which are immature or are overripe or soft.

OFF-GRADE

### § 51.1905 Off-Grade tomatoes.

Tomatoes which fail to meet the requirements of either of the foregoing grades shall be Off-Grade tomatoes.

DEFINITIONS

### § 51.1906 Similar varietal characteristics.

*Similar varietal characteristics* means that the tomatoes are alike as to color,

i.e., bright red varieties shall not be mixed with varieties which have a purplish tinge.

### § 51.1907 Mature.

*Mature* means that the tomato has reached the stage of development which will insure a proper completion of the ripening process.

### § 51.1908 Well developed.

*Well developed* means that the tomato shows normal growth. Tomatoes which are ridged and peaked at the stem end, contain dry tissue and usually open spaces, are not considered well developed.

### § 51.1909 Fairly well formed.

*Fairly well formed* means that the tomato is not decidedly kidney-shaped, lopsided, elongated, angular, or otherwise deformed.

### § 51.1910 Fairly smooth.

*Fairly smooth* means that the tomato is not conspicuously ridged or rough.

### § 51.1911 Damaged.

*Damaged* means any defect which materially affects the appearance, or edible, shipping or keeping quality of the tomatoes. Any one of the following defects or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Cuts which are not shallow, not well healed, or when more than ½ inch in length.

(b) Puffiness if the open space in one or more locules materially affects the appearance when the tomato is cut through the center at right angles to a line running from the stem to the blossom end.

(c) *Catfaces.* These are irregular, dark, leathery scars at the blossom end of the fruit. Such scars damage the tomato when they are rough or deep, or when channels extend into the locule, or when they are fairly smooth and greater in area than a circle ⅜ inch in diameter on a 2½ inch tomato. Smaller tomatoes shall have lesser areas of fairly smooth catfaces and larger tomatoes may have greater areas, provided that such catfaces do not affect the appearance of the tomatoes to a greater extent than that caused by fairly smooth catfaces which are permitted on a 2½ inch tomato.

(d) *Growth cracks.* These are ruptures or cracks radiating from the stem scar, or concentric to the stem scar. They damage the tomato when not well healed, or when more than ½ inch in length measured from the margin of the stem scar; except that very narrow, well healed cracks concentric to the stem scar shall not be considered as damage unless they are so numerous as to damage the appearance of the fruit.

(e) Scars (except catfaces), when dark colored and shallow and aggregating more than ¼ inch in diameter on a tomato 2½ inches in diameter, or lighter colored shallow scars covering a greater area when they detract from the appearance to a greater extent than a dark-colored, shallow scar ¼ inch in diameter. Smaller tomatoes shall have lesser areas of scars and larger tomatoes may have greater areas: *Provided,* That such scars do not affect the appearance of the tomatoes to a greater extent than that caused by scars which are permitted on a 2½-inch tomato. A scar which penetrates the wall of the tomato shall be considered as damage.

(f) Dry rot such as dry type Macrosporium or Phoma, when the spot is not adjacent to the stem scar, or when adjacent to the stem scar and more than 3/16 inch in diameter.

### § 51.1912 Badly misshapen.

*Badly misshapen* means that the tomato is so badly deformed that its appearance is seriously affected.

### § 51.1913 Serious damage.

*Serious damage* means any defect which seriously affects the appearance, or edible, shipping, or keeping quality of the tomatoes. Any one of the following defects or any combination thereof, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Soft ripe tomatoes or tomatoes affected by the soft rot.

(b) Fresh holes or cuts, or any holes or cuts through the tomato wall, or healed cuts which seriously affect the appearance of the tomato.

(c) Tomatoes showing any effects of freezing.

(d) Puffiness which causes the tomato to be distinctly light in weight.

(e) Growth cracks, when not well healed, or when so extensive, deep or discolored that the appearance of the tomato is seriously affected.

(f) Scars (except catfaces), when dark colored and shallow and aggregating more than ½ inch in diameter on a tomato 2½ inches in diameter, or lighter colored, shallow scars covering a greater area when they detract from the appearance to a greater extent than a darkcolored, shallow scar ½ inch in diameter. Smaller tomatoes shall have lesser areas of scars and larger tomatoes may have greater areas: *Provided*, That such scars do not affect the appearance of the tomatoes to a greater extent than that caused by scars which are permitted on a 2½-inch tomato.

(g) Dry rot such as dry type Macrosporium or Phoma, when the spot is not adjacent to the stem scar, or when adjacent to the stem scar and more than ¼ inch in diameter.

(h) Fruit actually infested with worms.

## Subpart—United States Standards for Grades of Filberts in the Shell [1]

SOURCE: 35 FR 11453, July 17, 1970, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### GRADE

### §51.1995 U.S. No. 1.

''U.S. No. 1'' consists of filberts in the shell which meet the following requirements:

(a) Similar type; and,

(b) Dry.

(c) Shells:

(1) Well formed; and,

(2) Clean and bright.

(3) Free from:

(i) Blanks; and,

(ii) Broken or split shells.

(4) Free from damage caused by:

(i) Stains; and,

(ii) Adhering husk; or,

(iii) Other means.

(d) Kernels:

(1) Reasonably well developed; and,

(2) Not badly misshapen.

(3) Free from:

(i) Rancidity;

(ii) Decay;

(iii) Mold; and,

(iv) Insect injury.

(4) Free from damage caused by:

(i) Shriveling; and,

(ii) Discoloration; or,

(iii) Other means.

(e) Size: The size shall be specified in connection with the grade in terms of minimum diameter, minimum and maximum diameters, or in accordance with one of the size classifications in Table I.

TABLE I

| Size classifications | Maximum size—Will pass through a round opening of the following size | Minimum size—Will not pass through a round opening of the following size |
|---|---|---|
| Round type varieties: | | |
| Jumbo | No maximum | 56/64 inch. |
| Large | 56/64 inch | 49/64 inch. |
| Medium | 49/64 inch | 45/64 inch. |
| Small | 45/64 inch | No minimum. |
| Long type varieties: | | |
| Jumbo | No maximum | 47/64 inch. |
| Large | 48/64 inch | 44/64 inch. |
| Medium | 45/64 inch | 34/64 inch. |
| Small | 35/64 inch. | No minimum. |

(f) Tolerances: In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are permitted as specified:

(1) *For mixed types*. 20 percent for filberts which are of a different type.

(2) *For defects*. 10 percent for filberts which are below the requirements of this grade: *Provided*, That not more than one-half of this amount or 5 percent shall consist of blanks, and not more than 5 percent shall consist of filberts with rancid, decayed, moldy or insect injured kernels, including not more than 3 percent for insect injury.

(3) *For off-size*. 15 percent for filberts which fail to meet the requirements for thesize specified, but not more than two-thirds of this amount, or 10 percent shall consist of undersize filberts.

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with other applicable State laws and regulations.

APPLICATION OF STANDARDS

### § 51.1996 Application of standards.

(a) The grade of a lot of filberts shall be determined on the basis of a composite sample drawn from containers in various locations in the lot. However, any container or group of cantainers in which the filberts are obviously of a quality, type or size materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

(b) In grading the sample, each filbert shall be examined for defects of the shell before being cracked for kernel examination. A filbert shall be classed as only one defective nut even though it may be defective externally and internally.

DEFINITIONS

### § 51.1997 Similar type.

*Similar type* means that the filberts in each container are of the same general type and appearance. For example, nuts of the round type shall not be mixed with those of the long type in the same container.

### § 51.1998 Dry.

*Dry* means that the shell is free from surface moisture, and that the shells and kernels combined do not contain more than 10 percent moisture.

### § 51.1999 Well formed.

*Well formed* means that the filbert shell is not materially misshapen.

### § 51.2000 Clean and bright.

*Clean and bright* means that the individual filbert and the lot as a whole are practically free from adhering dirt and other foreign material, and that the shells have characteristic color.

### § 51.2001 Blank.

*Blank* means a filbert containing no kernel or a kernel filling less than one-fourth the capacity of the shell.

### § 51.2002 Split shell.

*Split shell* means a shell having any crack which is open and conspicuous for a distance of more than one-fourth the circumference of the shell, measured in the direction of the crack.

### § 51.2003 Damage.

*Damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the appearance, or the edible or marketing quality of the filberts. The following specific defects shall be considered as damage:

(a) Stains which are dark and materially affect the appearance of the individual shell.

(b) Adhering husk when covering more than 5 percent of the surface of the shell in the aggregate.

(c) Shriveling when the kernel is materially shrunken, wrinkled, leathery or tough.

(d) Discoloration when the appearance of the kernel is materially affected by black color.

### § 51.2004 Reasonably well developed.

*Reasonably well developed* means that the kernel fills one-half or more of the capacity of the shell.

### § 51.2005 Badly misshapen.

*Badly misshapen* means that the kernel is so malformed that the appearance is materially affected.

### § 51.2006 Rancidity.

*Rancidity* means that the kernel is noticeably rancid to the taste. An oily appearance of the flesh does not necessarily indicate a rancid condition.

### § 51.2007 Moldy.

*Moldy* means that there is a visible growth of mold either on the outside or the inside of the kernel.

### § 51.2008 Insect injury.

*Insect injury* means that the insect, frass or web is present inside the nut or the kernel shows definite evidence of insect feeding.

METRIC CONVERSION TABLE

### § 51.2009 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 62/64 | 24.6 |
| 59/64 | 23.4 |
| 56/64 | 22.2 |
| 49/64 | 19.4 |
| 48/64 | 19.0 |
| 47/64 | 18.6 |
| 45/64 | 17.9 |
| 44/64 | 17.5 |
| 42/64 | 16.7 |
| 35/64 | 13.9 |
| 34/64 | 13.5 |

## Subpart—United States Standards for Grades of Almonds in the Shell

SOURCE: 62 FR 2892, Jan. 21, 1997, unless otherwise noted.

GRADES

### § 51.2075 U.S. No. 1.

''U.S. No. 1'' consists of almonds in the shell which are of similar varietal characteristics and free from loose extraneous and foreign material. The shells are clean, fairly bright, fairly uniform color, and free from damage caused by discoloration, adhering hulls, broken shells or other means. The kernels are well dried, free from decay, rancidity, and free from damage caused by insects, mold, gum, skin discoloration, shriveling, brown spot or other means.

(a) Unless otherwise specified, the almonds are of a size not less than 28/64 of an inch (11.1 mm) in thickness.

(b) In order to allow for variations incident to proper grading and handling, the following tolerances are provided as specified:

(1) *For external (shell) defects.* 10 percent, by count, for almonds which fail to meet the requirements of this grade other than for variety and size;

(2) *For dissimilar varieties.* 5 percent, by count, including therein not more than 1 percent for bitter almonds mixed with sweet almonds;

(3) *For size.* 5 percent, by count, for almonds which are smaller than the specified minimum thickness;

(4) *For loose extraneous and foreign material.* 2 percent, by weight, including therein not more than 1 percent which can pass through a round opening 24/64 inch (9.5 mm) in diameter: Provided, that such material is practically free from insect infestation; and,

(5) *For internal (kernel) defects.* 10 percent, by weight, for almonds with kernels failing to meet the requirements of this grade: Provided, that not more than one-half of this tolerance or 5 percent shall be allowed for kernels affected by decay or rancidity, damaged by insects or mold or seriously damaged by shriveling: And provided further, that no part of this tolerance shall be allowed for live insects inside the shell.

[62 FR 2892, Jan. 21, 1997, as amended at 78 FR 14908, Mar. 8, 2013]

### § 51.2076 U.S. No. 1 Mixed.

''U.S. No. 1 Mixed'' consists of almonds in the shell which meet the requirements of U.S. No. 1 grade, except that two or more varieties of sweet almonds are mixed.

### § 51.2077 U.S. No. 2.

''U.S. No. 2'' consists of almonds in the shell which meet the requirements of U.S. No. 1 grade, except that an additional tolerance of 20 percent shall be allowed for almonds with shells damaged by discoloration.

### § 51.2078 U.S. No. 2 Mixed.

''U.S. No. 2 Mixed'' consists of almonds in the shell which meet the requirements of U.S. No. 2 grade, except that two or more varieties of sweet almonds are mixed.

APPLICATION OF TOLERANCES

### § 51.2079 Application of tolerances.

The tolerances for the foregoing grades are applied to the entire lot of almonds, based upon a composite sample drawn from containers throughout the lot.

DETERMINATION OF GRADE

### § 51.2080 Determination of grade.

In grading the inspection sample, the percentage of loose hulls, pieces of shell, chaff and foreign material is determined on the basis of weight. Next, the percentages of nuts which are of dissimilar varieties, undersize or have

adhering hulls or defective shells are determined by count, using an adequate portion of the total sample. Finally, the nuts in that portion of the sample are cracked and the percentage having internal defects is determined on the basis of weight.

[78 FR 14908, Mar. 8, 2013]

DEFINITIONS

### § 51.2081 Similar varietal characteristics.

*Similar varietal characteristics* means that the almonds are similar in shape, and are reasonably uniform in degree of hardness of the shells, and that bitter almonds are not mixed with sweet almonds. For example, hard-shelled varieties, semi-soft shelled varieties, soft-shelled varieties and paper-shelled varieties are not mixed together, nor are any two of these types mixed under this definition.

### § 51.2082 Loose extraneous and foreign material.

*Loose extraneous and foreign material* means loose hulls, empty broken shells, pieces of shells, external insect infestation and any substance other than almonds in the shell or almond kernels.

### § 51.2083 Clean.

*Clean* means that the shell is practically free from dirt and other adhering foreign material.

### § 51.2084 Fairly bright.

*Fairly bright* means that the shells show good characteristic color.

### § 51.2085 Fairly uniform color.

*Fairly uniform color* means that the shells do not show excessive variation in color, whether bleached or natural.

### § 51.2086 Well dried.

*Well dried* means that the kernel is firm and brittle, not pliable or leathery.

### § 51.2087 Decay.

*Decay* means that part or all of the kernel has become decomposed.

### § 51.2088 Rancidity.

*Rancidity* means that the kernel is noticeably rancid to taste.

### § 51.2089 Damage.

*Damage* means any defect which materially detracts from the appearance of the individual kernel, or the edible or shipping quality of the almond. Any one of the following defects or combination thereof, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as damage:

(a) Discoloration of the shell which is medium gray to black and affects more than one-eighth of the surface in the aggregate. Normal variations of a reddish or brownish color shall not be considered discoloration;

(b) Adhering hulls which cover more than 5 percent of the shell surface in the aggregate;

(c) Broken shells when a portion of the shell is missing, or the shell is broken or fractured to the extent that moderate pressure will permit the kernel to become dislodged;

(d) Insect injury when the insect, web or frass is present or there is definite evidence of insect feeding;

(e) Mold, when visible on the kernel, except when white or gray and easily rubbed off with the fingers;

(f) Gum, when a film of shiny, resinous appearing substance affects an area aggregating more than the equivalent of a circle one-quarter inch (6.4 mm) in diameter;

(g) Skin discoloration when more than one-half of the surface of the kernel is affected by very dark or black stains contrasting with the natural color of the skin;

(h) Shriveling when the kernel is excessively thin for its size, or when materially withered, shrunken, leathery, tough or only partially developed: Provided, that partially developed kernels are not considered damaged if more than three-fourths of the pellicle is filled with meat. An almond containing two kernels shall not be classed as damaged if either kernel has more than three-fourths of the pellicle filled with meat; and,

(i) Brown spot which affects an aggregate area on the kernel greater than

the area of a circle one-eighth inch (3.2 mm) in diameter.

### § 51.2090 Serious damage.

*Serious damage* means any defect which makes a kernel or piece of kernel unsuitable for human consumption, and includes decay, rancidity, insect injury and damage by mold. The following defect shall be considered as serious damage: Shriveling when the kernel is seriously withered, shrunken, leathery, tough or only partially developed: Provided, that partially developed kernels are not considered seriously damaged if more than one-fourth of the pellicle is filled with meat.

### § 51.2091 Thickness.

*Thickness* means the greatest dimension between the two semi-flat surfaces of the shell measured at right angles to a plane extending between the seams of the shell.

## Subpart—United States Standards for Grades of Shelled Almonds

SOURCE: 62 FR 2894, Jan. 21, 1997, unless otherwise noted.

GRADES

### § 51.2105 U.S. Fancy.

''U.S. Fancy'' consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from injury caused by chipped and scratched kernels, and free from damage caused by mold, gum, shriveling, brown spot or other means. (See §§ 51.2113 and 51.2114.)

In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(a) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(b) *For doubles.* 3 percent;

(c) *For kernels injured by chipping and/or scratching.* 5 percent;

(d) *For foreign material.* One-twentieth of 1 percent (0.05 percent). No part of this percentage shall be allowed for glass and metal;

(e) *For particles and dust.* One-tenth of 1 percent (0.10 percent); and,

(f) *For other defects.* 2 percent, including not more than one-half of this amount, or 1 percent, for split or broken kernels, and including not more than one-half of the former amount, or 1 percent, for seriously damaged kernels.

### § 51.2106 U.S. Extra No. 1.

''U.S. Extra No. 1'' consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from damage caused by chipped and scratched kernels, mold, gum, shriveling, brown spot or other means. (See §§ 51.2113 and 51.2114.)

In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(a) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(b) *For doubles.* 5 percent;

(c) *For kernels damaged by chipping and/or scratching.* 5 percent;

(d) *For foreign material.* One-twentieth of 1 percent (0.05 percent). No part of this percentage shall be allowed for glass and metal;

(e) *For particles and dust.* One-tenth of 1 percent (0.10 percent); and,

(f) *For other defects.* 4 percent, including not more than one-fourth of this amount, or 1 percent, for split or broken kernels, and including not more than three-eighths of the former amount, or 1½ percent, for seriously damaged kernels.

### § 51.2107 U.S. No. 1.

''U.S. No. 1'' consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from damage caused by chipped and scratched kernels, mold, gum, shriveling, brown

spot or other means. (See §§ 51.2113 and 51.2114.)

In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(a) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(b) *For doubles.* 15 percent;

(c) *For kernels damaged by chipping and/or scratching.* 10 percent;

(d) *For foreign material.* One-twentieth of 1 percent (0.05 percent). No part of this percentage shall be allowed for glass and metal;

(e) *For particles and dust.* One-tenth of 1 percent (0.10 percent); and,

(f) *For other defects.* 5 percent including not more than one-fifth of this amount, or 1 percent, for split or broken kernels, and including not more than three-tenths of the former amount, or 1½ percent, for seriously damaged kernels.

### § 51.2108 U.S. Select Sheller Run.

''U.S. Select Sheller Run'' consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from damage caused by chipped and scratched kernels, mold, gum, shriveling, brown spot or other means. (See §§ 51.2113 and 51.2114.)

In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(a) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(b) *For doubles.* 15 percent;

(c) *For kernels damaged by chipping and/or scratching.* 20 percent;

(d) *For foreign material.* One-tenth of 1 percent (0.10 percent). No part of this percentage shall be allowed for glass and metal;

(e) *For particles and dust.* One-tenth of 1 percent (0.10 percent);

(f) *For split and broken kernels.* 5 percent: Provided, that not more than two-fifths of this amount, or 2 percent, shall be allowed for pieces which will pass through a round opening 20/64 inch (7.9 mm) in diameter; and,

(g) *For other defects.* 3 percent, including not more than two-thirds of this amount, or 2 percent, for serious damage.

### § 51.2109 U.S. Standard Sheller Run.

''U.S. Standard Sheller Run'' consists of shelled almonds of similar varietal characteristics which are whole, clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, split or broken kernels, particles and dust, and free from damage caused by chipped and scratched kernels, mold, gum, shriveling, brown spot or other means. (See §§ 51.2113 and 51.2114.)

In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(a) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(b) *For doubles.* 25 percent;

(c) *For kernels damaged by chipping and/or scratching or split and broken.* 35 percent; Provided, that not more than three-sevenths of this amount, or 15 percent, shall be allowed for split and broken: And Provided Further, that not more than one-third of this latter amount, or 5 percent, shall be allowed for pieces which will pass through a round opening 20/64 inch (7.9 mm) in diameter;

(d) *For foreign material.* Two-tenths of 1 percent (0.20 percent). No part of this percentage shall be allowed for glass and metal;

(e) *For particles and dust.* One-tenth of 1 percent (0.10 percent); and,

(f) *For other defects.* 3 percent, including not more than two-thirds of this amount, or 2 percent, for serious damage.

### § 51.2110 U.S. No. 1 Whole and Broken.

''U.S. No. 1 Whole and Broken'' consists of shelled almonds of similar varietal characteristics which are clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, doubles, particles and dust, and free from damage caused by mold,

gum, shriveling, brown spot or other means.

(a) In this grade not less than 30 percent, by weight, of the kernels shall be whole. Doubles shall not be considered as whole kernels in determining the percentage of whole kernels.

(b) Unless otherwise specified, the minimum diameter shall be not less than 20/64 of an inch (7.9 mm). (See §§51.2113 and 51.2114.)

(c) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) *For dissimilar varieties.* 5 percent, including not more than one-fifth of this amount, or 1 percent, for bitter almonds mixed with sweet almonds;

(2) *For doubles.* 35 percent;

(3) *For foreign material.* Two-tenths of 1 percent (0.20 percent). No part of this percentage shall be allowed for glass and metal;

(4) *For particles and dust.* One-tenth of 1 percent (0.10 percent);

(5) *For undersize.* 5 percent; and,

(6) *For other defects.* 5 percent, including not more than three-fifths of this amount, or 3 percent, for serious damage.

### §51.2111 U.S. No. 1 Pieces.

''U.S. No. 1 Pieces'' consists of shelled almonds which are not bitter, which are clean and well dried, and which are free from decay, rancidity, insect injury, foreign material, particles and dust, and free from damage caused by mold, gum, shriveling, brown spot or other means.

(a) Unless otherwise specified, the minimum diameter shall be not less than 8/64 of an inch (3.2 mm). (See §§51.2113 and 51.2114.)

(b) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) *For bitter almonds mixed with sweet almonds.* 1 percent;

(2) *For foreign material.* Two-tenths of 1 percent (0.20 percent). No part of this percentage shall be allowed for glass and metal;

(3) *For particles and dust.* 1 percent; and

(4) *For other defects.* 5 percent, including not more than three-fifths of this amount, or 3 percent, for serious damage.

MIXED VARIETIES

### §51.2112 Mixed varieties.

Any lot of shelled almonds designated as ''one type'' or undesignated as to type, which consists of a mixture of two or more dissimilar varieties which meet the other requirements of any of the grades of U.S. No. 1, U.S. Select Sheller Run, U.S. Standard Sheller Run, U.S. No. 1 Whole and Broken may be designated as: ''U.S. No. 1 Mixed;'' ''U.S. Select Sheller Run Mixed;'' ''U.S. Standard Sheller Run Mixed;'' ''U.S. No. 1 Whole and Broken Mixed;'' respectively; but no lot of any of these grades may include more than 1 percent of bitter almonds mixed with sweet almonds.

SIZE

### §51.2113 Size requirements.

The size may be specified in terms of range in count of whole almond kernels per ounce or in terms of minimum, or minimum and maximum diameter. When a range in count is specified, the whole kernels shall be fairly uniform in size, and the average count per ounce shall be within the range specified. Doubles and broken kernels shall not be used in determining counts. Count ranges per ounce commonly used are shown below, but other ranges may be specified: Provided, that the kernels are fairly uniform in size.

16 to 18, inclusive.
18 to 20, inclusive.
20 to 22, inclusive.
22 to 24, inclusive.
23 to 25, inclusive.
24 to 26, inclusive.
26 to 28, inclusive.
27 to 30, inclusive.
30 to 34, inclusive.
34 to 40, inclusive.
40 to 50, inclusive.
50 and smaller.

### §51.2114 Tolerances for size.

(a) When a range is specified as, for example, ''18/20,'' no tolerance for counts above or below the range shall be allowed.

(b) When the minimum, or minimum and maximum diameter are specified, a

total tolerance of not more than 10 percent, by weight, may fail to meet the specified size requirements: Provided, that not more than one-half of this amount, or 5 percent, may be below the minimum size specified.

APPLICATION OF TOLERANCES

### § 51.2115 Application of tolerances.

The tolerances for the grades are to be applied to the entire lot, and a composite sample shall be taken for determining the grade. However, any container or group of containers in which the almonds are found to be materially inferior to those in the majority of the containers shall be considered a separate lot.

DEFINITIONS

### § 51.2116 Similar varietal characteristics.

*Similar varietal characteristics* means that the kernels are similar in shape and appearance. For example, long types shall not be mixed with short types, or broad types mixed with narrow types, and bitter almonds shall not be mixed with sweet almonds. Color of the kernels shall not be considered, since there is often a marked difference in skin color of kernels of the same variety.

(a) When a lot is specified as ''one type,'' all kernels shall be the same in shape and appearance; and,

(b) When a lot is specified and carton marked as ''California,'' kernels present may include any one or a combination of blanchable varieties within the ''California'' Marketing Classification. In addition, Nonpareil or similar types may be included provided that it does not exceed twenty-five percent (25%), by weight, of the lot.

### § 51.2117 Whole.

*Whole* means that there is less than one-eighth of the kernel chipped off or missing, and that the general contour of the kernel is not materially affected by the missing part.

### § 51.2118 Clean.

*Clean* means that the kernel is practically free from dirt and other foreign substance.

### § 51.2119 Well dried.

*Well dried* means that the kernel is firm and brittle, and not pliable or leathery.

### § 51.2120 Decay.

*Decay* means that part or all of the kernel has become decomposed.

### § 51.2121 Rancidity.

*Rancidity* means that the kernel is noticeably rancid to the taste.

### § 51.2122 Insect injury.

*Insect injury* means that the insect, web, or frass is present or there is definite evidence of insect feeding.

### § 51.2123 Foreign material.

*Foreign material* means pieces of shell, hulls or other foreign matter which will not pass through a round opening 8/64 of an inch (3.2 mm) in diameter.

### § 51.2124 Doubles.

*Doubles* means kernels that developed in shells containing two kernels. One side of a double kernel is flat or concave.

### § 51.2125 Split or broken kernels.

*Split or broken kernels* means seven-eighths or less of complete whole kernels but which will not pass through a round opening 8/64 of an inch (3.2 mm) in diameter.

### § 51.2126 Particles and dust.

*Particles and dust* means fragments of almond kernels or other material which will pass through a round opening 8/64 of an inch (3.2 mm) in diameter.

### § 51.2127 Injury.

*Injury* means any defect which more than slightly detracts from the appearance of the individual almond. The following shall be considered as injury:

(a) Chipped and scratched kernels when the affected area on an individual kernel aggregates more than the equivalent of a circle one-eighth inch (3.2 mm) in diameter.

### § 51.2128 Damage.

*Damage* means any defect which materially detracts from the appearance of the individual kernel, or the edible

or shipping quality of the almonds. Any one of the following defects or combination thereof, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as damage:

(a) Chipped and scratched kernels, when the affected area on an individual kernel aggregates more than the equivalent of a circle one-quarter inch (6.4 mm) in diameter;

(b) Mold, when visible on the kernel, except when white or gray and easily rubbed off with the fingers;

(c) Gum, when a film of shiny, resinous appearing substance affects an area aggregating more than the equivalent of a circle one-quarter inch (6.4 mm) in diameter;

(d) Shriveling, when the kernel is excessively thin for its size, or when materially withered, shrunken, leathery, tough or only partially developed: Provided, that partially developed kernels are not considered damaged if more than three-fourths of the pellicle is filled with meat;

(e) Brown spot on the kernel, either single or multiple, when the affected area aggregates more than the equivalent of a circle one-eighth inch (3.2 mm) in diameter; and,

(f) Skin discoloration when more than one-half of the surface of the kernel is affected by very dark or black stains contrasting with the natural color of the skin.

### § 51.2129 Serious damage.

*Serious damage* means any defect which makes a kernel or piece of kernel unsuitable for human consumption, and includes decay, rancidity, insect injury and damage by mold.

### § 51.2130 Diameter.

*Diameter* means the greatest dimension of the kernel, or piece of kernel at right angles to the longitudinal axis. Diameter shall be determined by passing the kernel or piece of kernel through a round opening.

### § 51.2131 Fairly uniform in size.

*Fairly uniform in size* means that, in a representative sample, the weight of 10 percent, by count, of the largest whole kernels shall not exceed 1.70 times the weight of 10 percent, by count, of the smallest whole kernels.

## Subpart—United States Standards for Shelled English Walnuts (Juglans Regia)

SOURCE: 23 FR 10354, Dec. 25, 1958, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GENERAL

### § 51.2275 Application.

The standards contained in this subpart apply only to walnuts commonly known as English or Persian walnuts (Juglans regia). They do not apply to walnuts commonly known as black walnuts (Juglans nigra).

### § 51.2276 Color chart.

The color chart (USDA Walnut Color Chart) to which reference is made in §§ 51.2281 and 51.2282 illustrates the four shades of walnut skin color listed as color classifications.

(a) *Availability of color chart.* The USDA Walnut Color Chart cited in this subpart has been filed with the original document and is available for inspection in the Office of the Federal Register. The color chart is also available for inspection in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250, in any field office of the Fresh Fruit and Vegetable Inspection Service of the Fruit and Vegetable Division, or upon request of any authorized inspector of such Service. Copies of the color chart may be purchased from Munsell Color Co., Inc., 2441 North Calvert Street, Baltimore, Md. 21218.

[33 FR 10840, July 31, 1968. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

GRADES

### § 51.2277 U.S. No. 1.

''U.S. No. 1'' consists of portions of walnut kernels which are well dried, clean, free from shell, foreign material, insect injury, decay, rancidity, and free from damage caused by shriveling,

mold, discoloration of the meat or other means. (See § 51.2280.)

(a) Color shall be specified in connection with this grade in terms of one of the color classifications. (See §§ 51.2276, 51.2281 and 51.2282.)

(b) Size shall be specified in connection with this grade in terms of one of the size classifications. (See §§ 51.2284 and 51.2285.)

### § 51.2278 U.S. Commercial.

''U.S. Commercial'' consists of portions of walnut kernels which meet the requirements of U.S. No. 1 grade, except for increased tolerances. (See § 51.2280.)

(a) Color of walnuts in this grade shall be not darker than ''amber'' classification, and color need not be specified. However, color may be specified in connection with the grade in terms of one of the color classifications. (See §§ 51.2276, 51.2281 and 51.2282.)

(b) Size shall be specified in connection with this grade in terms of one of the size classifications. (See §§ 51.2284 and 51.2285.)

UNCLASSIFIED

### § 51.2279 Unclassified.

''Unclassified'' consists of portions of walnut kernels which have not been classified in accordance with either of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards, but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES FOR GRADE DEFECTS

### § 51.2280 Tolerances for grade defects.

(a) All percentages shall be claculated on the basis of weight.

(b) In order to allow for variations, other than for color and size, incident to proper grading and handling, tolerances shall be permitted for the respective grades as indicated in Table I:

TABLE I

[Percent]

| Grade | Tolerances for grade defects | | | |
|---|---|---|---|---|
| | Total defects | Serious damage | Very serious damage | Shell and foreign material |
| U. S. No. 1 | 5 | 2 (included in 5 percent total defects). | 1 (included in 2 percent serious damage). | 0.05 (included in 1 percent very serious damage). |
| U.S. Commercial | 8 | 4 (included in 8 percent total defects). | 2 (included in 4 percent serious damage). | 0.05 (included in 2 percent very serious damage). |

COLOR REQUIREMENTS

### § 51.2281 Color classifications.

The following classifications are provided to describe the color of any lot: ''Extra Light'', ''Light'', ''Light Amber'' or ''Amber''. The portions of kernels in the lot shall not be darker than the darkest color permitted in the specified classification as shown on the color chart.

### § 51.2282 Tolerances for color.

(a) All percentages shall be calculated on the basis of weight.

(b) In order to allow for variations incident to proper grading and handling, tolerances shall be permitted for the respective color classifications as indicated in Table II:

TABLE II

| Color classification | Tolerances for color | | | |
|---|---|---|---|---|
| | Darker than extra light [1] | Darker than light [1] | Darker than light amber [1] | Darker than amber [1] |
| Extra light | 15 percent | 2 percent (included in 15 percent darker than extra light). | | |

TABLE II—Continued

| Color classification | Tolerances for color | | | |
|---|---|---|---|---|
| | Darker than extra light [1] | Darker than light [1] | Darker than light amber [1] | Darker than amber [1] |
| Light | | 15 percent | 2 percent (included in 15 percent darker than light). | |
| Light amber | | | 15 percent | 2 percent (included in 15 percent darker than light amber). |
| Amber | | | | 10 percent. |

[1] See illustration of this term on color chart.

### § 51.2283 Off color.

The term ''off color'' is not a color classification, but shall be applied to any lot which fails to meet the requirements of the ''Amber'' classification.

SIZE REQUIREMENTS

### § 51.2284 Size classification.

The following classifications are provided to describe the size of any lot: ''Halves'', ''Pieces and Halves'', ''Pieces'' or ''Small Pieces''. The size of portions of kernels in the lot shall conform to the requirements of the specified classification as defined below:

(a) *Halves*. Lot consists of 85 percent or more, by weight, half kernels, and the remainder three-fourths half kernels. (See § 51.2285.)

(b) *Pieces and halves*. Lot consists of 20 percent or more, by weight, half kernels, and the remainder portions of kernels that cannot pass through a sieve with 24/64 inch round openings. When a lot exceeds this minimum requirement, the actual percentage of halves may be specified. (See § 51.2285.)

(c) *Pieces*. Lot consists of portions of kernels that cannot pass through a sieve with 24/64 inch round openings. (See § 51.2285.)

(d) *Small pieces*. Lot consists of portions of kernels that pass through a sieve with 24/64 inch round openings, but that cannot pass through a sieve with 8/64 inch round openings. When desired, the actual size ranges within such size ranges may be specified. (See § 51.2285.)

### § 51.2285 Tolerances for size.

(a) All percentages shall be calculated on the basis of weight.

(b) In order to allow for variations incident to proper sizing and handling, tolerances shall be permitted for the respective size classifications as indicated in Table III:

TABLE III

[Percent]

| Size classification | Tolerances for size | | | | |
|---|---|---|---|---|---|
| | Smaller than three-fourths halves | Will not pass through 24/64 inch round hole | Pass through 24/64 inch round hole | Pass through 16/64 inch round hole | Pass through 8/64 inch round hole |
| Halves | 5 | | | 1 (included in 5 percent). | |
| Pieces and halves [1] | | | 18 | 3 (included in 18 percent). | 1 (included in 2 percent). |
| Pieces | | | 25 | 5 (included in 25 percent). | 1 (included in 5 percent). |
| Small pieces [2] | | 10 | | | 2. |

[1] No part of any tolerance shall be used to reduce the percentage of halves required or specified in a lot of ''pieces and halves''.

[2] The tolerances of 10 percent and 2 percent for ''small pieces'' classification shall apply, respectively, to any smaller maximum or any larger minimum sizes specified.

APPLICATION OF TOLERANCES

### § 51.2286 Application of tolerances.

The tolerances provided in these standards are on a lot basis, and they shall be applied to a composite sample representative of the lot. However, any container or group of containers in which the walnuts are obviously of a quality materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

DEFINITIONS

### § 51.2287 Well dried.

*Well dried* means that the portion of kernel is firm and crisp, not pliable or leathery.

### § 51.2288 Clean.

*Clean* means that the appearance of the individual portion of kernel, or of the lot as a whole, is not materially affected by adhering dust, dirt or other foreign material.

### § 51.2289 Shell.

*Shell* means the outer shell and/or the woody partition from between the halves of the kernel, and any fragments of either.

### § 51.2290 Insect injury.

*Insect injury* means that the insect, web, frass or other evidence of insects is present on the portion of kernel.

### § 51.2291 Rancidity.

*Rancidity* means that the portion of kernel is noticeably rancid to the taste. Rancidity should not be confused with a slightly astringent flavor of the pellicle (skin) or with staleness (the state at which the flavor is flat but not objectionable).

### § 51.2292 Damage.

*Damage* means any defect, other than color, which materially affects the appearance, or the edible or shipping quality of the individual portion of kernel, or of the lot as a whole. Any one of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect shall be considered as damage:

(a) Shriveling when more than one-eighth of the portion of kernel is severely shriveled, or a greater area is affected by lesser degrees of shriveling producing an equally objectionable appearance, except that kernels which are thin in corss-section but which are otherwise normally developed shall not be considered as damaged;

(b) Mold when plainly visible;

(c) Discoloration of the meat when more than one-eighth the volume of the portion of kernel is severely discolored, or a greater volume is affected by lesser degrees of discoloration producing an equally objectionable appearance;

(d) Not well dried; and,

(e) Not clean.

### § 51.2293 Serious damage.

*Serious damage* means any defect, other than color, which seriously affects the appearance, or the edible or shipping quality of the individual portion of kernel or of the lot as a whole. Any one of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

(a) Shriveling when more than one-fourth of the kernel is severely shriveled, or a greater area is affected by lesser degrees of shriveling producing an equally objectionable appearance;

(b) Mold when plainly visible on more than one-eighth of the surface of the kernel in the aggregate; and,

(c) Discoloration of the meat when more than one-fourth the volume of the portion of kernel is severely discolored, or a greater volume is affected by lesser degrees of discoloration producing an equally objectionable appearance.

### § 51.2294 Very serious damage.

*Very serious damage* means any defect, other than color, which very seriously affects the appearance, or the edible or shipping quality of the individual portion of kernel or of the lot as a whole. Any one of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect shall be considered as very serious damage:

(a) Shriveling when more than 50 percent of the portion of kernel is severely shriveled;
(b) Mold when plainly visible on more than one-fourth of the surface of the portion of kernel in the aggregate;
(c) Discoloration of the meat when more than one-half the volume of the portion of kernel is severely discolored;
(d) Insect injury;
(e) Rancidity or decay; and,
(f) Shell, or any foreign material.

### § 51.2295 Half kernel.

*Half kernel* means the separated half of a kernel with not more than one-eighth broken off.

### § 51.2296 Three-fourths half kernel.

*Three-fourths half kernel* means a portion of a half of a kernel which has more than one-eighth but not more than one-fourth broken off.

## Subpart—United States Standards for Grades of Kiwifruit

SOURCE: 47 FR 34513, Aug. 10, 1982, unless otherwise noted.

### § 51.2335 Grades.

(a) ''U.S. Fancy'' consists of kiwifruit which meet the following requirements:
(1) Basic Requirements:
(i) Similar varietal characteristics;
(ii) Mature;
(iii) Not soft, overripe, or shriveled;
(iv) Carefully packed;
(v) Clean; and,
(vi) Well formed.
(2) Free From:
(i) Worm holes;
(ii) Broken skins which are not healed;
(iii) Sunscald;
(iv) Freezing injury;
(v) Internal breakdown; and,
(vi) Decay.
(3) Free From Injury By:
(i) Bruises;
(ii) Leaf or limbrubs;
(iii) Discoloration;
(iv) Hail;
(v) Growth cracks;
(vi) Scab;
(vii) Scars;
(viii) Heat, sprayburn, or sunburn;
(ix) Scale;
(x) Insects;
(xi) Other diseases; and,
(xii) Mechanical or other means.
(4) Tolerances. (See § 51.2336)
(b) ''U.S. No. 1'' consists of kiwifruit which meet the following requirements:
(1) Basic Requirements:
(i) Similar varietal characteristics;
(ii) Mature;
(iii) Not soft, overripe, or shriveled;
(iv) Carefully packed;
(v) Clean; and,
(vi) Fairly well formed.
(2) Free From:
(i) Worm holes;
(ii) Broken skins which are not healed;
(iii) Sunscald;
(iv) Freezing injury;
(v) Internal breakdown; and,
(vi) Decay.
(3) Free From Damage By:
(i) Bruises;
(ii) Leaf or limbrubs;
(iii) Discoloration;
(iv) Hail;
(v) Growth cracks;
(vi) Scab;
(vii) Scars;
(viii) Heat, sprayburn, or sunburn;
(ix) Scale;
(x) Insects;
(xi) Other diseases; and,
(xii) Mechanical or other means.
(4) Tolerances. (See § 51.2336):
(c) ''U.S. No. 2'' consists of kiwifruit which meet the following requirements:
(1) Basic Requirements:
(i) Similar varietal characteristics;
(ii) Mature;
(iii) Not soft, overripe, or shriveled;
(iv) Carefully packed;
(v) Fairly clean; and,
(vi) Not badly misshapen.
(2) Free From:
(i) Worm holes;
(ii) Broken skins which are not healed;
(iii) Sunscald;
(iv) Freezing injury;
(v) Internal breakdown; and,
(vi) Decay.
(3) Free From Serious Damage By:
(i) Bruises;
(ii) Leaf or limbrubs;
(iii) Discoloration;
(iv) Hail;

(v) Growth cracks;
(vi) Scab;
(vii) Scars;
(viii) Heat, sprayburn, or sunburn;
(ix) Scale;
(x) Insects;
(xi) Other diseases; and,
(xii) Mechanical or other means.
(4) Tolerances. (See § 51.2336)

[47 FR 34513, Aug. 10, 1982, as amended at 51 FR 36682, Oct. 15, 1986]

### § 51.2336 Tolerances.

In order to allow for variations incident to proper grading and handling, the following tolerances by count, shall be permitted in any lot:

(a) U.S. Fancy and U.S. No. 1.

(1) For defects at shipping point.[2] 8 percent for fruit which fail to meet the requirements of the specified grade: *Provided*, That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for fruit affected by internal breakdown or decay.

(2) For defects en route or at destination. 12 percent for fruit which fail to meet the requirements of the specified grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects:

(i) 8 percent for permanent defects;

(ii) 6 percent for defects causing serious damage, including therein not more than 4 percent for serious damage by permanent defects and not more than 2 percent for fruit affected by internal breakdown or decay.

(b) U.S. No. 2.

(1) For defects at shipping point.[2] 8 percent for fruit which fail to meet the requirements of this grade: *Provided*, That included in this amoung not more than 4 percent shall be allowed for sunscald, insects, internal breakdown or decay, including in this latter amount not more than 1 percent for fruit affected by internal breakdown or decay.

(2) For defects en route or at destination. 12 percent for fruit which fail to meet the requirements of this grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects:

(i) 8 percent for permanent defects including therein not more than 4 percent for sunscald, or insects; and,

(ii) 2 percent for internal breakdown or decay.

### § 51.2337 Application of tolerances.

The contents of individual containers in a lot, based on sample inspection, are subject to the following limitations:

(a) Individual samples shall not have more than double a specified tolerance except that at least two defective specimens may be permitted in any container: *Provided*, That not more than one fruit which is frozen or affected by decay be permitted in any container 3 pounds or less; and, *Provided further*, That the averages for the entire lot are within the tolerances specified for the grade.

[47 FR 34513, Aug. 10, 1982, as amended at 50 FR 40186, Oct. 2, 1985; 51 FR 4293, Feb. 4, 1986]

### § 51.2338 Standard pack.

(a) Fruit shall be fairly uniform in size and shall be packed in boxes, flats, lugs, or cartons and arranged according to approved and recognized methods. Containers shall be well filled; contents tightly packed but not be excessively or unnecessarily bruised by overfilling or oversizing. Fruit in the shown face of the container shall be reasonably representative in size and quality of the contents.

(b) When packed in closed containers the size shall be indicated by marking the container with the numerical count.

(c) Boxes, flats, lugs, or cartons:

(1) Fruit packed in containers with cell compartments, cardboard fillers or molded trays shall be of proper size for the cells, fillers, or molds in which they are packed, and conform to the marked count.

(2) In order to allow for variations incident to proper packing in other types

[2] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

of containers, for example, lugs, cartons, or boxes, the number of fruit shall not vary more than two from the marked count.

(d) ''Fairly uniform in size'' means that fruit in containers marked numerically to denote size may not vary in diameter more than ½ inch (12.7mm) in sizes 30 or larger; ⅜ inch (9.5mm) is sizes 31 through 38; and ¼ inch (6.4mm) in sizes 39 or smaller. Not more than 5 percent, by count, of the fruit in any container may exceed the diameter range specified.

(e) ''Diameter'' means the greatest dimension measured at right angles to a line from stem to blossom end.

(f) In order to allow for variations incident to proper sizing and packing, not more than 10 percent, by count, of containers in any lot may fail to meet these requirements.

[47 FR 34513 Aug. 10, 1982, as amended at 50 FR 40186, Oct. 2, 1985; 51 FR 4293, Feb. 4, 1986]

### § 51.2339 Definitions.

*Similar varietal characteristics* means the fruit in any lot and container are similar in shape, color of skin and flesh.

*Mature* means the fruit has reached the stage of development which will ensure the proper completion of the ripening process. The minimum average soluble solids, unless otherwise specified, shall be not less than 6.5 percent.

*Clean* means the fruit is practically free from dirt, dust, or other foreign material.

*Fairly clean* means the fruit is reasonably free from dirt, dust, or other foreign material.

*Well formed* means the fruit has the shape characteristic of the variety and slight bumps or other roughness are permitted providing they do not detract from the appearance.

*Fairly well formed* means the fruit has the shape characteristic of the variety but slight bumps or other roughness are permitted providing they do not materially detract from appearance.

*Badly misshapen* means the fruit is so decidely deformed that its appearance is seriously affected.

*Carefully packed* means the fruit shows no evidence of rough handling.

*Injury* means any defect described in § 51.2340, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which more than slightly detracts from the appearance, or the edible or marketing quality.

*Damage* means any defect described in § 51.2340 or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality.

*Serious damage* means any defect described in § 51.2340 or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality.

*Permanent defects* means those which are not subject to change during shipment or storage, for example, shape, scars, or growth cracks.

*Condition defects* means those defects which are subject to change during shipment or storage, for example, decay, soft, shriveling, discoloration, or bruises.

[47 FR 34513, Aug. 10, 1982, as amended at 50 FR 40186, Oct. 2, 1985; 51 FR 36682, Oct. 15, 1986; 51 FR 4293, Feb. 4, 1986]

## § 51.2340 Classification of defects.

| Defects | Injury | Damage | Serious damage |
|---|---|---|---|
| Bruises ..... | When any slight indentation of the fruit or discoloration of the flesh extends more than 1/16 inch (1.6 mm) in depth. | When surface of fruit is indented and discoloration of the flesh extends deeper than 1/8 inch (3.2 mm), or causing slight discoloration exceeding the area of a circle 3/8 inch (9.5 mm) in diameter, or lesser bruises aggregating an area of a circle 3/8 inch (9.5 mm) in diameter which materially detract from the appearance, edible or shipping quality. | When surface of the fruit is indented and discoloration of the flesh extends deeper than 1/4 inch (6.4 mm), or causing discoloration exceeding the area of a circle 1/2 inch (12.7 mm) in diameter, or lesser bruises which seriously detract from the appearance, edible or shipping quality. |
| Leaf or Limbrubs. | When not smooth, or not light colored, or aggregating more than the area of a circle 3/8 inch (9.5 mm) in diameter. | When not smooth, or not light colored, or aggregating more than the area of a circle 1/2 inch (12.7 mm) in diameter. | When smooth and light colored and aggregating more than the area of a circle 1-1/2 inches (38.1 mm) in diameter, or dark or slightly rough and barklike scars aggregating more than the area of a circle 3/4 inch (19.1 mm) in diameter. |
| Discoloration .... | When color and pattern causes a distinct noticeable appearance (except for water staining) affecting more than 5% of surface. | When color and pattern causes an unattractive appearance (except for water staining) affecting more than 10% of surface. | When color and pattern causes a distinct unattractive appearance (except for water staining) affecting more than 25% of surface. |
| Hail Injury ..... | When unhealed or deep, or aggregating more than the area of a circle 1/16 inch (1.6 mm) in diameter. | When unhealed or deep, or aggregating more than the area of a circle 1/4 inch (6.4 mm) in diameter. | When unhealed or deep, or aggregating more than the area of a circle 1/2 inch (12.7 mm) in diameter. |
| Growth Cracks | When not healed, or more than one in number, or more than 1/8 inch (3.2 mm) in length or depth. | When not healed, or more than one in number, or more than 1/8 inch (3.2 mm) in depth, or more than 3/8 inch (9.5 mm) in length if within the stem cavity, or more than 1/4 inch (6.4 mm) in length if outside the stem cavity. | When not healed and more than 1/8 inch (3.2 mm) in length or depth, or healed and more than 3/16 inch (4.8 mm) in depth, or healed and aggregating more than 5/8 inch (15.9 mm) in length if within the stem cavity, or healed and aggregating more than 1/2 inch (12.7 mm) in length if outside the stem cavity. |
| Scab ..... | When cracked, or the aggregate area exceeds that of a circle 1/8 inch (3.2 mm) in diameter. | When cracked, or the aggregate area exceeds that of a cricle 1/4 inch (6.4 mm) in diameter. | When the aggregate area exceeds that of a circle 1/2 inch (12.7 mm) in diameter. |
| Scars ..... | When not smooth, or surface of the fruit is depressed more than 1/32 inch (.8 mm), or not light in color, or when exceeding any of the following aggregate areas, or a combination of two or more types of scars, the seriousness of which exceeds the maximum allowed for any one type: (1) Dark or rough scars when the area exceeds that of a circle 1/8 inch (3.2 mm) in diameter; (2) Fairly light colored, fairly smooth scars when the area exceeds that of a circle 1/4 inch (6.4 mm) in diameter; (3) Light colored, smooth scars when the area exceeds that of a circle 1/2 inch (12.7 mm) in diameter. | When not smooth, or surface of the fruit is depressed more than 1/16 inch (1.6 mm), or when exceeding any of the following aggregate areas, or a combination of two or more types of scars, the seriousness of which exceeds the maximum allowed for any one type: (1) Dark or rough scars when the area exceeds that of a circle 1/4 inch (6.4 mm) in diameter; (2) Fairly light colored, fairly smooth scars when the area exceeds that of a circle 1/2 inch (12.7 mm) in diameter; (3) Light colored, smooth scars when the area exceeds that of a circle 3/4 inch (19.1 mm) in diameter. | When the surface of the fruit is depressed more than 3/16 inch (4.8 mm), or when exceeding any of the following aggregate areas, or a combination of two or more types of scars, the seriousness of which exceeds the maximum allowed for any one type: (1) Dark or rough scars when the area exceeds that of a circle 3/4 inch (19.1 mm) in diameter; (2) Not dark or rough when the area exceeds one-fourth of the fruit surface. |
| Heat, Sprayburn and Sunburn. | When the normal color of the skin or flesh is more than slightly changed, or any indentation is present. | When the skin is blistered, cracked or decidedly flattened, or the normal color of the skin or flesh has materially changed, or more than one indentation, or indentation exceeds 3/16 inch (4.8 mm) in diameter. | When the skin is blistered, cracked or decidedly flattened, or causing any dark discoloration of the flesh, or more than two indentations are present, or the aggregate area of indentations exceeds that of a circle 3/8 inch (9.5 mm) in diameter, or when causing a noticeable brownish or darker discoloration over more than one-fourth of surface. |

| Defects | Injury | Damage | Serious damage |
|---|---|---|---|
| Scale or Scale Marks. | When more than one large scale or scale mark or more than three scales or scale marks of any size are present. | When the aggregate area exceeds that of a circle ¼ inch (6.4 mm) in diameter. | When the aggregate area exceeds that of a circle ⅜ inch (9.5 mm) in diameter. |
| Insects ..... | When feeding injury is evident on fruit or any insect is present in fruit. | When feeding injury materially detracts from appearance or any insect is present in fruit. | When feeding injury seriously detracts from appearance or any insect is present in fruit. |

Classification of defects guidelines are based on fruit 2 inches or smaller in diameter. Accordingly, *larger fruit* are permitted to have defects relative to their size.

### § 51.2341 Sample size for grade determination.

For fruit place-packed in tray pack containers, the sample shall consist of the contents of the individual container. For fruit jumble-packed in volume filled containers, the sample shall consist of at least 50 fruit. When individual containers contain at least 50 fruit, each individual sample is drawn from one container. When individual containers contain less than 50 fruit, a sufficient number of adjoining containers are opened to form a 50 fruit sample.

[50 FR 40186, Oct. 2, 1985; 50 FR 40961, Oct. 8, 1985; 51 FR 4293, Feb. 4, 1986]

## Subpart—United States Standards for Grades of Pistachio Nuts in the Shell

SOURCE: 51 FR 27814, Aug. 4, 1986, unless otherwise noted.

### § 51.2540 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) These standards are applicable to pistachio nuts in the shell which may be in a natural, dyed, raw, roasted, or salted state; or in any combination thereof. However, nuts of obviously dissimilar forms shall not be commingled.

### § 51.2541 U.S. Fancy, U.S. Extra No. 1, U.S. No. 1 And U.S. Select Grades.

''U.S. Fancy,'' ''U.S. Extra No. 1,'' ''U.S. No. 1,'' and ''U.S. Select'' consists of pistachio nuts in the shell which meet the following requirements:

(a) Basic requirements:
(1) Free from:
(i) Foreign material;
(ii) Loose kernels;
(iii) Shell pieces;
(iv) Particles and dust; and,
(v) Blanks.
(b) Shells:
(1) Free from:
(i) Non-split shells; and,
(ii) Shells not split on suture.
(2) Free from damage by:
(i) Adhering hull material;
(ii) Light stained;
(iii) Dark stained; and,
(iv) Other External (shell) defects.
(c) Kernels:
(1) Well dried, or, very well dried when specified in connection with the grade.
(2) Free from damage by:
(i) Immature kernels;
(ii) Kernel spotting; and,
(iii) Other Internal (kernel) defects.
(3) Free from serious damage by:
(i) Minor insect or vertebrate injury;
(ii) Insect damage;
(iii) Mold;
(iv) Rancidity;
(v) Decay; and,
(vi) Other Internal (kernel) defects.
(d) The nuts are of a size not less than 30/64 inch in diameter as measured by a round hole screen.
(e) For tolerances, see § 51.2544.

[68 FR 50682, Aug. 22, 2003]

### § 51.2542 U.S. Artificially Opened.

''U.S. Artificially Opened'' consists of artificially opened pistachio nuts in the shell which meet the following requirements:

(a) Basic Requirements:
(1) Free from:
(i) Foreign material;
(ii) Loose kernels;
(iii) Shell pieces;
(iv) Particles and dust; and,
(v) Blanks.
(b) Shells:
(1) Free from:

(i) Non-split shells; and,
(ii) Shells not split on suture.
(2) Free from damage by:
(i) Adhering hull material;
(ii) Light stained;
(iii) Dark stained; and,
(iv) Other External (shell) defects.
(c) Kernels:
(1) Well dried, or, very well dried when specified in connection with the grade.
(2) Free from damage by:
(i) Immature kernels;
(ii) Kernel spotting; and,
(iii) Other Internal (kernel) defects.
(3) Free from serious damage by:
(i) Minor insect or vertebrate injury;
(ii) Insect damage;
(iii) Mold;
(iv) Rancidity;
(v) Decay; and,
(vi) Other Internal (kernel) defects.
(d) The nuts are of a size not less than 30/64 inch in diameter as measured by a round hole screen.
(e) For tolerances, see § 51.2544.

[68 FR 50683, Aug. 22, 2003]

### § 51.2543 U.S. Non-Split.

''U.S. Non-Split'' consists of non-split pistachio nuts in the shell which meet the following requirements:
(a) Basic requirements:
(1) Free from:
(i) Foreign material;
(ii) Loose kernels;
(iii) Shell pieces;
(iv) Particles and dust; and,
(v) Blanks.
(b) Shells:
(1) Free from damage by:
(i) Adhering hull material; and,
(ii) Dark stain.
(c) Kernels:
(1) Well dried, or very well dried when specified in connection with the grade.
(2) Free from damage by:
(i) Immature kernels;
(ii) Kernel spotting; and,
(iii) Other internal (kernel) defects.
(3) Free from serious damage by:
(i) Minor insect or vertebrate injury;
(ii) Insect damage;
(iii) Mold;
(iv) Rancidity;
(v) Decay; and,
(vi) Other Internal (kernel) defects.
(d) The nuts are of a size not less than 30/64 inch in diameter as measured by a round hole screen.
(e) For Tolerances, see § 51.2544.

[68 FR 50683, Aug. 22, 2003]

### § 51.2544 Tolerances.

(a) In order to allow for variations incident to proper grading and handling, the tolerances in Tables I, II, and III of this section are provided.

TABLE I—TOLERANCES

[Percent]

| Factor | U.S. fancy | U.S. extra No. 1 | U.S. No. 1 | U.S. select | U.S. artificially opened | U.S. non-split |
|---|---|---|---|---|---|---|
| External (shell) Defects (tolerances by weight): | | | | | | |
| (a) Non-split and not split on suture | 2 | 3 | 6 | 10 | 10 | N/A |
| (1) Non-split included in (a) | 1 | 2 | 3 | 4 | 4 | N/A |
| (b) Adhering hull material | 1 | 1 | 1 | 2 | 2 | 2 |
| (c) Light stained | 7 | 12 | 25 | N/A | N/A | N/A |
| (1) Dark stained, included in (c) | 2 | 3 | 3 | 3 | 3 | 3 |
| (d) Damage by other means | 1 | 1 | 2 | 3 | 10 | N/A |
| (e) Total External Defects | 9 | 16 | N/A | N/A | N/A | N/A |
| (f) Undersized (Less than 30/64 inch in diameter) | 5 | 5 | 5 | 5 | 4 | 5 |

TABLE II—TOLERANCES

| Factor internal (kernel) defects (tolerances by weight) | U.S. fancy (percent) | U.S. extra No. 1 (percent) | U.S. No. 1 (percent) | U.S. select (percent) | U.S. artificially opened (percent) | U.S. non-split (percent) |
|---|---|---|---|---|---|---|
| (a) Damage | 3 | 6 | 6 | 6 | 6 | 6 |
| (b) Serious Damage (Minor Insect or Vertebrate Injury, Mold, Rancid, Decay) | 3 | 4 | 4 | 4 | 4 | 4 |

TABLE II—TOLERANCES—Continued

| Factor internal (kernel) defects (tolerances by weight) | U.S. fancy (percent) | U.S. extra No. 1 (percent) | U.S. No. 1 (percent) | U.S. select (percent) | U.S. artificially opened (percent) | U.S. non-split (percent) |
|---|---|---|---|---|---|---|
| (1) Insect Damage, included in (b) | 1 | 2 | 2 | 2 | 2 | 2 |
| (c) Total Internal Defects ..... | 4 | 8 | 9 | 9 | 9 | 9 |

TABLE III—TOLERANCES

[Percent]

| Factor | U.S. fancy | U.S. extra No. 1 | U.S. No. 1 | U.S. select | U.S. artificially opened | U.S. non-split |
|---|---|---|---|---|---|---|
| Other Defects (tolerances by weight): | | | | | | |
| (a) Shell pieces and blanks | 2 | 2 | 2 | 2 | 2 | 2 |
| (1) Blanks, included in (a) | 1 | 1 | 1 | 1 | 1 | 1 |
| (b) Foreign material (No glass, metal or live insects shall be permitted) | .25 | .25 | .25 | .25 | .25 | .25 |
| (c) Particles and dust ..... | .25 | .25 | .25 | .25 | .25 | .25 |
| (d) Loose kernels ..... | 4 | 5 | 6 | 6 | 6 | 6 |

[68 FR 50683, Aug. 22, 2003, as amended at 69 FR 76835, Dec. 23, 2004]

### § 51.2545 Application of tolerances.

The tolerances for the grades apply to the entire lot and shall be based on a composite sample drawn from containers throughout the lot. Any container or group of containers which have nuts obviously different in quality or size from those in the majority of the containers shall be considered a separate lot and shall be sampled separately.

[68 FR 50684, Aug. 22, 2003]

### § 51.2546 Size.

Nuts may be considered as meeting a size designation specified in Table IV or a range in number of nuts per ounce, provided, the weight of 10 percent, by count, of the largest nuts in a sample does not exceed 1.50 times the weight of 10 percent, by count, of the smallest and the average number of nuts per ounce is not more than one-half nut above or below the extremes of the range specified.

TABLE IV—NUT SIZE

| Size designations | Average number of nuts per ounce [1] |
|---|---|
| Colossal ..... | Less than 18. |
| Extra Large ..... | 18 to 20. |
| Large ..... | 21 to 25. |
| Medium ..... | 26 to 30. |

TABLE IV—NUT SIZE—Continued

| Size designations | Average number of nuts per ounce [1] |
|---|---|
| Small ..... | More than 30. |

[1] Before Roasting.

[68 FR 50684, Aug. 22, 2003]

### § 51.2547 Definitions.

(a) *Well dried* means the kernel is firm and crisp.

(b) *Very well dried* means the kernel is firm and crisp and the average moisture content of the lot does not exceed 7.00 percent or is specified. (See § 51.2548.)

(c) *Loose kernels* means edible kernels or kernel portions which are out of the shell and which cannot be considered particles and dust.

(d) *External (shell) defects* means any blemish affecting the hard covering around the kernel. Such defects include, but are not limited to, non-split shells, shells not split on suture, adhering hull material, light stained, or dark stained.

(1) *Damage* by external (shell) defects means any specific defect described in paragraphs (d)(1) (i) through (v) of this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual

shell or of the lot. (For tolerances see § 51.2544, Table I.)

(i) *Non-split shells* means shells are not opened or are partially opened and will not allow an 18/1000 (.018) inch thick by 1/4 (.25) inch wide gauge to slip into the opening.

(ii) *Not split on suture* means shells are split other than on the suture and will allow an 18/1000 (.018) inch thick by 1/4 (.25) inch wide gauge to slip into the opening.

(iii) *Adhering hull material* means an aggregate amount covers more than one-eighth of the total shell surface, or when readily noticeable on dyed shells.

(iv) *Light stained* on raw or roasted nuts, means an aggregate amount of yellow to light brown or light gray discoloration is noticeably contrasting with the predominate color of the shell and affects more than one-fourth of the total shell surface or, on dyed nuts, when readily noticeable.

(v) *Dark stained* on raw or roasted nuts, means an aggregate amount of dark brown, dark gray or black discoloration affects more than one-eighth of the total shell surface, or, on dyed nuts, when readily noticeable, provided that speckled appearing stain located within the area of one-fourth of the shell nearest the stem end shall be disregarded.

(e) *Internal (kernel) defects* means any blemish affecting the kernel. Such defects include, but are not limited to evidence of insects, immature kernels, rancid kernels, mold, or decay.

(1) *Damage* by internal (kernel) defects means any specific defect described in paragraphs (e)(1)(i) through (ii) of this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances see § 51.2544, Table II.)

(i) *Immature kernels* are excessively thin or when a kernel fills less than three-fourths, but not less than one-half the shell cavity.

(ii) *Kernel spotting* refers to dark brown or dark gray spots aggregating more than one-eighth of the surface of the kernel.

(2) *Serious damage* by internal (kernel) defects means any specific defect described in paragraphs (e)(2)(i) through (v) of this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or the marketing quality of the individual kernel or of the lot. (For tolerances see § 51.2544, Table II.)

(i) *Minor insect or vertebrate injury* means the kernel shows conspicuous evidence of feeding.

(ii) *Insect damage* is an insect, insect fragment, web or frass attached to the kernel. No live insects shall be permitted.

(iii) *Mold* which is readily visible on the shell or kernel.

(iv) *Rancidity* means the kernel is distinctly rancid to taste. Staleness of flavor shall not be classed as rancidity.

(v) *Decay* means one-sixteenth or more of the kernel surface is decomposed.

(f) *Other defects* means defects which cannot be considered internal defects or external defects. Such defects include, but are not limited to shell pieces, blanks, foreign material or particles and dust. The following shall be considered other defects. (For tolerances see § 51.2544, Table III.)

(1) *Shell pieces* means open in-shell nuts not containing a kernel, half shells or pieces of shell which are loose in the sample.

(2) *Blank* means a non-split shell not containing a kernel or containing a kernel that fills less than one-half the shell cavity.

(3) *Foreign material* means leaves, sticks, loose hulls or hull pieces, dirt, rocks, insects or insect fragments not attached to nuts, or any substance other than pistachio shells or kernels. Glass, metal or live insects shall not be permitted.

(4) *Particles and dust* means pieces of nut kernels which will pass through a 5/64 inch round opening.

(5) *Undersize* means pistachio nuts in the shell which fall through a 30/64 inch round hole screen.

[68 FR 50684, Aug. 22, 2003]

### § 51.2548 Average moisture content determination.

(a) Determining average moisture content of the lot is not a requirement of the grades, except when nuts are specified as ''very well dried.'' It may be carried out upon request in connection with grade analysis or as a separate determination.

(b) Nuts shall be obtained from a randomly drawn composite sample. Official certification shall be based on the air-oven method or other officially approved methods or devices. Results obtained by methods or devices not officially approved may be reported and shall include a description of the method or device and the owner of any equipment used.

[68 FR 50685, Aug. 22, 2003]

### § 51.2549 Metric conversion table.

Use the following table for metric conversion:

| Inches | Millimeters |
|---|---|
| 5/64 | 1.98 |
| 18/100 | .46 |
| 1/4 | 6.35 |
| 30/64 | 11.88 |
| **Ounces** | **Grams** |
| 1 | 28.35 |
| 2 | 56.70 |

[68 FR 50685, Aug. 22, 2003]

## Subpart—United States Standards for Grades of Shelled Pistachio Nuts

SOURCE: 55 FR 28747, July 13, 1990, unless otherwise noted.

### § 51.2555 General.

(a) Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) These standards are applicable to raw, roasted, salted or salted/roasted pistachio kernels.

[55 FR 28747, July 13, 1990, as amended at 68 FR 50685, Aug. 22, 2003]

### § 51.2556 Grades.

(a) ''U.S. Fancy,'' ''U.S. Extra No. 1,'' and ''U.S. No. 1'' consist of pistachio kernels which meet the following requirements:

(1) Well dried, or very well dried when specified in connection with the grade.

(2) Free from:

(i) Foreign material, including inshell nuts, shells, or shell fragments.

(3) Free from damage by:

(i) Immature kernels;

(ii) Kernel spotting; and

(iii) Other defects.

(4) Free from serious damage by:

(i) Mold;

(ii) Minor insect or vertebrate injury;

(iii) Insect damage;

(iv) Rancidity;

(v) Decay; and,

(vi) Other defects.

(5) Unless otherwise specified, kernels shall meet the size classification of Jumbo Whole Kernels (See § 51.2559).

(b) [Reserved]

[68 FR 50685, Aug. 22, 2003]

### § 51.2557 Tolerances.

(a) In order to allow for variations incident to proper grading and handling, the tolerances, by weight, in Table I are provided.

TABLE 1—TOLERANCES

| Factor (tolerances by weight) | U.S. fancy (percent) | U.S. extra No. 1 (percent) | U.S. No. 1 (percent) |
|---|---|---|---|
| (a) Damage | 2.0 | 2.5 | 3.0 |
| (b) Serious Damage (Minor Insect or Vertebrate Injury, Mold, Rancid, Decay) | 1.5 | 2.0 | 2.5 |
| (1) Insect Damage, included in (b) | .3 | .4 | .5 |
| (c) Foreign Material | .03 | .05 | .1 |

[55 FR 28747, July 13, 1990; 55 FR 29938, July 23, 1990, as amended at 68 FR 50685, Aug. 22, 2003; 69 FR 76835, Dec. 23, 2004]

### § 51.2558 Application of tolerances.

The tolerances for the grades apply to the entire lot and shall be based on a composite sample representative of

the lot. Any container or group of containers which have kernels obviously different in quality or size from those in the majority of containers shall be considered a separate lot and shall be sampled separately.

### § 51.2559 Size classifications.

(a) The size of pistachio kernels may be specified in connection with the grade in accordance with one of the following size classifications.

(1) Jumbo Whole Kernels: 80 percent or more by weight shall be whole kernels and not more than 5 percent of the total sample shall pass through a 24/64 inch round hole screen with not more than 1 percent passing through a 16/64 inch round hole screen.

(2) Large Whole Kernels: 80 percent or more, by weight, shall be whole kernels and not more than 2 percent of the total sample shall pass through a 16/64 inch round hole screen.

(3) Large Split Kernels: 75 percent or more, by weight, shall be half kernels split lengthwise and not more than 5 percent of the total sample shall pass through a 16/64 inch round hole screen.

(4) Whole and Broken Kernels: means a mixture of any combination of whole kernels or pieces. The percentage of whole kernels and/or pieces may be specified. Not more than 5 percent of the total sample shall pass through a 5/64 inch round hole screen.

(b) [Reserved]

[68 FR 50685, Aug. 22, 2003]

### § 51.2560 Definitions.

(a) *Well dried* means the kernel is firm and crisp.

(b) *Very well dried* means the kernel is firm and crisp and the average moisture content of the lot does not exceed 7 percent or is specified (See § 51.2561).

(c) *Foreign material* means leaves, sticks, in-shell nuts, shells or pieces of shells, dirt, or rocks, or any other substance other than pistachio kernels. No allowable tolerances for metal or glass.

(d) *Whole kernel* means ¾ of a kernel or more.

(e) *Splits* means more than ¾ of a half kernel split lengthwise.

(f) *Damage* means any specific defect described in paragraph (f) (1) through (2) of this section or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances, see § 51.2557, Table I.)

(1) *Immature kernels* are excessively thin kernels and can have black, brown or gray surface with a dark interior color and the immaturity has adversely affected the flavor of the kernel.

(2) *Kernel spotting* refers to dark brown or dark gray spots aggregating more than one-eighth of the surface of the kernel.

(g) *Serious damage* means any specific defect described in paragraph (g) (1) through (5) of this section, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual kernel or of the lot. (For tolerances see § 51.2557 Table I.)

(1) *Mold* which is readily visible on the kernel.

(2) *Minor insect or vertebrate injury* means the kernel shows conspicuous evidence of feeding.

(3) *Insect damage* is an insect, insect fragment, web or frass attached to the kernel. No live insects shall be permitted.

(4) *Rancidity* means the kernel is distinctly rancid to taste. Staleness of flavor shall not be classed as rancidity.

(5) *Decay* means one-sixteenth or more of the kernel is decomposed.

[68 FR 50685, Aug. 22, 2003]

### § 51.2561 Average moisture content.

(a) Determining average moisture content of the lot is not a requirement of the grades, except when kernels are specified as ''very well dried.'' It may be carried out upon request in connection with grade analysis or as a separate determination.

(b) Kernels shall be obtained from a randomly drawn composite sample. Official certification shall be based on the air-oven method or other officially approved methods or devices. Results obtained by methods or devices not officially approved may be reported and

shall include a description of the method or device and owner of any equipment used.

### § 51.2562 Metric Conversion Table.

Use the following table for metric conversion:

| Inches | Millimeters |
|---|---|
| 5/64 | 1.98 |
| 16/64 | 6.35 |
| 24/64 | 9.53 |
| Ounces | Grams |
| 1 | 28.35 |
| 2 | 56.7 |

[68 FR 50686, Aug. 22, 2003]

## Subpart—United States Standards for Grades for Sweet Cherries [1]

SOURCE: 36 FR 8502, May 7, 1971, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.2646 U.S. No. 1.

''U.S. No. 1'' consists of sweet cherries which meet the following requirements:

(a) Similar varietal characteristics;
(b) Mature;
(c) Fairly well colored;
(d) Well formed; and
(e) Clean.
(f) Free from:
(1) Decay;
(2) Insect larvae or holes caused by them;
(3) Soft, overripe or shriveled;
(4) Undeveloped doubles; and,
(5) Sunscald.
(g) Free from damage by any other cause. (See § 51.2655.)
(h) *Size.* Unless otherwise specified, the minimum diameter of each cherry shall be not less than three-fourths inch. The maximum diameter of the cherries in any lot may be specified in accordance with the facts.
(i) For tolerances see § 51.2648.

### § 51.2647 U.S. Commercial.

''U.S. Commercial'' consists of sweet cherries which meet the requirements for the U.S. No. 1 grade except for minimum diameter and except for increased tolerances.

(a) *Size.* Unless otherwise specified, the diameter of each cherry shall be not less than five-eighths inch. The maximum diameter of the cherries in any lot may be specified in accordance with the facts.
(b) For tolerances see § 51.2648.

TOLERANCES

### § 51.2648 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *For defects at shipping point*[2]—(1) *U.S. No. 1.* 8 percent for cherries which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of 1 percent for cherries which are affected by decay.

(2) *U.S. Commercial.* 16 percent for cherries which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of 1 percent for cherries affected by decay.

(b) *For defects en route or at destination*—(1) *U.S. No. 1.* 12 percent for cherries in any lot which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for cherries which fail to meet the requirements for this grade because of permanent defects; or,

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.

[2] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

(ii) 6 percent for cherries which are seriously damaged, including therein not more than 4 percent for cherries which are seriously damaged by permanent defects and not more than 2 percent for cherries which are affected by decay.

(2) *U.S. Commercial.* 24 percent for cherries in any lot which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 16 percent for cherries which fail to meet the requirements for this grade because of permanent defects; or,

(ii) 6 percent for cherries which are seriously damaged, including therein not more than 4 percent for cherries which are seriously damaged by permanent defects and not more than 2 percent for cherries which are affected by decay.

(c) *For off-size.* 5 percent for cherries which fail to meet the specified minimum diameter and 10 percent for cherries that fail to meet any specified maximum diameter.

APPLICATION OF TOLERANCES

### § 51.2649 Application of tolerances.

Individual samples shall have not more than double the tolerances specified, except that at least two defective and two off-size specimens may be permitted in any sample: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade.

DEFINITIONS

### § 51.2650 Similar varietal characteristics.

*Similar varietal characteristics* means that the cherries in any container are similar in color and shape.

### § 51.2651 Mature.

*Mature* means that the cherries have reached the stage of growth which will insure the proper completion of the ripening process.

### § 51.2652 Fairly well colored.

*Fairly well colored* means that at least 95 percent of the surface of the cherry shows characteristic color for mature cherries of the variety.

### § 51.2653 Well formed.

*Well formed* means that the cherry has the normal shape characteristic of the variety, except that mature well developed doubles shall be considered well formed when each of the halves is approximately evenly formed.

### § 51.2654 Clean.

*Clean* means that the cherries are practically free from dirt, dust, spray residue, or other foreign material.

### § 51.2655 Damage.

*Damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit. The following specific defects shall be considered as damage:

(a) Cracks within the stem cavity when deep or not well healed, or when the appearance is affected to a greater extent than that of a cherry which has a superficial well healed crack one-sixteenth inch in width extending one-half the greatest circumference of the stem cavity;

(b) Cracks outside of the stem cavity when deep or not well healed, or when the crack has weakened the cherry to the extent that it is likely to split or break in the process of proper grading, packing, and handling, or when materially affecting the appearance;

(c) Hail injury when deep or not well healed, or when the aggregate area exceeds the area of a circle three-sixteenths inch in diameter;

(d) Insects when scale or more than one scale mark is present, or when the appearance is materially affected by any insect;

(e) Limbrubs when affecting the appearance of the cherry to a greater extent than the amount of scarring permitted;

(f) Pulled stems when the skin or flesh is torn, or when the cherry is leaking;

(g) Russeting when affecting the appearance of the cherry to a greater extent than the amount of scarring permitted;

(h) Scars when excessively deep or rough or dark colored and the aggregate area exceeds the area of a circle three-sixteenths inch in diameter, or when smooth or fairly smooth, light colored and superficial and the aggregate area exceeds the area of a circle one-fourth inch in diameter;

(i) Skin breaks when not well healed or when the appearance of the cherry is materially affected; and,

(j) Sutures when excessively deep or when affecting the shape of the cherry to the extent that it is not well formed.

### § 51.2656 Diameter.

*Diameter* means the greatest dimension measured at right angles to a line from the stem to the blossom end of the cherry.

### § 51.2657 Serious damage.

*Serious damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the appearance or the edible or marketing quality of the fruit. The following specific defects shall be considered as serious damage:

(a) Decay;

(b) Insect larvae or holes caused by them;

(c) Skin breaks which are not well healed;

(d) Cracks which are not well healed; and,

(e) Pulled stems with skin or flesh of cherry torn or which causes the cherry to leak.

[36 FR 8502, May 5, 1971; 36 FR 9061, May 19, 1971. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.2658 Permanent defects.

*Permanent defects* means defects which are not subject to change during shipping or storage; including, but not limited to factors of shape, scarring, skin breaks, injury caused by hail or insects, and mechanical injury which is so located as to indicate that it occurred prior to shipment.

### § 51.2659 Condition defects.

*Condition defects* means defects which may develop or change during shipment or storage; including, but not limited to decayed or soft cherries and such factors as pitting, shriveling, sunken areas, brown discoloration and bruising which is so located as to indicate that it occurred after packing.

METRIC CONVERSION TABLE

### § 51.2660 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 8/64 equals | 3.2 |
| 16/64 equals | 6.4 |
| 24/64 equals | 9.5 |
| 32/64 equals | 12.7 |
| 40/64 equals | 15.9 |
| 48/64 equals | 19.1 |
| 51/64 equals | 20.2 |
| 52/64 equals | 20.6 |
| 54/64 equals | 21.4 |
| 56/64 equals | 22.2 |
| 1 equals | 25.4 |
| 1 8/64 equals | 28.6 |
| 1 16/64 equals | 31.8 |
| 1 24/64 equals | 34.9 |

## Subpart—United States Standards for Shelled Runner Type Peanuts

SOURCE: 21 FR 4850, June 30, 1956, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.2710 U.S. No. 1 Runner.

''U.S. No. 1 Runner'' consists of shelled Runner type peanut kernels of similar varietal characteristics which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having 16/64 × 3/4 inch openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 1 percent for other varieties of peanuts;

(2) 3 percent for sound peanuts which are split or broken;

(3) 1.5 percent for damaged or unshelled peanuts;

(4) 0.5 percent for minor defects: *Provided,* That in addition, any unused part of the tolerance for damaged or

unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 3 percent for sound whole peanuts which will pass through the prescribed screen.

[21 FR 4850, June 30, 1956, as amended at 21 FR 5669, July 28, 1956. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.2711 U.S. Runner Splits.

''U.S. Runner Splits'' consists of shelled Runner type peanut kernels of similar varietal characteristics which are split or broken, but which are free from foreign material, damage and minor defects, and which will not pass through a screen having 17/64 inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material;

(4) 2 percent for sound portions of peanuts which will pass through the prescribed screen; and,

(5) 4 percent for sound whole peanuts.

### § 51.2712 U.S. No. 2 Runner.

''U.S. No. 2 Runner'' consists of shelled Runner type peanut kernels of similar varietal characteristics which may be split or broken, but which are free from foreign material, damage and minor defects, and which will not pass through a screen having 17/64 inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2.5 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material; and,

(4) 6 percent for sound peanuts and portions of peanuts which will pass through the prescribed screen.

## APPLICATION OF TOLERANCES

### § 51.2713 Application of tolerances.

The tolerances provided in these standards are on a lot basis and shall be applied to a composite sample representative of the lot. However, any container or group of containers in which the peanuts are obviously of a quality materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

## DEFINITIONS

### § 51.2714 Similar varietal characteristics.

*Similar varietal characteristics* means that the peanut kernels in the lot are not of distinctly different varieties. For example, Spanish type shall not be mixed with Runners.

### § 51.2715 Whole.

*Whole* means that the peanut kernel is not split or broken.

### § 51.2716 Split.

*Split* means the separated half of a peanut kernel.

### § 51.2717 Broken.

*Broken* means that more than one-fourth of the peanut kernel is broken off.

### § 51.2718 Foreign material.

*Foreign material* means pieces or loose particles of any substance other than peanut kernels or skins.

### § 51.2719 Unshelled.

*Unshelled* means a peanut kernel with part or all of the hull (shell) attached.

### § 51.2720 Minor defects.

*Minor defects* means that the peanut kernel is not damaged but is affected by one or more of the following:

(a) Skin discoloration which is dark brown, dark gray, dark blue or black and covers more than one-fourth of the surface;

(b) Flesh discoloration which is darker than a light yellow color or consists of more than a slight yellow pitting of the flesh;

(c) Sprout extending more than one-eighth of an inch from the tip of the kernel; and,

(d) Dirt when the surface of the kernel is distinctly dirty, and its appearance is materially affected.

### § 51.2721 Damage.

*Damage* means that the peanut kernel is affected by one or more of the following:

(a) Rancidity or decay;

(b) Mold;

(c) Insects, worm cuts, web or frass;

(d) Freezing injury causing hard, translucent or discolored flesh; and

(e) Dirt when the surface of the kernel is heavily smeared, thickly flecked or coated with dirt, seriously affecting its appearance.

## Subpart—United States Standards for Grades of Shelled Spanish Type Peanuts

SOURCE: 30 FR 7595, June 11, 1965, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.2730 U.S. No. 1 Spanish.

''U.S. No. 1 Spanish'' consists of shelled Spanish type peanut kernels which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having $^{15}/_{64} \times {}^{3}/_{4}$ inch openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 1 percent for other types of peanuts;

(2) 3 percent for sound peanuts which are split or broken;

(3) 1.5 percent for damaged or unshelled peanuts;

(4) 0.5 percent for minor defects: *Provided*, That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 2 percent for sound whole peanuts which will pass through the prescribed screen.

### § 51.2731 U.S. Spanish Splits.

''U.S. Spanish Splits'' consists of shelled Spanish type peanut kernels which are split or broken, but which are free from foreign material, damage and minor defects, and which will not pass through a screen having $^{16}/_{64}$ inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other types of peanuts;

(2) 2 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material;

(4) 2 percent for sound portions of peanuts which will pass through the prescribed screen; and,

(5) 4 percent for sound whole kernels.

### § 51.2732 U.S. No. 2 Spanish.

''U.S. No. 2 Spanish'' consists of shelled Spanish type peanut kernels which may be split or broken, but which are free from foreign material, damage, and minor defects, and which will not pass through a screen having $^{16}/_{64}$ inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other types of peanuts;

(2) 2.5 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material; and,

(4) 6 percent for sound peanuts and portions of peanuts which will pass through the prescribed screen.

APPLICATION OF TOLERANCES

### § 51.2733 Application of tolerances.

The tolerances provided in these standards are on a lot basis and shall be applied to a composite sample representative of the lot. However, any container or group of containers in which the peanuts are obviously of a quality materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled and graded separately.

DEFINITIONS

### § 51.2734 Spanish type.

*Spanish type* means peanuts of varieties which belong to the Spanish classification group and which are free from kernels of Runner, Virginia, or other types.

### § 51.2735 Whole.

*Whole* means that the peanut kernel is not split or broken.

### § 51.2736 Split.

*Split* means the separated half of a peanut kernel.

### § 51.2737 Broken.

*Broken* means that more than one-fourth of the peanut kernel is broken off.

### § 51.2738 Foreign material.

*Foreign material* means pieces or loose particles of any substance other than peanut kernels or skins.

### § 51.2739 Damage.

*Damage* means any specific defect described in this section; or any other defect, or any combination of defects which materially detracts from the edible quality of the peanut. The following specific defects shall be considered as damage:

(a) Rancidity or decay;

(b) Mold;

(c) Insects, worm cuts, web or frass;

(d) Freezing injury causing hard, translucent, or discolored flesh; and,

(e) Dirt when the surface of the kernel is heavily smeared, thickly flecked or coated with dirt, seriously affecting its appearance.

### § 51.2740 Minor defects.

*Minor defects* means that the peanut kernel is not damaged but is affected by one or more of the following:

(a) Skin discoloration which is dark brown, dark gray, dark blue or black and covers more than one-fourth of the surface;

(b) Flesh discoloration which is darker than a light yellow color or consists of more than a slight yellow pitting of the flesh;

(c) Sprout extending more than one-eighth of an inch from the tip of the kernel; and,

(d) Dirt when the surface of the kernel is distinctly dirty, and its appearance is materially affected.

### § 51.2741 Unshelled.

*Unshelled* means a peanut kernel with part or all of the hull (shell) attached.

## Subpart—United States Standards for Shelled Virginia Type Peanuts

SOURCE: 24 FR 6182, Aug. 1, 1959; 24 FR 6671, Aug. 18, 1959, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.2750 U.S. Extra Large Virginia.

''U.S. Extra Large Virginia'' consists of shelled Virginia type peanut kernels of similar varietal characteristics which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having $^{20}/_{64} \times 1$ inch openings. Unless otherwise specified, the peanuts in any lot shall average not more than 512 per pound.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 0.75 percent for other varieties of peanuts;

(2) 3 percent for sound peanuts which are split or broken;

(3) 1 percent for damaged or unshelled peanuts;

(4) 0.75 percent for minor defects: *Provided,* That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 3 percent for sound, whole peanuts which will pass through the prescribed screen.

### § 51.2751 U.S. Medium Virginia.

''U.S. Medium Virginia'' consists of shelled Virginia type peanut kernels of similar varietal characteristics which

are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having 18/64 × 1 inch openings. Unless otherwise specified, the peanuts in any lot shall average not more than 640 per pound.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 1 percent for other varieties of peanuts;

(2) 3 percent for sound peanuts which are split or broken;

(3) 1.25 percent for damaged or unshelled peanuts;

(4) 0.75 percent for minor defects: *Provided*, That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 3 percent for sound, whole peanuts which will pass through the prescribed screen.

### § 51.2752 U.S. No. 1 Virginia.

''U.S. No. 1 Virginia'' consists of shelled Virginia type peanut kernels of similar varietal characteristics which are whole and free from foreign material, damage and minor defects, and which will not pass through a screen having 15/64 × 1 inch openings. Unless otherwise specified, the peanuts in any lot shall average not more than 864 per pound.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances by weight, shall be permitted:

(1) 1 percent for other varieties of peanuts;

(2) 3 percent for sound peanuts which are split or broken;

(3) 1.25 percent for damaged or unshelled peanuts;

(4) 0.75 percent for minor defects: *Provided*, That in addition, any unused part of the tolerance for damaged or unshelled peanuts shall be allowed for minor defects;

(5) 0.1 percent for foreign material; and,

(6) 3 percent for sound, whole peanuts which will pass through the prescribed screen.

[24 FR 6671, Aug. 18, 1959. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.2753 U.S. Virginia Splits.

''U.S. Virginia Splits'' consists of shelled Virginia type peanut kernels of similar varietal characteristics which are free from foreign material, damage and minor defects, and which will not pass through a screen having 20/64 inch round openings. Not less than 90 percent, by weight, shall be splits.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign materials; and,

(4) 3 percent for sound peanuts and portions of peanuts which will pass through the prescribed screen.

[24 FR 6671, Aug. 18, 1959. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.2754 U.S. No. 2 Virginia.

''U.S. No. 2 Virginia'' consists of shelled Virginia type peanut kernels of similar varietal characteristics which may be split or broken, but which are free from foreign material, damage and minor defects, and which will not pass through a screen having 17/64 inch round openings.

(a) In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, shall be permitted:

(1) 2 percent for other varieties of peanuts;

(2) 2.5 percent for damaged or unshelled peanuts and minor defects;

(3) 0.2 percent for foreign material; and,

(4) 6 percent for sound peanuts and portions of peanuts which will pass through the prescribed screen.

APPLICATION OF TOLERANCES

### § 51.2755 Application of tolerances.

The tolerances provided in these standards are on a lot basis and shall be applied to a composite sample representative of the lot. However, any container or group of containers in which the peanuts are obviously of a quality materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

DEFINITIONS

### § 51.2756 Similar varietal characteristics.

*Similar varietal characteristics* means that the peanut kernels in the lot are not of distinctly different varieties. For example, Spanish type shall not be mixed with Virginia type.

### § 51.2757 Whole.

*Whole* means that the peanut kernel is not split or broken.

### § 51.2758 Split.

*Split* means the separated half of a peanut kernel.

### § 51.2759 Broken.

*Broken* means that more than one-fourth of the peanut kernel is broken off.

### § 51.2760 Foreign material.

*Foreign material* means pieces or loose particles of any substance other than peanut kernels or skins.

### § 51.2761 Unshelled.

*Unshelled* means a peanut kernel with part or all of the hull (shell) attached.

### § 51.2762 Minor defects.

*Minor defects* means that the peanut kernel is not damaged but is affected by one or more of the following:

(a) Skin discoloration which is dark brown, dark gray, dark blue or black and covers more than one-fourth of the surface;

(b) Flesh discoloration which is darker than a light yellow color or consists of more than a slight yellow pitting of the flesh;

(c) Sprout extending more than one-eighth of an inch from the tip of the kernel; and,

(d) Dirt when the surface of the kernel is distinctly dirty, and its appearance is materially affected.

### § 51.2763 Damage.

*Damage* means that the peanut kernel is affected by one or more of the following:

(a) Rancidity or decay;

(b) Mold;

(c) Insects, worm cuts, web or frass;

(d) Freezing injury causing hard, translucent or discolored flesh; and,

(e) Dirt when the surface of the kernel is heavily smeared, thickly flecked or coated with dirt, seriously affecting its appearance.

## Subpart—United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types)

SOURCE: 60 FR 46977, Sept. 8, 1995, unless otherwise noted.

GRADES

### § 51.2830 U.S. No. 1.

*U.S. No. 1* consists of onions which meet the following requirements:

(a) Basic requirements:

(1) Similar varietal characteristics;

(2) Mature;

(3) Fairly firm; and,

(4) Fairly well shaped.

(b) Free from:

(1) Decay;

(2) Wet sunscald;

(3) Doubles;

(4) Bottlenecks; and,

(5) Scallions.

(c) Free from damage caused by:

(1) Seedstems;

(2) Splits;

(3) Tops;

(4) Roots;

(5) Dry sunken areas;

(6) Sunburn;

(7) Sprouts;

(8) Freezing;

(9) Peeling;

(10) Cracked fleshy scales;

(11) Watery scales;

(12) Dirt or staining;

(13) Foreign matter;

(14) Mechanical;
(15) Translucent scales;
(16) Disease;
(17) Insects; and,
(18) Other means.
(d) For tolerances see § 51.2837.
(e) Size. Unless otherwise specified the diameter shall be not less than 1½ inches, and yellow, brown, or red onions shall have 40 percent or more, and white onions shall have 30 percent or more, by weight, of the onions in any lot 2 inches or larger in diameter.
(f) When a percentage of the onions is specified to be of any certain size or larger, no part of any tolerance shall be allowed to reduce the specified percentage, but individual packages in a lot may have as much as 25 percentage points less than the percentage specified, except that individual packages containing 10 pounds or less shall have no requirements as to percentage of a certain size or larger: *Provided*, that any lot, regardless of package size, shall average within the percentage specified. (See §§ 51.2836 and 51.2837)[1]

### § 51.2831 U.S. Export No. 1.

*U.S. Export No. 1* consists of onions which meet the following requirements:
(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Dormant;
(4) Fairly firm; and,
(5) Fairly well shaped.
(b) Free from:
(1) Decay;
(2) Wet sunscald;
(3) Doubles;
(4) Bottlenecks; and,
(5) Scallions.
(c) Free from damage caused by:
(1) Seedstems;
(2) Splits;
(3) Tops;
(4) Roots;
(5) Dry sunken areas;
(6) Sunburn;
(7) Sprouts;
(8) Freezing;
(9) Peeling;
(10) Cracked fleshy scales;
(11) Watery scales;
(12) Dirt or staining;
(13) Foreign matter;
(14) Mechanical;
(15) Translucent scales;
(16) Disease;
(17) Insects; and,
(18) Other means.
(d) Unless otherwise specified onions are packed in accordance with Export Packing Requirements set forth in § 51.2840. (See § 51.2837.)

### § 51.2832 U.S. Commercial.

*U.S. Commercial* consists of onions which meet the following requirements:
(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not soft or spongy; and,
(4) Not badly misshapen.
(b) Free from:
(1) Decay;
(2) Wet sunscald;
(3) Doubles;
(4) Bottlenecks; and,
(5) Scallions.
(c) Free from damage caused by:
(1) Seedstems;
(2) Tops;
(3) Roots;
(4) Dry sunken areas;
(5) Sunburn;
(6) Sprouts;
(7) Freezing;
(8) Cracked fleshy scales;
(9) Watery scales;
(10) Mechanical;
(11) Translucent scales;
(12) Disease;
(13) Insects; and,
(14) Other means.
(d) Free from serious damage caused by:
(1) Staining;
(2) Dirt; and,
(3) Other foreign matter.
(e) For tolerances see § 51.2837.
(f) Size. Unless otherwise specified, the diameter shall be not less than 1½ inches. (See §§ 51.2836 and 51.2837.)

### § 51.2833 U.S. No. 1 Boilers.

*U.S. No. 1 Boilers* consists of onions which meet all the requirements for the U.S. No. 1 grade except for size.

[1] Any lot of onions quoted as being of size smaller than 1½ inches minimum, such as ''U.S. No. 1, 1¼ inches min.'' is not required to meet the percentages which shall be 2 inches or larger as specified in the U.S. No. 1 grade.

(See § 51.2830.) Size: The diameter of onions of this grade shall be not less than 1 inch nor more than 1⅞ inches. (See § 51.2837.)

### § 51.2834 U.S. No. 1 Picklers.

*U.S. No. 1 Picklers* consists of onions which meet all the requirements for the U.S. No. 1 grade except for size. (See § 51.2830.) Size: The maximum diameter of onions of this grade shall be not more than 1 inch. (See § 51.2837.)

### § 51.2835 U.S. No. 2.

*U.S. No. 2* consists of onions which meet the following requirements:

(a) Basic requirements:

(1) One type;

(2) Mature; and,

(3) Not soft or spongy.

(b) Free from:

(1) Decay;

(2) Wet sunscald; and,

(3) Scallions.

(c) Free from serious damage caused by:

(1) Watery scales;

(2) Dirt or Staining;

(3) Foreign Matter;

(4) Seedstems;

(5) Sprouts;

(6) Mechanical;

(7) Dry sunken areas;

(8) Disease;

(9) Freezing;

(10) Insects; and,

(11) Other means.

(d) For tolerances see § 51.2837.

(e) Size. Unless otherwise specified, the diameter shall not be less than 1½ inches. (See §§ 51.2836 and 51.2837.)

## SIZE CLASSIFICATIONS

### § 51.2836 Size classifications.

The size of onions may be specified in accordance with one of the following classifications.

| Size designation | Minimum diameter | | Maximum diameter | |
|---|---|---|---|---|
| | Inches | Millimeters | Inches | Millimeters |
| Small | 1 | 25.4 | 2¼ | 57.2 |
| Repacker/Prepacker [1] | 1¾ | 44.5 | 3 | 76.2 |
| Medium | 2 | 50.8 | 3¼ | 82.6 |
| Large or Jumbo | 3 | 76.2 | [2] | |
| Colossal | 3¾ | 95.3 | [2] | |

[1] In addition to the sizes specified, a lot of onions designated as Repacker or Prepacker shall contain at least 60 percent or more 2 inches or larger in diameter.

[2] No requirement.

## TOLERANCES

### § 51.2837 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades the following tolerances, by weight, are provided as specified:

(a) For defects:

(1) *U.S. No. 1, U.S. Export No. 1, U.S. No. 1 Boilers and U.S. No. 1 Picklers grades.*

(i) Not more than 10 percent of the onions in a lot may be damaged by peeling; and,

(ii) Not more than 5 percent of the onions in a lot may be below the remaining requirements of these grades, but not more than two-fifths of this tolerance, or 2 percent, may be allowed for onions which are affected by decay or wet sunscald (see § 51.2839.)

(2) *U.S. Commercial and U.S. No. 2 grades.*

(i) Not more than 5 percent of the onions in a lot may be below the requirements of these grades, but not more than two-fifths of this tolerance, or 2 percent, may be allowed for onions which are affected by decay or wet sunscald. (See § 51.2839.)

(ii) [Reserved]

(b) For off-size:

(1) *U.S. No. 1, U.S. No. 1 Boilers, U.S. Commercial, and U.S. No. 2 grades.* Not more than 5 percent of the onions in a

lot may be below the specified minimum size, and not more than 10 percent may be above any specified maximum size. (See § 51.2839.)

(2) *U.S. No. 1 Pickler grade.* Not more than 10 percent of the onions in a lot may be above the maximum size specified for this grade. (See § 51.2839.)

SAMPLES FOR GRADE AND SIZE DETERMINATION

### § 51.2838 Samples for grade and size determination.

Individual samples shall consist of at least 20 pounds for onions packed to meet larger than 2¼ inches maximum diameter. When individual packages contain 20 pounds or more and the onions are packed for Large or Jumbo size or larger the package shall be the sample. When individual packages contain less than 20 pounds, a sufficient number of adjoining packages are opened to provide at least a 20 pound sample, except that for onions packed to meet 2¼ inches maximum diameter or smaller, the sample may consist of either 20 pounds or the individual package.

APPLICATION OF TOLERANCES

### § 51.2839 Application of tolerances.

Individual samples are subject to the following limitations:

(a) Samples which contain more than 20 pounds shall have not more than one and one half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent, except that at least one defective and one off-size onion may be permitted in any sample: *Provided,* that en-route or at destination when onions in containers of 50 pounds or more are packed to a minimum size of 3 inches or larger not more than three onions or more than 4 percent (whichever is the larger amount) may be affected by decay or wet sunscald: *And provided further*, that the averages for the entire lot are within the tolerances specified for the grade; and,

(b) Samples which contain 20 pounds or less shall have not more than double the tolerance specified, except that at least one defective and one off-size onion may be permitted in any sample: *Provided,* that the averages for the entire lot are within the tolerances specified for the grade.

EXPORT PACKING REQUIREMENTS

### § 51.2840 Export packing requirements.

Onions specified as meeting Export Packing Requirements shall be packed in containers having a net capacity of 25 kilograms (approximately 56 pounds).

DEFINITIONS

### § 51.2841 Mature.

*Mature* means well cured. Midseason onions which are not customarily held in storage shall be considered mature when harvested in accordance with good commercial practice at a stage which will not result in the onions becoming soft or spongy.

### § 51.2842 Dormant.

*Dormant* means that at least 90 percent of the onions in any lot show no evidence of growth as indicated by distinct elongation of the growing point or distinct yellow or green color in the tip of the growing point.

### § 51.2843 Fairly firm.

*Fairly firm* means that the onion may yield slightly to moderate pressure but is not appreciably soft or spongy.

### § 51.2844 Fairly well shaped.

*Fairly well shaped* means having the shape characteristic of the variety, but onions may be slightly off-type or slightly misshapen.

### § 51.2845 Wet sunscald.

*Wet sunscald* means sunscald which is soft, mushy, sticky or wet.

### § 51.2846 Doubles.

*Doubles* means onions which have developed more than one distinct bulb joined only at the base.

### § 51.2847 Bottlenecks.

*Bottlenecks* are onions which have abnormally thick necks with only fairly well developed bulbs.

### § 51.2848 Scallions.

*Scallions* are onions which have thick necks and relatively small and poorly developed bulbs.

### § 51.2849 Damage.

*Damage* means any specific defect described in this section; or any equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the onions. The following specific defects shall be considered as damage:

(a) Seedstems which are tough or woody, or which are more than ¼ inch in diameter;

(b) Splits when onions with two or more hearts are not practically covered by one or more outer scales;

(c) Tops when more than 30 percent of the onions in a lot have tops 3 inches or more in length;

(d) New roots when most roots on an individual onion have grown to a length of 1 inch or more in length;

(e) Dry roots when more than 20 percent of the onions in a lot have practically all roots 2 inches or more in length;

(f) Dry sunken areas when the affected areas exceed the equivalent to that of a circle ½ inch in diameter on an onion 2¾ inches in diameter which does not have the outer papery scale covering the affected areas or when the affected areas exceed the equivalent to that of a circle ¾ inch in diameter on an onion 2¾ inches in diameter which has the outer papery scale covering the affected areas. Correspondingly lesser or greater areas are allowed on smaller or larger onions;

(g) Sunburn when more than 33 percent of the onions in a lot have a medium green color on one-third of the surface;

(h) Sprouts when visible, or when concealed within the dry top and more than ¾ inch in length on an onion 2 inches or larger in diameter, or proportionately shorter on smaller onions;

(i) Peeling when more than one-half of the thin papery skin is missing, leaving the underlying fleshy scale unprotected;

(j) Cracked fleshy scales when one or more of the fleshy scales are cracked;

(k) Watery scales when more than the equivalent of the entire outer fleshy scale is affected by an off-color, watersoaked condition. The off-color must be of some shade of brown or yellow;

(l) Dirt, staining or other foreign matter when more than 20 percent of the onions in a yellow, brown or red lot, or more than 15 percent of the onions in a white lot are appreciably stained. Onions with adhering dirt or other foreign matter shall be judged on the same basis as stained onions;

(m) Mechanical when any cut extends deeper than one fleshy scale, or when any bruise breaks a fleshy scale; and,

(n) Translucent scales when more than the equivalent of two entire outer fleshy scales have a watersoaked condition.

### § 51.2850 Diameter.

*Diameter* means the greatest dimension measured at right angles to a straight line running from the stem to the root.

### § 51.2851 Badly misshapen.

*Badly misshapen* means that the onion is so misshapen that its appearance is seriously affected.

### § 51.2852 Serious damage.

*Serious damage* means any specific defect described in this section; or any equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the onions. The following specific defects shall be considered as serious damage:

(a) Watery scales when more than the equivalent of two entire outer fleshy scales are affected by an off-colored, watersoaked condition. The off-color must be of some shade of brown or yellow;

(b) Dirt, staining or other foreign matter when more than 25 percent of the onions in a lot are badly stained. Onions with adhering dirt or other foreign matter shall be judged on the same basis as stained onions;

(c) Seedstems when more than ½ inch in diameter;

(d) Sprouts when the visible length is more than ½ inch;

(e) Mechanical when any cut extends deeper than two fleshy scales, or when cuts seriously damage the appearance of the onion; and,

(f) Dry sunken areas when extending deeper than one fleshy scale, or when affecting an area equivalent to that of a circle 1 inch in diameter on an onion 2¾ inches in diameter, or correspondingly lesser or greater areas on smaller or larger onions.

### § 51.2853 One type.

*One type* means that the onions are within the same general color category.

METRIC CONVERSION TABLE

### § 51.2854 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| ⅛ | 3.2 |
| ¼ | 6.4 |
| ⅜ | 9.5 |
| ½ | 12.7 |
| ⅝ | 15.9 |
| ¾ | 19.1 |
| ⅞ | 22.2 |
| 1 | 25.4 |
| 1¼ | 31.8 |
| 1½ | 38.1 |
| 1¾ | 44.5 |
| 2 | 50.8 |
| 2½ | 63.5 |
| 2¾ | 69.9 |
| 3 | 76.2 |
| 3½ | 88.9 |
| 4 | 101.6 |

## Subpart—United States Standards for Grades of Apricots

SOURCE: 59 FR 49340, Sept. 28, 1994, unless otherwise noted.

GRADES

### § 51.2925 U.S. No. 1.

''U.S. No. 1'' shall consist of apricots of one variety which are mature but not soft, overripe, or shriveled and which are well formed, free from decay, cuts, skin breaks, and worm holes and free from damage caused by limbrubs, russeting, growth cracks, dirt, scab, scale, hail, bruises, disease, insects, or mechanical or other means. For tolerances see § 51.2928.

### § 51.2926 U.S. No. 2.

''U.S. No. 2'' shall consist of apricots of one variety which are mature but not soft, overripe or shriveled and which are free from decay, cuts, skin breaks, and worm holes and free from serious damage caused by limbrubs, growth cracks, dirt, scale, hail, bruises, disease, insects, or mechanical or other means. For tolerances see § 51.2928.

MARKING AND PACKING REQUIREMENTS

### § 51.2927 Marking and packing requirements.

The minimum size or numerical count of the apricots in any package shall be plainly labeled, stenciled, or otherwise marked on the package.

(a) *Numerical count.* When the numerical count is used the fruit in any sample shall not vary more than one-fourth inch in diameter. See § 51.2928(b) Size for tolerances.

(b) *Minimum size.* ''Minimum size'' refers to the diameter of the smallest apricot in the package. It shall be stated in terms of whole and eighth inches, as 1½ inches min., 1⅝ inches min., etc., in accordance with the facts.

TOLERANCES

### § 51.2928 Tolerances.

In order to allow for variations incident to proper grading and handling the following tolerances are provided as specified:

(a) *Defects*—(1) *U.S. No. 1 grade.* Not more than 10 percent, by count, of any lot may be below the requirements of this grade and provided that not more than 5 percent, shall be allowed for defects causing serious damage and further provided that not more than 1 percent, shall be allowed for decay.

(2) *U.S. No. 2 grade.* Not more than 10 percent, by count, of any lot may be below the requirements of this grade, and not more than 1 percent shall be allowed for decay.

(b) *Size.* (1) If packages are marked with numerical count: Not more than 10 percent of the samples in a lot may fail the one-quarter inch variation requirement designated in § 51.2927 paragraph (a).

(2) If packages are marked with minimum size: Not more than 10 percent,

by count, of the apricots in any sample may be below the minimum size specified.

APPLICATION OF TOLERANCES

### § 51.2929 Application of tolerances.

Individual samples are subject to the following limitations: Provided, that the averages for the entire lot are within the tolerances specified for the grade.

(a) For a tolerance of 10 percent or more; individual samples in any lot may contain not more than one and one-half times the tolerance specified, except that 1 decayed or 1 seriously damaged specimen may be permitted in any sample.

(b) For a tolerance of less than 10 percent, individual samples in any lot may contain not more than double the tolerance specified, except that 1 decayed specimen may be permitted in any sample.

DEFINITIONS

### § 51.2930 Mature.

*Mature* means having reached the stage of development which will insure a proper completion of the ripening process.

### § 51.2931 Well-formed.

*Well-formed* means having the shape characteristic of the variety.

### § 51.2932 Damage.

*Damage* means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or a combination of defects, which materially detracts from the appearance, or the edible or shipping quality of the apricot. The dimensions given for these defects are based on an apricot with a diameter of 1⅞ inches (4.8 cm). Correspondingly larger or smaller dimensions are allowed on larger or smaller apricots. The following specific defects shall be considered as damage:

(a) *Growth Cracks* which are unhealed or when well healed and over three-eighths of an inch (9.5 mm) in length.

(b) *Limbrubs* which are smooth and shallow and are more than one-fourth inch (6.4 mm) in diameter.

(c) *Russeting* which is reddish to brown in color and exceeds 10 percent of the surface or thick, rough, and very dark and exceeds 5 percent of the surface.

(d) *Dirt* including spray residue appearing to the extent that it is readily apparent.

(e) *Scab* spots when cracked or aggregating more than three-eighths inch (9.5 mm) in diameter.

(f) *Scale* occurring as scale insects, scale marks, or similar marks which are heavily concentrated or are scattered and aggregating more than one-fourth inch (6.3 mm) in diameter.

(g) *Hail* when the skin has been broken or when not shallow and superficial or more than three-eighths inch (9.5 mm) in diameter in the aggregate.

(h) *Bruises* when: (1) The flesh is discolored deeper than one-eighth of an inch (3.1 mm); or

(2) Any bruise causing discoloration exceeding the area of a circle three-eighths inch (9.5 mm) in diameter; or

(3) An aggregate of lesser bruises detracting from the appearance, edible or shipping quality of the apricot as much as paragraph (h) (1) or (2) of this section.

### § 51.2933 Serious damage.

*Serious Damage* means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or a combination of defects, which seriously detracts from the appearance, or the edible or shipping quality of the apricot. The dimensions given for these defects are based on an apricot with a diameter of 1⅞ inches (4.8 cm). Correspondingly larger or smaller dimensions are allowed on larger or smaller apricots. The following specific defects shall be considered as serious damage:

(a) *Growth Cracks* which are unhealed or when well healed and over one-half inch (12.7 mm) in length.

(b) *Limbrubs* which are smooth and shallow and are more than one-half inch (12.7 mm) in diameter.

(c) *Russeting* which is reddish to brown in color and exceeds one-third of the surface or thick, rough, and very dark and exceeds 15 percent of the surface.

(d) *Dirt* including spray residue which is readily apparent and seriously affects the appearance.

(e) *Scab* spots when cracked or when well healed and aggregating more than one inch (2.5 cm) in diameter.

(f) *Scale* occurring as scale insects, scale marks, or similar marks aggregating more than one-half inch (12.7 mm) in diameter.

(g) *Hail* when the skin has been broken or when more than three sixteenths (4.8 mm) of an inch deep or more than one-half inch (12.7 mm) in diameter in the aggregate.

(h) *Bruises* when: (1) The flesh is discolored deeper than three-sixteenths of an inch (4.8 mm); or

(2) Any bruise causing discoloration exceeding the area of a circle five-eighths inch (15.9 mm) in diameter; or

(3) An aggregate of lesser bruises detracting from the appearance, edible or shipping quality of the apricot as much as paragraph (h)(1) or (2) of this section.

### § 51.2934 Diameter.

*Diameter* means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end.

## Subpart—United States Standards for Grades of Walnuts in the Shell

SOURCE: 29 FR 12865, Sept. 12, 1964, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GENERAL

### § 51.2945 Application.

The standards contained in this subpart apply only to walnuts commonly known as English or Persian walnuts (Juglans regia). They do not apply to the walnuts commonly known as black walnuts (Juglans nigra).

### § 51.2946 Color chart.

The color chart (USDA Walnut Color Chart) to which reference is made in §§ 51.2948, 51.2949, 51.2950, 51.2954, and 51.2963 illustrates four shades of color used to describe skin color of walnut kernels.

(a) *Availability of color chart.* The USDA Walnut Color Chart cited in this subpart has been filed with the original document and is available for inspection in the Office of the Federal Register. The color chart is also available for inspection in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D.C. 20250, in any field office of the Fresh Fruit and Vegetable Inspection Service of the Fruit and Vegetable Division, or upon request of any authorized inspector of such Service. Copies of the color chart may be purchased from Munsell Color Co., Inc., 2441 North Calvert Street, Baltimore, Md. 21218.

[33 FR 10840, July 31, 1968. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 51.2947 Method of inspection.

In determining the grade of a lot of walnuts, all of the nuts in the sample first should be graded for size and then examined for external defects. The same nuts then should be cracked and examined for internal defects. The nuts must meet the requirements for both external and internal quality in order to meet a designated grade.

GRADES

### § 51.2948 U.S. No. 1.

''U.S. No. 1'' consists of walnuts in shells which are dry, practically clean, bright and free from splits, injury by discoloration, and free from damage caused by broken shells, perforated shells, adhering hulls or other means. The kernels are well dried, free from decay, dark discoloration, rancidity, and free from damage caused by mold, shriveling, insects or other means. (See § 51.2954.)

(a) At least 70 percent, by count, of the walnuts have kernels which are not darker than ''light amber'' (see color chart), and which are free from grade defects: *Provided,* That at least four-sevenths of the above amount, or 40 percent of the walnuts have kernels which are not darker than ''light'' (see color chart). Higher percentages of nuts with kernels not darker than ''light amber'' which are free from grade defects and/or higher percentages

with kernels not darker than ''light'' which are free from grade defects, may be specified in accordance with the facts. (See § 51.2954.)

(b) Size shall be specified in connection with the grade. (See § 51.2952.)

### § 51.2949 U.S. No. 2.

''U.S. No. 2'' consists of walnuts in shells which are dry, practically clean and free from splits, and free from damage caused by broken shells, perforated shells, adhering hulls, discoloration or other means. The kernels are well dried, free from decay, dark discoloration, rancidity, and free from damage caused by mold, shriveling, insects or other means. (See § 51.2954.)

(a) At least 60 percent, by count, of the walnuts have kernels which are not darker than ''light amber'' (see color chart), and which are free from grade defects. Higher percentages of nuts with kernels not darker than ''light amber'' which are free from grade defects, and/or percentages with kernels not darker than ''light'' (see color chart) which are free from grade defects, may be specified in accordance with the facts. (See § 51.2954.)

(b) Size shall be specified in connection with the grade. (See § 51.2952.)

### § 51.2950 U.S. No. 3.

''U.S. No. 3'' consists of walnuts in shells which are dry, fairly clean, free from splits, and free from damage caused by broken shells, and free from serious damage caused by discoloration, perforated shells, adhering hulls or other means. The kernels are well dried, free from decay, dark discoloration, rancidity, and free from damage caused by mold, shriveling, insects or other means. (See § 51.2954.)

(a) There is no requirement in this grade for the percentage of walnuts having kernels which are ''light amber'' or ''light''. However, the percentage, by count, of nuts with kernels not darker than ''light amber'' (see color chart) which are free from grade defects and/or the percentage with kernels not darker than ''light'' (see color chart) which are free from grade defects, may be specified in accordance with the facts. (See § 51.2954.)

(b) Size shall be specified in connection with the grade. (See § 51.2952.)

UNCLASSIFIED

### § 51.2951 Unclassified.

''Unclassified'' consists of walnuts in the shell which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

SIZE SPECIFICATIONS

### § 51.2952 Size specifications.

Size shall be specified in accordance with the facts in terms of one of the following classifications:

(a) *Mammoth size.* Mammoth size means walnuts of which not over 12 percent, by count, pass through a round opening 9⁶⁄₆₄ inches in diameter;

(b) *Jumbo size.* Jumbo size means walnuts of which not over 12 percent, by count, pass through a round opening 8⁰⁄₆₄ inches in diameter;

(c) *Large size.* Large size means walnuts of which not over 12 percent, by count, pass through a round opening 7⁷⁄₆₄ inches in diameter; except that for walnuts of the Eureka variety and type, such limiting dimension as to diameter shall be 7⁶⁄₆₄ inches;

(d) *Medium size.* Medium size means walnuts of which at least 88 percent, by count, pass through a round opening 7⁷⁄₆₄ inches in diameter, and of which not over 12 percent, by count, pass through a round opening 7³⁄₆₄ inches in diameter;

(e) *Standard size.* Standard size means walnuts of which not over 12 percent, by count, pass through a round opening 7³⁄₆₄ inches in diameter;

(f) *Baby size.* Baby size means walnuts of which at least 88 percent, by count, pass through a round opening 7⁴⁄₆₄ inches in diameter, and of which not over 10 percent, by count, pass through a round opening 6⁰⁄₆₄ inch in diameter; and,

(g) *Minimum diameter, or minimum and maximum diameter.* In lieu of one of the foregoing classifications, size of walnuts may be specified in terms of minimum diameter, or minimum and maximum diameter: *Provided,* That not more than 12 percent, by count, pass through a round hole of the specified

minimum diameter, and at least 88 percent, by count, pass through a round hole of any specified maximum diameter.

VARIETY OR TYPE SPECIFICATIONS

### § 51.2953 Variety or type specifications.

The variety or type of any lot, of walnuts in the shell may be specified in accordance with the facts as follows:

(a) If the lot is of one named variety, that variety name may be specified, *Provided*, That not over 10 percent, by count, of the walnuts in the lot are of another variety or type than that specified; and,

(b) If the lot is a mixture of two or more distinct varieties or types it may be specified as ''Mixed Varieties''.

TOLERANCES FOR GRADE DEFECTS

### § 51.2954 Tolerances for grade defects.

In order to allow for variations incident to proper grading and handling, the following tolerances shall be permitted for nuts which fail to meet the requirements of the respective grades as indicated. Terms in quotation marks refer to color classifications illustrated on the color chart.

TOLERANCES FOR GRADE DEFECTS

| Grade | External (shell) defects | Internal (kernel) defects | Color of kernel |
|---|---|---|---|
| U.S. No. 1. ..... | 10 pct, by count for splits. 5 pct. by count, for other shell defects, including not more than 3 pct seriously damaged. | 10 pct total by count, including not more than 6 pct which are damaged by mold or insects or seriously damaged by other means, of which not more than 5/8 or 5 pct may be damaged by insects, but no part of any tolerance shall be allowed for walnuts containing live insects. | No tolerance to reduce the required 70 pct of ''light amber'' kernels or the required 40 pct of ''light'' kernels or any larger percentage of ''light amber'' or ''light'' kernels specified. |
| U.S. No. 2. ..... | 10 pct, by count, for splits. 10 pct, by count, for other shell defects, including not more than 5 pct serious damage by adhering hulls. | 15 pct total, by count, including not more than 8 pct which are damaged by mold or insects or seriously damaged by other means, of which not more than 5/8 or 5 pct may be damaged by insects, but no part of any tolerance shall be allowed for walnuts containing live insects. | No tolerance to reduce the required 60 pct or any specified larger percentage of ''light amber'' kernels, or any specified percentage of ''light'' kernels. |
| U.S. No. 3. ..... | Same as above tolerance for U.S. No. 2. | Same as above tolerance for U.S. No. 2. | No tolerance to reduce any percentage of ''light amber'' or ''light'' kernel specified. |

[41 FR 44187, Oct. 7, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

APPLICATION OF TOLERANCES

### § 51.2955 Application of tolerances.

The tolerances provided in these standards are on a lot basis, and they shall be applied to a composite sample representative of the lot. However, any identifiable container or group of containers in which the walnuts are obviously of a quality materially different from that in the majority of the containers shall be considered as a separate lot, and shall be sampled separately.

DEFINITIONS

### § 51.2956 Practically clean.

*Practically clean* means that, from the viewpoint of general appearance, the walnuts are practically free from adhering dirt or other foreign matter, and that individual walnuts are not damaged by such means. A slightly chalky deposit on the shell is characteristic of many bleached nuts and shall not be considered as dirt or foreign matter.

**§ 51.2957 Bright.**

*Bright* means a fairly light, attractive appearance. A slight chalky deposit on the shell shall not be considered as affecting brightness.

**§ 51.2958 Splits.**

*Splits* means walnuts with the seam opened completely around the nut so that the two halves of the shell are held together only by the kernel.

**§ 51.2959 Injury by discoloration.**

*Injury by discoloration* means that the color of the affected portion of the shell objectionably contrasts with the color of the rest of the shell of the individual nut.

**§ 51.2960 Damage.**

*Damage* means any specific defect mentioned in this section; or any equally objectionable variation of any one of these defects, any other defect, or any combination of defects which materially detracts from the appearance or the edible or shipping quality of the individual walnut or the lot as a whole. The following specific defects shall be considered as damage:

(a) Broken shells when the area from which a portion of the shell is missing is greater than the area of a circle one-fourth inch in diameter; or when the two halves of the shell have become completely broken apart and separated from each other;

(b) Perforated shells when the area affected aggregates more than that of a circle one-fourth inch in diameter. The term ''perforated shells'' means imperfectly developed areas on the shell resembling abrasions and usually including small holes penetrating the shell wall;

(c) Adhering hulls when affecting more than 5 percent of the shell surface;

(d) Discoloration (or stain) which covers, in the aggregate, one-fifth or more of the surface of the shell of an individual nut, and which is brown, reddish brown, gray, or other color in pronounced contrast with the color of the rest of the shell or the majority of shells in the lot, or darker discoloration covering a smaller area if the appearance is equally objectionable;

(e) Mold when attached to the kernel and conspicuous; or when inconspicuous white or gray mold affects an aggregate area larger than one square centimeter or one-eighth of the entire surface of the kernel, whichever is the lesser area;

(f) Shriveling when more than 5 percent of the surface of the kernel, including both halves, is severely shriveled, or a greater area is affected by lesser degrees of shriveling producing an equally objectionable appearance. Kernels which are thin in cross section but which are otherwise normally developed shall not be considered as damaged; and,

(g) Insects when an insect or insect fragment, web or frass is present inside the shell, or the kernel shows distinct evidence of insect feeding.

**§ 51.2961 Well dried.**

*Well dried* means that the kernel is firm and crisp, not pliable or leathery.

**§ 51.2962 Decay.**

*Decay* means that any portion of the kernel is decomposed.

**§ 51.2963 Dark discoloration.**

*Dark discoloration* means that the color of the skin of the kernel is darker than ''amber''. (See color chart.)

**§ 51.2964 Rancidity.**

*Rancidity* means the stage of deterioration in which the kernel has developed a rancid flavor. Rancidity should not be confused with a slightly astringent flavor of the pellicle (skin) or with staleness, the stage at which the flavor is flat but not distasteful.

**§ 51.2965 Fairly clean.**

*Fairly clean* means that, from the viewpoint of general appearance, the lot is not seriously damaged by adhering dirt or other foreign matter, and that individual walnuts are not coated or caked with dirt or foreign matter. Both the amount of surface affected and the color of the dirt shall be taken into consideration.

**§ 51.2966 Serious damage.**

*Serious damage* means any specific defect mentioned in this section; or an equally objectionable variation of any

one of these defects, any other defect, or any combination of defects which seriously detracts from the appearance or the edible or shipping quality of the walnut. The following specific defects shall be considered as serious damage:

(a) Discoloration (or stain) which covers, in the aggregate, one-third or more of the surface of the shell of an individual nut and which is brown, reddish brown, gray, or other color in pronounced contrast with the color of the rest of the shell or the majority of shells in the lot, or darker discoloration covering a smaller area if the appearance is equally objectionable;

(b) Perforated shells when the area affected aggregates more than that of a circle three-eighths of an inch in diameter. The term ''perforated shells'' means imperfectly developed areas on the shell resembling abrasions and usually including small holes penetrating the shell wall;

(c) Adhering hulls when affecting more than one-eighth of the shell surface in the aggregate;

(d) Shriveling when both halves of the kernel are affected by severe shriveling over an area totaling more than one-eighth of the surface; or when both halves are affected over a greater area by lesser degrees of shriveling producing an equally objectionable appearance. When one of the halves of the kernel shows no shriveling, the kernel shall not be considered seriously damaged unless the other half shows shriveling to the extent that over 50 percent of its surface is severely shriveled, or a greater area is affected by lesser degrees of shriveling producing an equally objectionable appearance. Kernels which are thin in cross section, but which are otherwise normally developed shall not be considered as damaged;

(e) Rancidity or decay; and,

(f) Uncured kernels which are wet, rubbery and ''green''.

## Subpart—United States Standards for Florida Avocados

SOURCE: 22 FR 6205, Aug. 3, 1957, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

GRADES

### § 51.3050 U.S. No. 1.

''U.S. No. 1'' consists of avocados of similar varietal characteristics which are mature but not overripe, well formed, clean, well colored, well trimmed and which are free from decay, anthracnose, and freezing injury and are free from damage caused by bruises, cuts or other skin breaks, pulled stems, russeting or similar discoloration, scars or scab, sunburn, sunscald or sprayburn, cercospora spot, other disease, insects, or mechanical or other means.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent, by count, of the avocados in any lot may fail to meet the requirements of this grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for avocados affected by decay or anthracnose, including therein not more than 1 percent for avocados affected by decay. (See §§ 51.3055 and 51.3056.)

### § 51.3051 U.S. Combination.

''U.S. Combination'' consists of a combination of U.S. No. 1 and U.S. No. 2 avocados: *Provided,* That at least 60 percent, by count, of the avocados in each container meet the requirements of the U.S. No. 1 grade.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent, by count, of the avocados in any lot may fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for avocados affected by decay or seriously damaged by anthracnose, including therein not more than 1 percent for avocados affected by decay. No part of any tolerance shall be allowed to reduce for the lot as a whole the percentage of U.S. No. 1 fruit required or specified in the combination, but individual containers may have not more than 10 percent less than the percentage of U.S. No. 1 fruit required or specified. (See §§ 51.3055 and 51.3056.)

**§ 51.3052 U.S. No. 2.**

''U.S. No. 2'' consists of avocados of similar varietal characteristics which are mature but not overripe, fairly well formed, clean, fairly well colored, well trimmed and which are free from decay and freezing injury and are free from serious damage caused by anthracnose, bruises, cuts or other skin breaks, pulled stems, russeting or similar discoloration, scars or scab, sunburn, sunscald or sprayburn, cercospora spot, other disease, insects, or mechanical or other means.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent, by count, of the avocados in any lot may fail to meet the requirements of this grade: *Provided,* That not more than one-half of this amount, or 5 percent, shall be allowed for avocados affected by decay or seriously damaged by anthracnose, including therein not more than 1 percent for avocados affected by decay. (See §§ 51.3055 and 51.3056.)

**§ 51.3053 U.S. No. 3.**

''U.S. No. 3'' consists of avocados of similar varietal characteristics which are mature but not overripe, which are not badly misshapen, and which are free from decay and are free from serious damage caused by anthracnose and are free from very serious damage caused by freezing injury, bruises, cuts or other skin breaks, pulled stems, russeting or similar discoloration, scars or scab, sunburn, sunscald or sprayburn, cercospora spot, other disease, insects, dirt or mechanical or other means.

(a) *Tolerances.* In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent, by count, of the avocados in any lot may fail to meet the requirements of this grade, including therein not more than 2 percent for avocados affected by decay. (See §§ 51.3055 and 51.3056.)

UNCLASSIFIED

**§ 51.3054 Unclassified.**

''Unclassified'' consists of avocados which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards, but is provided as a designation to show that no grade has been applied to the lot.

STANDARD PACK

**§ 51.3055 Standard pack.**

(a) The avocados shall be packed in accordance with good commercial practice and the pack shall be at least fairly tight. The weight of the smallest fruit in any container shall be not less than 75 percent of the weight of the largest fruit in the container. Size of the avocados may be specified by count.

(b) In order to allow for variations incident to proper sizing and packing, not more than 5 percent, by count, of the avocados in any container may weigh less than 75 percent of the weight of the largest fruit: *Provided,* That no fruit in any container shall weigh less than 60 percent of the weight of the largest fruit in the container. In addition, not more than 5 percent of the containers in any lot may fail to meet the requirement as to tightness of pack.

APPLICATION OF TOLERANCES

**§ 51.3056 Application of tolerances.**

(a) The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade:

(1) For packages which contain more than 20 avocados and a tolerance of 10 percent or more is provided, individual packages in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than 20 avocados and a tolerance of less than 10 percent is provided, individual packages in any lot shall have not more than double the tolerance specified, except that at least one defective and one off-size specimen may be permitted in any package; and,

(2) For packages which contain 20 avocados or less, individual packages shall have not more than double the tolerance specified, except that at least

one defective and one off-size specimen may be permitted in any package.

DEFINITIONS

### § 51.3057 Similar varietal characteristics.

*Similar varietal characteristics* means that the avocados in any container are similar in shape, texture, and color of skin and flesh.

### § 51.3058 Mature.

*Mature* means that the avocado has reached a stage of growth which will insure a proper completion of the ripening process.

### § 51.3059 Overripe.

*Overripe* means that the avocado is dead ripe with flesh soft or discolored and past commercial use.

### § 51.3060 Well formed.

*Well formed* means that the avocado has the normal shape characteristic of the variety.

### § 51.3061 Clean.

*Clean* means that the avocado is practically free from dirt, staining or other foreign material.

### § 51.3062 Well colored.

*Well colored* means that the avocado has the color characteristic of the variety.

### § 51.3063 Well trimmed.

*Well trimmed* means that the stem, when present, is cut off fairly smoothly at a point not more than one-fourth inch beyond the shoulder of the avocado.

### § 51.3064 Damage.

*Damage* means any defect which materially affects the appearance, or the edible or shipping quality of the individual fruit, or the general appearance of the avocados in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Cuts or other skin breaks when not healed and penetrating beneath the epidermis or the aggregate area exceeds that of a rectangle 1 inch in length and one-eighth inch in width, or when healed and the appearance is materially affected;

(b) Pulled stems when the exposed stem cavity is excessively deep, or when skin surrounding the stem cavity is more than slightly torn;

(c) Russeting or similar discoloration when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown surface discoloration aggregating 10 percent of the fruit surface;

(d) Scars or scab when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown superficial, fairly smooth scars aggregating 10 percent of the fruit surface;

(e) Sunburn when the appearance of the avocado is affected to a greater extent than that of an avocado which has greenish-yellow colored sunburn aggregating 10 percent of the fruit surface; and,

(f) Sunscald or sprayburn when not well healed, or when soft, or when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown, superficial scars aggregating 10 percent of the fruit surface.

### § 51.3065 Fairly well formed.

*Fairly well formed* means that the avocado may be slightly abnormal in shape but not to the extent that the appearance is seriously affected.

### § 51.3066 Fairly well colored.

*Fairly well colored* means that the avocado shows a shade of color which is fairly characteristic of the variety.

### § 51.3067 Serious damage.

*Serious damage* means any defect which seriously affects the appearance, or the edible or shipping quality of the individual fruit, or the general appearance of the avocados in the container. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Anthracnose when any spot exceeds the area of a circle one-fourth inch in diameter, or when more than 3

spots each of which exceeds the area of a circle three-sixteenths inch in diameter;

(b) Cuts or other skin breaks when not healed and penetrating into the flesh of the fruit, or the aggregate area exceeds that of a rectangle 1 inch in length and one-fourth inch in width, or when healed and the appearance is seriously affected;

(c) Pulled stems when the skin surrounding the exposed stem cavity is torn more than an aggregate area of a circle one-fourth inch in diameter, or when the flesh is torn;

(d) Russeting or similar discoloration when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown surface discoloration aggregating 25 percent of the fruit surface;

(e) Scars or scab when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown superficial fairly smooth scars aggregating 25 percent of the fruit surface;

(f) Sunburn when the appearance of the avocado is affected to a greater extent than that of an avocado which has greenish-yellow colored sunburn aggregating 25 percent of the fruit surface;

(g) Sunscald or sprayburn when not well healed, or when soft, or when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown superficial, fairly smooth scars aggregating 25 percent of the fruit surface; and

(h) Cercospora spot when any spot exceeds the area of a circle one-fourth inch in diameter, or when more than 3 spots each of which exceeds the area of a circle three-sixteenths inch in diameter, or when the aggregate area of all spots exceeds the area of a circle 1 inch in diameter.

### § 51.3068 Badly misshapen.

*Badly misshapen* means that the avocado is so badly curved, constricted, pointed or otherwise deformed that the appearance is very seriously affected.

### § 51.3069 Very serious damage.

*Very serious damage* means any defect which very seriously affects the appearance, or the edible or shipping quality of the avocado. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as very serious damage:

(a) Cuts or other skin breaks when not healed and penetrating into the flesh of the fruit, or any skin break very seriously affecting the appearance, or the edible or shipping quality;

(b) Pulled stems when the skin surrounding the exposed stem cavity is torn more than an aggregate area of a circle one-half inch in diameter, or when the flesh is torn;

(c) Russeting or similar discoloration when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown surface discoloration aggregating 50 percent of the fruit surface;

(d) Scars or scab when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown superficial, fairly smooth scars aggregating 50 percent of the fruit surface;

(e) Sunburn when the appearance of the avocado is affected to a greater extent than that of an avocado which has greenish-yellow colored sunburn aggregating 50 percent of the fruit surface; and,

(f) Sunscald or sprayburn when not well healed, or when the appearance of the avocado is affected to a greater extent than that of an avocado which has light brown superficial, fairly smooth scars aggregating 50 percent of the fruit surface.

## Subpart—United States Standards for Grades of Nectarines

SOURCE: 69 FR 9196, Feb. 27, 2004, unless otherwise noted.

GRADES

### § 51.3145 U.S. Fancy.

''U.S. Fancy'' consists of nectarines of one variety which are mature but not soft or overripe, which are well formed, clean, and free from decay, broken skins which are not healed, worms, worm holes, and free from injury caused by bruises, growth cracks, hail, sunburn, sprayburn, scab, bacterial spot, scale, split pit, scars,

russeting, other disease, insects, or mechanical or other means.

(a) Each nectarine shall have not less than one-third of its surface showing red color characteristic of the variety. (*See* §51.3150.)

(b) [Reserved]

### §51.3146 U.S. Extra No. 1.

''U.S. Extra No. 1'' consists of nectarines of one variety which are mature but not soft or overripe, which are well formed, clean, and free from decay, broken skins which are not healed, worms, worm holes and free from injury caused by split pit and free from damage caused by bruises, growth cracks, hail, sunburn, sprayburn, scab, bacterial spot, scale, scars, russeting, other disease, insects or mechanical or other means.

(a) At least 75 percent of the nectarines in any lot shall show some blushed or red color including therein at least 50 percent of the nectarines with not less than one-third of the fruit surface showing red color characteristic of the variety. (*See* §51.3150.)

(b) [Reserved]

### §51.3147 U.S. No. 1.

''U.S. No. 1'' consists of nectarines of one variety which are mature but not soft or overripe, which are well formed, clean, and free from decay, broken skins which are not healed, worms, worm holes, and free from injury caused by split pit and free from damage caused by bruises, growth cracks, hail, sunburn, sprayburn, scab, bacterial spot, scale, scars, russeting, other disease, insects, or mechanical or other means.

### §51.3148 U.S. No. 2.

''U.S. No. 2'' consists of nectarines of one variety which are mature but not soft or overripe, which are not badly misshapen, which are clean and free from decay, broken skins which are not healed, worms, worm holes, and free from serious damage caused by bruises, growth cracks, hail, sunburn, sprayburn, scab, bacterial spot, scale, split pit, scars, russeting, other disease, insects, or mechanical or other means.

### §51.3149 [Reserved]

TOLERANCES

### §51.3150 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the following grades, the following tolerances, by count, based on a minimum 50-count sample, except when packages contain less than 50 fruit, a minimum 25-count sample shall be examined, (when packages contain less than 25 fruit adjoining packages shall be opened to obtain the 25-count minimum sample), are provided as specified:

(a) *U.S. Fancy, U.S. Extra No. 1, and U.S. No. 1 grades*—(1) *For defects at shipping point.*[1] 8 percent for nectarines which fail to meet the requirements of the specified grade: *Provided*, That included in this amount not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than one-half of 1 percent for nectarines which are affected by decay.

(2) *For defects en route or at destination.* 12 percent for nectarines which fail to meet the requirements of the specified grade: *Provided*, That included in this amount, not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for permanent defects;

(ii) 6 percent for defects causing serious damage, including therein not more than 4 percent for serious damage by permanent defects and not more than 2 percent for decay.

(3) *For color*—(i) *U.S. Fancy grade.* 10 percent for nectarines in any lot which fail to meet the requirements of the grade.

(ii) *U.S. Extra No. 1 grade and when specified in connection with a grade.* Individual containers may contain not more than 10 percentage points less than the required percentage of nectarines showing the amount of color specified for the grade: *Provided*, That

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

the entire lot averages not less than the required percentage of nectarines showing the specified color for the grade.

(b) *U.S. No. 2 grade*—(1) *For defects at shipping point.*[1] 8 percent for nectarines which fail to meet the requirements of the grade: *Provided*, That included in this amount, not more than 4 percent shall be allowed for sunscald, decay, or serious damage by insects or heat injury, including in this latter amount not more than one-half of 1 percent for nectarines which are affected by decay.

(2) *For defects en route or at destination.* 12 percent for nectarines which fail to meet the requirements of the grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for permanent defects including therein not more than 4 percent for sunscald, or serious damage by insects or heat injury; and

(ii) 2 percent for decay.

APPLICATION OF TOLERANCES

### § 51.3151 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(a) A package may contain not more than double any specified tolerance except that at least two defective specimens may be permitted in any package: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade.

(b) [Reserved]

STANDARD PACK

### § 51.3152 Standard pack.

(a) Nectarines shall be fairly uniform in size and shall be packed in boxes, lugs, crates, or cartons and arranged according to the approved and recognized methods. All such containers shall be tightly packed and well filled but the contents shall not show excessive or unnecessary bruising resulting from overfilling. The nectarines in the shown face shall be reasonably representative in size, color and quality of the contents of the container.

(b) When packed in closed containers, the size shall be indicated by marking the container with the numerical count, the pack arrangement, or the minimum diameter or minimum and maximum diameters in terms of inches and not less than one-eighth fractions of inches, or a count-size based on equivalent tray pack size designations.

(c) Boxes, lugs or cartons: (1) Nectarines packed in containers equipped with cell compartments, cardboard fillers or molded trays shall be of the proper size for the cells, fillers, or molds in which they are packed, and the number of nectarines in the container shall correspond to the count marked on the container.

(2) In order to allow for variations incident to proper packing, when packed in other types of packs in lugs, cartons, or boxes, the number of nectarines in the container may vary not more than two from the number marked on the container.

(d) ''Well filled'' means that the nectarines packed in loose or volume filled containers are packed within 1 inch of the top of the container.

(e) ''Fairly uniform in size'' means that when the average diameter of nectarines in any container is 2 inches or smaller not more than 5 percent, by count, of the nectarines in the container shall be outside a diameter range of one-fourth inch; when the average diameter of nectarines in any container is over 2 inches not more than 5 percent, by count, of the nectarines in the container shall be outside a diameter range of three-eighths inch.

(f) Minimum size: When size is indicated in terms of minimum diameter not more than 5 percent, by count, of the fruit in any container may be smaller than the size marked.

(g) ''Diameter'' means the greatest dimension measured at right angles to a line from stem to blossom end of the fruit.

(h) Tolerances. In order to allow for variations incident to proper sizing and packing, not more than 10 percent, by count, of the containers in any lot may fail to meet the requirements for standard pack.

DEFINITIONS

### §51.3153 Mature.

''Mature'' means that the nectarine has reached the stage of growth which will insure a proper completion of the ripening process.

### §51.3154 Well formed.

''Well formed'' means that the nectarine has the shape characteristic of the variety and that bumps or other roughness do not materially detract from the appearance.

### §51.3155 Clean.

''Clean'' means that the fruit is practically free from dirt and other foreign material.

### §51.3156 Injury.

''Injury'' means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which more than slightly detracts from the appearance, or the edible or marketing quality of the fruit. The following specific defects shall be considered as injury:

(a) Growth cracks:

(1) When not healed;

(2) When more than one in number;

(3) When more than one-eighth inch in depth; or,

(4) When more than one-eighth inch in length.

(b) Heat injury, sprayburn or sunburn when the normal color of the skin or flesh is more than slightly changed, or when any indentation is present;

(c) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-eighth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit larger than 2 inches in diameter;

(d) Scale or scale marks when more than one large scale or scale mark or when more than three scales or scale marks of any size are present;

(e) Split pit when causing any unhealed crack, or when healed and aggregating more than one-fourth inch in length, or when affecting the shape to the extent that the fruit is not well formed;

(f) Drought spots or external gum spots which have an aggregate area exceeding that of a circle one-eighth inch in diameter;

(g) Scars, including those caused by hail, when the surface of the fruit is depressed more than one-sixteenth inch or when not light in color, or when not smooth, or when exceeding any of the following aggregate areas, or a combination of two or more types of scars the seriousness of which exceeds the maximum allowed for any one type:

(1) Light colored, smooth scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;

(2) Twig or limb scratches which are not well healed or which have an aggregate length of more than one-fourth inch; and

(h) Russeting which exceeds any of the following aggregate areas of any one type of russeting, or a combination of two or more types of russeting the seriousness of which exceeds the maximum allowed for any one type:

(1) Rough or slightly rough russeting when the area exceeds that of a circle one-eighth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-fourth inch in diameter on a fruit larger than 2 inches in diameter;

(2) Fairly smooth or smooth russeting or staining when the area exceeds 10 percent of the fruit surface: *Provided,* That speckling characteristic of certain varieties shall not be considered as russeting or discoloration.

### §51.3157 Damage.

''Damage'' means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the fruit. The following specific defects shall be considered as damage:

(a) Growth cracks:

(1) When not healed;

(2) When more than one in number;

(3) When more than one-eighth inch in depth;

(4) When more than three-eighths inch in length if within the stem cavity; or,

(5) When more than one-fourth inch in length if outside of the stem cavity;

(b) Heat injury, sprayburn or sunburn:

(1) When the skin is blistered, cracked, or decidedly flattened;

(2) When the normal color of the skin or flesh has materially changed;

(3) When there is more than one indentation; or,

(4) When an indentation exceeds three-sixteenths inch in diameter;

(c) Scab or bacterial spot when cracked, or when the aggregate area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(d) Scale or scale marks when the aggregate area exceeds that of a circle one-fourth inch in diameter;

(e) Drought spots or external gum spots which have an aggregate area exceeding that of a circle one-fourth inch in diameter;

(f) Scars, including those caused by hail, when the surface of the fruit is depressed more than one-sixteenth inch, or when exceeding any of the following aggregate areas, or a combination of two or more types of scars the seriousness of which exceeds the maximum allowed for any one type:

(1) Dark or rough scars when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(2) Fairly light colored, fairly smooth scars when the area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle five-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(3) Light colored, smooth scars when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle seven-eighths inch in diameter on a fruit larger than 2 inches in diameter;

(4) Twig or limb scratches which are not well healed or which have an aggregate length of more than one-half inch; and

(g) Russeting which exceeds any of the following aggregate areas of any one type of russeting, or a combination of two or more types of russeting the seriousness of which exceeds the maximum allowed for any one type:

(1) Rough russeting when the area exceeds that of a circle one-fourth inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one-half inch in diameter on a fruit larger than 2 inches in diameter;

(2) Slightly rough russeting when the area exceeds that of a circle five-eighths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;

(3) Fairly smooth or smooth russeting when the area exceeds 15 percent of the fruit surface: *Provided,* That discoloration occurring as yellow to brown staining of the skin shall not be considered as russeting and shall be considered as causing damage only when materially detracting from the appearance of the nectarine, and that speckling characteristic of certain varieties shall not be considered as russeting or discoloration.

### § 51.3158 Badly misshapen.

''Badly misshapen'' means that the nectarine is so decidedly deformed that its appearance is seriously affected.

### § 51.3159 Serious damage.

''Serious damage'' means any specific defect defined in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects which seriously detracts from the appearance or the edible or marketing quality of the fruit. The following specific defects shall be considered as serious damage:

(a) Growth cracks:

(1) When not healed and more than one-eighth inch in length or depth;

(2) When healed and more than three-sixteenths inch in depth;

(3) When healed and aggregating more than five-eighths inch in length if within the stem cavity; or,

(4) When healed and aggregating more than one-half inch in length if outside of the stem cavity;

(b) Heat injury, sprayburn or sunburn:

(1) When the skin is blistered, cracked, or decidedly flattened;

(2) When causing any dark discoloration of the flesh;

(3) When there are more than two indentations;

(4) When the aggregate area of indentations exceeds that of a circle three-eighths inch in diameter; or,

(5) When causing noticeable brownish or darker discoloration over more than one-fourth of the fruit surface;

(c) Scab or bacterial spot when the aggregate area exceeds that of a circle one-half inch in diameter on a fruit 2 inches in diameter or smaller; or when the aggregate area exceeds that of a circle three-fourths inch in diameter on a fruit larger than 2 inches in diameter;

(d) Scale or scale marks when the aggregate area exceeds that of a circle three-eighths inch in diameter;

(e) Split pit when causing any unhealed crack or when healed and aggregating more than three-eighths inch in length, or when affecting the shape to the extent that the fruit is badly misshapen;

(f) Drought spots or external gum spots which have an aggregate area exceeding that of a circle one-half inch in diameter;

(g) Scars, including those caused by hail, when the surface of the fruit is depressed more than three-sixteenths inch, or when exceeding any of the following aggregate areas, or a combination of two or more types of scars the seriousness of which exceeds the maximum allowed for any one type:

(1) Dark or rough scars when the area exceeds that of a circle three-fourths inch in diameter on a fruit 2 inches in diameter or smaller; or when the area exceeds that of a circle one inch in diameter on fruit larger than 2 inches in diameter;

(2) Scars which are not dark or rough when the area exceeds one-fourth of the fruit surface;

(h) Russeting which exceeds any of the following aggregate areas of any one type of russeting, or a combination of two or more types of russeting the seriousness of which exceeds the maximum allowed for any one type:

(1) Rough or slightly rough russeting when the area exceeds 10 percent of the fruit surface; or

(2) Fairly smooth or smooth russeting when the area exceeds 50 percent of the fruit surface: *Provided,* That discoloration occurring as yellow to brown staining of the skin shall not be considered russeting and shall be considered as causing serious damage only when seriously detracting from the appearance of the nectarine, and that speckling characteristic of certain varieties shall not be considered as russeting or discoloration.

(i) Soft or overripe nectarines;

(j) Nectarines affected by decay;

(k) Unhealed broken skins except those associated with growth cracks; and,

(l) Wormy fruit or worm holes.

METRIC CONVERSION TABLE

### § 51.3160 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 1/8 equals | 3.2 |
| 1/4 equals | 6.4 |
| 3/8 equals | 9.5 |
| 1/2 equals | 12.7 |
| 5/8 equals | 15.9 |
| 3/4 equals | 19.1 |
| 7/8 equals | 22.2 |
| 1 equals | 25.4 |
| 1–1/4 equals | 31.8 |
| 1–1/2 equals | 38.1 |
| 1–3/4 equals | 44.5 |
| 2 equals | 50.8 |
| 3 equals | 76.2 |
| 4 equals | 101.6 |

## Subpart—United States Standards for Grades of Bermuda-Granex-Grano Type Onions

SOURCE: 60 FR 46980, Sept. 8, 1995, unless otherwise noted.

GRADES

### § 51.3195 U.S. No. 1.

*U.S. No. 1* consists of onions which meet the following requirements:

(a) Basic requirements:

(1) Similar varietal characteristics;
(2) Mature;
(3) Fairly firm; and,
(4) Fairly well shaped.
(b) Free from:
(1) Decay;
(2) Wet sunscald;
(3) Doubles; and,
(4) Bottlenecks.
(c) Free from damage caused by:
(1) Seedstems;
(2) Splits;
(3) Dry sunken areas;
(4) Sunburn;
(5) Sprouting;
(6) Staining;
(7) Dirt or foreign material;
(8) Mechanical;
(9) Tops;
(10) Roots;
(11) Translucent scales;
(12) Watery scales;
(13) Moisture;
(14) Disease;
(15) Insects; and,
(16) Other means.
(d) For size and tolerances see §§ 51.3198 and 51.3199.

### § 51.3196 U.S. Combination.

*U.S. Combination* consists of a combination of U.S. No. 1 and U.S. No. 2 onions: *Provided*, That at least 50 percent, by weight, of the onions in each lot meet the requirements of U.S. No. 1 grade. (See §§ 51.3198 and 51.3199.)

### § 51.3197 U.S. No. 2.

*U.S. No. 2* consists of onions which meet the following requirements:
(a) Basic requirements:
(1) Similar varietal characteristics; and,
(2) Not soft or spongy.
(b) Free from:
(1) Decay;
(2) Wet sunscald; and,
(3) Bottlenecks.
(c) Free from serious damage caused by:
(1) Seedstems;
(2) Dry sunken areas;
(3) Sprouting;
(4) Staining;
(5) Dirt or other foreign material;
(6) Mechanical;
(7) Watery scales;
(8) Insects;
(9) Disease; and,
(10) Other means.
(d) For size and tolerances see §§ 51.3198 and 51.3199.

SIZE CLASSIFICATIONS

### § 51.3198 Size classifications.

Size shall be specified in connection with the grade in terms of minimum diameter, range in diameter, minimum diameter with a percentage of a certain size or larger, or in accordance with one of the size classifications listed below: *Provided*, that unless otherwise specified, onions shall not be less than 1½ inches in diameter, with 60 percent or more 2 inches or larger in diameter.

| Size designation | Minimum diameter | | Maximum diameter | |
|---|---|---|---|---|
| | Inches | Millimeters | Inches | Millimeters |
| Small | 1 | 25.4 | 2¼ | 57.2 |
| Repacker/Prepacker [1] | 1¾ | 44.5 | 3 | 76.2 |
| Medium | 2 | 50.8 | 3¼ | 82.6 |
| Large or Jumbo | 3 | 76.2 | ([2]) | |
| Colossal | 3¾ | 95.3 | ([2]) | |

[1] In addition to the sizes specified, a lot of onions designated as Repacker or Prepacker shall contain at least 60 percent or more 2 inches or larger in diameter.
[2] No requirement.

TOLERANCES

### § 51.3199 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades the following tolerances, by weight, are provided as specified:
(a) For defects:
(1) *U.S. No. 1 and U.S. No. 2 grades.* Not more than 10 percent of the onions in a lot may fail to meet the requirements of these grades, but not more

than one-fifth of this tolerance, or 2 percent, may be allowed for onions which are affected by decay or wet sunscald.

(2) *U.S. Combination grade.* When applying the foregoing tolerances to this grade no part of any tolerance shall be allowed to reduce, for the lot as a whole, the 50 percent of onions of the U.S. No. 1 grade, but individual containers shall have not less than 40 percent of the U.S. No. 1 grade.

(b) For size:

(1) Not more than 5 percent of the onions in a lot may be smaller than the minimum diameter specified. In addition, not more than 10 percent of the onions in a lot may be larger than the maximum diameter specified.

(2) When a percentage of the onions is specified to be a certain size and larger, individual packages containing more than 10 pounds may have not less than one-half of the percentage specified: *Provided,* that the entire lot averages within the percentage specified.

SAMPLES FOR GRADE AND SIZE DETERMINATION

### § 51.3200 Samples for grade and size determination.

Individual samples shall consist of at least 20 pounds for onions packed to meet larger than 2¼ inches maximum diameter. When individual packages contain 20 pounds or more and the onions are packed for Large or Jumbo size or larger the package shall be the sample. When individual packages contain less than 20 pounds, a sufficient number of adjoining packages are opened to provide at least a 20 pound sample, except that for onions packed to meet 2¼ inches maximum diameter or smaller, the sample may consist of either 20 pounds or the individual package.

APPLICATION OF TOLERANCES

### § 51.3201 Application of tolerances.

Individual samples are subject to the following limitations:

(a) Samples which contain more than 20 pounds shall have not more than one and one half times a specified tolerance of 10 percent or more, and not more than double a specified tolerance of less than 10 percent, except that at least one defective and one off-size onion may be permitted in any sample: *Provided,* that en-route or at destination when onions in containers of 50 pounds or more are packed to a minimum size of 3 inches or larger not more than three onions or more than 4 percent (whichever is the larger amount) may be affected by decay or wet sunscald: *And provided further,* that the averages for the entire lot are within the tolerances specified for the grade; and,

(b) Samples which contain 20 pounds or less shall have not more than double the tolerance specified, except that at least one defective and one off-size onion may be permitted in any sample: *Provided,* that the averages for the entire lot are within the tolerances specified for the grade.

DEFINITIONS

### § 51.3202 Similar varietal characteristics.

*Similar varietal characteristics* means that the onions in any container are similar in color, shape and character of growth.

### § 51.3203 Mature.

*Mature* means that the onion is fairly well cured, and at least fairly firm.

### § 51.3204 Fairly firm.

*Fairly firm* means that the onion may yield slightly to moderate pressure but is not appreciably soft or spongy.

### § 51.3205 Fairly well shaped.

*Fairly well shaped* means that the onion shows the characteristic shape, not appreciably three-, four- or five-sided, thick necked or badly pinched.

### § 51.3206 Wet sunscald.

*Wet sunscald* means any sunscald which is soft, mushy, sticky or wet.

### § 51.3207 Doubles.

*Doubles* means onions which have developed more than one distinct bulb joined only at the base.

### § 51.3208 Bottlenecks.

*Bottlenecks* means onions which have abnormally thick necks with only fairly well developed bulbs.

### § 51.3209 Damage.

*Damage* unless otherwise specifically defined in this section, means any defect which materially affects the appearance, or the edible or shipping quality of the onions. Any one of the following defects, or combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

(a) Seedstems which are tough or woody, or which are more than ¼ inch in diameter;

(b) Splits when well cured onions are not practically covered by an outer scale, or when fairly well cured onions are not completely covered by one outer scale;

(c) Dry sunken areas when the affected areas exceed the equivalent to that of a circle ½ inch in diameter on an onion 2¾ inches in diameter which does not have the outer papery scale covering the affected areas or when the affected areas exceed the equivalent to that of a circle ¾ inch in diameter on an onion 2¾ inches in diameter which has the outer papery scale covering the affected areas. Correspondingly lesser or greater areas are allowed on smaller or larger onions;

(d) Sunburn when dark green in color and affecting an area equivalent to that of a circle 1 inch in diameter on an onion 2¾ inches in diameter or correspondingly smaller or larger areas on smaller or larger onions, or when medium to light green in color and affecting more than 10 percent of the surface of the onion;

(e) Sprouting when any sprout is visible, or when concealed within the neck scales and are more than ¾ inch in length on an onion 2 inches or larger in diameter, or proportionately shorter on smaller onions;

(f) Staining, dirt or other foreign material when more than 20 percent of the onions in a yellow, brown or red lot, or more than 15 percent of the onions in a white lot are appreciably stained. Onions with adhering dirt or other foreign matter shall be judged on the same basis as stained onions;

(g) Mechanical when any cut extends deeper than one fleshy scale, or when any bruise breaks a fleshy scale;

(h) Tops when more than 30 percent of the onions in a lot have tops 3 inches or more in length;

(i) New roots when most roots on an individual onion have grown to a length of 1 inch or more;

(j) Dry roots when practically all roots are 2 inches or more in length;

(k) Translucent scales when more than the equivalent of two entire outer fleshy scales have a watersoaked condition; and,

(l) Watery scales when more than the equivalent of the entire outer fleshy scale is affected by an off-color, watersoaked condition. The off-color must be of some shade of brown or yellow.

### § 51.3210 Serious damage.

*Serious damage* unless otherwise specifically defined in this section, means any defect which seriously affects the appearance, or the edible or shipping quality of the onions. Any one of the following defects, or any combination of defects the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as serious damage:

(a) Seedstems when more than ½ inch in diameter;

(b) Dry sunken areas when extending deeper than one fleshy scale, or when affecting an area equivalent to that of a circle 1 inch in diameter on an onion 2¾ inches in diameter, or correspondingly lesser or greater areas on smaller or larger onions;

(c) Sprouting when any visible sprout is more than ½ in length;

(d) Staining, dirt or foreign material when more than 25 percent of the onions in any lot are badly stained. Onions with adhering dirt or other foreign matter shall be judged on the same basis as stained onions;

(e) Mechanical when any cut extends deeper than two fleshy scales, or when cuts seriously damage the appearance of the onion; and,

(f) Watery scales when more than the equivalent of two entire outer fleshy scales are affected by an off-colored, watersoaked condition. The off-color must be of some shade of brown or yellow.

### § 51.3211 Diameter.

*Diameter* means the greatest dimension of the onion at right angles to a line running from the stem to the root.

METRIC CONVERSION TABLE

### § 51.3212 Metric conversion table.

| Inches | Millimeters (mm) |
|---|---|
| 1/8 | 3.2 |
| 1/4 | 6.4 |
| 3/8 | 9.5 |
| 1/2 | 12.7 |
| 5/8 | 15.9 |
| 3/4 | 19.1 |
| 7/8 | 22.2 |
| 1 | 25.4 |
| 1 1/4 | 31.8 |
| 1 1/2 | 38.1 |
| 1 3/4 | 44.5 |
| 2 | 50.8 |
| 2 1/2 | 63.5 |
| 2 3/4 | 69.9 |
| 3 | 76.2 |
| 3 1/2 | 88.9 |
| 4 | 101.6 |

## Subpart—United States Standards for Grades of Potatoes for Processing [1]

SOURCE: 48 FR 10802, Mar. 15, 1983, unless otherwise noted.

### § 51.3410 Grades.

(a) ''U.S. No. 1 Processing'' consists of potatoes which meet the following requirements:

(1) Basic requirements:

(i) Similar varietal characteristics;

(ii) Moderately firm; and,

(iii) Fairly well shaped.

(2) Free from:

(i) Freezing or freezing injury;

(ii) Blackheart;

(iii) Late Blight Tuber Rot;

(iv) Southern Bacterial Wilt;

(v) Bacterial Ring Rot;

(vi) Insects, worms or larvae;

(vii) Soft rot and wet breakdown; and,

(viii) Loose sprouts, dirt and foreign material.

(3) Free from damage by any cause.

(4) *Size.* Unless otherwise specified, individual potatoes shall be not less than 2 inches in diameter or 4 ounces in weight. Percentage(s) of a larger size(s) and/or a maximum size may be specified.

(b) ''U.S. No. 2 Processing'' consists of potatoes or usable pieces of potatoes which meet the following requirements:

(1) Basic requirements:

(i) Similar varietal characteristics;

(ii) Moderately firm; and,

(iii) Not seriously misshapen.

(2) Free from:

(i) Freezing or freezing injury;

(ii) Blackheart;

(iii) Late Blight Tuber Rot;

(iv) Southern Bacterial Wilt;

(v) Bacterial Ring Rot;

(vi) Insects, worms or larvae;

(vii) Soft rot and wet breakdown; and,

(viii) Loose sprouts, dirt and foreign material.

(3) Free from serious damage by any cause.

(4) *Size.* Unless otherwise specified, whole potatoes shall be not less than 1½ inches in diameter, or usable pieces shall be not less than 4 ounces in weight. Percentage(s) of a larger size(s) and/or maximum size may be specified.

### § 51.3411 Usable piece.

''Usable Piece'' means that portion of the potato remaining after trimming, or as it occurs in the sample:

(a) Not have any unusable material;

(b) Unless otherwise specified, weigh at least 4 ounces; and,

(c) Must have at least 50% of peel remaining after trimming.

### § 51.3412 Unusable material.

''Unusable Material'' consists of defective portions of potatoes, and potatoes which are frozen, affected by freezing injury, soft rot, wet breakdown, insects, worms, larvae, Blackheart, Late Blight Tuber Rot, Southern Bacterial Wilt, Bacterial Ring Rot, or which are seriously damaged by internal defects.

### § 51.3413 Size.

(a) The minimum size, maximum size or range in size may be specified in connection with the grade in terms of diameter or weight.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with provisions of applicable Federal or State laws.

(b) Diameter means the greatest dimension in terms of inches or fractions of an inch measured at right angles to the longitudinal axis, without regard to the position of the stem-end.

(c) Weight means the minimum or maximum weight measured in terms of whole ounces. When a maximum weight is specified, the potato shall not be considered as oversize until it weighs the next higher ounce.

### § 51.3414 Application of standards.

In the application of these standards to determine the percentages of potatoes in any lot which meet the requirements of the respective grades or size categories, tolerances do not apply. However, for lots which are graded or pre-sorted for size or quality, offered for inspection and required to meet one of the grades, the following tolerances, by weight, are provided:

(a) For defects:

(1) *U.S. No. 1 Processing.* 10 percent for potatoes which fail to meet the requirements of this grade including not more than one-half of this tolerance, or 5 percent, for serious damage by any means, including therein not more than 2 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

(2) *U.S. No. 2 Processing.* 10 percent for potatoes which fail to meet the requirements of this grade including not more than one-half of this tolerance, or 5 percent, for potatoes which are seriously damaged by internal defects occurring entirely within the vascular ring, including therein not more than 2 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

(b) For loose sprouts, dirt and foreign material: 2 percent.

(c) For off-size:

(1) *Undersize.* 3 percent when the minimum size specified is less than 2¼ inches in diameter or less than 5 ounces in weight; and 5 percent when the minimum size specified is 2¼ inches or more in diameter or 5 ounces or more in weight.

(2) *Oversize.* 10 percent.

### § 51.3415 Definitions.

*Similar varietal characteristics* means that the potatoes in any lot have the same general shape, color, and character of skin and color of flesh.

*Fairly well shaped* means that the potato is not materially pointed, dumbbell-shaped, or otherwise deformed.[2]

*Moderately firm* means that the potato is not seriously shriveled or flabbly.[2]

*Not seriously misshapen* means that the potato is not seriously deformed and causing more than 10% waste when determining the non-peelable area directly due to shape.

*Soft rot or wet breakdown* means any soft, mushy or leaky condition of the tissue such as Leak, slimy soft rot, wet type Fusarium Tuber Rot, or wet breakdown following freezing injury or heat injury.

*Loose sprouts, dirt and foreign material* means unattached sprouts or sprouts that become detached during the grading of the sample, stems, vines, adhering dirt, loose dirt, stones, trash and other extraneous material.

*Damage* means any defect listed in § 51.3416, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which cannot be removed without a loss of more than 5 percent of the total weight of the potato.

*Serious Damage* means any defect listed in § 51.3416, or an equally objectionable variation of any of these defects, any other defect, or any combination of defects, which cannot be removed without a loss of more than 10 percent of the total weight of the potato.

*External Defects* are defects which can be detected externally. Cutting may be required to determine the extent of the injury.

*Internal Defects* are defects which cannot be detected without cutting the potato.

[2] USDA Visual Aid, POT-L 1 Jan 81. This publication may be examined in the Fruit and Vegetable Division, Fresh Products Branch, AMS, U.S. Department of Agriculture, South Building, Washington, DC 20250, or any field office of the Fresh Fruit and Vegetable Inspection Service. Copies of this visual aid may be purchased from the John Henry Company, P.O. Box 17099, Lansing, MI 48901 or United Fresh Fruit and Vegetable Association, N. Washington at Madison, Alexandria, VA 22314.

### § 51.3416 Classification of defects.

EXTERNAL DEFECTS

| Defects | Maximum allowed for U.S. No. 1 processing | Maximum allowed for U.S. No. 2 processing |
|---|---|---|
| Air cracks | 5% waste | 10% waste. |
| Blackleg | 5% waste | 10% waste. |
| Bruises | 5% waste | 10% waste |
| Cuts | Smooth, not more than 10% of surface. | Smooth, not more than 1/3 of surface. |
| Enlarged lenticels, discolored or sunken. | 5% waste | 10% waste. |
| Flea Beetle | 5% waste | 10% waste |
| Folded end | 5% waste | 10% waste. |
| Fusarium tuber rot | 5% waste | 10% waste. |
| Grass, wireworm | 5% waste | 10% waste. |
| Greening, light | 5% waste | 10% waste. |
| Growth cracks | See Footnote No. 2. | 10% waste. |
| Grub | 5% waste | 10% waste. |
| Ingrown sprouts | 5% waste | 10% waste. |
| Nematodes | 5% waste | 10% waste. |
| Rhizoctonia, solid or thick mounded. | Not more than 10% of surface. | Not more than 25% of surface. |
| Rodent, bird damage. | 5% waste | 10% waste. |
| Scab, pitted | 5% waste | 10% waste. |
| Scab, russet | 25% of surface or 5% waste. | 50% of surface or 10% waste. |
| Scab, surface | 25% of surface or 5% waste. | 50% of surface or 10% waste. |
| Scab, surface (elephant hide). | 10% of surface or 5% waste. | 25% of surface or 10% waste. |
| Second growth | 5% waste | 10% waste. |
| Scaling, surface cracks—when cracked, thick and has depth. | 10% of surface or 5% waste. | 25% of surface or 10% waste. |
| Sunburn | 5% waste | 10% waste. |
| Sunken discolored areas. | 5% waste | 10% waste. |

INTERNAL DEFECTS

| Defects | Maximum allowed for U.S. No. 1 processing | Maximum allowed for U.S. No. 2 processing |
|---|---|---|
| Occurring outside of or not entirely confined to the vascular ring | | |
| Internal Black Spot, Internal Discoloration, Vascular Browning, Fusarium Wilt, Net Necrosis, Other Necrosis, Stem End Browning. | 5% waste | 10% waste. |
| Occurring entirely within the vascular ring | | |
| Hollow Heart or Hollow Heart with Discoloration. | Area affected not to exceed that of a circle 7/8 inch in diameter in a 10 ounce potato.[1]. | Area affected not to exceed that of a circle 1 1/4 inches in diameter in a 10 ounce potato.[1] |
| Light Brown Discoloration (Brown Center). | Area affected not to exceed that of a circle 7/8 inch in diameter in a 10 ounce potato.[1]. | Area affected not to exceed that of a circle 1 1/4 inches in diameter in a 10 ounce potato.[1] |
| Internal Brown Spot and similar discoloration (Heat Necrosis). | Not more than the equivalent of 3 scattered spots 1/8 inch in diameter in a potato 6 ounces in weight or 2 1/2 inches in diameter, or correspondingly lesser or greater number of spots in smaller or larger potatoes. | Not more than the equivalent of 6 scattered spots 1/8 inch in diameter in a potato 6 ounces in weight or 2 1/2 inches in diameter or correspondingly lesser or greater number of spots in smaller or larger potatoes. |

[1] Note: Or correspondingly lesser or greater areas in smaller or larger potatoes.

### § 51.3417 Optional test for specific gravity.

Tests to determine specific gravity shall be made in accordance with the procedures set forth in this section.

(a) The potatoes used for such determinations shall be:

(1) Taken at random from a composite sample drawn from containers representative of the lot.

(2) A comparable sample from a bulk load or storage bin.

(3) From a portion of the divided sample initially drawn or submitted for determination of grade or contract compliance.

(4) Representative of the lot with respect to size and quality.

The specific gravity for any lot of potatoes shall be the average of at least 3 corrected readings on separate tests from the composite sample. Specific gravity may also be determined, if requested, in accordance with size classifications or weighted value in proportion to size and/or grade separations in the lot.

(b) Specific gravity shall be determined by either;

(1) Calculation from the weights of the sample in air and in water made with USDA approved equipment. The reading obtained from each test shall be corrected for temperature variations using Table I.

(2) A hydrometer specifically designed for determining the specific gravity of potatoes.[3]

[3]The hydrometer is available from the Potato Chip/Snack Food Association, Crystal Square-3, Suite 903, 1735 Jefferson Davis Highway, Arlington, VA 22202.

The pulp temperature of the potatoes and the temperature of water shall be recorded immediately before testing and the specific gravity reading corrected using Table I.

TABLE I—CORRECTION FACTORS FOR SPECIFIC GRAVITY OF POTATOES[4]

[Corrected to zero at 50 °F potato temperature and 50 °F water temperature]

| Potato temperature: | Water temperature (degrees Fahrenheit) | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 38° | 40° | 45° | 50° | 55° | 60° | 65° | 70° | 75° | 80° | |
| 38° | −0.0021 | −0.0020 | −0.0018 | −0.0018 | −0.0020 | −0.0023 | −0.0029 | −0.0038 | −0.0047 | −0.0056 | |
| 40° | −.0017 | −.0016 | −.0014 | −.0014 | −.0016 | −.0019 | −.0025 | −.0034 | −.0043 | −.0052 | |
| 45° | −.0009 | −.0008 | −.0008 | −.0006 | −.0008 | −.0011 | −.0017 | −.0026 | −.0035 | −.0044 | |
| 50° | −.0003 | −.0002 | 0000 | 0000 | −.0002 | −.0005 | −.0011 | −.0020 | −.0029 | −.0038 | |
| 55° | +.0001 | +.0002 | +.0004 | +.0004 | +.0002 | −.0001 | −.0007 | −.0016 | −.0025 | −.0034 | |
| 60° | +.0004 | +.0005 | +.0007 | +.0007 | +.0005 | +.0002 | −.0004 | −.0013 | −.0022 | −.0031 | |
| 65° | +.0005 | +.0006 | +.0008 | +.0008 | +.0006 | +.0003 | −.0003 | −.0012 | −.0021 | −.0030 | |
| 70° | +.0006 | +.0007 | +.0009 | +.0009 | +.0007 | +.0004 | −.0002 | −.0011 | −.0020 | −.0029 | |
| 75° | +.0007 | +.0008 | +.0010 | +.0010 | +.0008 | +.0005 | −.0001 | −.0010 | −.0019 | −.0028 | |
| 80° | +.0008 | +.0009 | +.0011 | +.0011 | +.0009 | +.0006 | 0000 | −.0009 | −.0018 | −.0027 | |
| 85° | +.0009 | +.0010 | +.0012 | +.0012 | +.0010 | +.0007 | +.0001 | −.0008 | −.0017 | −.0026 | |
| 90° | +.0010 | +.0011 | +.0013 | +.0013 | +.0011 | +.0008 | +.0002 | −.0007 | −.0016 | −.0025 | |
| 95° | +.0011 | +.0012 | +.0014 | +.0014 | +.0012 | +.0009 | +.0003 | −.0006 | −.0015 | −.0024 | |
| 100° | +.0012 | +.0013 | +.0015 | +.0015 | +.0013 | +.0010 | +.0004 | −.0005 | −.0014 | −.0023 | |

[4] To apply correction factor, change actual specific gravity reading by adding or subtracting the appropriate factor according to the plus or minus sign.

When requested to convert the weight in water of 5000 gram samples used in the weight in air versus weight in water method of specific gravity determinations, the conversion to total solids shall be based on Table II.

TABLE II—SPECIFIC GRAVITY CONVERSION CHART FOR 5,000 GRAMS OF POTATOES

| Water weight | Specific gravity | Total solids |
|---|---|---|
| 300 | 1.0638 | 17.2 |
| 310 | 1.0661 | 17.7 |
| 320 | 1.0684 | 18.2 |
| 322 | 1.0688 | 18.3 |
| 324 | 1.0693 | 18.4 |
| 326 | 1.0697 | 18.5 |
| 328 | 1.0702 | 18.6 |
| 330 | 1.0707 | 18.7 |
| 332 | 1.0711 | 18.8 |
| 334 | 1.0716 | 18.9 |
| 336 | 1.0720 | 19.0 |
| 338 | 1.0725 | 19.1 |
| 340 | 1.0730 | 19.2 |
| 342 | 1.0734 | 19.3 |
| 344 | 1.0739 | 19.4 |
| 346 | 1.0743 | 19.5 |
| 348 | 1.0748 | 19.6 |
| 350 | 1.0753 | 19.7 |
| 352 | 1.0757 | 19.8 |
| 354 | 1.0762 | 19.9 |
| 356 | 1.0766 | 20.0 |
| 358 | 1.0771 | 20.1 |
| 360 | 1.0776 | 20.2 |
| 362 | 1.0780 | 20.3 |
| 364 | 1.0785 | 20.4 |
| 366 | 1.0790 | 20.5 |
| 368 | 1.0794 | 20.6 |
| 370 | 1.0799 | 20.7 |
| 372 | 1.0804 | 20.8 |
| 374 | 1.0808 | 20.9 |
| 376 | 1.0813 | 21.0 |
| 378 | 1.0818 | 21.1 |
| 380 | 1.0822 | 21.2 |
| 382 | 1.0827 | 21.3 |
| 384 | 1.0832 | 21.4 |
| 386 | 1.0836 | 21.5 |
| 388 | 1.0841 | 21.6 |
| 390 | 1.0846 | 21.7 |
| 392 | 1.0851 | 21.8 |
| 394 | 1.0855 | 21.9 |
| 396 | 1.0860 | 22.0 |
| 398 | 1.0865 | 22.1 |
| 400 | 1.0870 | 22.2 |
| 402 | 1.0874 | 22.3 |
| 404 | 1.0879 | 22.4 |
| 406 | 1.0884 | 22.5 |
| 408 | 1.0888 | 22.6 |
| 410 | 1.0893 | 22.7 |
| 412 | 1.0898 | 22.8 |
| 414 | 1.0903 | 22.9 |
| 416 | 1.0908 | 23.0 |
| 418 | 1.0912 | 23.1 |
| 420 | 1.0917 | 23.2 |
| 422 | 1.0922 | 23.4 |
| 424 | 1.0926 | 23.5 |
| 426 | 1.0931 | 23.6 |
| 428 | 1.0936 | 23.7 |
| 430 | 1.0941 | 23.8 |
| 432 | 1.0946 | 23.9 |
| 440 | 1.0965 | 24.4 |
| 450 | 1.0989 | 24.9 |
| 460 | 1.1013 | 25.4 |
| 470 | 1.1040 | 26.0 |

Whenever the recorded water weight for an individual reading falls between two sets of numbers as indicated in Table II, the next higher reading shall be used.

### § 51.3418 Optional test for fry color.

Fry color may be determined in accordance with contract specifications by using the Munsell Color Standards for Frozen French Fried Potatoes, Third Edition, 1972, 64–1.[5] Select a minimum of twenty (20) potatoes at random from the official sample. Slice each potato from stem to blossom-end into ½ square inch strips. Unless otherwise specified, fry center cut strips in oil for a minimum of 3 minutes at 350 °F or 2½ minutes at 375 °F.

## Subpart—United States Standards for Grades of Honey Dew and Honey Ball Type Melons

SOURCE: 32 FR 3213, Feb. 24, 1967, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### GRADES

### § 51.3740 U.S. No. 1.

''U.S. No. 1'' consists of honey dew or honey ball type melons which are mature, firm, well formed, which are free from decay, and free from damage caused by dirt, aphis stain, rust spots, bruises, cracks, broken skin, sunscald, sunburn, hail, moisture, insects, disease, or other means. (See § 51.3744.)

### § 51.3741 U.S. Commercial.

''U.S. Commercial'' consists of honey dew or honey ball type melons which

[5] Munsell Color Standards for Frozen French Fried Potatoes, Third Edition, 1972, 64–1, may be purchased from the Munsell Color Co., 2441 North Calvert St., Baltimore, MD 21218.

meet the requirements of U.S. No. 1 grade except for the increased tolerances for defects. (See § 51.3744.)

### § 51.3742 U.S. No. 2.

''U.S. No. 2'' consists of honey dew or honey ball type melons which are mature, firm, fairly well formed, free from decay and free from serious damage by any cause. (See § 51.3744.)

UNCLASSIFIED

### § 51.3743 Unclassified.

''Unclassified'' consists of melons which have not been classified in accordance with any of the foregoing grades. The term ''unclassified'' is not a grade within the meaning of these standards but is provided as a designation to show that no grade has been applied to the lot.

TOLERANCES

### § 51.3744 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *U.S. No. 1.* 10 percent for melons in any lot which fail to meet the 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 this latter amount not more than 1 percent for melons affected by decay.

(b) *U.S. Commercial.* 20 percent for melons in any lot which fail to meet the requirements of this grade: *Provided*, That not more than one-fourth of this amount, or 5 percent, shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for melons affected by decay.

(c) *U.S. No. 2.* 10 percent for melons in any lot which fail to meet the requirements of this grade including not more than 1 percent for melons affected by decay.

APPLICATION OF TOLERANCES

### § 51.3745 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(a) For a tolerance of 10 percent or more, individual packages shall have not more than 1½ times the tolerance specified: *Provided*, That when the package contains 15 specimens or less, any individual package shall have not more than double the tolerance specified, except that at least one defective specimen may be permitted in any package: *And provided further*, That the averages for the entire lot are within the tolerances specified for the grade.

(b) For a tolerance of less than 10 percent, individual packages in any lot shall have not more than double the tolerance specified, except that at least one defective specimen may be permitted in any package: *Provided*, That the averages for the entire lot are within the tolerances specified for the grade.

DEFINITIONS

### § 51.3746 Mature.

*Mature* means that the melon has reached the stage of maturity which will insure the proper completion of the normal ripening process.

### § 51.3747 Well formed.

*Well formed* means that the melon has the normal shape characteristic of the variety.

### § 51.3748 Damage.

*Damage* means any specific defect described in this section; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the melon.

(a) The following specific defects shall be considered as damage:

(1) Sunburn which causes the rind to become brownish in color, hard, tough, or thin; and,

(2) Bruising when the size or color of the affected area materially detracts from the appearance.

(b) The following blemishes shall not be considered as damage:

(1) Slight bruising caused by light pressure of the weight of other melons or from lidding of the crate;

(2) Yellow spots;
(3) Superficial hail spots;
(4) Slight surface scratches caused by picking or packing; or,
(5) Netting, either raised or occurring as very shallow cracks in the skin.

### § 51.3749 Serious damage.

*Serious damage* means any defect or any combination of defects which seriously detracts from the appearance, or the edible or marketing quality of the melon.

## PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS [1]

NOTE: Compliance with the provisions of the standards set forth in this part shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act (or with applicable State laws and regulations).

### Subpart—Regulations Governing Inspection and Certification

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[1] Among such other processed food products are the following: Honey; molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), sirups, except from grain; tea; cocoa; coffee; spices; condiments.

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52.1845 Sizes of seedless raisins.
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52.3751 Product description.
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AUTHORITY: 7 U.S.C. 1621–1627.

## Subpart—Regulations Governing Inspection and Certification

SOURCE: 22 FR 3535, May 22, 1957, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### § 52.1 Administration of regulations.

(a) The Administrator, Agricultural Marketing Service, United States Department of Agriculture is charged with the administration of the regulations in this part except that he may delegate any or all of such functions to any officer or employee of the Agricultural Marketing Service of the Department, in his discretion.

(b) All services provided under the regulations of this part, including the hiring and licensing of inspection, grading, and sampling personnel shall be conducted without discrimination because of race, color, sex, religion, or national origin.

[22 FR 3535, May 22, 1957, as amended at 38 FR 25166, Sept. 12, 1973. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

DEFINITIONS

### § 52.2 Terms defined.

Words in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand. For the purposes of the regulations in this part, unless the context otherwise requires, the following terms shall have the following meanings:

*Acceptance number.* ''Acceptance number'' means the number in a sampling plan that indicates the maximum number of deviants permitted in a sample of a lot that meets a specific requirement.

*Act.* ''Act'' means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087 *et seq.*, as amended; 7 U.S.C. 1621 *et seq.*), or any other act of Congress conferring like authority.

*Administrator.* ''Administrator'' means the Administrator of the Agricultural Marketing Service.

*Applicant.* ''Applicant'' means any interested party who requests inspection service under the regulations in this part.

*Approved plant.* See ''Plant, approved''.

*Case.* ''Case'' means the number of containers (cased or uncased) which, by the particular industry are ordinarily packed in a shipping container.

*Case or shipping case.* ''Case'' or ''shipping case'' means a unit consisting of a given number of primary containers of the same size, the number and arrangement per unit conforming to customary trade practice. For products not physically assembled into a shipping case (i.e. stacked bright) *case* means simulating the containers in such lot into a unit consisting of the same number of primary containers corresponding to customary trade practice (or corresponding to the unit as defined above).

*Certificate of loading.* Certificate of loading means a statement, either written or printed, issued pursuant to the regulations in this part, relative to checkloading of a processed product subsequent to inspection thereof. The certificate of loading may be issued in lieu of an official inspection certificate when the same inspection procedures are applied and when authorized by the Administrator.

*Certificate of sampling.* ''Certificate of sampling'' means a statement, either written or printed issued pursuant to the regulations in this part, identifying officially drawn samples and may include a description of condition of containers and the condition under which the processed product is stored.

*Class.* See ''Grade.''

*Condition.* ''Condition'' means the degree of soundness of the product which may affect its merchantability and includes, but is not limited to those factors which are subject to change as a result of age, improper preparation and processing, improper packaging, improper storage or improper handling.

*Department.* ''Department'' means the United States Department of Agriculture.

*Deviant.* ''Deviant'' means a sample unit affected by one or more deviations or a sample unit that varies in a specifically defined manner from the requirements of a standard, specification, or other inspection document.

*Deviation.* ''Deviation'' means any specifically defined variation from a particular requirement.

*Grade* or *class.* ''Grade'' or ''class'' designates a level or rank of quality.

*Grader.* See ''Inspector''.

*In-plant sampler.* In-plant sampler means any employee of the Department authorized by the Administrator to draw samples of processed products and perform a limited number of miscellaneous duties in a plant operating under contract.

*Inspection certificate.* ''Inspection certificate'' means a statement, either written or printed, issued pursuant to the regulations in this part, setting forth in addition to appropriate descriptive information relative to a processed product, and the container thereof, the quality and condition, or any part thereof, of the product and may include a description of the conditions under which the product is stored.

*Inspection service.* (See *Inspection service, general below.*)

*Inspection service, general:*

(a) The sampling pursuant to the regulations in this part;

(b) The determination pursuant to the regulations in this part of:

(1) Essential characteristics such as style, type, size, sirup density or identity of any processed product which differentiates between major groups of the same kind;

(2) The class, quality and condition of any processed product, including the condition of the container thereof by the examination of appropriate samples;

(c) The issuance of any certificate of sampling, inspection certificates, or certificates of loading of a processed product, or any report relative to any of the foregoing; or

(d) Performance by an inspector of any related services such as observing the preparation of the product from its raw state through each step in the entire process; observing conditions under which the product is prepared, processed, and packed; or observing plant sanitation as a prerequisite to the inspection of the processed product, either on a continuous or periodic basis, or checkloading the inspected processed product in connection with the distribution or marketing thereof.

*Inspection Service; types of.* (a) *Lot inspection* means the inspection and grading of specific lots of processed fruits and vegetables which are located in plant warehouses, commercial storage, railway cars, trucks, or any other conveyance or storage facility.

(b) *Approved plant-lot inspection* means the inspection and grading of specific lots of processed fruits and vegetables which are located in plant warehouses, commercial storage, railway cars, trucks, or any other conveyance or storage facility. However, under ''approved plant-lot inspection'', the inspection service has knowledge that the products were processed or packaged in plants meeting the ''plant approved'' definition. This means that the plant facilities, sanitation, and methods of operation have been surveyed and approved for specific product(s) by the Administrator as suitable and adequate for inspection or grading service in accordance with § 52.81 through § 52.83 of this part.

(c) *Continuous inspection* is the conduct of inspection and grading services in an approved plant whereby one or more inspector(s) are present at all times the plant is in operation to make in-process checks on the preparation, processing, packing, and warehousing of all products under contract and to assure compliance with sanitary requirements.

(d) *Pack certification* is the conduct of inspection and grading services in an approved plant whereby one or more inspector(s) may make inspection of the preparation and processing of products under contract, but are not required to be present at all times the plant is in operation.

(1) Under a Designated Lot-contract, inspector(s) will grade and certify only those lots designated by the applicant.

(2) Under a Quality Assurance contract, inspector(s) will use information available from the applicant's quality control records to certify lots, as requested, and will grade lots at random as often as necessary to verify the reliability of the applicant's quality control system.

*Inspector or grader.* ''Inspector'' or ''grader'' means any employee of the Department authorized by the Secretary or any other person licensed by the Secretary to investigate, sample, inspect, and certify in accordance with the regulations in this part to any interested party the class, quality and condition of processed products covered in this part and to perform related duties in connection with the inspection service.

*Inspector in charge.* ''Inspector in Charge'' means any inspector designated on a plant working shift or in a field office laboratory as the inspector in charge of the inspection work when authorized by the Administrator to act in that capacity.

*Inspector, subordinate.* ''Subordinate inspector'' means any inspector assigned to a plant or field office to work under the direction of an inspector-in-charge.

*Inspector's aide.* ''Inspector's aide'' means any employee of the Department authorized to perform a limited number and type of duties under the close supervision of an inspector.

*Interested party.* ''Interested party'' means any person who has a financial interest in the commodity involved.

*Licensed sampler.* ''Licensed sampler'' means any person who is authorized by the Secretary to draw samples of processed products for inspection service, to inspect for identification and condition of containers in a lot, and may, when authorized by the Administrator, perform related services under the act and the regulations in this part.

*Lot.* Lot means any number of containers of the same size and type which contain a processed product of the same type and style located in the same warehouse or conveyance, and which is available for inspection service at any time: Provided, that the

number of containers comprising lot may not exceed the maximum number specified in the sampling plans in §52.38 of this Subpart: And further provided that:

(a) If the applicant requests a separate inspection certificate covering a specific portion of a lot, such portion must be separately marked or otherwise identified in such a manner as to permit sampling, inspection, and certification of such portion as a separate lot; and

(b) Under in-plant (in-process) inspection, the inspector is authorized to limit the number of containers of a processed product that may be included in a lot to a period of consecutive production equivalent to one production shift with a maximum of 24 hours of consecutive production.

*Officially drawn sample.* ''Officially drawn sample'' means any sample that has been selected from a particular lot by an inspector, licensed sampler, or by any other person authorized by the Administrator pursuant to the regulations in this part.

*Person.* ''Person'' means any individual, partnership, association, business trust, corporation, any organized group of persons (whether incorporated or not), the United States (including, but not limited to, any corporate agencies thereof), any State, county, or municipal government, any common carrier, and any authorized agent of any of the foregoing.

*Plant.* ''Plant'' means the premises, buildings, structure, and equipment (including, but not being limited to machines, utensils, vehicles, and fixtures located in or about the premises) used or employed in the preparation, processing, handling, transporting and storage of fruits and vegetables, or the processed products thereof.

*Plant, approved.* ''Approved plant'' means any plant in which the facilities, sanitation, and methods of operation have been surveyed and approved for specific product(s) by the Administrator as suitable and adequate for inspection or grading service in accordance with §§52.81 through 52.83.

*Processed product.* ''Processed product'' means any fruit, vegetable, or other food product covered under the regulations in this part which has been preserved by any recognized commercial process, including, but not limited to canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation.

*Quality.* ''Quality'' means the inherent properties of any processed product which determine the relative degree of excellence of such product, and includes the effects of preparation and processing, and may or may not include the effects of packing media, or added ingredients.

*Rejection number.* ''Rejection number'' means the number in a sampling plan that indicates the minimum number of deviants in a sample that will cause a lot to fail a specific requirement.

*Sample.* ''Sample'' means any number of sample units to be used for inspection.

*Sample unit.* ''Sample unit'' means a container and/or its entire contents, a portion of the contents of one or more containers or other unit of commodity, or a composite mixture of a product used for inspection.

*Sampling.* ''Sampling'' means the act of selecting samples of processed products for the purpose of inspection under the regulations in this part.

*Secretary.* ''Secretary'' means the Secretary of the Department or any other officer or employee of the Department authorized to exercise the powers and to perform the duties of the Secretary in respect to the matters covered by the regulations in this part.

*Shipping container.* ''Shipping container'' means an individual container designed for shipping a number of packages or cans ordinarily packed in a container for shipping or designed for packing unpackaged processed products for shipping.

*Unofficial sample.* Unofficial sample means any sample that has been selected by any person other than an inspector or licensed sampler, or by any

other person not authorized by the Administrator pursuant to the regulations in this part.

[22 FR 3535, May 22, 1957, as amended at 33 FR 9582, July 2, 1968; 35 FR 14061, Sept. 4, 1970; 38 FR 25166, Sept. 12, 1973; 38 FR 26903, Sept. 27, 1973; 40 FR 48934, Oct. 20, 1975. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 51 FR 20438, June 5, 1986; 58 FR 42413, Aug. 9, 1993; 72 FR 10037, Mar. 7, 2007]

### § 52.3 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

*Official certificate.* ''Official certificate'' means any form of certification, either written or printed, including those defined in § 52.2, used under this part to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

*Official device.* ''Official device'' means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof; or any device approved and designated by the Administrator as a USDA official device for use as a color standard, defect guide, or other similar aid to interpret the United States Department of Agriculture grade standards and to facilitate conduct of the inspection service.

*Official identification.* ''Official identification'' means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been graded or inspected and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

*Official mark.* ''Official mark'' means the grade mark, inspection mark, combined form of inspection and grade mark, and any other mark, or any variations in such marks, including those prescribed in § 52.53 approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U.S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this part.

*Official memorandum.* ''Official memorandum'' means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

[22 FR 3535, May 22, 1957, as amended at 23 FR 4999, July 1, 1958. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

## INSPECTION SERVICE

### § 52.4 Where inspection service is offered.

Inspection service may be furnished wherever any inspector or licensed sampler is available and the facilities and conditions are satisfactory for the conduct of such service.

### § 52.5 Who may obtain inspection service.

An application for inspection service may be made by any interested party, including, but not limited to, the United States and any instrumentality or agency thereof, any State, county, municipality, or common carrier, and any authorized agent in behalf of the foregoing.

### § 52.6 How to make application.

An application for inspection service may be made to the office of inspection or to any inspector, at or nearest the place where the service is desired. An up-to-date list of the Inspection Field Offices of the Department may be obtained upon request to the Administrator. Satisfactory proof that the applicant is an interested party shall be furnished.

### § 52.7 Information required in connection with application.

(a) Application for inspection service shall be made in the English language and may be made orally (in person or by telephone), in writing, or by telegraph. If an application for inspection service is made orally, written confirmation may be required by the inspection service involved.

(b) In connection with each application for inspection service, there shall be furnished such information as may be necessary to perform an inspection on the processed product(s), including but not limited to, the name of the product, name and address of the packer or plant where such product was packed, the location of the product, its lot or car number, codes or other identification marks, the number of containers, the type and size of the containers, the interest of the applicant in the product, whether the lot has been inspected previous to the application by any Federal agency and the purpose for which inspection is desired.

[51 FR 20439, June 5, 1986]

### § 52.8 Filing of application.

An application for inspection service shall be regarded as filed only when made in accordance with the regulations in this part.

### § 52.9 Record of filing time.

A record showing the date when each application for inspection or for an appeal inspection is received shall be maintained.

[51 FR 20439, June 5, 1986]

### § 52.10 When application may be rejected.

An application for inspection service may be rejected by the Administrator (a) for non-compliance by the applicant with the regulations in this part, (b) for non-payment for previous inspection services rendered, (c) when the product is not properly identifiable by code or other marks, or (d) when it appears that to perform the inspection service would not be to the best interests of the Government. Such applicant shall be promptly notified of the reason for such rejection.

### § 52.11 When application may be withdrawn.

An application for inspection service may be withdrawn by the applicant at any time before the inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in § 52.42 for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph or other expenses which have been incurred by the inspection service in connection with such application.

[22 FR 3535, May 22, 1957, as amended at 38 FR 25166, Sept. 12, 1973. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.12 Disposition of inspected sample.

Any sample of a processed product that has been used for inspection may be returned to the applicant, at his request and expense; otherwise it shall be destroyed, or disposed of to a charitable institution.

### § 52.13 Basis of inspection and grade or compliance determination.

(a) Inspection service shall be performed on the basis of the appropriate United States standards for grades of processed products, Federal, Military,

Veterans Administration or other government agency specifications, written contract specifications, or any written specification or instruction which is approved by the Administrator.

(b) Unless otherwise approved by the Administrator, compliance with such grade standards, specifications, or instructions shall be determined by evaluating the product, or sample, in accordance with the requirements of such standards, specifications or instructions: *Provided,* That when inspection for quality is based on any U.S. grade standard which contains a scoring system, the grade to be assigned to a lot is the grade indicated by the average of the total of the scores of the respective sample units: *Provided further,* That—

(1) Such sample complies with the applicable standards of quality promulgated under the Federal Food, Drug, and Cosmetic Act;

(2) Such sample complies with the product description;

(3) Such sample meets the indicated grade with respect to factors of quality which are not rated by score points; and

(4) With respect to those factors of quality which are rated by score points, each of the following requirements is met:

(i) None of the sample units falls more than one grade below the indicated grade because of any quality factor to which a limiting rule applies;

(ii) None of the sample units falls more than 4 score points below the minimum total score for the indicated grade;

(iii) The number of deviants does not exceed the applicable acceptance number indicated in the sampling plans contained in § 52.38 (''deviants'', as used in this paragraph, means sample units that fall into the next grade below the indicated grade but do not score more than 4 points below the minimum total score for the indicated grade);

(5) If any of the provisions contained in paragraphs (b) (3) and (4) of this section are not met, the grade is determined by considering such provisions in connection with succeedingly lower grades until the grade of the lot, if assignable, is established; and

(6) When it is determined that a portion of a lot bearing a particular identification mark is of lower quality or deficient in other factors, the grade or compliance of the lot shall be no higher than that of the portion bearing the particular identification mark.

[22 FR 3535, May 22, 1957, as amended at 33 FR 9582, July 2, 1968. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.14 Order of inspection service.

Inspection service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any such applications which are made by the United States (including, but not being limited to, any instrumentality or agency thereof) and to any application for an appeal inspection.

### § 52.15 Postponing inspection service.

If the inspector determines that it is not possible to accurately ascertain the quality or condition of a processed product immediately after processing because the product has not reached equilibrium in color, sirup density, or drained weight, or for any other substantial reason, he may postpone inspection service for such period as may be necessary.

### § 52.16 Financial interest of inspector.

No inspector shall inspect any processed product in which he is directly or indirectly financially interested.

### § 52.17 Forms of certificates.

Inspection certificates, certificates of sampling or loading, and other memoranda concerning inspection service shall be issued on forms approved by the Administrator.

### § 52.18 Issuance of certificates.

(a) The person signing and issuing the certificate shall be one of the following:

(1) The inspector who performed the inspection.

(2) Another employee of the Inspection Service who has been given power of attorney by the inspector who performed the inspection and authorized by the Administrator to affix the inspector's signature to an inspection certificate.

(3) An inspector designated as the ''inspector in charge,'' when the certificate represents composite inspection of several persons.

In all cases the inspection certificate shall be prepared in accordance with the facts set forth in the official memoranda made by the inspector or inspectors in connection with the inspection. Whenever a certificate is signed by a person under a power of attorney the certificate should so indicate. The signature of the holder of the power shall appear under the name of the inspector who personally inspected the product, and whenever a certificate issued is signed by an inspector in charge that title must appear in connection with the signature.

(b) A certificate of loading shall be issued and signed by the inspector or licensed sampler authorized to check the loading of a specific lot of processed products: *Provided*, That, another employee of the inspection service may sign such certificate of loading covering any processed product checkloaded by an inspector or licensed sampler when given power of attorney by such inspector or licensed sampler and authorized by the Administrator to affix the inspector's or licensed sampler's signature to a certificate of loading which has been prepared in accordance with the facts set forth in the notes made by the inspector or licensed sampler in connection with the checkloading of a specific lot of processed products.

[22 FR 3535, May 22, 1957, as amended at 35 FR 14061, Sept. 4, 1970. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.19 Issuance of corrected certificates.

A corrected inspection certificate may be issued by the inspector who issued the original certificate after distribution of a certificate if errors, such as incorrect dates, code marks, grade statements, lot or car numbers, container sizes, net or drained weights, quantities, or errors in any other pertinent information require the issuance of a corrected certificate. Whenever a corrected certificate is issued, such certificate shall supersede the inspection certificate which was issued in error and the superseded certificate shall become null and void after the issuance of the corrected certificate.

### § 52.20 Issuance of an inspection report in lieu of an inspection certificate.

A letter report in lieu of an inspection certificate may be issued by an inspector when such action appears to be more suitable than an inspection certificate: *Provided*, That, the issuance of such report is approved by the Administrator.

### § 52.21 Disposition of inspection certificates.

The original of any inspection certificate, issued under the regulations in this part, and not to exceed four copies thereof, if requested prior to issuance, shall be delivered or mailed promptly to the applicant, or person designated by the applicant. All other copies shall be filed in such manner as the Administrator may designate. Additional copies of any such certificates may be supplied to any interested party as provided in § 52.49.

[22 FR 3535, May 22, 1957. Redesignated at 42 FR 32514, June 27, 1997, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 63 FR 50746, Sept. 23, 1998]

### § 52.22 Report of inspection results prior to issuance of formal report.

Upon request of any interested party, the results of an inspection may be telegraphed or telephoned to him, or to any other person designated by him, at his expense.

## APPEAL INSPECTION

### § 52.23 When appeal inspection may be requested.

An application for an appeal inspection may be made by any interested party who is dissatisfied with the results of an inspection as stated in an inspection certificate, if the lot of processed products can be positively identified by the inspection service as the lot from which officially drawn samples were previously inspected. Such application shall be made within thirty (30) days following the day on which the previous inspection was performed, except upon approval by the

Administrator the time within which an application for appeal inspection may be made may be extended.

### § 52.24 Where to file for an appeal inspection and information required.

(a) Application for an appeal inspection may be filed with:

(1) The supervisor in the office that issued the inspection certificate on which the appeal covering the processed product is requested; or

(2) The inspector in charge of the office of inspection at or nearest the place where the processed product is located.

(b) The application for appeal inspection shall state the location of the lot of processed products and the reasons for the appeal; and date and serial number of the certificate covering inspection of the processed product on which the appeal is requested, and such application may be accompanied by a copy of the previous inspection certificate and any other information that may facilitate inspection. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation shall be made promptly.

[22 FR 3535, May 22, 1957. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 51 FR 20439, June 5, 1986]

### § 52.25 When an application for an appeal inspection may be withdrawn.

An application for appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided*, That, the applicant shall pay at the hourly rate prescribed in § 52.42, for the time incurred by the inspector in connection with such application, any travel expenses, telephone, telegraph, or other expenses which have been incurred by the inspection service in connection with such application.

[22 FR 3535, May 22, 1957, as amended at 38 FR 25166, Sept. 12, 1973. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.26 When appeal inspection may be refused.

An application for an appeal inspection may be refused if:

(a) The reasons for the appeal inspection are frivolous or not substantial;

(b) The quality or condition of the processed product has undergone a material change since the inspection covering the processed product on which the appeal inspection is requested;

(c) The lot in question is not, or cannot be made accessible for the selection of officially drawn samples;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspector as the lot from which officially drawn samples were previously inspected; or

(e) There is noncompliance with the regulations in this part. Such applicant shall be notified promptly of the reason for such refusal.

### § 52.27 Who shall perform appeal inspection.

An appeal inspection shall be performed by an inspector or inspectors (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Administrator and, whenever practical, such appeal inspection shall be conducted jointly by two such inspectors: *Provided*, That, the inspector who made the inspection on which the appeal is requested may be authorized to draw the samples when another inspector or licensed sampler is not available in the area where the product is located.

### § 52.28 Appeal inspection certificate.

After an appeal inspection has been completed, the lot(s) cannot be further appealed unless authorized by the Administrator. An appeal inspection certificate shall be issued, showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the processed product involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the processed product described therein. The inspector or inspectors issuing an appeal inspection certificate shall forward notice of such issuance to such

persons as he considers necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector or inspectors issuing the appeal inspection certificate. The provisions in the regulations in this part concerning forms and certificates, issuance of certificates, and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished to all interested parties who received copies of the superseded certificate.

[51 FR 20439, June 5, 1986]

LICENSING OF SAMPLERS AND INSPECTORS

### § 52.29 Who may become licensed sampler.

Any person deemed to have the necessary qualifications may be licensed as a licensed sampler to draw samples for the purpose of inspection under the regulations in this part. Such a license shall bear the printed signature of the Secretary, and shall be countersigned by an authorized employee of the Department. Licensed samplers shall have no authority to inspect processed products under the regulations in this part except as to identification and condition of the containers in a lot. A licensed sampler shall perform his duties pursuant to the regulations in this part as directed by the Administrator.

### § 52.30 Application to become a licensed sampler.

Application to become a licensed sampler shall be made to the Administrator on forms furnished for that purpose. Each such application shall be signed by the applicant in his own handwriting, and the information contained therein shall be certified by him to be true, complete, and correct to the best of his knowledge and belief, and the application shall contain or be accompanied by:

(a) A statement showing his present and previous occupations, together with names of all employers for whom he has worked, with periods of service, during the ten years previous to the date of his application;

(b) A statement that, in his capacity as a licensed sampler, he will not draw samples from any lot of processed products with respect to which he or his employer is an interested party;

(c) A statement that he agrees to comply with all terms and conditions of the regulations in this part relating to duties of licensed samplers; and

(d) Such other information as may be requested.

### § 52.31 Inspectors.

Inspections will ordinarily be performed by employees under the Administrator who are employed as Federal Government employees for that purpose. However, any person employed under any joint Federal-State inspection service arrangement may be licensed, if otherwise qualified, by the Secretary to make inspections in accordance with this part on such processed products as may be specified in his license. Such license shall be issued only in a case where the Administrator is satisfied that the particular person is qualified to perform adequately the inspection service for which such person is to be licensed. Each such license shall bear the printed signature of the Secretary and shall be countersigned by an authorized employee of the Department. An inspector shall perform his duties pursuant to the regulations in this part as directed by the Administrator.

### § 52.32 Suspension or revocation of license of licensed sampler or licensed inspector.

Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the license of any licensed sampler, or licensed inspector, issued pursuant to the regulations in this part, by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within seven days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license should not

be suspended or revoked. After the expiration of the aforesaid seven days period and consideration of such argument and evidence, the Secretary shall take such action as he deems appropriate with respect to such suspension or revocation.

### § 52.33 Surrender of license.

Upon termination of his services as a licensed sampler or licensed inspector, or suspension or revocation of his license, such licensee shall surrender his license immediately to the office of inspection serving the area in which he is located. These same provisions shall apply in a case of an expired license.

SAMPLING

### § 52.34 How samples are drawn by inspectors or licensed samplers.

An inspector or a licensed sampler shall select samples, upon request, from designated lots of processed products which are so placed as to permit thorough and proper sampling in accordance with the regulations in this part. Such person shall, unless otherwise directed by the Administrator, select sample units of such products at random, and from various locations in each lot in such manner and number, not inconsistent with the regulations in this part, as to secure a representative sample of the lot. Samples drawn for inspection shall be furnished by the applicant at no cost to the Department.

### § 52.35 Accessibility for sampling.

Each applicant shall cause the processed products for which inspection is requested to be made accessible for proper sampling. Failure to make any lot accessible for proper sampling shall be sufficient cause for postponing inspection service until such time as such lot is made accessible for proper sampling.

### § 52.36 How officially drawn samples are to be identified.

Officially drawn samples shall be marked by the inspector or licensed sampler so such samples can be properly identified for inspection.

### § 52.37 How official samples are to be identified and shipped.

Unless otherwise directed by the Administrator, samples which are to be shipped to any office of inspection shall be forwarded to the office of inspection serving the area in which the processed products from which the samples were drawn is located. Such samples shall be shipped in a manner to avoid any material change in the quality or condition of the sample of the processed product. Containers shall be identified and properly sealed with tape. A facsimile of the ''Officially Sampled'' stamp shall be placed over the taped container. All transportation charges in connection with such shipments of samples shall be at the expense of the applicant.

[51 FR 20439, June 5, 1986]

### § 52.38 Sampling plans and procedures for determining lot compliance.

(a) Except as otherwise provided for in this section in connection with inplant inspection and unless otherwise approved by the Administrator, samples shall be selected from each lot in the exact number of sample units indicated for the lot size in the applicable sampling plans. The lot size is to correspond to a sample size with a maximum of 29 sample units: Provided, that at the discretion of the inspection service, the number of sample units selected may be increased to the exact number of sample units indicated for any one of the larger sample sizes provided for in the appropriate plans. The samples size may be increased beyond 29 sample units in accordance with the following sampling plan:

| | | | |
|---|---|---|---|
| Sample Size ..... | 38 | 48 | 60 |
| Acceptance Number ..... | 5 | 6 | 7 |

(b) Under the sampling plans with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample does not exceed the acceptance number prescribed for the sample size, the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample exceeds the acceptance number prescribed for the

sample size, the lot fails the requirement.

(c) If in the conduct of on-line inplant inspection of a product covered by a grade standard which does not contain sampling plans, the sample is examined before the lot size is known and the number of sample units exceeds the prescribed sample size for such lot, but does not equal any of the prescribed larger sample sizes, the lot may be deemed to meet or fail a specific requirement in accordance with the following procedure:

(1) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample does not exceed the acceptance number of the next smaller sample size, the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample equals the acceptance number prescribed for the next larger sample size, additional sample units shall be selected to increase the sample to the next larger prescribed sample size;

(3) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample exceeds the acceptance number prescribed for the next larger sample size, the lot fails the requirement.

(d) In the conduct of on-line in-plant inspection, sampling may be performed on a time interval basis. The sampling frequency shall be specified in an applicable grade standard or other procedural instruction approved by the Administrator.

(e) In the event that the lot compliance determination provisions of a standard or specification are based on the number of specified deviations instead of deviants the procedures set forth in this section may be applied by substituting the word ''deviation'' for the word ''deviant'' wherever it appears.

(f) Sampling plans referred to in this section are those contained in Tables I, II, III, IV, and V and (g)(1) and (g)(2) of this section which follow or any other plans which are applicable. For processed products not included in these tables, the minimum sample size shall be the exact number of sample units prescribed in the table, container group, and lot size that, as determined by the inspector, most closely resembles the product, type, container, size and amount of product to be sampled. The maximum sample size in tables I, II, III, IV, V, (g)(1), (g)(2) and processed products not included in these tables is 29 sample units.

(g)(1) *Sampling plan for dried figs.* For each 10,000 pounds (or fraction of 10,000 pounds) of product—6 sample units of approximately 35 figs each accumulated into 1 composite (at least 200 figs). Each composite will be examined separately, and all must meet the requirement for the U.S. Grade.

(2) *Sampling plan for dried fruits other than dates and figs.* For each 15,000 pounds (or fraction of 15,000 pounds) of product—sample units of approximately 16 ounces each accumulated into 1 composite (at least 100 ounces) Each composite will be examined separately and all must meet the requirements for the U.S. Grade.

TABLE I—CANNED OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

| Container size group | Lot size (number of containers) [1] | | | | |
|---|---|---|---|---|---|
| | | | | | |
| Group 1: Any type container of a volume not exceeding that of a No. 303 size can. | 3,000 or less | 3,001 to 12,000 | 12,001 to 39,000 | 39,001 to 84,000 | 84,001 to 145,000 |
| Group 2: Any type of container of a volume exceeding that of a No. 303 size can but not exceeding that of a No. 3 cylinder size can. | 1,500 or less | 1,501 to 6,000 | 6,001 to 19,500 | 19,501 to 42,000 | 42,001 to 72,500 |
| Group 3: Any type of container of a volume exceeding that of a No. 3 cylinder size can, but not exceeding that of a No. 12 size can. | 750 or less | 751 to 3,000 | 3,001 to 9,750 | 9,751 to 21,000 | 21,001 to 36,250 |
| Group 4: Any type of container of a volume exceeding that of a .... No. 12 size can.. | | | | | |

TABLE I—CANNED OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE—Continued

| Container size group | Lot size (number of containers) [1] | | | | |
|---|---|---|---|---|---|
| | | | | | |
| | Convert to equivalent number of 6-lb. net weight containers and use group 3 | | | | |
| Lot inspection sample size (no. of sample units) [2] | 3 | 6 | 13 | 21 | 29 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 |
| On-line in-plant inspection sample size (no. of sample units) [2] | 3 | 6 | 6 | 13 | 21 |
| Acceptance number | 0 | 1 | 1 | 2 | 3 |

[1] Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

[2] When a standard sample size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Group 4 that approximately 2 pounds of product. When determined by the inspector that a 2-pound sample unit is inadequate, a larger sample unit may be substituted.

TABLE II—FROZEN OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

| Container size group | Lot size (number of containers) [1] | | | | |
|---|---|---|---|---|---|
| | | | | | |
| Group 1: Any type of container of 1 lb. or less | 2,400 or less | 2,401 to 9,600 | 9,601 to 31,200 | 31,201 to 67,200 | 67,201 to 116,000 |
| Group 2: Any type of container over 1 lb. but not over 2-½ lbs. net weight. | 1,200 or less | 1,201 to 4,800 | 4,801 to 15,600 | 15,601 to 33,600 | 33,601 to 58,000 |
| Group 3: Any type of container over 2-½ lbs.. | Convert to equivalent number of 2-½ lb. containers and use group 2 | | | | |
| Lot inspection sample size (no. of sample units) [2] | 3 | 6 | 13 | 21 | 29 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 |
| On-line in-plant inspection sample size (no. of sample units) [2] | 3 | 6 | 6 | 13 | 21 |
| Acceptance number | 0 | 1 | 1 | 2 | 3 |

[1] Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

[2] When a standard sample unit size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1 and 2—1 container and its entire contents. Group 3 containers up to 10 lbs.—approximately 3 pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit or 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 lbs.

TABLE III—CANNED, FROZEN, OR OTHERWISE PROCESSED FRUITS, VEGETABLES, RELATED PRODUCTS OF A COMMINUTED, FLUID OR HOMOGENEOUS STATE

| Container size group | Lot size (number of containers) [1] | | | | |
|---|---|---|---|---|---|
| | | | | | |
| Group 1: Any type of container of 1 lb. or less | 4,500 or less | 4,501 to 18,000 | 18,001 to 56,000 | 58,501 to 126,000 | 126,001 to 217,000 |
| Group 2: Any type of container exceeding 1 lb. but not exceeding 60 ounces.. | 3,000 or less | 3,001 to 12,000 | 12,001 to 39,000 | 39,001 to 84,000 | 84,001 to 145,000 |
| Group 3: Any type of container exceeding 60 ounces but not exceeding 10 lbs.. | 1,500 or less | 1,501 to 6,000 | 6,001 to 19,500 | 19,501 to 42,000 | 42,001 to 72,500 |
| Group 4: Any type of container of a volume exceeding 10 lbs.. | Convert to equivalent number of 6-lb. containers and use group 3 | | | | |
| Lot inspection sample size (no. of sample units) [2] | 3 | 6 | 13 | 21 | 29 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 |
| On-line in-plant inspection sample size (no. of sample units) [2] | 3 | 6 | 6 | 13 | 21 |
| Acceptance number | 0 | 1 | 1 | 2 | 3 |

[1] Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

[2] When a standard sample size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. A smaller sample unit may be substituted in Group 3 at the inspector's discretion. Group 4—approximately 16 ounces of product. When determined by the inspector that a 16 ounce sample unit is inadequate, a larger sample unit may be substituted.

TABLE IV—DEHYDRATED (LOW-MOISTURE) FRUITS, AND VEGETABLES

| Container size group | Lot size (number of containers) [1] | | | | |
|---|---|---|---|---|---|
| Group 1: Any type of container of 1 lb. or less | 1,800 or less | 1,801 to 7,200 | 7,201 to 23,400 | 23,401 to 50,400 | 50,401 to 87,000 |
| Group 2: Any type of container over 1 lb. but not over 6 lbs. net weight. | 600 or less | 601 to 2,400 | 2,401 to 7,800 | 7,801 to 16,800 | 16,801 to 29,000 |
| Group 3: Any type of container over 6 lbs.. | Convert to equivalent number of 5 lb. containers and use group 2 | | | | |
| Lot inspection sample size (no. of sample units) [2] | 3 | 6 | 13 | 21 | 29 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 |
| On-line in-plant inspection sample size (no. of sample units) [2] | 3 | 6 | 6 | 13 | 21 |
| Acceptance number | 0 | 1 | 1 | 2 | 3 |

[1] Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

[2] When a standard sample unit size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Group 1—1 container and its entire contents. Groups 2 and 3—1 container and its entire contents or a smaller sample unit when determined by the inspector to be adequate.

TABLE V—DATES

| Container size group | Lot size (number of containers) [1] | | | | |
|---|---|---|---|---|---|
| Group 1: Any type of container of 1 lb. or less net weight | 2,400 or less | 2,401 to 9,600 | 9,601 to 31,200 | 31,201 to 67,000 | 67,201 to 116,000 |
| Group 2: Any type of container over 1 lb. but not over 5 lbs. net weight. | 800 or less | 801 to 3,200 | 3,201 to 10,400 | 10,401 to 22,400 | 22,401 to 33,667 |
| Group 3: Any type of container over 5 lbs.. | Convert to equivalent number of 5 lb. containers and use group 2 | | | | |
| Lot inspection sample size (no. of sample units) [2] | 3 | 6 | 13 | 21 | 29 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 |
| On-line in-plant inspection sample size (no. of sample units) [2] | 3 | 6 | 6 | 13 | 21 |
| Acceptance number | 0 | 1 | 1 | 2 | 3 |

[1] Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

[2] When a standard sample size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1 and 2—1 container and its entire contents. Group 3 containers up to 10 pounds—1 container and its entire contents. Group 3 containers over 10 pounds—approximately three pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit or 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 pounds.

[38 FR 25166, Sept. 12, 1973; 38 FR 26903, Sept. 27, 1973. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 51 FR 20439, June 5, 1986; 63 FR 50747, Sept. 23, 1998]

### § 52.38a Definitions of terms applicable to statistical sampling.

(a) Terms applicable to both on-line inspection and lot inspection.

(1) *Acceptable Quality Level (AQL).* The maximum percent of defective units of product or the maximum number of defects per hundred units of product which are acceptable as a process average. At the AQL's contained in the statistical sampling plans of this subpart, production has a probability of acceptance (''Pa'') of approximately 95 percent.

(2) *Acceptance sampling.* Sampling inspection in which decisions are made to accept or reject product.

(3) *Attributes.* A method of measurement whereby units of product are examined for the presence or absence of specified characteristics in each unit in the sample.

(4) *Defect.* Any nonconformance of a unit of product from specified requirements of a single quality characteristic. Defects are classed as ''minor,'' ''major,'' ''severe'' or ''critical'' depending upon the severity and undesirability of the defect.

(5) *Defective.* A unit of product that has one or more defects.

(6) *Inspection by attributes.* Inspection whereby a unit of product is classified as defective or nondefective or the number or defects in the unit of product is counted.

(7) *Standard sample unit size.* A specified amount of product to be used for inspection.

(b) Terms applicable to on-line inspection only.

(1) *Basic inspection period.* A specified period of consecutive production designated for on-line inspection.

(2) *Cumulative Sum Sampling (CuSum) Plan.* An on-line sampling plan that accumulates the number of defects (or defectives), which exceed the sample unit tolerance (''T''), in a series of consecutive samples. Terms specific to the CuSum sampling plan are:

(i) *Acceptance limit (''L'').* The maximum accumulation of defects (or defectives) allowed to exceed the sample unit tolerance (''T'') in any sample unit or consecutive group of sample units.

(ii) *CuSum value.* The accumulated number of defects (or defectives) that exceed the sample unit tolerance (''T'').

(iii) *Sample unit tolerance (''T'').* The allowable number of defects (or defectives) in any sample unit.

(iv) *Starting value (''S'').* The initial CuSum value used to begin a CuSum sampling plan.

(3) *On-line sampling inspection.* The random selection and subsequent inspection of sample units from a production line.

(4) *Probability of acceptance (''Pa'').* The probability that a portion of production, with a given level of quality, will be accepted. In on-line sampling inspection, the probability of acceptance of any portion of production depends on the sample results obtained from the preceding portions. The probability of acceptance values associated with these procedures are the values which would be expected if a large number of sample units are to be inspected. For the CuSum plans referenced in these procedures, the probability of acceptance at the Acceptable Quality Level (AQL) is approximately 95 percent. The starting value (''S'') associated with each CuSum plan helps to make the probability of acceptance of the first portions of production of a basic inspection period as close as possible to 95 percent.

(c) Terms applicable to lot inspection only.

(1) *Acceptance number.* The largest number of defects (or defectives) in the sample that will permit acceptance of the inspection lot.

(2) *Inspection lot.* Any number of containers of the same size and type which contain a processed product of the same type and style, manufactured or processed under essentially the same conditions, offered for inspection and acceptance at one time.

(3) *Probability of acceptance* (''*Pa*''). The probability that an inspection lot, with a given level of quality, will be accepted.

[43 FR 10540, Mar. 14, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.38b Statistical sampling procedures for on-line inspection by attributes of processed fruits and vegetables.

(a) *General.* The Cumulative Sum Sampling Plan, hereinafter referred to as ''CuSum,'' shall be used as the on-line sampling plan for attributes standards under the following conditions.

(1) The producer has designated the intended grade for the basic inspection period prior to the start of production.

(2) Inspection of the product shall be made during the basic inspection period at a point after which all product characteristics, subject to inspection, are fixed and will not be subject to change during final packaging.

(3) A shift to CuSum sampling plans from lot sampling plans during a basic inspection period is not permitted (or vice versa).

(b) *Sampling rate/frequency.* The minimum number of standard sample units

to be drawn at random shall be determined by the applicable sampling procedure as approved by the Administrator.

(c) *Determining CuSum values.* At the beginning of the basic inspection period, the CuSum value is set equal to the starting value (''S'') for the specified CuSum plan. The CuSum value is then determined for each consecutive sample unit as follows:

(1) Add the number of defects (or defectives) for the present sample unit to the CuSum value of the previous sample unit.

(2) Subtract the sample unit tolerance (''T'').

(3) The CuSum value is reset in the following situations. However, determine compliance with the designated grade (see paragraph (d) of this section) prior to resetting the CuSum value:

(i) Reset the CuSum value to zero (0) if the CuSum value is less than zero (0).

(ii) Reset the CuSum value to the acceptance limit (''L'') if the CuSum value exceeds the acceptance limit (''L'').

(d) *Determining compliance for a designated grade.* (1) A portion of production meets the designated grade if the CuSum value, calculated from the sample unit representing that portion, is equal to or less than the acceptance limit (''L'') for all classes of defects.

(2) A portion of production fails the designated grade if the CuSum value, calculated from the sample unit representing that portion, exceeds the acceptance limit (''L'') for one or more classes of defects.

(e) *Evaluation of production failing a designated grade.* Production failing a designated grade shall be reevaluated by procedures approved by the USDA.

(f) *Assigning a grade.* (1) All similarly identified (e.g., codes, subcodes, etc.) production will be assigned the same grade.

(2) The grade assigned to similarly identified production will be the lowest grade assigned to any portion of that similarly identified production.

(g) *Redesignation of producer's intended grade.* If the intended grade is redesignated during a basic inspection period, a new CuSum sampling plan shall be instituted for each class of defects (or defectives).

(h) *Cumulative Sum Sampling (CuSum) Plans for processed fruits and vegetables.* (1) Tables VI through X contain the CuSum sampling plans for each of five different standard sample unit sizes. The plans within each table are listed according to increasing values of Acceptable Quality Levels (AQL's).

(2) AQL values of 10.0 or less may be expressed either in ''defects per hundred units'' or in ''percent defective units.'' The same sampling plans are used for both. Separate sampling plans must be used for AQL values greater than 10.0.

(3) These tables also provide the quality levels associated with 50 percent and 10 percent probabilities of acceptance for each of the plans. These quality levels are expressed in the same units as the corresponding AQL values.

(4) A separate CuSum sampling plan is chosen for each class of defects (or defectives) by first specifying the desired AQL and then selecting the appropriate standard sample unit size. The quality levels associated with 50 percent and 10 percent probabilities of acceptance may be used as guides to help determine a suitable standard sample unit size.

TABLE VI—CUSUM SAMPLING PLANS

[Standard sample unit size=13]

| AQL | S | T | L | Quality levels | |
|---|---|---|---|---|---|
| | | | | Pa= 50% | Pa= 10% |
| Quality levels expressed as defects per 100 units or percent defective | | | | | |
| 0.65 | 0.3 | 0.1 | 0.9 | 5.3 | 17.7 |
| 1.0 | .2 | .2 | .8 | 5.6 | 17.7 |
| 1.5 | 0 | .5 | 0.5 | 7.7 | 19.2 |
| 2.2 | .5 | .5 | 1.5 | 8.2 | 19.2 |
| 4.0 | .8 | .8 | 2 | 9.7 | 19.6 |
| 5.0 | 0 | 1 | 1 | 14.4 | 30.2 |
| 6.5 | 1 | 1 | 2 | 14.7 | 30.2 |
| 8.5 | 1 | 1.5 | 2.5 | 17.4 | 31.3 |
| 10.0 | 1 | 1.8 | 2.6 | 18.8 | 32.0 |
| Quality levels expressed as defects per 100 units only | | | | | |
| 12.5 | 1 | 2 | 3 | 23.5 | 41.4 |
| 15.0 | 1 | 2.5 | 3 | 26.1 | 42.8 |
| 20.0 | 2 | 3 | 4 | 32.2 | 52.1 |
| 25.0 | 1 | 4 | 3 | 40.3 | 62.3 |
| 33.0 | 1 | 5 | 4 | 48.9 | 72.3 |
| 40.0 | 2 | 6 | 5 | 57.1 | 82.1 |
| 50.0 | 1 | 8 | 4 | 73.3 | 101.2 |
| 65.0 | 2 | 10 | 5 | 89.9 | 120.0 |
| 85.0 | 1 | 13 | 5 | 113.9 | 147.6 |
| 100.0 | 2 | 15 | 6 | 130.4 | 165.7 |
| 150.0 | 2 | 22 | 7 | 186.5 | 227.9 |
| 250.0 | 4 | 35 | 11 | 291.2 | 340.6 |

TABLE VI—CUSUM SAMPLING PLANS—Continued

[Standard sample unit size=13]

| AQL | S | T | L | Quality levels | |
|---|---|---|---|---|---|
| | | | | Pa= 50% | Pa= 10% |
| Quality levels expressed as percent defective only | | | | | |
| 12.5 | 1 | 2 | 2 | 22.4 | 36.4 |
| 15.0 | 1 | 2.5 | 2.5 | 25.0 | 37.4 |
| 20.0 | 1 | 3 | 3 | 30.7 | 44.5 |
| 25.0 | 1 | 4 | 2 | 38.1 | 52.8 |
| 33.0 | 1 | 5 | 3 | 46.2 | 60.3 |
| 40.0 | 1 | 6 | 3 | 53.8 | 67.4 |
| 50.0 | 2 | 7 | 4 | 61.5 | 74.1 |

TABLE VII—CUSUM SAMPLING PLANS

[Standard sample unit size=25]

| AQL | S | T | L | Quality levels | |
|---|---|---|---|---|---|
| | | | | Pa= 50% | Pa= 10% |
| Quality levels expressed as defects per 100 units or percent defective | | | | | |
| 0.4 | 0.3 | 0.1 | 0.9 | 2.8 | 9.2 |
| 0.65 | .2 | .2 | .8 | 3.4 | 9.2 |
| 1.0 | 0 | .5 | .5 | 4.0 | 10.0 |
| 1.5 | 1 | .5 | 2 | 4.3 | 10.0 |
| 2.5 | 0 | 1 | 1 | 7.5 | 15.7 |
| 4.0 | .5 | 1.5 | 2 | 9.0 | 16.3 |
| 5.0 | 1.5 | 1.5 | 3 | 9.1 | 16.3 |
| 6.5 | 1 | 2 | 3 | 12.2 | 21.5 |
| 8.5 | 0 | 3 | 2 | 16.4 | 27.1 |
| 10.0 | 1 | 3 | 3 | 16.7 | 27.1 |
| Quality levels expressed as defects per 100 units only | | | | | |
| 12.5 | 1 | 4 | 3 | 21.0 | 32.4 |
| 15.0 | 1 | 5 | 3 | 25.2 | 37.6 |
| 20.0 | 1 | 6 | 4 | 29.7 | 42.7 |
| 25.0 | 1 | 8 | 3 | 37.7 | 52.7 |
| 33.0 | 1 | 10 | 4 | 46.5 | 62.4 |
| 40.0 | 2 | 12 | 5 | 55.1 | 72.0 |
| 50.0 | 2 | 14 | 7 | 63.9 | 81.5 |
| 65.0 | 3 | 18 | 8 | 80.7 | 100.1 |
| 85.0 | 4 | 23 | 10 | 101.8 | 123.1 |
| 100.0 | 4 | 27 | 10 | 118.3 | 141.2 |
| Quality levels expressed as percent defective only | | | | | |
| 12.5 | 1 | 4 | 3 | 20.5 | 29.8 |
| 15.0 | 0 | 5 | 2 | 24.3 | 34.3 |
| 20.0 | 1 | 6 | 3 | 28.7 | 38.7 |
| 25.0 | 2 | 7 | 4 | 33.0 | 43.0 |
| 33.0 | 2 | 9 | 5 | 41.2 | 51.2 |
| 40.0 | 2 | 11 | 5 | 49.2 | 59.1 |
| 50.0 | 1 | 14 | 3 | 60.6 | 70.3 |

TABLE VIII—CUSUM SAMPLING PLANS

[Standard sample unit size=50]

| AQL | S | T | L | Quality levels | |
|---|---|---|---|---|---|
| | | | | Pa= 50% | Pa= 10% |
| Quality levels expressed as defects per 100 units or percent defective | | | | | |
| 0.15 | 0.3 | 0.1 | 0.9 | 1.4 | 4.6 |
| 0.25 | .2 | .2 | .8 | 1.5 | 4.6 |
| 0.4 | 0 | .5 | .5 | 2.0 | 5.0 |
| 0.65 | .5 | .5 | 1.5 | 2.1 | 5.0 |
| 1.0 | .4 | .8 | 1.6 | 2.5 | 5.1 |
| 1.5 | 1 | 1 | 2 | 3.8 | 7.9 |
| 2.5 | 1.5 | 1.5 | 3 | 4.6 | 8.1 |
| 4.0 | 1 | 2.5 | 3 | 6.8 | 11.1 |
| 5.0 | 1 | 3 | 3 | 9.3 | 13.6 |
| 6.5 | 1 | 4 | 3 | 10.5 | 16.2 |
| 8.5 | 1 | 5 | 4 | 12.7 | 18.8 |
| 10.0 | 1 | 6 | 4 | 14.9 | 21.4 |
| Quality levels expressed as defects per 100 units only | | | | | |
| 12.5 | 1 | 8 | 3 | 18.9 | 26.3 |
| 15.0 | 1 | 9 | 4 | 21.1 | 28.8 |
| 20.0 | 2 | 12 | 5 | 27.5 | 36.0 |
| 25.0 | 2 | 14 | 7 | 31.9 | 40.7 |
| 33.0 | 3 | 18 | 9 | 40.4 | 50.0 |
| 40.0 | 3 | 22 | 9 | 48.7 | 59.3 |
| 50.0 | 4 | 27 | 10 | 59.1 | 70.6 |
| 65.0 | 4 | 35 | 11 | 75.7 | 88.5 |
| 85.0 | 5 | 45 | 14 | 96.5 | 110.7 |
| Quality levels expressed as percent defective only | | | | | |
| 12.5 | 2 | 7 | 5 | 16.8 | 22.3 |
| 15.0 | 1 | 9 | 4 | 20.9 | 27.2 |
| 20.0 | 2 | 11 | 6 | 25.2 | 31.6 |
| 25.0 | 2 | 14 | 5 | 31.2 | 38.1 |
| 33.0 | 2 | 18 | 6 | 39.4 | 46.4 |
| 40.0 | 1 | 22 | 5 | 47.3 | 54.4 |
| 50.0 | 1 | 27 | 5 | 57.2 | 64.1 |

TABLE IX—CUSUM SAMPLING PLANS

[Standard sample unit size=100]

| AQL | S | T | L | Quality levels | |
|---|---|---|---|---|---|
| | | | | Pa= 50% | Pa= 10% |
| Quality levels expressed as defects per 100 units or percent defective | | | | | |
| 0.1 | 0.3 | 0.1 | 0.9 | 0.7 | 2.3 |
| 0.15 | .2 | .2 | .8 | 0.8 | 2.3 |
| 0.25 | 0 | .5 | .5 | 1.0 | 2.5 |
| 0.4 | 1 | .5 | 2 | 1.1 | 2.5 |
| 0.65 | 0 | 1 | 1 | 1.9 | 3.9 |
| 1.0 | .5 | 1.5 | 2 | 2.2 | 4.1 |
| 1.5 | 1 | 2 | 2 | 3.0 | 5.4 |
| 2.5 | 1 | 3 | 3 | 4.2 | 6.8 |
| 4.0 | 1 | 5 | 3 | 6.3 | 9.4 |
| 5.0 | 1 | 6 | 4 | 7.4 | 10.7 |
| 6.5 | 1 | 8 | 4 | 9.5 | 13.2 |
| 8.5 | 2 | 1.0 | 5 | 11.7 | 15.6 |
| 10.0 | 2 | 1.2 | 5 | 13.8 | 18.0 |
| Quality levels expressed as defects per 100 units only | | | | | |
| 12.5 | 2 | 14 | 7 | 16.0 | 20.4 |
| 15.0 | 2 | 17 | 7 | 19.1 | 23.9 |
| 20.0 | 3 | 22 | 9 | 24.4 | 29.6 |

TABLE IX—CUSUM SAMPLING PLANS—Continued

[Standard sample unit size=100]

| AQL | S | T | L | Quality levels | |
|---|---|---|---|---|---|
| | | | | Pa= 50% | Pa= 10% |
| 25.0 | 4 | 27 | 10 | 29.6 | 35.3 |
| 33.0 | 3 | 36 | 10 | 38.8 | 45.4 |
| 40.0 | 4 | 43 | 12 | 46.1 | 53.1 |
| 50.0 | 5 | 53 | 14 | 56.4 | 64.1 |
| Quality levels expressed as percent defective only | | | | | |
| 12.5 | 2 | 14 | 6 | 15.8 | 19.7 |
| 15.0 | 2 | 17 | 6 | 18.9 | 23.0 |
| 20.0 | 2 | 22 | 7 | 24.0 | 28.5 |
| 25.0 | 3 | 27 | 8 | 29.2 | 33.8 |
| 33.0 | 3 | 35 | 9 | 37.3 | 42.1 |
| 40.0 | 4 | 42 | 10 | 44.4 | 49.2 |
| 50.0 | 4 | 52 | 10 | 54.3 | 59.1 |

TABLE X—CUSUM SAMPLING PLANS

[Standard sample unit size=200]

| AQL | S | T | L | Quality levels | |
|---|---|---|---|---|---|
| | | | | Pa= 50% | Pa= 10% |
| Quality levels expressed as defects per 100 units or percent defective | | | | | |
| 0.04 | 0.3 | 0.1 | 0.9 | 0.3 | 1.2 |
| 0.065 | 0.2 | 0.2 | 0.8 | 0.4 | 1.2 |
| 0.1 | 0 | 0.5 | 0.5 | 0.5 | 1.3 |
| 0.15 | 0.4 | 0.8 | 0.8 | 0.6 | 1.3 |
| 0.25 | 0.4 | 0.8 | 1.6 | 0.6 | 1.3 |
| 0.4 | 1 | 1 | 2 | 1.0 | 2.0 |
| 0.65 | 1 | 1.8 | 2.6 | 1.2 | 2.1 |
| 1.0 | 1 | 2.5 | 3 | 1.7 | 2.8 |
| 1.5 | 1 | 4 | 3 | 2.6 | 4.1 |
| 2.5 | 1 | 6 | 4 | 3.7 | 5.3 |
| 4.0 | 1 | 10 | 4 | 5.8 | 7.8 |
| 5.0 | 2 | 12 | 5 | 6.9 | 9.0 |
| 6.5 | 2 | 15 | 6 | 8.5 | 10.8 |
| 8.5 | 3 | 19 | 8 | 10.6 | 13.1 |
| 10.0 | 3 | 22 | 9 | 12.2 | 14.8 |
| Quality levels expressed as defects per 100 units only | | | | | |
| 12.5 | 4 | 27 | 10 | 14.8 | 17.7 |
| 15.0 | 3 | 33 | 9 | 17.8 | 21.0 |
| 20.0 | 4 | 43 | 12 | 23.1 | 26.6 |
| 25.0 | 5 | 53 | 14 | 28.2 | 32.1 |
| 33.0 | 5 | 70 | 15 | 36.9 | 41.3 |

TABLE X—CUSUM SAMPLING PLANS—Continued

[Standard sample unit size=200]

| AQL | S | T | L | Quality levels | |
|---|---|---|---|---|---|
| | | | | Pa= 50% | Pa= 10% |
| 40.0 | 6 | 84 | 18 | 44.1 | 48.8 |
| 50.0 | 6 | 105 | 18 | 54.8 | 60.1 |
| Quality levels expressed as percent defective only | | | | | |
| 12.5 | 3 | 27 | 9 | 14.7 | 17.3 |
| 15.0 | 4 | 32 | 10 | 17.3 | 20.0 |
| 20.0 | 3 | 43 | 9 | 22.8 | 25.9 |
| 25.0 | 4 | 53 | 11 | 27.9 | 31.1 |
| 33.0 | 5 | 69 | 13 | 36.1 | 39.4 |
| 40.0 | 5 | 83 | 14 | 43.1 | 46.5 |
| 50.0 | 5 | 103 | 14 | 53.1 | 56.5 |

[43 FR 10540, Mar. 14, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.38c Statistical sampling procedures for lot inspection of processed fruits and vegetables by attributes.

(a) *General.* Single sampling plans shall be used as the lot sampling plan for attributes standards under either of the following conditions:

(1) Sampling of the product shall be made during the production period. No grade will be assigned to individual sample units. One grade determination only will be made at the end of the production period for the inspection lot.

(2) Sampling of the product shall be made when the inspection lot is located in a warehouse, truck, railroad car, or other similar conveyance.

(b) *Sample size.* Samples shall be randomly selected from each inspection lot in the exact number of sample units indicated for the lot size in tables XI through XIV as applicable for canned, frozen, dried, or dehydrated fruits and vegetables.

TABLE XI—CANNED OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

[Lot sample size]

| Container size group | Lot size (number of containers) | | | |
|---|---|---|---|---|
| | | | | |
| Group 1: Any type container of a volume not exceeding that of a No. 303 size can. | 12,000 or less | 12,001–39,000 | 39,001–84,000 | 84,001–145,000 |
| Group 2: Any type of container of a volume exceeding that of a No. 303 size can but not exceeding that of a No. 3 cylinder size can. | 6,000 or less | 6,001–19,500 | 19,501–42,000 | 42,001–72,500 |

TABLE XI—CANNED OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE—Continued

[Lot sample size]

| Container size group | Lot size (number of containers) | | | |
|---|---|---|---|---|
| | | | | |
| Group 3: Any type of container of a volume exceeding that of a No. 3 cylinder size can, but not exceeding that of a No. 12 size can. | 3,000 or less ..... | 3,001–9,750 | 9,751–21,000 | 21,001–36,250 |
| Group 4: Any type of container of a volume exceeding that of a No. 12 | | | | |
| Convert to equivalent number of 6-lb. net weight containers and use group 3 size can. | | | | |
| Lot inspection: Sample size (number of sample units). | 6 ..... | 13 | 21 | 29 |

TABLE XII—FROZEN OR SIMILARLY PROCESSED FRUITS, VEGETABLES, AND PRODUCTS CONTAINING UNITS OF SUCH SIZE AND CHARACTER AS TO BE READILY SEPARABLE

[Lot sample size]

| Container size group | Lot size (number of containers) | | | |
|---|---|---|---|---|
| | | | | |
| Group 1: Any type of container of 1 lb or less net weight. | 9,600 or less ... | 9,601–31,200 | 31,201–67,200 | 67,201–116,000 |
| Group 2: Any type of container over 1 lb but not over 2½ lb net weight. | 4,800 or less ... | 4,801–15,600 | 15,601–33,600 | 33,601–58,000 |
| Group 3: Any type of container over | | | | |
| Convert to equivalent number of 2½-lb. containers and use group 2 | | | | |
| 2½ lbs. | | | | |
| Lot inspection: Sample size (number of sample units). | 6 ..... | 13 | 21 | 29 |

TABLE XIII—CANNED, FROZEN, OR OTHERWISE PROCESSED FRUITS, VEGETABLES, RELATED PRODUCTS OF A COMMINUTED, FLUID OR HOMOGENEOUS STATE

[Lot sample size]

| Container size group | Lot size (number of containers) | | | |
|---|---|---|---|---|
| | | | | |
| Group 1: Any type of container of 1 lb or less. | 18,000 or less | 18,001–58,500 | 58,501–126,000 | 126,001–217,000 |
| Group 2: Any type of container exceeding 1 lb. but not exceeding 60 oz. | 12,000 or less | 12,001–39,000 | 39,001–84,000 | 84,001–145,000 |
| Group 3: Any type of container exceeding 60 oz but not exceeding 10 lb. | 6,000 or less ... | 6,001–19,500 | 19,501–42,000 | 42,001–72,500 |
| Group 4: Any type of container | | | | |
| Convert to equivalent number of 6-lb. containers and use group 3. | | | | |
| exceeding 10 lbs. | | | | |
| Lot inspection: Sample size (number of sample units). | 6 ..... | 13 | 21 | 29 |

TABLE XIV—DEHYDRATED (LOW-MOISTURE) FRUITS, AND VEGETABLES

[Lot sample size]

| Container size group | Lot size (number of containers) | | | |
|---|---|---|---|---|
| | | | | |
| Group 1: Any type of container of 1 lb or less net weight. | 7,200 or less ... | 7,201–23,400 | 23,401–50,400 | 50,401–87,000 |

TABLE XIV—DEHYDRATED (LOW-MOISTURE) FRUITS, AND VEGETABLES—Continued

[Lot sample size]

| Container size group | Lot size (number of containers) | | | |
|---|---|---|---|---|
| | | | | |
| Group 2: Any type of container over 1 lb but not over 6 lb net weight. | 2,400 or less ... | 2,401–7,800 | 7,801–16,800 | 16,801–29,000 |
| Group 3: Any type of container over 6 lbs. Convert to equivalent number of 5-lb. containers and use group 2. | | | | |
| Lot inspection: Sample size (number of sample units). | 6 ..... | 13 | 21 | 29 |

(c) *Determining compliance.* (1) An inspection lot meets the requirements of a quality grade if the number of defects (or defectives) is equal to or less than the acceptance numbers of all classes of defects.

(2) An inspection lot fails the requirements of a quality grade if the number of defects (or defectives) exceeds the acceptance number for one or more classes of defects.

(d) *Lot single sampling plans for processed fruits and vegetables.* (1) Tables XV through XIX contain the lot single sampling plans for each of five different standard sample unit sizes. The plans within each table are listed according to increasing values of Acceptable Quality Levels (AQL's).

(2) AQL values of 10.0 or less may be expressed either in ''defects per hundred units'' or in ''percent defective units.'' The same sampling plans are used for both. Separate sampling plans must be used for AQL values greater than 10.0.

(3) A separate lot single sampling plan is chosen for each class of defects (or defectives) by first specifying the desired AQL, the appropriate standard sample unit size, and the number of sample units as specified in §52.38c (b) of this subpart. The quality levels associated with the Pa=50% and Pa=10% levels are given in the instructional manual.

TABLE XV—LOT SINGLE SAMPLING PLANS

[Standard sample unit size=6]

| | Number of sample units | | | |
|---|---|---|---|---|
| | 6 | 13 | 21 | 29 |
| Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL | | | | |
| 1.0 | 1 | 2 | 3 | 4 |
| 1.5 | 1 | 3 | 4 | 5 |
| 2.5 | 3 | 4 | 6 | 8 |
| 4.0 | 4 | 6 | 9 | 11 |
| 5.0 | 4 | 7 | 11 | 14 |
| 6.5 | 5 | 9 | 13 | 17 |
| 8.5 | 6 | 11 | 16 | 21 |
| 10.0 | 7 | 12 | 19 | 24 |
| Quality levels expressed as defects per 100 units only | | | | |
| 12.5 | 8 | 15 | 22 | 29 |
| 15.0 | 9 | 17 | 26 | 35 |
| 20.0 | 12 | 22 | 33 | 44 |
| 25.0 | 14 | 27 | 41 | 54 |
| 33.0 | 18 | 34 | 52 | 70 |
| 40.0 | 21 | 40 | 62 | 83 |
| 50.0 | 25 | 49 | 76 | 102 |
| 65.0 | 31 | 62 | 97 | 131 |
| 85.0 | 40 | 80 | 124 | 168 |
| 100.0 | 46 | 92 | 144 | 196 |
| 150.0 | 66 | 135 | 212 | 288 |
| 250.0 | 105 | 218 | 344 | 469 |
| Quality levels expressed as percent defective only | | | | |
| 12.5 | 8 | 15 | 22 | 29 |
| 15.0 | 9 | 17 | 25 | 34 |
| 20.0 | 11 | 21 | 33 | 43 |
| 25.0 | 13 | 26 | 39 | 53 |
| 33.0 | 16 | 32 | 50 | 67 |
| 40.0 | 19 | 38 | 59 | 80 |
| 50.0 | 23 | 46 | 72 | 98 |

TABLE XVI—LOT SINGLE SAMPLING PLANS

[Standard sample unit size=13]

| | Number of sample units | | | |
|---|---|---|---|---|
| | 6 | 13 | 21 | 29 |
| Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL | | | | |
| 0.65 | 1 | 3 | 4 | 5 |
| 1.0 | 2 | 4 | 6 | 7 |

TABLE XVI—LOT SINGLE SAMPLING PLANS—Continued

[Standard sample unit size=13]

| | Number of sample units | | | |
|---|---|---|---|---|
| | 6 | 13 | 21 | 29 |
| 1.5 | 3 | 5 | 8 | 10 |
| 2.5 | 4 | 8 | 11 | 15 |
| 4.0 | 6 | 11 | 16 | 22 |
| 5.0 | 7 | 13 | 20 | 26 |
| 6.5 | 9 | 17 | 25 | 33 |
| 8.5 | 11 | 21 | 31 | 41 |
| 10.0 | 12 | 24 | 36 | 48 |
| Quality levels expressed as defects per 100 units only | | | | |
| 12.5 | 15 | 29 | 44 | 58 |
| 15.0 | 17 | 34 | 51 | 69 |
| 20.0 | 22 | 43 | 67 | 90 |
| 25.0 | 27 | 53 | 82 | 110 |
| 33.0 | 34 | 68 | 106 | 143 |
| 40.0 | 40 | 81 | 126 | 171 |
| 50.0 | 49 | 99 | 156 | 211 |
| 65.0 | 62 | 127 | 199 | 271 |
| 85.0 | 80 | 163 | 257 | 350 |
| 100.0 | 92 | 190 | 300 | 409 |
| Quality levels expressed as percent defective only | | | | |
| 12.5 | 15 | 28 | 43 | 58 |
| 15.0 | 17 | 33 | 51 | 68 |
| 20.0 | 21 | 42 | 65 | 88 |
| 25.0 | 26 | 51 | 80 | 108 |
| 33.0 | 32 | 66 | 103 | 139 |
| 40.0 | 38 | 78 | 123 | 166 |
| 50.0 | 46 | 95 | 150 | 204 |

TABLE XVII—LOT SINGLE SAMPLING PLANS

[Standard sample unit size=25]

| | Number of sample units | | | |
|---|---|---|---|---|
| | 6 | 13 | 21 | 29 |
| Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL | | | | |
| 0.4 | 2 | 3 | 5 | 6 |
| 0.65 | 3 | 5 | 7 | 8 |
| 1.0 | 4 | 6 | 9 | 12 |
| 1.5 | 5 | 9 | 13 | 16 |
| 2.5 | 7 | 13 | 19 | 25 |
| 4.0 | 10 | 19 | 29 | 38 |
| 5.0 | 12 | 23 | 35 | 46 |
| 6.5 | 15 | 29 | 44 | 58 |
| 8.5 | 19 | 36 | 56 | 74 |
| 10.0 | 21 | 42 | 64 | 86 |
| Quality levels expressed as defects per 100 units only | | | | |
| 12.5 | 26 | 51 | 79 | 106 |
| 15.0 | 30 | 60 | 93 | 126 |
| 20.0 | 39 | 78 | 122 | 165 |
| 25.0 | 48 | 96 | 150 | 203 |
| 33.0 | 61 | 124 | 195 | 265 |
| 40.0 | 73 | 149 | 234 | 318 |
| 50.0 | 89 | 183 | 289 | 394 |
| 65.0 | 114 | 235 | 372 | 507 |
| Quality levels expressed as percent defective only | | | | |
| 12.5 | 25 | 50 | 78 | 105 |
| 15.0 | 30 | 59 | 92 | 125 |

TABLE XVII—LOT SINGLE SAMPLING PLANS—Continued

[Standard sample unit size=25]

| | Number of sample units | | | |
|---|---|---|---|---|
| | 6 | 13 | 21 | 29 |
| 20.0 | 38 | 77 | 120 | 163 |
| 25.0 | 46 | 94 | 148 | 200 |
| 33.0 | 59 | 121 | 191 | 260 |
| 40.0 | 70 | 145 | 228 | 312 |
| 50.0 | 85 | 177 | 281 | 385 |

TABLE XVIII—LOT SINGLE SAMPLING PLANS

[Standard sample unit size=50]

| | Number of sample units | | | |
|---|---|---|---|---|
| | 6 | 13 | 21 | 29 |
| Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL | | | | |
| 0.15 | 1 | 3 | 4 | 5 |
| 0.25 | 2 | 4 | 5 | 7 |
| 0.4 | 3 | 5 | 8 | 10 |
| 0.65 | 4 | 8 | 11 | 15 |
| 1.0 | 6 | 11 | 16 | 21 |
| 1.5 | 8 | 15 | 22 | 29 |
| 2.5 | 12 | 23 | 35 | 46 |
| 4.0 | 18 | 34 | 53 | 70 |
| 5.0 | 21 | 42 | 64 | 86 |
| 6.5 | 27 | 53 | 82 | 110 |
| 8.5 | 34 | 67 | 105 | 142 |
| 10.0 | 39 | 78 | 122 | 165 |
| Quality levels expressed as defects per 100 units only | | | | |
| 12.5 | 48 | 96 | 150 | 203 |
| 15.0 | 56 | 114 | 178 | 242 |
| 20.0 | 73 | 149 | 234 | 318 |
| 25.0 | 89 | 183 | 289 | 394 |
| 33.0 | 115 | 239 | 377 | 514 |
| 40.0 | 138 | 287 | 454 | 620 |
| 50.0 | 170 | 355 | 563 | 769 |
| Quality levels expressed as percent defective only | | | | |
| 12.5 | 47 | 95 | 149 | 202 |
| 15.0 | 55 | 112 | 177 | 240 |
| 20.0 | 71 | 147 | 231 | 315 |
| 25.0 | 87 | 181 | 286 | 390 |
| 33.0 | 112 | 234 | 372 | 508 |
| 40.0 | 134 | 281 | 446 | 611 |
| 50.0 | 164 | 346 | 552 | 756 |

TABLE XIX—LOT SINGLE SAMPLING PLANS

[Standard sample unit size=100]

| | Number of sample units | | | |
|---|---|---|---|---|
| | 6 | 13 | 21 | 29 |
| Acceptance numbers—quality levels expressed as defects per 100 units or percent defective—AQL | | | | |
| 0.1 | 2 | 3 | 5 | 6 |
| 0.15 | 3 | 4 | 6 | 8 |
| 0.25 | 4 | 6 | 9 | 12 |
| 0.4 | 5 | 9 | 13 | 17 |
| 0.65 | 7 | 13 | 20 | 26 |
| 1.0 | 10 | 19 | 29 | 38 |
| 1.5 | 14 | 27 | 41 | 54 |

TABLE XIX—LOT SINGLE SAMPLING PLANS—Continued

[Standard sample unit size=100]

| | Number of sample units | | | |
|---|---|---|---|---|
| | 6 | 13 | 21 | 29 |
| 2.5 | 21 | 42 | 64 | 86 |
| 4.0 | 32 | 64 | 99 | 134 |
| 5.0 | 39 | 78 | 122 | 165 |
| 6.5 | 49 | 99 | 156 | 211 |
| 8.5 | 63 | 128 | 200 | 272 |
| 10.0 | 73 | 149 | 234 | 318 |
| 12.5 | 89 | 183 | 289 | 394 |
| 15.0 | 105 | 218 | 344 | 469 |
| 20.0 | 138 | 287 | 454 | 620 |
| 25.0 | 170 | 355 | 563 | 769 |
| 33.0 | 221 | 463 | 736 | 1,008 |
| 40.0 | 266 | 558 | 888 | 1,216 |
| 50.0 | 329 | 692 | 1,103 | 1,513 |
| Quality levels expressed as percent defective only | | | | |
| 12.5 | 88 | 182 | 287 | 392 |
| 15.0 | 104 | 216 | 342 | 467 |
| 20.0 | 136 | 284 | 450 | 615 |
| 25.0 | 167 | 351 | 558 | 763 |
| 33.0 | 217 | 457 | 728 | 999 |
| 40.0 | 260 | 549 | 877 | 1,203 |
| 50.0 | 320 | 680 | 1,088 | 1,494 |

[43 FR 10542, Mar. 14, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.39 Issuance of certificate of sampling.

Each inspector and each licensed sampler shall prepare and sign a certificate of sampling to cover the samples drawn by the respective person, except that in-plant inspectors who inspect the samples which they have drawn need not prepare a certificate of sampling. One copy of each certificate of sampling prepared shall be retained by the licensed sampler and the original and all other copies thereof shall be disposed of in accordance with the instructions of the Administrator.

[51 FR 20445, June 5, 1986]

### § 52.40 Identification of lots sampled.

Each lot from which officially drawn samples are selected shall be marked in such manner as may be prescribed by the Administrator, if such lots do not otherwise possess suitable identification.

## FEES AND CHARGES

### § 52.41 Payment of fees and charges.

Fees and charges for any inspection service shall be paid by the interested party making the application for such service, in accordance with the applicable provisions of the regulations in this part, and if so required by the inspection service, an advance of funds prior to rendering inspection service in an amount suitable to the Administrator, or a surety bond suitable to the Administrator, shall be required as a guarantee of payment for the services rendered. All fees and charges for any inspection service performed pursuant to the regulations in this part shall be paid by check, draft, or money order payable to the United States Department of Agriculture. Remittance shall be sent to the address specified on the bill for collection on or before the due date to avoid a late payment charge.

[51 FR 20445, June 5, 1986]

### § 52.42 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, shall be at the rate of $62.00 per hour plus one-half the hourly rate per hour for all scheduled overtime hours. When work is performed on a holiday, an additional hour shall be charged at the regular hourly rate for each hour worked. A ten (10) percent night differential charge will be made for all work performed between the hours of 6 p.m. and 6 a.m. A twenty-five (25) percent Sunday differential charge will be made for all work performed on Sunday.

[59 FR 41378, Aug. 12, 1994, as amended at 61 FR 25549, May 22, 1996; 63 FR 50746, Sept. 23, 1998; 65 FR 66487, Nov. 6, 2000; 68 FR 61734, Oct. 30, 2003; 72 FR 10037, Mar. 7, 2007]

### § 52.43 Fees to be charged and collected for sampling when performed by a licensed sampler.

Such sampling fees as are specifically prescribed by the Administrator in connection with licensing of the particular sampler will be assessed and collected from the applicant by the office of inspection serving the area where services are performed: *Provided,* That if the employee is an employee of a state, the appropriate authority of the state may make the collection.

[48 FR 12326, Mar. 24, 1983]

### § 52.44 Inspection fees when charges for sampling have been collected.

For any lot of processed products from which a sample in drawn by a licensed sampler and the applicable sampling fee is collected, as provided in § 52.43, the fees for the other inspection services with respect to such lot shall not include charges for sampling.

[48 FR 12326, Mar. 24, 1983]

### § 52.45 Inspection fees when charges for sampling have not been collected.

For any lot of processed products from which a sample is drawn by a licensed sampler and the sampling fee is not collected by the appropriate authority as provided in § 52.43, the fees and charges for inspection services with respect to such lot shall be the applicable fees and charges prescribed in § 52.42.

[48 FR 12326, Mar. 24, 1983]

### § 52.46 Fee for appeal inspection.

The fee to be charged for an appeal inspection shall be at the rates prescribed in this part for other inspection services: *Provided*, That, if the result of any appeal inspection made for any applicant other than the United States or any agency or instrumentality thereof, discloses that a material error was made in the inspection on which the appeal is made, no inspection fee shall be assessed.

### § 52.47 Changing types of service.

If an applicant cancels a new year-round contract before a full year has elapsed, the applicant shall be charged the difference between the year-round rate and less than year-round rate for the full period the year-round contract was in effect. If an applicant cancels a year-round contract after a full year or more of uninterrupted service, the fee remains at the year-round rate.

[59 FR 41378, Aug. 12, 1994]

### § 52.48 Charges for plant survey and inspection.

The fees to be charged for a plant survey and inspection shall be at the rates prescribed in § 52.42 and § 52.51.

[72 FR 10037, Mar. 7, 2007]

### § 52.49 Charges for copies of inspection documents and/or inspection data.

If the applicant for inspection service requests additional copies of inspection documents and/or inspection data referable to the processed product covered thereby, the applicant may obtain such copies from the supervisor in the office of inspection serving the area where the service was performed at a charge of ½ hour per copy in accordance with the rate in § 52.42: Provided, that no charge shall be made for one copy if requested at the time of the original request for inspection. Inspection certificates issued in accordance with § 52.21 may be supplied to any financially interested party at a charge of ½ hour per certificate for each seven (7), or fewer copies in accordance with the rate in § 52.42.

[54 FR 50732, Dec. 11, 1989]

### § 52.50 Travel and other expenses.

Charges may be made to cover the cost of travel time incurred in connection with the performance of any inspection service, including appeal inspections, at the rate of $62.00 per hour. This includes time spent waiting for transportation as well as time spent traveling, but not to exceed eight hours of travel time for any one person for any one day: And provided further, that if travel is by common carrier, no hourly charge may be made for travel time outside the employee's official work hours.

[56 FR 27898, June 18, 1991, as amended at 58 FR 11186, Feb. 24, 1993; 59 FR 41378, Aug. 12, 1994; 61 FR 25550, May 22, 1996; 63 FR 50746, Sept. 23, 1998; 65 FR 66487, Nov. 6, 2000; 68 FR 61734, Oct. 30, 2003; 72 FR 10037, Mar. 7, 2007]

### § 52.51 Charges for inspection services on a contract basis.

(a) Irrespective of fees and charges prescribed in foregoing sections, or in this section, the Administrator may enter into contracts with applicants to perform continuous inspection services or other types of inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection service provided in such contracts shall

be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Administrator.

(b) Irrespective of fees and charges prescribed in the foregoing sections, or in this section, the Administrator may enter into a written memorandum of understanding or contract, whichever may be appropriate, with any administrative agency charged with the administration of a marketing agreement or a marketing order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) for the making of inspections pursuant to said agreement or order on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Administrator. Likewise, the Administrator may enter into a written memorandum of understanding or contract, whichever may be appropriate, with an administrative agency charged with an administration of a similar program operated pursuant to the laws of any State.

(c) Charges for year-round in-plant inspection services on a contract basis will be billed to the applicant monthly for all hours worked with a minimum of 40 hours per week for each inspector assigned to perform the inspection services in accordance with the following schedule:

(1) For personnel assigned on a year-round basis: Each inspector—$49.00 per hour.

(2) For personnel assigned on less than a year-round basis: Each inspector—$65.00 per hour. In-plant sampler—$22.00 per hour.

(3) Holiday pay. An eight (8) hour charge will be made for each inspector assigned at their regular hourly rate. When work is performed, an additional hour at the regular hourly rate will be charged for each hour worked.

(4) Night differential. A 10 percent night differential charge will be made for all work performed between the hours of 6 p.m. and 6 a.m.

(5) *Overtime.* All overtime hours will be charged at the regular rates specified in paragraphs (c)(1) and (2) of this section, plus one-half the hourly rate, per hour.

(6) Sunday differential. A 25 percent Sunday differential will be charged for all work performed on Sunday.

(d) Charges for less than year-round in-plant inspection services (four or more consecutive 40 hour weeks) on a contract basis will be billed to the applicant monthly for all hours with a minimum of 40 hours for each inspector assigned to perform the inspection services in accordance with the following schedule: [1]

(1) Each inspector—$65.00 per hour. [1]

(2) In-plant sampler—$22.00 per hour.

(3) Holiday pay. An eight (8) hour charge will be made for each inspector assigned at their regular hourly rate. When work is performed, an additional hour at the regular hourly rate will be charged for each hour worked.

(4) Night differential. A 10 percent night differential will be charged for all work performed between the hours of 6 p.m. and 6 a.m.

(5) *Overtime.* All overtime hours will be charged at the regular rates specified in paragraphs (d)(1) and (2) of this section, plus one-half the hourly rate, per hour.

(6) Sunday differential. A 25 percent Sunday differential will be charged for all work performed on Sunday.

(e) No Member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in this section or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a Member of, or Delegate to

[1] Except a minimum of 8 hours per day will be billed in lieu of a minimum of 40 hours a week.

Congress, or a Resident Commissioner in his capacity as a farmer.

[38 FR 25168, Sept. 12, 1973, as amended at 40 FR 47753, Oct. 10, 1975. Redesignated at 42 FR 32514, June 27, 1977, and amended at 42 FR 45327, Sept. 9, 1977; 43 FR 46291, Oct. 6, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 47 FR 20108, May 11, 1982; 51 FR 20445, June 5, 1986. Redesignated and amended at 54 FR 50732, Dec. 11, 1989; 56 FR 27899, June 18, 1991; 59 FR 41378, Aug. 12, 1994; 61 FR 25550, May 22, 1996; 63 FR 50746, Sept. 23, 1998; 65 FR 66487, Nov. 6, 2000; 68 FR 61734, Oct. 30, 2003; 72 FR 13008, Mar. 7, 2007]

MISCELLANEOUS

### § 52.53 Approved identification.

(a) *General.* Use of the approved identification marks described and illustrated in Figures 1 through 10 of this section is restricted to processed products that:

(1) Are clean, safe, and wholesome;

(2) Have been produced or packed in an approved plant.

(3) Are truthfully and accurately labeled.

(4) When graded against a U.S. grade standard, meet the quality requirements for U.S Grade C or better;

(5) Meet applicable fill weight and/or drained weight, Brix or other characteristics of a commodity related to market value;

(6) Have been certified, or have been inspected and are eligible for certification, by an inspector; and, in addition, meet the specific requirements stated in (b), (c), and (d) of this section.

(7) Labels and advertising material containing or referring to approved identification must be approved by USDA inspection service prior to use.

(b) *Inspection* (*Continuous*) *grade and inspection marks.* The official marks approved for use by plants operating under USDA continuous inspection service contracts shall be similar in form and design to the examples in Figures 1 through 10 of this section: *Provided,* That the official marks illustrated by figures 8 and 9 are limited to products packed by plants operating under an approved Quality Assurance type of inspection contract: *And provided further,* That the inspection marks illustrated in figures 1 through 4 may only be used on products packed by plants operating under USDA continuous inspection.

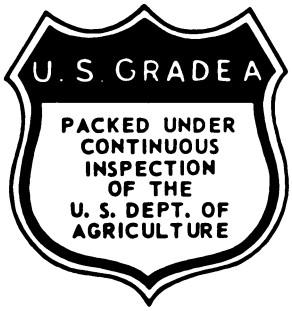



FIGURE 1.

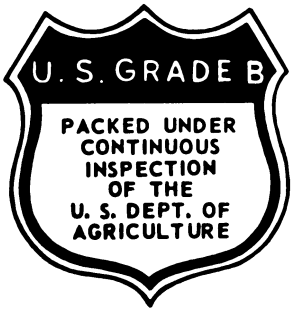



FIGURE 2.

Statement enclosed within a shield.

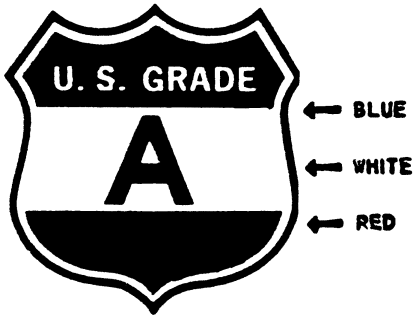
FIGURE 3.

PACKED UNDER
CONTINUOUS
INSPECTION
OF THE
U. S. DEPT. OF
AGRICULTURE

Statement without the use of the shield.

FIGURE 4.

(c) *In-plant inspection (other than continuous) grade and inspection marks.* The official marks approved for use by plants operating under USDA inspection service contracts (other than continuous) requiring a resident inspector shall be limited to those similar in form and design to the examples in Figures 5 through 14 of this section; Provided: That the official marks illustrated by Figures 9 and 10 are limited to products packed by plants operating under an approved Quality Assurance type of an inspection contract.




Shield using red, white, and blue background or other colors appropriate for Label.

FIGURE 5

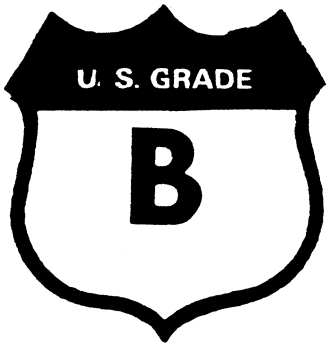



FIGURE 6

PACKED UNDER
INSPECTION
OF THE
U. S. DEPT. OF
AGRICULTURE

Statement without the use of the shield.

FIGURE 7

Statement enclosed within a shield.

FIGURE 8

FIGURE 9

PACKED UNDER
QUALITY ASSURANCE
PROGRAM
of the
U.S. DEPT. OF AGRICULTURE

Statement without the use of the shield.

FIGURE 10

(d) *''Approved plant-lot inspection'' grade and inspection marks.* Processed products that are produced in an approved plant as defined in § 52.2 and inspected and certified by an inspector on a lot basis may be labeled with an official mark as defined in § 52.3 when adequate control and use is approved. The use of official marks for this type of service is restricted to grade marks (with or without plain shield) and/or the statement ''Inspected by the U.S. Department of Agriculture'' (with or without plain shield). The official marks shall be similar in form and design as illustrated in figures 11 through 14. Failure to have all lots bearing official marks either inspected and certified or certified as produced in an approved plant shall cause the debarment of the user from receiving subsequent services, and such other actions as provided for in the Agricultural Marketing Act of 1946.

Shield with plain background

Figure 11

(1) U. S. GRADE A

(2) U. S. GRADE B

(3) U. S. GRADE C

Figure 12

Statement enclosed within a shield.

Figure 13

INSPECTED
BY THE
U.S. DEPT. OF
AGRICULTURE

Statement without the use of the shield.

Figure 14

(e) *Sampling marks.* Processed products which have been sampled for inspection as provided in this part may, at the option of the Department, be identified by an authorized representative of the Department. The products are identified by stamping the container(s) comprising such lot(s), with an official ''sampling mark'', similar in form and design to the example in figure 15 of this section. The ''sampling marks'' will identify products officially sampled by a particular field office.

Such mark will include a code identifying the field office performing the sampling.

FIGURE 15

(f) *Removal of labels bearing approved grade or inspection marks.* (1) At the time a lot of processed products bearing approved grade or inspection marks is found to be mislabeled, the processor shall separate and retain such lot for relabeling. Removal and replacement of labels shall be done, under the supervision of a USDA inspector, within the time specified by the Administrator or as may be mutually agreed by the processor and the Administrator.

(2) The processor shall be held accountable to the Department for all mislabeled products until the products have been properly labeled.

(3) Clearance for the release of the relabeled product shall be obtained, by the processor, from the inspector.

(g) *Licensing and identification of certain official devices.* The Administrator may issue licenses permitting the manufacture, identification, and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses shall be available to all persons meeting conditions prescribed by the Administrator, shall be nonexclusive, and shall be recoverable for cause. No person shall manufacture, identify, distribute or sell any such official device except at the direction of or under license from the Administrator. Such official devices may be marked, tagged or otherwise designated with the prefix ''USDA'' together with other identifying words or symbols, as prescribed by the license.

(h) *Prohibited uses of approved identification.* Except as specified in this section, no label or advertising material used upon, or in conjunction, with a processed product, as defined by these Regulations, shall bear a brand name, trademark, product name, company name, or any other descriptive material that incorporates, resembles, simulates, or alludes to, any official U.S. Department of Agriculture certificate of quality or loading, grade mark, grade statement (except honey and maple syrup which may bear such grade mark or statement), continuous inspection mark, continuous inspection statement, sampling mark or sampling statement, or combinations of one or more thereof.

(i) *Disposition of labels bearing approved grade or inspection marks when a contract is cancelled.* Upon cancellation of a contract, labels bearing approved grade or inspection marks shall remain under the control of the inspection service. The inspection service will approve disposition of said labels for destruction, sale or transfer to another approved plant, remove or obliterate the grade or inspection mark, or other action as may be agreed upon by all interested parties.

[38 FR 25169, Sept. 12, 1973, as amended at 40 FR 48934, Oct. 20, 1975. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981; 48 FR 12326, Mar. 24, 1983; 51 FR 20446, June 5, 1986; 60 FR 3533, Jan. 18, 1995]

### § 52.54 Debarment of services.

(a) The following acts or practices, or the causing thereof, may be deemed sufficient cause for the debarment, by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§1.130 through 1.151 of this title and the Supplemental Rules of Practice in

part 50 of this chapter shall be applicable to such debarment action.

(1) *Fraud or misrepresentation.* Any misrepresentation or deceptive or fraudulent practice or act found to be made or committed in connection with:

(i) The making or filing of an application for any inspection service;

(ii) The submission of samples for inspection;

(iii) The use of any inspection report or any inspection certificate, or appeal inspection certificate issued under the regulations in this part;

(iv) The use of the words ''Packed under continuous inspection of the U.S. Department of Agriculture,'' any legend signifying that the product has been officially inspected, any statement of grade or words of similar import in the labeling or advertising of any processed product;

(v) The use of a facsimile form which simulates in whole or in part any official U.S. certificate for the purpose of purporting to evidence the U.S. grade of any processed product.

(2) *Willful violation of the regulations in this subpart.* Willful violation of the provisions of this part of the Act.

(i) Country of origin labeling for packed honey. The use of a label or advertising material on, or in conjunction with, packaged honey that bears any official certificate of quality, grade mark or statement, continuous inspection mark or statement, sampling mark or statement, or any combination of the certificates, marks, or statements of the Department of Agriculture is hereby prohibited unless there appears legibly and permanently in close proximity (such as on the same side(s) or surface(s)) to the certificate, mark, or statement, and in at least a comparable size, the one or more names of the one or more countries of origin of the lot or container of honey, preceded by the words 'Product of' or other words of similar meaning.

(A) A violation of the requirements of this section may be deemed by the Secretary to be sufficient cause for debarment from the benefits of the regulations governing inspection and certification only with respect to honey.

(3) *Interfering with an inspector, inspector's aid, or licensed sampler.* Any interference with, obstruction of, or attempted interference with, or attempted obstruction of any inspector, inspector's aide, or licensed sampler in the performance of his duties by intimidation, threat, assault, bribery, or any other means—real or imagined.

[76 FR 253, Jan. 4, 2011]

### § 52.55 Political activity.

All inspectors and licensed samplers are forbidden, during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, are prohibited. This applies to all appointees or licensees, including, but not limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

### § 52.56 Purchase of commodity samples for review.

Employees are authorized to purchase commodity samples for review. Employees must pay and obtain receipts for such purchases and keep receipts subject to inspection by supervisory or other authorized Department employees.

[48 FR 12330, Mar. 24, 1983]

### § 52.57 Compliance with other laws.

None of the requirements in the regulations in this part shall excuse failure to comply with any Federal, State, county, or municipal laws applicable to the operation of food processing establishments and to processed food products.

### § 52.58 Identification.

Each inspector and licensed sampler shall have in his possession at all times and present upon request, while on duty, the means of identification furnished by the Department to such person.

### § 52.59 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control no. 0581–0123.

(44 U.S.C. Ch. 35)

[49 FR 23826, June 8, 1984]

REQUIREMENTS FOR PLANTS TO BE APPROVED AND FOR PLANTS USING CONTRACT IN-PLANT INSPECTION SERVICES [1]

SOURCE: Sections 52.81 through 52.83 appear at 38 FR 25170, Sept. 12, 1973, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### § 52.81 Plant survey.

Prior to a plant being approved, or the inauguration of in-plant inspection services, and at such intervals as may be deemed necessary or appropriate, the Administrator will make, or cause to be made, a survey and inspection of the plant where such inspection services are to be performed to determine whether the plant and methods of operation are suitable and adequate for the performance of such service in accordance with:

(a) The regulations in this part, including, but not limited to, the requirements contained in §§ 52.81 through 52.83; and

(b) The terms and provisions of any contract pursuant to which the service is to be performed: *Provided*, That, such survey(s) shall be repeated at least yearly.

### § 52.82 Basis of survey and plant inspection.

The plant survey and inspection will be based on the Regulations issued under the Federal Food, Drug, and Cosmetic Act—Human Foods; Good Manufacturing Practice (Sanitation) in Manufacture, Processing, Packing, or Holding (21 CFR part 110)—as may be modified or augmented by the Federal Food and Drug Administration, U.S. Department of Health, Education, and Welfare or the Administrator of the Agricultural Marketing Service.

### § 52.83 Reporting results of the plant survey and inauguration of inspection services.

(a) Results of the plant survey shall be reported in writing to a designated plant official.

(b) When the plant meets the requirements for the survey, inspection services may be inaugurated at a time mutually satisfactory to the plant management and USDA.

(c) When the plant fails the requirements of the survey, contract services shall be withheld until corrective action is completed to the satisfaction of the USDA.

## Subpart—United States Standards for Grades of Canned Red Tart Pitted Cherries [1]

SOURCE: 39 FR 13963, Apr. 18, 1974, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

IDENTITY AND GRADES

### § 52.771 Identity.

*Canned red tart pitted cherries* is the product represented as defined in the standard of identity for canned cherries (21 CFR 145.125(a)), issued pursuant to the Federal Food, Drug, and Cosmetic Act, and packed in one of the liquid media specified in § 52.773; and is sealed in a hermetically sealed container and so processed by heat as to prevent spoilage.

### § 52.772 Grades.

(a) ''U.S. Grade A'' (or ''U.S. Fancy'') is the quality of canned red tart pitted

[1] Compliance with the above requirements does not excuse failure to comply with all applicable sanitary rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such plants and operations.

[1] Compliance with the provisions of the standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

cherries that have at least the following attributes:

(1) At least a reasonably good color;
(2) Practically free from pits;
(3) Practically free from defects;
(4) Good character;
(5) Normal flavor and odor; and
(6) Score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

Canned red tart pitted cherries of this grade may contain not more than eight cherries per sample unit that are less than 9/16 inch (14 mm) in diameter.

(b) ''U.S. Grade B'' (or ''U.S. Choice'') is the quality of canned red tart pitted cherries that have at least the following attributes:

(1) Reasonably good color;
(2) Reasonably free from pits;
(3) Reasonably free from defects;
(4) Reasonably good character;
(5) Normal flavor and odor; and
(6) Score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

Canned red tart pitted cherries of this grade may contain not more than 15 cherries per sample unit that are less than 9/16 inch (14 mm) in diameter.

(c) ''U.S. Grade C'' (or ''U.S. Standard'') is the quality of canned red tart pitted cherries that have at least the following attributes:

(1) Fairly good color;
(2) Fairly free from pits;
(3) Fairly free from defects;
(4) Fairly good character;
(5) Normal flavor and odor; and
(6) Score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

There is no size requirement for canned red tart pitted cherries of this grade.

(d) ''Substandard'' is the quality of canned red tart pitted cherries that fail to meet the requirements of ''U.S. Grade C.''

LIQUID MEDIA AND BRIX MEASUREMENTS

### § 52.773 Liquid media and Brix measurements.

(a) Brix measurement requirements for the liquid media in canned red tart pitted cherries are not incorporated in the grades of the finished product since sirup, or any other liquid medium, as such, is not a factor of quality for the purpose of the grades. The designation of liquid packing media and Brix measurements, where applicable, are as follows:

| Designations | Brix measurements |
|---|---|
| ''Extra heavy sirup;'' or ''Extra heavily sweetened fruit juice(s) and water;'' or ''Extra heavily sweetened fruit juice(s).''. | 28° or more but not more than 45°. |
| ''Heavy sirup;'' or ''Heavily sweetened fruit juice(s) and water;'' or ''Heavily sweetened fruit juice(s).''. | 22° or more but less than 28°. |
| ''Light sirup;'' or ''Lightly sweetened fruit juice(s) and water;'' or ''Lightly sweetened fruit juice(s).''. | 18° or more but less than 22. |
| ''Slightly sweetened water;'' or ''Slightly sweetened fruit juice(s) and water;'' or ''Slightly sweetened fruit juice(s).''. | Less than 18°. |
| ''In water'' | Not applicable. |
| ''In fruit juice(s) and water.'' | Do. |
| ''In fruit juice(s)'' | Do. |

(b) The densities of the packing media, as listed in this section, are measured on the refractometer, expressed as percent by weight sucrose (degrees Brix) with correction for temperature to the equivalent at 20 °C. (68 °F.), but without correction for invert sugars or other substances. The Brix measurement of the packing media may be determined by any other method which gives equivalent results.

(c) Brix determination is made on the packing media 15 days or more after the cherries are canned or on the blended homogenized slurry of the comminuted entire contents of the container if canned for less than 15 days.

[39 FR 13963, Apr. 18, 1974, as amended at 41 FR 15020, Apr. 9, 1976. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

FILL OF CONTAINER

### § 52.774 Fill of container.

(a) *FDA requirements.* Canned red tart pitted cherries shall meet the fill of container requirements as set forth in the regulations of the Food and Drug Administration (21 CFR 145.125(c)).

(b) *Recommended minimum drained weights*—(1) *General.* The minimum drained weight recommendations for the various container sizes and types of packing media as listed in Table I of this section are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purpose of these grades.

(2) *Definitions.*

Sample average—Average of all the drained weights of the sample containers representing a lot.

$X_d$—A specified minimum sample average drained weight.

LL—Lower limit for individual container drained weight.

(3) *Method for ascertaining drained weight.* The drained weight of canned red tart pitted cherries is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing eight meshes to the inch (0.0937 inch (2.3 mm), ±3 percent, square openings) so as to distribute the product evenly over the sieve. Without shifting the product, incline the sieve at an angle of 17° to 20° to facilitate drainage and allow to drain for two minutes. The weight of drained cherries is the weight of the sieve and product less the weight of the dry sieve. A sieve eight inches in diameter is used for No. 3 size containers (404 × 414) and smaller, and a sieve 12 inches in diameter is used for containers larger than No. 3 size containers.

(4) *Compliance with recommended minimum drained weights.* A lot of canned red tart pitted cherries is considered as meeting the minimum drained weight recommendations when the following criteria are met:

(i) The sample average meets the specified minimum sample average drained weight (designated as ''$X_d$'' in Table I); and

(ii) The number of sample containers which fail to meet the minimum drained weight for individual containers (designated as ''LL'' in Table I) does not exceed the applicable acceptance number specified in Table II.

(c) *Recommended fill weights*—(1) *General.* The minimum fill weight recommendations for the various container sizes in Table III of this section are not incorporated in the grades of the finished product since fill weight, as such, is not a factor of quality for the purpose of these grades.

TABLE I—RECOMMENDED MINIMUM DRAINED WEIGHTS FOR CANNED RED TART PITTED CHERRIES

| Container designation | Packed in water or cherry juice (ounces) | | Packed in any sirup or slightly sweetened water (ounces) | |
|---|---|---|---|---|
| | LL | Xd | LL | Xd |
| No. 303 (303 × 406) .. | 10.7 | 11.0 | 9.9 | 10.2 |
| No. 303 Cylinder (303 × 509) ..... | 14.0 | 14.4 | 12.7 | 13.1 |
| No. 2 (307 × 409) ..... | 13.1 | 13.5 | 12.3 | 12.7 |
| No. 10 (603 × 700) .... | 71.2 | 72.0 | 69.4 | 70.2 |

TABLE II—SINGLE SAMPLING PLANS AND ACCEPTANCE NUMBERS

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Sample Size (No. of sample containers) .. | 3 | 6 | 13 | 21 | 29 | 38 | 48 | 60 |
| Acceptance numbers .. | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

(2) *Definitions.*

| | |
|---|---|
| Subgroup | A group of sample containers representing a portion of a sample. |
| $X'_{min}$ ..... | A specified minimum lot average fill weight. |
| LWL× ..... | Lower warning limit for subgroup averages. |
| $LRL_x$ ..... | Lower reject limit for subgroup averages. |
| LWL ..... | Lower warning limit for individual fill weight measurements. |
| LRL ..... | Lower reject limit for individual fill weight measurements. |
| R′ ..... | A specified average range value. |
| $R_{max}$ ..... | A specified maximum range for subgroups. |

(3) *Method for ascertaining fill weight.* The fill weight of canned red tart pitted cherries is determined in accordance with the U.S. Standards for Inspection by Variable and the U.S. Standards for Determination of Fill Weights.

(4) *Compliance with recommended fill weights.* Compliance with the recommended fill weights for canned red tart pitted cherries shall be in accordance with the U.S. Standards for Inspection by Variables and the U.S. Standards for Determination of Fill Weights.

TABLE III—RECOMMENDED FILL WEIGHT VALUES FOR CANNED RED TART PITTED CHERRIES

| Container designation | Fill weight values in ounces | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | $X'_{min}$ | $LWL_x$ | $LRL_x$ | LWL | LRL | R′ | $R_{max}$ | Sampling allowance code |
| No. 303 ..... | 12.9 | 12.6 | 12.4 | 12.2 | 11.8 | 0.80 | 1.70 | F |

TABLE III—RECOMMENDED FILL WEIGHT VALUES FOR CANNED RED TART PITTED CHERRIES—Continued

| Container designation | Fill weight values in ounces | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | $X'_{min}$ | $LWL_x$ | $LRL_x$ | LWL | LRL | R′ | $R_{max}$ | Sampling allowance code |
| No. 303 Cylinder | 16.8 | 16.4 | 16.2 | 15.9 | 15.4 | 1.10 | 2.20 | H |
| No. 2 | 15.8 | 15.4 | 15.2 | 14.9 | 14.4 | 1.10 | 2.20 | H |
| No. 10 | 86.7 | 85.9 | 85.5 | 85.0 | 84.1 | 2.00 | 4.20 | P |

SAMPLE UNIT SIZE

### § 52.775 Sample unit size.

Compliance with requirements for the size and the various quality factors is based on the following sample unit sizes for the applicable factor:

(a) Size, color, pits, and character—20 ounces of drained cherries.

(b) Defects (other than harmless extraneous material)—100 cherries.

(c) Harmless extraneous material—The total contents of each container in the sample.

FACTORS OF QUALITY

### § 52.776 Ascertaining the grade of a sample unit.

(a) *General.* The grade of a sample unit of canned red tart pitted cherries is ascertained by considering the factor of flavor and odor of the product and the requirement for size (in U.S. Grade A and U.S. Grade B) which are not scored; the ratings for the factors of color, freedom from pits, defects, and character, which are scored; and the limiting rules which may be applicable.

(b) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

| Factors | Points |
|---|---|
| Color | 20 |
| Freedom from pits | 20 |
| Defects | 30 |
| Character | 30 |
| Total score | 100 |

(c) *Definition.* ''Normal flavor and odor'' means that the flavor and odor are characteristic of canned red tart pitted cherries and that the product is free from objectionable flavors and objectionable odors of any kind.

### § 52.777 Ascertaining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, ''18 to 20 points'' means 18, 19, or 20 points).

### § 52.778 Color.

(a) (*A*) *classification.* Canned red tart pitted cherries that have a good color may be given a score of 18 to 20 points. ''Good color'' means a practically uniform color that is bright and typical of canned red tart pitted cherries which have been prepared and processed from properly ripened cherries.

(b) (*B*) *classification.* Canned red tart pitted cherries that have a reasonably good color may be given a score of 16 or 17 points. ''Reasonably good color'' means a reasonably uniform color, typical of canned red tart pitted cherries which have been properly prepared and processed and which color may range from a slight yellowish-red color to a slightly mottled reddish brown.

(c) (*C*) *classification.* Canned red tart pitted cherries that have a fairly good color may be given a score of 14 or 15 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly good color'' means a fairly uniform color typical of canned red tart pitted cherries which have been properly processed and which color may range

from a brownish cast to mottled shades of brown.

(d) (*SStd.*) *classification.* Canned red tart pitted cherries that fail to meet the color requirements for U.S. Grade C may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.779 Freedom from pits.

(a) *General.* The factor of freedom from pits refers to the incidence of pits and pit fragments.

(b) *Definitions.* (1) A *pit*, for the purposes of the allowances in this section, is a whole cherry pit or portions of pits computed as follows:

(i) A single piece of pit shell, whether or not within or attached to a whole cherry, that is larger than one-half pit shell is considered as one pit;

(ii) A single piece of pit shell, whether or not within or attached to a whole cherry, that is not larger than one-half pit shell is considered as one-half pit;

(iii) Pieces of pit shell, within or attached to a whole cherry, when their combined size is larger than one-half pit shell are considered as one pit; and

(iv) Pieces of pit shell, within or attached to a whole cherry, when their combined size is not larger than one-half pit shell are considered as one-half pit.

(2) *Drained cherries* means pitted cherries that have been drained of packing medium by the method prescribed in this subpart.

(c) (*A*) *classification.* Canned red tart pitted cherries that are practically free from pits may be given a score of 18 to 20 points. ''Practically free from pits'' means that the number of pits that may be present in the drained cherries does not exceed the allowances for this classification as set forth in Table IV.

(d) (*B*) *classification.* Canned red tart pitted cherries that are reasonably free from pits may be given a score of 16 or 17 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). ''Reasonably free from pits'' means that the number of pits that may be present does not exceed the allowances for this classification as set forth in Table IV.

(e) (*C*) *classification.* Canned red tart pitted cherries that are fairly free from pits may be given a score of 14 or 15 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly free from pits'' means that the number of pits that may be present in the drained cherries does not exceed the allowances for this classification as set forth in Table IV.

(f) (*SStd.*) *classification.* Canned red tart pitted cherries that fail to meet the requirements of U.S. Grade C may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.780 Defects.

(a) *General.* The factor of defects refers to the degree of freedom from harmless extraneous material, mutilated cherries, and cherries blemished by scab, hail injury, discoloration, scar tissue, or by other means.

(1) *Cherry* means a whole cherry, whether or not pitted, or portions of such cherries which in the aggregate approximate the average size of the cherries.

(2) *Harmless extraneous material* means any vegetable substance (including, but not being limited to, a leaf or a stem, and any portions thereof) that is harmless.

(3) *Mutilated cherry* means a cherry that is so pitter-torn or damaged by other means that the entire pit cavity is exposed and the appearance of the cherry is seriously affected.

(4) *Minor blemished cherry* means any cherry blemished with skin discoloration (other than scald) having an aggregate area of a circle 9/32 inch (7 mm) or less in diameter which more than slightly affects the appearance of the cherry but does not extend into the fruit tissue.

(5) *Blemished cherry* means any cherry blemished by skin discoloration (other than scald) which in the aggregate exceeds the area of a circle 9/32 inch (7 mm) in diameter. A cherry affected by skin discoloration extending into the fruit tissue or by scab, hail injury, scar

tissue, or other abnormality, regardless of size, is considered a blemished cherry.

(b) (*A*) *classification.* Canned red tart pitted cherries that are practically free from defects may be given a score of 27 to 30 points. ''Practically free from defects'' means that the number of defects that may be present does not exceed the number specified for the type of defects in Table IV.

(c) (*B*) *classification.* Canned red tart pitted cherries that are reasonably free from defects may be given a score of 24 to 26 points. Canned red tart pitted cherries that fall into this classification may not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). ''Reasonably free from defects'' means that the number of defects that may be present does not exceed the number specified for the type of defects in Table IV.

(d) (*C*) *classification.* If the canned red tart pitted cherries are fairly free from defects, a score of 21 to 23 points may be given. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly free from defects'' means that the number of defects that may be present does not exceed the number specified for the type of defects in Table IV.

(e) (*SStd.*) *classification.* Canned red tart pitted cherries that fail to meet the requirements for Grade C for any reason may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.781 Character.

(a) *General.* The factor of character refers to the physical characteristics of the flesh of the cherries.

(b) (*A*) *classification.* Canned red tart pitted cherries that have a good character may be given a score of 27 to 30 points. ''Good character'' means that the cherries are thick-fleshed and have a firm, tender texture.

(c) (*B*) *classification.* Canned red tart pitted cherries that have a reasonably good character may be given a score of 24 to 26 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). ''Reasonably good character'' means that the cherries may be reasonably thick-fleshed and may be slightly soft.

(d) (*C*) *classification.* Canned red tart pitted cherries that have a fairly good character may be given a score of 21 to 23 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly good character'' means that the cherries may be thin-fleshed, and may be soft but not mushy, or slightly tough but not leathery.

(e) (*SStd.*) *classification.* Canned red tart pitted cherries that fail to meet the requirements for U.S. Grade C may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

## ALLOWANCES FOR QUALITY FACTORS

### § 52.782 Allowances for quality factors.

TABLE IV—ALLOWANCES FOR QUALITY FACTORS

| Factor | Sample unit size | Maximum number permissible for the respective grade | | | | | |
|---|---|---|---|---|---|---|---|
| | | A | A | B | B | C | C |
| Pits | 20 ozs | Not more than 2 in any sample unit. | Sample average 1 per 40 ozs. | Not more than 3 in any sample unit. | Sample average 1 per 30 ozs. | 4 or more in any sample unit. | Sample average 1 per 20 ozs. |

TABLE IV—ALLOWANCES FOR QUALITY FACTORS—Continued

| Factor | Sample unit size | Maximum number permissible for the respective grade | | | | | |
|---|---|---|---|---|---|---|---|
| | | A | A | B | B | C | C |
| Defects: | 100 cherries. | | | | | | |
| Total—multilated, plus minor blemished plus blemished.. | ..... | 10 ..... | ..... | 15 ..... | ..... | 20. | |
| of which | | | | | | | |
| Blemished—limited to ..... | ..... | 3 ..... | ..... | 7 ..... | ..... | 15. | |
| Harmless extraneous material. | Total contents | Average 1 piece per 60 oz. net contents. | ..... | Average 1.5 pieces per 60 oz. net contents. | ..... | Average 3 piece per 60 oz. net contents. | |

LOT COMPLIANCE

### § 52.783 Ascertaining the grade of a lot.

The grade of a lot of canned red tart pitted cherries covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.87).

SCORE SHEET

### § 52.784 Score sheet for canned red tart pitted cherries.

Size and kind of container.
Container mark or identification.
Label.
Net weight (ounces).
Vacuum (inches).
Drained weight (ounces).
Sirup designation (extra heavy, heavy, etc.).
Brix measurement.
Size [1].

| Factors | | Score points | |
|---|---|---|---|
| Color ..... | 20 | (A) | 18–20 |
| | | (B) | 16–17 |
| | | (C) | [2] 14–15 |
| | | (SStd.) | [2] 0–13 |
| Freedom from pits. | 20 | (A) | 18–20 |
| | | (b) | [2] 16–17 |
| | | (C) | [2] 14–15 |
| | | (SStd.) | [2] 0–13 |
| Freedom from defects. | 30 | (A) | 27–30 |
| | | (B) | [2] 24–26 |
| | | (C) | [2] 21–23 |
| | | (SStd.) | [2] 0–20 |
| Character ..... | 30 | (A) | 27–30 |
| | | (B) | [2] 24–26 |
| | | (C) | [2] 21–23 |
| | | (SStd.) | [2] 0–20 |
| Total score | 100 | | |

Normal flavor.
Grade.

[1] See size limitation for U.S. Grade A and U.S. Grade B.
[2] Indicates limiting rule.

## Subpart—United States Standards for Grades of Frozen Red Tart Pitted Cherries

SOURCE: 39 FR 23235, June 27, 1974, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

PRODUCT DESCRIPTION AND GRADES

### § 52.801 Product description.

Frozen red tart pitted cherries is the food prepared from properly matured cherries of the domestic (Prunus cerasus) red sour varietal group which have been washed, pitted, sorted, and properly drained; may be packed with or without a nutritive sweetened packing medium or any other substance permitted under the Federal Food, Drug, and Cosmetic Act, and are frozen and stored at temperatures necessary for the preservation of the product.

### § 52.802 Grades of frozen red tart pitted cherries.

(a) ''U.S. Grade A'' (or ''U.S. Fancy'') is the quality of frozen red tart pitted cherries of which not more than five (5) cherries per sample unit may be less than 9/16 inch (14 mm) in diameter, and that:

(1) Possess a good red color;
(2) Are practically free from pits;
(3) Are practically free from defects;
(4) Have a good character;
(5) Possess a normal flavor; and

(6) Score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) ''U.S. Grade B'' (or ''U.S. Choice'') is the quality of frozen red tart pitted cherries of which not more than ten (10) cherries per sample unit may be less than 9/16 inch (14 mm) in diameter, and that:

(1) Possess a reasonably good red color;

(2) Are reasonably free from pits;

(3) Are reasonably free from defects;

(4) Have a reasonably good character:

(5) Possess a normal flavor; and

(6) Score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) ''U.S. Grade C'' (or ''U.S. Standard'') is the quality of frozen red tart pitted cherries that:

(1) Possess a fairly good red color;

(2) Are fairly free from pits;

(3) Are fairly free from defects;

(4) Have a fairly good character;

(5) Possess a normal flavor; and

(6) Score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(d) ''Substandard'' is the quality of frozen red tart pitted cherries that fail to meet the requirements of U.S. Grade C.

SAMPLE UNIT SIZE

### § 52.803 Sample unit size.

Compliance with requirements for size and the various quality factors is based on the following sample unit sizes for the applicable factor:

(a) Pits, character, and harmless extraneous material—20 ounces of drained cherries.

(b) Size, color, and defects (other than harmless extraneous material)—100 cherries.

FACTORS OF QUALITY

### § 52.804 Ascertaining the grade of a sample unit.

(a) The grade of frozen red tart pitted cherries is determined immediately after thawing to the extent that the cherries may be separated easily and the cherries are free from ice and solidified packing media. The grade is determined by considering in addition to the requirements of the respective grade (including the requirement of the size in U.S. Grade A and U.S. Grade B), the respective ratings of the factors of color, pits, absence of defects, character, the total score, and the limiting rules which may be applicable.

(b) The relative importance of each factor is expressed numerically on a scale of 100. The maximum number of points that may be given each factor is:

| Factors | Points |
|---|---|
| Color | 30 |
| Freedom from pits | 20 |
| Freedom from defects | 20 |
| Character | 30 |
| Total score | 100 |

(c) *Normal flavor* means that the flavor is characteristic of frozen red tart pitted cherries and that the product is free from objectionable flavors of any kind.

### § 52.805 Ascertaining the rating for each factor.

The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range for the rating of each factor is inclusive (for example, ''27 to 30 points'' means 27, 28, 29 or 30 points).

### § 52.806 Color.

(a) (*A*) *Classification.* Frozen red tart pitted cherries that possess a good red color may be given a score of 27 to 30 points. ''Good red color'' means that the frozen cherries possess a color that is bright and typical of properly ripened cherries and that is practically uniform in that the number of cherries that vary markedly from this color due to oxidation, improper processing, or other causes, or that are undercolored, does not exceed the number specified in Table I.

(b) (*B*) *Classification.* Frozen red tart pitted cherries that possess a reasonably good red color may be given a score of 24 to 26 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). ''Reasonably good red color'' means that the cherries possess a color

that is reasonably bright and typical of properly ripened cherries and that is reasonably uniform in that the number of cherries that vary markedly from this color due to oxidation, improper processing, or other causes, or that are undercolored, does not exceed the number specified in Table I.

(c) (*C*) *Classification.* If the frozen red tart pitted cherries possess a fairly good red color, a score of 21 to 23 points may be given. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly good red color'' means that the frozen cherries possess a color that is fairly bright and typical of properly ripened cherries and that is fairly uniform in that the number of cherries that vary markedly from this color due to oxidation, improper processing, or other causes, or that are undercolored, does not exceed the number specified in Table I.

(d) (*SStd.*) *Classification.* Frozen red tart pitted cherries that fail to meet the requirements of U.S. Grade C may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.807 Freedom from pits.

(a) *General.* The factor of freedom from pits refers to the incidence of pits and pit fragments.

(b) *Definitions.* (1) A ''pit'' for the purpose of the allowances in this subpart is a whole pit or portions of pits computed as follows:

(i) A single piece of pit shell, whether or not within or attached to a whole cherry, that is larger than one-half pit shell is considered as one pit;

(ii) A single piece of pit shell, whether or not within or attached to a whole cherry, that is not larger than one-half pit shell is considered as one-half pit;

(iii) Pieces of pit shell, within or attached to a whole cherry, when their combined size is larger than one-half pit shell are considered as one pit; and

(iv) Pieces of pit shell, within or attached to a whole cherry, when their combined size is not larger than one-half pit shell are considered as one-half pit.

(2) *Drained cherries* means pitted cherries that are substantially free from any adhering sirup, sugar, or other packing medium.

(c) (*A*) *Classification.* Frozen red tart pitted cherries that are practically free from pits may be given a score of 18 to 20 points. ''Practically free from pits'' means that the number of pits that may be present does not exceed the allowances for this classification specified in Table I.

(d) (*B*) *Classification.* Frozen red tart pitted cherries that are reasonably free from pits may be given a score of 16 or 17 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). ''Reasonably free from pits'' means that the number of pits that may be present does not exceed the number specified in Table I.

(e) (*C*) *Classification.* Frozen red tart pitted cherries that are fairly free from pits may be given a score of 14 or 15 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly free from pits'' means that the number of pits that may be present does not exceed the number specified in Table I.

(f) (*SStd.*) *Classification.* Frozen red tart pitted cherries that fail to meet the requirements for U.S. Grade C may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.808 Freedom from defects.

(a) *General.* The factor of freedom from defects refers to the degree of freedom from harmless extraneous material, mutilated cherries, and cherries blemished by scab, hail injury, discoloration, scar tissue, or by other means.

(1) *Cherry* means a whole cherry, whether or not pitted, or portions of such cherries which in the aggregate approximate the average size of the cherries.

(2) *Harmless extraneous material* means any vegetable substance (including, but not being limited to, a leaf or a stem

and any portions thereof) that is harmless.

(3) *Mutilated cherry* means a cherry that is so pitter-torn or damaged by other means that the entire pit cavity is exposed and the appearance of the cherry is seriously affected.

(4) *Minor blemished cherry* means any cherry blemished with discoloration (other than scald) having an aggregate area of a circle 9/32 inch (7 mm) or less in diameter which more than slightly affects the appearance of the cherry but does not extend into the fruit tissue.

(5) *Blemished cherry* means any cherry blemished by skin discoloration (other than scald) which in the aggregate exceeds the area of a circle 9/32 inch (7 mm) in diameter. A cherry affected by skin discoloration extending into the fruit tissue or by scab, hail injury, scar tissue, or other abnormality, regardless of size, is considered a blemished cherry.

(b) (*A*) *Classification.* Frozen red tart pitted cherries that are practically free from defects may be given a score of 18 to 20 points. ''Practically free from defects'' means that the number of defects that may be present does not exceed the number specified for the applicable type of defect in Table I.

(c) (*B*) *Classification.* Frozen red tart pitted cherries that are reasonably free from defects may be given a score of 16 or 17 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). ''Reasonably free from defects'' means that the number of defects that may be present does not exceed the number specified for the applicable type of defect in Table I.

(d) (*C*) *Classification.* Frozen red tart pitted cherries that are fairly free from defects may be given a score of 14 or 15 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly free from defects'' means that the number of defects that may be present does not exceed the number specified for the applicable type of defect in Table I.

(e) (*SStd.*) *Classification.* Frozen red tart pitted cherries that fail to meet the requirements for Grade C may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.809 Character.

(a) *General.* The factor of character refers to the physical characteristics of the flesh of the cherries.

(b) (*A*) *Classification.* Frozen red tart pitted cherries that have a good character may be given a score of 27 to 30 points. ''Good character'' means that the cherries are thick-fleshed and have a firm, tender texture.

(c) (*B*) *Classification.* Frozen red tart pitted cherries that have a reasonably good character may be given a score of 24 to 26 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). ''Reasonably good character'' means that the cherries may be reasonably thick-fleshed and slightly soft.

(d) (*C*) *Classification.* Frozen red tart pitted cherries that have a fairly good character may be given a score of 21 to 23 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly good character'' means that the cherries may be thin-fleshed and may be soft but not mushy, or slightly tough but not leathery.

(e) (*SStd.*) *Classification.* Frozen red tart pitted cherries that fail to meet the requirements for Grade C may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

ALLOWANCES FOR QUALITY FACTORS

### § 52.810 Allowances for quality factors.

TABLE I—ALLOWANCES FOR QUALITY FACTORS

| Factor | Sample unit size | Maximum number permissible for the respective grade | | |
|---|---|---|---|---|
| | | A | B | C |
| Color: | | | | |
| Vary markedly or undercolored. | 100 cherries | 12 | 18 | 25. |
| Pits | 20 ozs | Not more than 2 in any sample unit. Sample average 1 per 40 ozs. | Not more than 3 in any sample unit. Sample average 1 per 30 ozs. | 4 or more in any sample unit. Sample average 1 per 20 ozs. |
| Defects: | | | | |
| Total-mutilated, minor blemished, and blemished of which. | 100 cherries | 10 | 15 | 20. |
| Blemished—limited to | | 3 | 7 | 15. |
| Harmless extraneous material. | 20 ozs | Average 1 piece per 60 oz. net contents. | Average 1 piece per 40 oz. net contents. | Average 1 piece per 20 oz. net contents. |

LOT COMPLIANCE

### § 52.811 Ascertaining the grade of a lot.

The grade of a lot of frozen red tart pitted cherries covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.83).

SCORE SHEET

### § 52.812 Score sheet for frozen red tart pitted cherries.

Size and kind of container.
Container mark or identification.
Label (style of pack, ratio of fruit to sugar, etc., if shown).
Net weight (ounces).
Size [1].

| Factor | Score points. | | |
|---|---|---|---|
| Color | 30 | (A) | 27–30 |
| | | (B) | [2] 24–26 |
| | | (C) | [2] 21–23 |
| | | (SStd.) | [2] 0–20 |
| Freedom from pits | 20 | (A) | 18–20 |
| | | (B) | [2] 16–17 |
| | | (C) | [2] 14–15 |
| | | (SStd.) | [2] 0–13 |
| Freedom from defects. | 20 | (A) | 18–20 |
| | | (B) | [2] 16–17 |
| | | (C) | [2] 14–15 |
| | | (SStd.) | [2] 0–13 |
| Character | 30 | (A) | 27–30 |
| | | (B) | [2] 24–26 |
| | | (C) | [2] 21–23 |
| | | (SStd.) | [2] 0–20 |
| Total score | 100 | | |

Normal flavor.
Grade.

[1] See size limitation for U.S. Grade A and U.S. Grade B.
[2] Indicates limiting rule.

## Subpart—United States Standards for Grades of Dates

SOURCE: 20 FR 5755, Aug. 10, 1955, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

PRODUCT DESCRIPTION, STYLES, AND GRADES

### § 52.1001 Product description.

Dates are the properly cured fresh fruit of the date tree (Phoenix dactylifera) which may or may not be softened by hydration. For the purposes of the standards in this subpart, dates, when referred to as ''dry dates for processing,'' means that the dates are dry and have not been softened by hydration.

### § 52.1002 Styles of dates.

(a) *Whole* or *whole dates* means whole unpitted dates from which the pits have not been removed and which may be slit longitudinally.

(b) *Pitted* or *pitted dates* means whole dates from which the pits have been removed.

(c) *Pieces* or *date pieces* means dates that have been cut or sliced into small pieces and that can be handled as individual units.

(d) *Macerated* or *macerated dates* means dates that have been ground, chopped, mashed, or broken or that have been cut or sliced into small pieces and that cannot be handled as individual units.

### § 52.1003 Grades of dates.

(a) *U.S. Grade A* or *U.S. Fancy* is the quality of whole or pitted dates that are of one variety, that possess a good color, that are practically uniform in size, that are practically free from defects, that possess a good character, and that score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) *U.S. Grade B* or *U.S. Choice* is the quality of whole or pitted dates other than whole dry dates for processing that are of one variety, that possess a reasonably good color, that are reasonably uniform in size, that are reasonably free from defects, that possess a reasonably good character, and that score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) *U.S. Grade B (Dry)* or *U.S. Choice (Dry)* is the quality of whole dry dates for processing that are of one variety, that possess a reasonably good color, that are reasonably uniform in size, that are reasonably free from defects, that possess a reasonably good character, and that score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(d) *U.S. Grade C* or *U.S. Stand- ard* is the quality of whole or pitted dates other than whole dry dates for processing that are of one variety or of date pieces or macerated dates that possess a fairly good color, that are fairly uniform in size except for date pieces or macerated dates, that are fairly free from defects, that possess a fairly good character, and that score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(e) *U.S. Grade C (Dry)* or *U.S. Standard (Dry)* is the quality of whole dry dates for processing that are of one variety, that possess a fairly good color, that are fairly uniform in size, that are fairly free from defects, that possess a fairly good character, and that score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(f) *Substandard* is the quality of dates that fail to meet the requirements of U.S. Grade C or U.S. Stand- ard or U.S. Grade C (Dry) or U.S. Standard (Dry), whichever is applicable.

## FACTORS OF QUALITY

### § 52.1004 Ascertaining the grade.

In addition to considering other requirements outlined in the standards, the following quality factors are evaluated:

(a) *Factor not related by score points.* (1) Varietal requirement.

(b) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

| | Points |
|---|---|
| (1) Color | 20 |
| (2) Uniformity of size | 10 |
| (3) Absence of defects | 30 |
| (4) Character | 40 |
| Total score | 100 |

### § 52.1005 Ascertaining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, ''18 to 20 points'' means 18, 19, or 20 points).

### § 52.1006 Color.

(a) (*A*) *classification.* Whole or pitted dates that possess a good color may be given a score of 18 to 20 points. ''Good color'' means that the color of the dates is practically uniform; and, with

respect to dates that are predominantly light amber in color, there may be not more than 5 percent by count of dates that are dark amber in color; and, with respect to dates that are predominantly dark amber in color, there may be not more than 5 percent by count of dates that are light amber in color.

(b) (*B*) *classification*. If the whole or pitted dates or whole dry dates for processing possess a reasonably good color, a score of 16 or 17 points may be given. Dates that fall into this classification shall not be graded above U.S. Grade B or U.S. Choice or U.S. Grade B (Dry) or U.S. Choice (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule). ''Reasonably good color'' means that the color of the whole or pitted dates or whole dry dates for processing is reasonably uniform for the type; and, with respect to dates that are predominantly light amber in color, there may be not more than 10 percent by count of dates that are dark amber in color; and, with respect to dates that are predominantly dark amber in color, there may be not more than 10 percent by count of dates that are light amber in color.

(c) (*C*) *classification*. If the whole or pitted dates, whole dry dates for processing, date pieces, or macerated dates possess a fairly good color, a score of 14 or 15 points may be given. Dates that fall into this classification shall not be graded above U.S. Grade C or U.S. Standard or U.S. Grade C (Dry) or U.S. Standard (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule). ''Fairly good color'' has the following meanings with respect to the following styles:

(1) *Whole; pitted*. The color of the whole or pitted dates or whole dry dates for processing is fairly uniform for the type; and, with respect to dates that are predominantly light amber in color, there may be not more than 20 percent by count of dates that are dark amber in color; and, with respect to dates that are predominantly dark amber in color, there may be not more than 20 percent by count of dates that are light amber in color.

(2) *Pieces; macerated*. The color may be variable throughout the units or mass, may be slightly dull but not off-color, and is typical of properly prepared dates of these styles.

(d) (*SStd*) *classification*. Dates that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.1007 Uniformity of size.

(a) *General*. The factor of uniformity of size applies only to whole and pitted styles. The factor of uniformity of size in the styles of date pieces and macerated dates is not based on any detailed requirements and is not scored; the other three factors (color, absence of defects, and character is applicable) are scored and the total is multiplied by 100 and divided by 90, dropping any fractions to determine the total score.

(b) (*A*) *classification*. Whole or pitted dates that are practically uniform in size may be given a score of 9 or 10 points. ''Practically uniform in size'' means that not more than a total of 10 percent, by weight, of the whole or pitted dates may be conspicuously larger or smaller than the approximate average size of the dates in the container.

(c) (*B*) *classification*. If the whole or pitted dates or whole dry dates for processing are reasonably uniform in size, a score of 8 points may be given. Dates that fall into this classification shall not be graded above U.S. Grade B or U.S. Choice or U.S. Grade B (Dry) or U.S. Choice (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule). ''Reasonably uniform in size'' means that not more than a total of 15 percent, by weight, of the whole or pitted dates may be conspicuously larger or smaller than the approximate average size of the dates in the container.

(d) (*C*) *classification*. If the whole or pitted dates or whole dry dates for processing are fairly uniform in size, a score of 7 points may be given. Dates that fall into this classification shall not be graded above U.S. Grade C or U.S. Standard or U.S. Grade C (Dry) or U.S. Standard (Dry), whichever is applicable, regardless of the total score

for the product (this is a limiting rule). ''Fairly uniform in size'' means that not more than a total of 20 percent, by weight, of the whole or pitted dates may be conspicuously larger or smaller than the approximate average size of the dates in the container.

(e) (*SStd*) *classification.* Whole or pitted dates or whole dry dates for processing that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 6 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.1008 Absence of defects.

(a) *Definitions of defects.* Unless otherwise stated specifically, the following definitions of defects or defective units apply only to whole or pitted dates or whole dry dates for processing, as applicable for the type:

(1) *Damaged by discoloration* is the presence of a dark area in the flesh of the date, which dark area is visible through the skin and is more than one-fourth (¼) inch in width and extends more than the equivalent of half the length of the date, such darkening being of natural origin and not caused by mold or other organism.

(2) *Damaged by broken skin* is any rupture of the skin in a manner to expose the flesh of the date, the short- est dimension of such exposed area being not less than three-sixteenths (3⁄16) inch.

(3) *Damaged by checking* is the presence of fine lines, resulting from water injury, affecting the surface of the skin over an area not less than one-fourth of the total surface of the date.

(4) *Seriously damaged by checking* is the presence of heavy lines, resulting from water injury, seriously affecting the surface of the skin over an area not less than one-fourth of the total surface of the date.

(5) *Damaged by deformity* is any abnormal shape sufficient to produce an appearance discernibly at variance with the normal shape that is typical of the variety.

(6) *Damaged by puffiness* is the condition of a date of which the skin is soft and pliable and from which the skin is separated from the flesh in a balloon-like fashion, over an area not less than one-half of the total surface of the date. Soft skins which have returned and adhere to the flesh of the date are not considered ''damaged by puffiness.''

(7) *Seriously damaged by puffiness* is the condition of a date of which the skin is dry, hard, and brittle and from which the skin is separated from the flesh over an area not less than one-half of the total surface of the date.

(8) *Damaged by scars* are any blemishes that affect the exterior of the date and which are not less than three-sixteenths (3⁄16) inch in the shortest dimension.

(9) *Damaged by sunburn* is an area, usually light in color, scarred by the heat of the sun, such area being not less than three-sixteenths (3⁄16) inch in the shortest dimension.

(10) *Damaged by insect injury* is any blemish, resulting from the activity of insects or mites, distributed over an area of not less than one-fourth of the total surface of the date or any similar blemish that materially affects the appearance or edibility of the unit, regardless of the area affected.

(11) *Damaged by improper hydrating* means that the date has been injured by excessive heat or that the hydrating process is incomplete.

(12) *Damaged by mashing* means any physical injury to the flesh and skin of the date leaving the date partially mangled but otherwise whole.

(13) *Damaged by mechanical injury* means excessive trimming or similar injury that damages the appearance or that damages or affects the eating quality of the whole date.

(14) *Damaged by lack of pollination* means, with respect to whole dates, that pollination of the date was not accomplished, such condition being manifested by the absence of a pit in the whole dates or by thin, immature appearance of the date.

(15) *Damaged by blacknose* is severe checking in which the flesh becomes dark, crusty, and dry and which severe checking affects an area greater than one-eighth of the total surface of the date.

(16) *Damaged by side spot* means a very dark area, which generally is circular in appearance, extending into the flesh of the date, and, when decayed tissue or mold is not present, affecting in the aggregate an area not less than

the area of a circle three-sixteenths (3/16) inch in diameter.

(17) *Damaged by black scald* means the collapse, death, and blackening of the flesh along the side of the date, usually accompanied by a bitter taste in the affected area.

(18) *Damage by improper ripening* means pronounced evidence of ''green shrivel'' of the date or that the date possesses a puffy flesh or a decidedly rubbery texture resulting from failure of the tissue of the date to reach a desirable state of maturity due to climatic or cultural injury, or both.

(19) *Damaged by other defects* means any injury or defect or group of defects not defined in this section (such as, but not limited to, heavy sugaring, and excessive scars not described in the definition ''damaged by scars,'') which materially affect the appearance, edibility, or keeping quality of the dates.

(20) *Affected by scouring* is evidenced by the breakdown of the sugars into alcohol and acetic acid by yeasts and bacteria.

(21) *Affected by mold* is the presence of visible mold.

(22) *Affected by dirt* is the presence of any quantity of such substance.

(23) *Affected by insect infestation* is the presence of dead insects, insect parts, or excreta. (No live insects are permitted.)

(24) *Affected by foreign material* is the presence of any quantity of such substance.

(25) *Affected by decay* is a state of decomposition.

(b) (*A*) *classification*. Whole or pitted dates that are practically free from defects may be given a score of 27 to 30 points. ''Practically free from defects'' means that in pitted dates there may be present not more than one whole pit or two pit fragments for each 25 ounces of pitted dates; and that the whole or pitted dates do not exceed the total allowances and limitations shown in Chart I of this subpart.

(c) (*B*) *classification*. If the whole or pitted dates or whole dry dates for processing are reasonably free from defects, a score of 24 to 26 points may be given. Dates that fall into this classification shall not be graded above U.S. Grade B or U.S. Choice or U.S. Grade B (Dry) or U.S. Choice (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule). ''Reasonably free from defects'' means that in pitted dates there may be present not more than one whole pit or two pit fragments for each 25 ounces of pitted dates; and that the whole or pitted dates or whole dry dates for processing do not exceed the total allowances and limitations shown in Chart II of this subpart.

(d) (*C*) *classification*. If the whole or pitted dates, whole dry dates for processing, date pieces, or macerated dates are fairly free from defects, a score of 21 to 23 points may be given. Dates that fall into this classification shall not be graded above U.S. Grade C or U.S. Standard or U.S. Grade C (Dry) or U.S. Standard (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule). ''Fairly free from defects'' has the following meanings with respect to the following styles:

(1) *Whole*. The defects or defective units in whole dates or whole dry dates for processing do not exceed the total allowances and limitations shown in Chart III of this subpart.

(2) *Pitted*. Not more than one whole pit or two pit fragments for each 25 ounces of pitted dates may be present; and the defects or defective units in pitted dates do not exceed the total allowances and limitations shown in Chart III of this subpart.

(3) *Pieces; macerated*. Not more than one whole pit or two pit fragments for each 25 ounces of pitted dates may be present; and the units or mass consists of clean and sound date material, fairly free from defects that seriously affect the appearance, edibility, or keeping quality of the product.

(e) (*SStd*) *classification*. Dates that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

CHART NO. I—ALLOWANCES AND LIMITATIONS FOR DEFECTS IN WHOLE AND PITTED DATES (OTHER THAN WHOLE DRY DATES FOR PROCESSING); U.S. GRADE A OR U.S. FANCY

TOTAL ALLOWANCE

Not more than a total of 10 percent, by weight of the dates, may be the following:

Damaged by:
- Discoloration.
- Broken skin.
- Checking.
- Deformity.
- Puffiness.
- Scars.
- Sunburn.
- Insect injury.
- Improper hydrating.
- Mashing.
- Mechanical injury.
- Lack of pollination.
- Blacknose.
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Seriously damaged by checking.
Seriously damaged by puffiness.
Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

LIMITATIONS

Not more than ⅜ of the total allowance or 6 percent, by weight of the dates, may be the following:

Damaged by:
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

Not more than ⅖ of the total allowance, or 4 percent, by weight of the dates, may be the following:

Damaged by:
- Improper ripening.
- Other defects.

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

Not more than 1/10 of the total allowance, or 1 percent, by weight of the dates, may be:

Affected by decay.

CHART NO. II—ALLOWANCES AND LIMITATIONS FOR DEFECTS IN WHOLE AND PITTED DATES OR IN WHOLE DRY DATES FOR PROCESSING; U.S. GRADE B OR U.S. CHOICE AND U.S. GRADE B (DRY) OR U.S. CHOICE (DRY)

Not more than 15 percent, by weight of the dates, may be seriously damaged by checking.

Not more than 20 percent, by weight of the dates, may be damaged by broken skin.

ADDITIONAL ALLOWANCE

Not more than a total of 15 percent, by weight of the dates, may be the following:

Damaged by:
- Deformity.
- Puffiness.
- Scars.
- Sunburn.
- Insect injury.
- Improper hydrating.
- Mashing.
- Mechanical injury.
- Lack of pollination.
- Blacknose.
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Seriously damaged by puffiness.
Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation.
- Foreign material.
- Decay.

LIMITATIONS

Not more than ⅔ of the additional allowance, or 10 percent, by weight of the dates, may be the following:

Damaged by:
- Lack of pollination.
- Blacknose.
- Side spot.
- Black scald.
- Improper ripening.
- Other defects.

Affected by:
- Souring.
- Mold.
- Dirt.
- Insect infestation
- Foreign material.
- Decay.

Not more than ⅓ of the additional allowance, or 5 percent, by weight of the dates, may be the following:

Damaged by:
- Improper ripening.

Other defects.
Affected by:
Souring.
Mold.
Dirt.
Insect infestation.
Foreign material.
Decay.

Not more than 1/15 of the additional allowance, or 1 percent, by weight of the dates, may be:

Affected by decay.

CHART NO. III—ALLOWANCES AND LIMITATIONS FOR DEFECTS IN WHOLE AND PITTED DATES OR IN WHOLE DRY DATES FOR PROCESSING; U.S. GRADE C OR U.S. STANDARD AND U.S. GRADE C (DRY) OR U.S. STANDARD (DRY)

TOTAL ALLOWANCE

Not more than a total of 20 percent, by weight of the dates, may be the following.

Damaged by:
Deformity.
Scars.
Sunburn.
Insect injury.
Improper hydrating.
Mashing.
Mechanical injury.
Lack of pollination.
Blacknose.
Side spot.
Black scald.
Improper ripening.
Other defects.
Seriously damaged by puffiness
Affected by:
Souring.
Mold.
Dirt.
Insect infestation.
Foreign material.
Decay.

LIMITATIONS

Not more than ½ of the total allowance, or 10 percent, by weight of the dates, may be the following.

Damaged by:
Lack of pollination
Blacknose.
Side spot.
Black scald.
Improper ripening.
Other defects.
Affected by:
Souring.
Mold.
Dirt.
Insect infestation.
Foreign material.
Decay.

Not more than ¼ of the total allowance, or 5 percent, by weight of the dates, may be the following:

Affected by
Souring.
Mold.
Dirt.
Insect infestation.
Foreign material.
Decay.

Not more than 1/10 of the total allowance, or 2 percent, by weight of the dates, may be:

Affected by decay.

### § 52.1009 Character.

(a) (*A*) *classification.* Whole or pitted dates that possess a good character may be given a score of 36 to 40 points. ''Good character'' means that not less than 75 percent, by weight, of the dates are well developed, well fleshed, and soft, or at the time of packing are in a state of ripeness that within 15 days will develop into such character; and the remainder may possess a reasonably good character including not more than a total of 2 percent, by weight, of the dates that may possess semi-dry calyx ends and none may possess dry calyx ends.

(b) (*B*) *classification.* If the whole or pitted dates or whole dry dates for processing possess a reasonably good character, a score of 32 to 35 points may be given. Dates that fall into this classification shall not be graded above U.S. Grade B or U.S. Choice or U.S. Grade B (Dry) or U.S. Choice (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule).

(1) ''Reasonably good character'' with respect to whole or pitted dates other than whole dry dates for processing means that the dates are pliable; that not less than 75 percent, by weight, of the dates are reasonably well developed and reasonably well fleshed, or at time of packing are in a state of ripeness that within 15 days will develop into such character and the remainder may possess a fairly good character including not more than 10 percent, by weight, of the dates that may possess semi-dry calyx ends and dry calyx ends: *Provided,* That not more than 2 percent, by weight, of the dates may possess dry calyx ends.

(2) ''Reasonably good character'' with respect to whole dry dates for processing means that the dates may be

firm and dry; that not less than 75 percent, by weight, of the dates are reasonably well developed and reasonably well fleshed and that the remainder are fairly well developed and fairly well fleshed.

(c) (*C*) *classification*. If the whole or pitted dates, whole dry dates for processing, date pieces, or macerated dates possess a fairly good character, a score of 28 to 31 points may be given. Dates that fall into this classification shall not be graded above U.S. Grade C or U.S. Standard or U.S. Grade C (Dry) or U.S. Standard (Dry), whichever is applicable, regardless of the total score for the product (this is a limiting rule). ''Fairly good character'' has the following meanings with respect to the following styles:

(1) *Whole; pitted*. (i) In whole or pitted dates other than whole dry dates for processing the dates may be firm but are pliable; may possess semi-dry calyx ends; and not less than 80 percent, by weight, of the dates are fairly well developed and are fairly well fleshed, or at time of packing are in a state of ripeness that within 15 days will develop into such character and the remainder may fail to possess such fairly good character or may possess dry calyx ends.

(ii) In whole dry dates for processing the dates may be firm and dry but are fairly well developed and fairly well fleshed.

(2) *Pieces; macerated*. The character may be variable throughout the units or mass but not seriously affected by dry calyx end material or inedible portions of dates.

(d) (*SStd*) *classification*. Dates that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 27 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

LOT INSPECTION AND CERTIFICATION

### § 52.1010 Ascertaining the grade of a lot.

The grade of a lot of the processed product covered by these standards is determined by the procedures set forth in the regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products (§§ 52.1 to 52.87).

[22 FR 3547, May 22, 1957. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

SCORE SHEET

### § 52.1011 Score sheet for dates.

Size and kind of container.
Container mark or identification.
Label or brand.
Net weight.
Style.
Count (per lb.).
Moisture content (if determined).
One variety (□) Yes (□) No.

| Factors | Score points. | | |
|---|---|---|---|
| Color | 20 | (A) | 18–20 |
| | | (B) (B-Dry) | [1] 16–17 |
| | | (C) (C-Dry) | [1] 14–15 |
| | | (SStd) | [1] 0–13 |
| Uniformity of size. | 10 | (A) | 9–10 |
| | | (B) (B-Dry) | [1] 8 |
| | | (C) (C-Dry) | [1] 7 |
| | | (SStd) | [1] 0–6 |
| Absence of defects. | 30 | (A) | 27–30 |
| | | (B) (B-Dry) | [1] 24–26 |
| | | (C) (C-Dry) | [1] 21–23 |
| | | (SStd) | [1] 0–20 |
| Character | 40 | (A) | 36–40 |
| | | (B) (B-Dry) | [1] 32–35 |
| | | (C) (C-Dry) | [1] 28–31 |
| | | (SStd) | [1] 0–27 |
| Total score | 100 | | |

Grade.

[1] Limiting rule.

## Subpart—United States Standards for Grades of Processed Raisins [1]

SOURCE: 41 FR 34751, Aug. 17, 1976, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

### § 52.1841 Product description.

Processed Raisins are dried grapes of the Vinifera varieties, such as Thompson Seedless (Sultanina), Muscat of Alexandria, Muscatel Gordo Blanco, Sultana, Black Corinth or White Corinth. The processed raisins are prepared

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and Regulations.

from clean, sound, dried grapes; are properly stemmed and capstemmed except for cluster or uncapstemmed raisins; are properly seeded in seeded styles; are sorted or cleaned, or both; and except for cluster or uncapstemmed raisins, are washed in water to assure a wholesome product.

### § 52.1842 Product description of Layer or (Cluster) raisins with seeds.

Raisins with Seeds that are referred to as *Layer or Cluster raisins* means that the raisins have not been detached from the main bunch.

### § 52.1843 Summary of types (varieties) of processed raisins.

(a) Type I—Seedless Raisins.
(1) Natural.
(2) Dipped, Vine-dried, or similarly processed raisins.
(b) Type II—Golden Seedless Raisins.
(c) Type III—Raisins with Seeds.
(1) Natural.
(i) Seeded (seeds removed).
(ii) Unseeded-capstemmed (loose).
(iii) Unseeded-uncapstemmed (loose).
(iv) Layer (or Cluster).
(2) Dipped, Vine-dried, or other similarly processed raisins.
(i) Seeded (seeds removed).
(ii) Unseeded-capstemmed (loose).
(iii) Unseeded-uncapstemmed (loose).
(d) Type IV—Sultana Raisins.
(e) Type V—Zante Currant Raisins.
(1) Unseeded.
(2) Seeded.
(f) Type VI—Mixed Types or Varieties of Raisins. A mixture of two or more different types (varieties) of raisins including sub-types outlined in this section but other than: (1) Mixtures containing Layer or Cluster Raisins with seeds; (2) Mixtures containing Unseeded-capstemmed and Unseeded-uncapstemmed Raisins with Seeds; and (3) mixture of Seeded and Unseeded Raisins with Seeds.

[41 FR 34751, Aug. 17, 1976. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981, as amended at 63 FR 72101, Dec. 31, 1998]

### § 52.1844 Definition of terms.

(a) *Capstems* means small woody stems exceeding ⅛-inch in length which attach the raisins to the branches of the bunch.

(b) A *piece of stem* means a portion of the branch or main stem.

(c) *Seeds* refers to whole, fully developed seeds which have not been removed during the processing of seeded raisins with seeds.

(d) *Damaged raisins* means raisins affected by sunburn, scars, insect injury, mechanical injury, or other similar means which seriously affect the appearance, edibility, keeping quality, or shipping quality of the raisins. In seeded Raisins with Seeds, mechanical injury resulting from normal seeding operations is not considered damage.

(e) *Sugared* means either external or internal sugar crystals are present and the accumulation of such crystallized fruit sugars in the flesh or on the surface of the raisins is readily apparent.

(f) *Grit, sand, or silt* means any particle or earthy material.

(g) *Moisture* means the percentage by weight of the processed raisins, exclusive of branch and heavy stem material, that is moisture when determined by the ''Dried Fruit Moisture Tester Method'' or in accordance with other methods that give equivalent results.

(h) *Slightly discolored* means a raisin affected by a brown to dark brown discolored area around the capstem end of the raisin that is less than the area of a circle ⅛-inch in diameter.

(i) *Discolored* means a raisin affected by a brown to dark brown discolored area around the capstem end of the raisin that equals or exceeds the area of a circle ⅛-inch in diameter; *Provided,* That the overall appearance, keeping quality, and edibility of the product are not seriously affected.

(j) *Well-matured* means raisins that are full-fleshed, may have fine wrinkles and are rounded in appearance.

(k) *Reasonably well-matured* means raisins that are reasonably full-fleshed and may have shallow wrinkles with thick edged ridges.

(l) *Fairly well-matured* means raisins that are thin-fleshed and angular in appearance.

(m) *Substandard development* means raisins that are practically lacking in flesh.

(n) *Undeveloped* refers to extremely light berries that are lacking in sugary

tissue indicating incomplete development; are reddish in color; are completely shriveled; have fine wrinkles on smaller units and moderately deep wrinkles on slightly larger units; and are commonly referred to as ''worthless.''

TYPE I—SEEDLESS RAISINS

### § 52.1845 Sizes of seedless raisins.

The size designations and measurement requirements for the respective sizes are:

(a) *Select* size raisins means that no more than 60 percent, by weight, of all the raisins will pass through round perforations 22/64-inch in diameter, but not more than 10 percent, by weight, of all the raisins may pass through round perforations 20/64-inch in diameter.

(b) *Small* or *midget* size raisins means that 95 percent, by weight, of all the raisins will pass through round perforations 24/64-inch in diameter, and not less than 70 percent, by weight, of all raisins will pass through round perforations 22/64-inch in diameter.

(c) *Mixed* size raisins means a mixture which does not meet either the requirements for ''select'' size or for ''small'' or ''midget'' size.

### § 52.1846 Grades of seedless raisins.

(a) ''U.S. Grade A'' is the quality of seedless raisins that have similar varietal characteristics; that have a good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from well-matured grapes with not less than 80 percent, by weight, of raisins that are well-matured or reasonably well-matured; that contain not more than 18 percent, by weight, of moisture for all varieties of seedless raisins except the Monukka variety, which may contain not more than 19 percent, by weight, of moisture; and that meet the additional requirements outlined in Table I of this subpart.

(b) ''U.S. Grade B'' is the quality of seedless raisins that have similar varietal characteristics; that have a reasonably good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from reasonably well-matured grapes with not less than 70 percent, by weight, of raisins that are well-matured or reasonably well-matured; that contain not more than 18 percent, by weight, of moisture for all varieties of seedless raisins except the Monukka variety, which may contain not more than 19 percent, by weight, of moisture; and that meet the additional requirements outlined in Table I of this subpart.

(c) ''U.S. Grade C'' is the quality of seedless raisins that have similar varietal characteristics; that have a fairly good typical color; that have a fairly good flavor; that show development characteristics of raisins prepared from fairly well-matured grapes with not less than 55 percent, by weight, of raisins that are well-matured or reasonably well-matured; that contain not more than 18 percent, by weight, of moisture for all varieties of seedless raisins except the Monukka variety, which may contain not more than 19 percent, by weight, of moisture; and that meet the additional requirements outlined in Table I of this subpart.

(d) ''Substandard'' is the quality of seedless raisins that fail to meet the requirements of U.S. grade C.

[43 FR 51754, Nov. 7, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981]

TABLE I—ALLOWANCES FOR DEFECTS IN TYPE I, SEEDLESS RAISINS AND TYPE II, GOLDEN SEEDLESS RAISINS

| Defects | U.S. Grade A | U.S. Grade B | U.S. Grade C |
|---|---|---|---|
| | Maximum count (per 96 ounces) | | |
| Pieces of stem | 1 | 2 | 4 |
| | Maximum count (per 16 ounces) | | |
| Capstems | 15 | 25 | 35 |

TABLE I—ALLOWANCES FOR DEFECTS IN TYPE I, SEEDLESS RAISINS AND TYPE II, GOLDEN SEEDLESS RAISINS—Continued

| Defects | U.S. Grade A | U.S. Grade B | U.S. Grade C |
|---|---|---|---|
| | Maximum (percent by weight) | | |
| Sugared | 5 | 10 | 15 |
| Discolored, damaged or moldy raisins ... | 4 | 6 | 9 |
| Provided these limits are not exceeded: | | | |
| Damaged | 2 | 3 | 5 |
| Moldy | 2 | 3 | 4 |
| | Total | | |
| Substandard development and undeveloped: | | | |
| Selected size | 1 | 1½ | 2 |
| Mixed size | 1 | 2 | 3 |
| Small (Midget) size | 2 | 3 | 5 |
| | Appearance or edibility of product | | |
| Slightly discolored or damaged by fermentation or any other defect not described above. | May not be affected | May not be more than slightly affected. | May not be materially affected. |
| Grit, sand, or silt | None of any consequence may be present that affects the appearance or edibility of the product. | | Not more than a trace may be present that affects the appearance or edibility of the product. |

TYPE II—GOLDEN SEEDLESS RAISINS

### § 52.1847 Colors of golden seedless raisins.

The color of Golden Seedless Raisins is not a factor of quality for the purpose of these grades. The color requirements applicable to the respective color designations are as follows:

(a) ''Well colored'' means that the raisins are practically uniform in color and may range from yellow or golden to light amber color with a predominating yellow or golden color and that not more than ½ of 1 percent, by weight, of all the raisins may be definitely dark berries.

(b) ''Reasonably well colored'' means that the raisins are reasonably uniform in color and may range from yellow or golden or greenish yellow to light amber wherein the predominating color may be greenish yellow or light amber and that not more than 3 percent, by weight, of all the raisins may be definitely dark berries.

(c) ''Fairly well colored'' means that the raisins are fairly uniform in color and may range from yellow or greenish yellow to amber or light greenish amber and that not more than 6 percent, by weight, of all the raisins may be definitely dark berries.

(d) ''Colored'' means that the raisins may be variable in color and may range from yellowish green to dark amber or dark greenish amber; that not more than 20 percent, by weight, of all the raisins may be definitely dark berries.

(e) ''Definitely dark berries'' means raisins which are definitely darker than dark amber and characteristic of naturally ''raisined'' grapes.

### § 52.1848 Sizes of golden seedless raisins.

The size designations and measurement requirements for the respective sizes of Golden Seedless Raisins are the same as for Seedless Raisins (See § 52.1845).

### § 52.1849 Grades of golden seedless raisins.

Except for color, the grades of Golden Seedless Raisins are the same as for Seedless Raisins (See § 52.1846 and Table I).

TYPE III—RAISINS WITH SEEDS

### § 52.1850 Sizes of raisins with seeds—except layer or cluster.

The sizes of Raisins with Seeds—except for Layer or Cluster Raisins with Seeds, are not incorporated in the grades of the finished product since size, as such, is not a factor of quality for the purposes of these grades. The common size designations and measurement requirements applicable thereto include, but are not limited to, the following:

(a) *Seeded.* (1) *Select* size raisins means that not more than 70 percent, by weight, of the raisins will pass through round perforations 34/64-inch in diameter; and not more than 5 percent, by weight, of the raisins will pass through round perforations 22/64-inch in diameter.

(2) *Small* or *midget* size raisins means that all of the raisins will pass through round perforations 34/64-inch in diameter and not less than 90 percent, by weight, of all the raisins will pass through round perforations 22/64-inch in diameter.

(3) *Mixed* size raisins means a mixture which does not meet either the requirements for ''select'' size or for ''small'' (or ''midget'') size.

(b) *Unseeded.* (1) *4 Crown* means raisins that will not pass through round perforations 42/64-inch in diameter.

(2) *3 Crown* means raisins that will pass through round perforations 42/64-inch in diameter but will not pass through round perforations 34/64-inch in diameter.

(3) *2 Crown* means raisins that will pass through round perforations 34/64-inch in diameter but will not pass through round perforations 24/64-inch in diameter.

(4) *1 Crown* means raisins that will pass through round perforations 24/64-inch in diameter.

### § 52.1851 Sizes of raisins with seeds—layer or cluster.

The size of Layer or Cluster Raisins with Seeds is incorporated in the grades of the finished product. The size designation and measurement as applicable to layer or cluster raisins with seeds are:

(a) *3 Crown size or larger.* ''3 Crown size or larger'' in Layer or Cluster Raisins with Seeds means that the raisins, exclusive of stems and branches, are such a size that they will not pass through round perforations 34/64-inch in diameter.

### § 52.1852 Grades of raisins with seeds—except layer or cluster.

(a) ''U.S. Grade A'' is the quality of Raisins with Seeds that have similar varietal characteristics; that have a good typical color with not more than 10 percent, by weight, that may be dark reddish-brown berries; that have a good characteristic flavor; that show development characteristics of raisins prepared from well-matured grapes; with not less than 80 percent, by weight, of raisins that are well-matured or reasonably well-matured; that contain not more than 18 percent, by weight, of moisture, except that any seeded raisins may contain not more than 19 percent, by weight, of moisture; and meet the additional requirements as outlined in Table II of this subpart.

(b) ''U.S. Grade B'' is the quality of Raisins with Seeds that have similar varietal characteristics; that have a reasonably good typical color with not more than 15 percent, by weight, that may be dark reddish-brown berries; that have a good characteristic flavor; that show development characteristics of raisins prepared from reasonably well-matured grapes; with not less than 70 percent, by weight, of raisins that are well-matured or reasonably well matured; that contain not more than 18 percent, by weight, of moisture, except that any seeded raisins may contain not more than 19 percent, by weight, of moisture; and meet the additional requirements as outlined in Table II of this subpart.

(c) ''U.S. Grade C'' is the quality of Raisins with Seeds that have similar varietal characteristics; that have a fairly good typical color with not more than 20 percent, by weight, that may be dark reddish-brown berries; that have a fairly good flavor; that show development characteristics of raisins prepared from fairly well-matured grapes; that contain not more than 18 percent, by weight, of moisture, except that any

seeded raisins may contain not more than 19 percent, by weight, of moisture; and meet the additional requirements as outlined in Table II of this subpart.

(d) ''Substandard'' is the quality of Raisins with Seeds that fail to meet the requirements of U.S. Grade C.

TABLE II—ALLOWANCES FOR DEFECTS IN RAISINS WITH SEEDS—EXCEPT LAYER OR CLUSTER

| Defects | U.S. Grade A | U.S. Grade B | U.S. Grade C |
|---|---|---|---|
| | Maximum count (per 32 ounces) | | |
| Pieces of stem | 7 | 2 | 3 |
| | Maximum count (per 16 ounces) | | |
| Capstems in other than uncapstemmed types | 10 | 15 | 20 |
| Seeds in seeded types | 12 | 15 | 20 |
| Loose capstems in uncapstemmed types | 20 | 20 | 20 |
| | Maximum (percent by weight) | | |
| Sugared | 5 | 10 | 15 |
| Discolored, damaged, or moldy | 5 | 7 | 9 |
| Provided these limits are not exceeded: | | | |
| Damaged | 3 | 4 | 5 |
| Moldy | 2 | 3 | 4 |
| Substandard development and undeveloped | 2 | 5 | 8 |
| | Appearance or edibility of product | | |
| Slightly discolored or damaged by fermentation or any other defect not described above. | May not be affected | May not be more than slightly affected. | May not be more than materially affected. |
| Grit, sand, or silt | None of any consequence may be present that affects the appearance or edibility of the product. | | Not more than a trace may be present that affects the appearance or edibility of the product. |

### § 52.1853 Grades of raisins with seeds—layer or cluster.

(a) ''U.S. Grade A'' is the quality of Layer or Cluster Raisins with Seeds that have similar varietal characteristics; that have a good typical color; that have a good characteristic flavor; that are uniformly cured and show development characteristics of raisins prepared from well-matured grapes; that contain not more than 23 percent, by weight, of moisture; that not less than 30 percent, by weight, of the raisins, exclusive of stems and branches, are 3-Crown size or larger; and that meet the following additional requirements as outlined in Table III of this subpart.

(b) ''U.S. Grade B'' is the quality of Layer or Cluster Raisins with Seeds that have similar varietal characteristics that have a reasonably good typical color; that have a good characteristic flavor; that are uniformly cured and show development characteristics of raisins prepared from reasonably well-matured grapes; that contain not more than 23 percent, by weight, of the moisture, that not less than 30 percent, by weight, of the raisins exclusive of stems and branches, are 3-Crown size or larger; and that meet the additional requirements outlined in Table III of this subpart.

(c) ''Substandard'' is the quality of Layer or Cluster Raisins with Seeds that fail to meet the requirements of U.S. Grade B.

TABLE III—ALLOWANCE FOR DEFECTS IN LAYER OR CLUSTER RAISINS WITH SEEDS

| Defects | U.S. Grade A | U.S. Grade B |
|---|---|---|
| | Maximum (percent by weight) | |
| Sugared | 5 | 10 |
| Discolored, damaged, or moldy | 5 | 7 |
| Provided these limits are not exceeded: | | |
| Damaged | 3 | 4 |
| Moldy | 2 | 3 |
| Substandard development and undeveloped | 2 | 5 |
| Shattered (or loose) individual berries and small clusters of 2 or 3 berries each. | Practically free | Reasonably free. |
| | Appearance or edibility of product | |
| Slightly discolored or damaged by fermentation or any other defect not described above. | May not be affected | May not be more than slightly affected. |
| Grit, sand, or silt | None of any consequence may be present that affects the appearance or edibility of the product. | |

TYPE IV—SULTANA RAISINS

### § 52.1854 Sizes of Sultana raisins.

Size designations are not applicable to Sultana Raisins.

### § 52.1855 Grades of Sultana raisins.

(a) ''U.S. Grade A'' is the quality of Sultana Raisins that have similar varietal characteristics; that have a good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from well-matured grapes; with not less than 80 percent, by weight, of raisins that are well-matured or reasonably well-matured; and that contain not more than 18 percent, by weight, of moisture, and that meet the additional requirements outlined in Table IV of this subpart.

(b) ''U.S. Grade B'' is the quality of Sultana Raisins that have similar varietal characteristics; that have a reasonably good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from reasonably well-matured grapes; with not less than 70 percent, by weight, of raisins that are well-matured or reasonably well-matured; and that contain not more than 18 percent, by weight, of moisture, and that meet the additional requirements as outlined in Table IV of this subpart.

TABLE IV—ALLOWANCES FOR DEFECTS IN SULTANA RAISINS

| Defects | U.S. Grade A | U.S. Grade B | U.S. Grade C |
|---|---|---|---|
| | Maximum count (per 32 ounces) | | |
| Pieces of stem | 1 | 2 | 3 |
| | Maximum count (per 16 ounces) | | |
| Capstems | 25 | 45 | 65 |
| | Maximum (percent by weight) | | |
| Sugared | 5 | 10 | 15 |
| Discolored, damaged, or moldy | 4 | 6 | 9 |
| Provided these limits are not exceeded: | | | |
| Damaged | 2 | 3 | 5 |
| Moldy | 2 | 3 | 4 |
| Substandard development and undeveloped | 2 | 5 | 8 |

| | Appearance or edibility of product | | |
|---|---|---|---|
| Slightly discolored or damaged by fermentation or any other defect not described above. | May not be affected .. | May not be more than slightly affected. | May not be more than materially affected. |
| Grit, sand, or silt | None of any consequence may be present that affects the appearance or edibility of the product. | | Not more than a trace may be present that affects the appearance or edibility of the product. |

(c) ''U.S. Grade C'' is the quality of Sultana Raisins that have similar varietal characteristics; that have a fairly good typical color; that have a fairly good flavor; that show development characteristics of raisins prepared from fairly well-matured grapes; that contain not more than 18 percent, by weight, of moisture; and that meet the additional requirements as outlined in Table IV of this subpart.

(d) ''Substandard'' is the quality of Sultana Raisins that fail to meet the requirements of U.S. Grade C.

TYPE V—ZANTE CURRANT RAISINS

### § 52.1856 Sizes of zante currant raisins.

Size designations are not applicable to Zante Currant Raisins.

### § 52.1857 Grades of zante currant raisins.

(a) ''U.S. Grade A'' is the quality of Zante Currant Raisins that have similar varietal characteristics; that have a good typical color; that have a good characteristic flavor; that show development characteristics of raisins prepared from well-matured grapes; that have not less than 75 percent, by weight, of raisins that are well-matured or reasonably well matured; that contain not more than 20 percent, by weight, of moisture; and meet the additional requirements as outlined in Table V of this subpart.

TABLE V—ALLOWANCES FOR DEFECTS IN ZANTE CURRANT RAISINS

| Defects | Maximum count | |
|---|---|---|
| | U.S. Grade A | U.S. Grade B |
| Pieces of stem | 1 per 24 ounces | 1 per 16 ounces. |
| Seeds (in Seeded style) | 12 per 16 ounces | 15 per 16 ounces. |
| | Maximum (percent by weight) | |
| Capstems—Zantes with capstems and loose capstems (include one Zante with each loose capstem). | 1½ | 2 |
| Sugared | 5 | 10 |
| Discolored, damaged, or moldy | 5 | 7 |
| Provided these limits are not exceeded: | | |
| Damaged | 2 | 3 |
| Moldy | 3 | 4 |
| Substandard Development and Undeveloped | 2 | 5 |
| | Appearance or edibility of product | |
| Slightly discolored or damaged by fermentation or any other defect not described above. | May not be affected | May not be more than slightly affected. |
| Grit, sand, or silt | None of any consequence may be present that affects the appearance or edibility of the product. | |

(b) ''U.S. Grade B'' is the quality of Zante Currant Raisins that have similar varietal characteristics; that have a reasonably good typical color; that

have a good characteristic flavor; that have development characteristics of raisins prepared from reasonably well-matured and/or fairly well matured grapes; that contain not more than 20 percent, by weight, of moisture; and meet the additional requirements as outlined in Table V of this subpart.

(c) ''Substandard'' is the quality of Zante Currant Raisins that fail to meet the requirements of U.S. Grade B.

TYPE VI—MIXED TYPES OF RAISINS

### § 52.1858 Grades of mixed types or varieties of raisins.

The grade of a lot of mixed types of processed raisins shall be the lower (or lowest) grade of any varietal type in the mixture based on the respective requirements for each type, except for moisture, in accordance with this subpart. Mixed types of processed raisins of U.S. Grade A, U.S. Grade B, or U.S. Grade C may contain not more than 18 percent, by weight, of moisture. Mixed types of processed raisins that as a mixture exceed 18 percent, by weight, of moisture are ''Substandard.''

## Subpart—United States Standards for Grades of Dried Prunes

SOURCE: 21 FR 8177, Oct. 25, 1956, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

PRODUCT DESCRIPTION, VARIETAL TYPES, SIZES, GRADES

### § 52.3181 Product description.

Dried prunes are prepared from sound, properly matured prune plums from which the greater portion of moisture is removed by drying. The dried prunes are cleaned to assure a wholesome product; they may be treated with water or steam; and a safe and suitable preservative may be added.

[30 FR 11596, Sept. 10, 1965. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.3182 Varietal types of dried prunes.

(a) *Type I.* French; or Robe; or a mixture of French and Robe.

(b) *Type II.* Italian.

(c) *Type III.* Imperial; or Sugar; or a mixture of Imperial and Sugar.

(d) *Type IV.* Any other types; or mixtures of any types other than mixtures in Type I and Type III of this section.

### § 52.3183a Styles of dried prunes.

(a) Whole Unpitted—from which pits have not been removed.

(b) Whole Pitted—from which pits have been removed.

[30 FR 11596, Sept. 10, 1965. Redesignated at 42 FR 32514, June 27, 1977 and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.3183b Count-sizes of whole unpitted dried prunes.

(a) *Count-sizes.* Except for U.S. Grade A or U.S. Fancy, the count-sizes of dried prunes are not incorporated in the grades of dried prunes. The count-sizes of dried prunes in this subpart refer to the count (or number) of prunes per pound of dried prunes. The various sizes of dried prunes for the respective varietal types are commonly designated as follows, but may be designated by other numerical expressions:

(1) *Type I; Type IV.* 30/40, 40/50, 50/60, 60/70, 70/80, 80/90, 90/100, 100/120, 120 and over.

(2) *Type II.* 25/35, 35/45, 30/40, 40/50, 50/60, 60/70, 70/80, 80/90, 90/100.

(3) *Type III.* 15/20, 18/24, 20/30, 30/40, 40/50, 50/60, 60/70.

(b) *Recommended size nomenclature.* The following size nomenclature is recommended for the respective ''countsizes'' of dried prunes:

| | |
|---|---|
| Extra large ... | Average: Not more than 43 prunes per pound. |
| Large ..... | Average: Not more than 53 prunes per pound. |
| Medium ..... | Average: Not more than 67 prunes per pound. |
| Small ..... | Average: Not more than 85 prunes per pound. |

[21 FR 8177, Oct. 25, 1956. Redesignated at 30 FR 11596, Sept. 10, 1965, and further redesignated at 42 FR 32514, June 27, 1977 and 46 FR 63203, Dec. 31, 1981]

### § 52.3184 Grades of dried prunes.

(a) ''U.S. Grade A'' or ''U.S. Fancy'' is the quality of dried prunes that, except for mixed types, possess similar varietal characteristics; that are fairly uniform in size and average 85 prunes

or less per pound; that meet the applicable moisture limits in Table IV of this subpart but regardless of size and kind of packaging are reasonably uniform in moisture; and that do not exceed the total allowances and limitations for defects shown in Table I of this subpart.

(b) ''U.S. Grade B'' or ''U.S. Choice'' is the quality of dried prunes that, except for mixed types, possess similar varietal characteristics; that are fairly uniform in size; that meet the applicable moisture limits in Table IV of this subpart but regardless of size and kind of packaging are reasonably uniform in moisture; and that do not exceed the total allowances and limitations for defects shown in Table II of this subpart.

(c) ''U.S. Grade C'' or ''U.S. Standard'' is the quality of dried prunes that, except for mixed types, possess similar varietal characteristics; that are fairly uniform in size; that meet the applicable moisture limits in Table IV of this subpart but regardless of size and kind of packaging are reasonably uniform in moisture; and that do not exceed the total allowances and limitations for defects shown in Table III of this subpart

(d) ''Substandard'' is the quality of dried prunes that meet the applicable moisture limits in Table IV of this subpart but regardless of size and kind of packaging are reasonably uniform in moisture; and that may fail to meet other requirements for U.S. Grade C or U.S. Standard, but not more than 5 percent, by weight, of the dried prunes may be affected by mold, dirt, foreign material, insect infestation, or decay: *Provided*, That not more than 1 percent, by weight, of the dried prunes may be affected by decay.

TABLE I—U.S. GRADE A OR U.S. FANCY; ALLOWANCES FOR DEFECTS

| Total allowance | | Limitations | |
|---|---|---|---|
| Not more than a total of 10 percent, by weight, may be damaged or affected by: | Not more than 6 percent, by weight, may be damaged or affected by: | Not more than 3 percent, by weight, may be affected by: | Not more than 1 percent, by weight, may be affected by: |
| Off-color. | Poor texture. | Mold. | Decay. |
| Poor texture. | End cracks. | Dirt. | |
| End cracks. | Skin or flesh damage.[2] | Foreign material. | |
| Skin or flesh damage.[2] | Fermentation. | Insect infestation. | |
| Fermentation. | Scars. | Decay. | |
| Scars. | Heat damage. | | |
| Heat damage. | Insect injury. | | |
| Insect injury. | Other means. | | |
| Other means. | Mold. | | |
| Mold. | Dirt. | | |
| Dirt. | Foreign material. | | |
| Foreign material. | Insect infestation. | | |
| Inset infestation. | | | |
| Decay. | Decay. | | |

TABLE II—U.S. GRADE B OR U.S. CHOICE: ALLOWANCES FOR DEFECTS

| Total allowance | | Limitations | |
|---|---|---|---|
| Not more than a total of 15 percent, by weight, may be damaged or affected by: | Not more than 8 percent, by weight, may be damaged or affected by: | Not more than 4 percent, by weight, may be affected by: | Not more than 1 percent, by weight, may be affected by: |
| Off-color. | Poor texture. | Mold | Decay. |
| Poor texture. | End cracks. | Dirt. | |
| End cracks. | Skin or flesh. damage.[2] | Foreign material. | |
| Skin or flesh damage.[2] | Fermentation. | Inset infestation. | |
| Fermentation. | Scars. | Decay. | |
| Scars. | Heat damage. | | |
| Heat damage. | Inset injury. | | |
| Insect injury. | Other means. | | |
| Other means. | Mold. | | |
| Mold. | Dirt | | |

TABLE II—U.S. GRADE B OR U.S. CHOICE: ALLOWANCES FOR DEFECTS—Continued

| Total allowance | | Limitations | |
|---|---|---|---|
| Dirt.<br>Foreign material.<br>Insect infestation.<br>Decay. | Foreign material.<br>Insect infestation.<br>Decay. | | |

TABLE III—U.S. GRADE C OR U.S. STANDARD ALLOWANCES FOR DEFECTS

| Total allowance | | Limitations | |
|---|---|---|---|
| Not more than a total of 20 percent, by weight, may be damaged or affected by:<br>Off-color.<br>Poor texture.<br>End cracks.[1]<br>Skin or flesh damage.[2]<br>Fermentation.<br>Scars.<br>Heat damage.<br>Insect injury.<br>Other means.<br>Mold.<br>Dirt.<br>Foreign material.<br>Insect infestation.<br>Decay. | Not more than 10 percent, by weight, may be damaged or affected by:<br>End cracks.[1]<br>Skin or flesh damage.[2]<br>Fermentation.<br>Scars.<br>Heat damage.<br>Insect injury.<br>Other means.<br>Mold.<br>Dirt.<br>Foreign material.<br>Insect infestation.<br>Decay. | Not more than 8 percent, by weight, may be damaged or affected by:<br>Skin or flesh damage.[2]<br>Fermentation.<br>Scars.<br>Heat damage.<br>Insect injury.<br>Other means.<br>Mold.<br>Dirt.<br>Foreign material.<br>Insect infestation.<br>Decay. | Not more than 5 percent, by weight, may be affected by:<br>Mold.<br>Dirt.<br>Foreign material.<br>Insect infestation.<br>Decay.<br>*Provided,* That not more than 1 percent, by weight, may be affected by decay. |

[1] Except that each 1 percent of end cracks to, and including, 8 percent, by weight, shall be considered as ½ percent damaged by end cracks; and any additional end cracks shall be calculated as true percentage, by weight.
[2] Not applicable to ''Whole Pitted'' style.

TABLE IV—MOISTURE ALLOWANCES FOR DRIED PRUNES

[Non-hermetically sealed containers; 10 pounds or more]

| Grades | Maximum moisture limits (percent) | |
|---|---|---|
| | Counts averaging 60 or less per pound | Counts averaging 61 or more per pound |
| U.S. Grade A or U.S. fancy | 25 | 24 |
| U.S. Grade B or U.S. choice | 25 | 24 |
| U.S. Grade C or U.S. standard | 25 | 24 |
| Substandard | 25 | 24 |

[21 FR 8177, Oct. 25, 1956, as amended at 30 FR 11596, Sept. 10, 1965. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

## MOISTURE, UNIFORMITY OF SIZE, DEFECTS

### § 52.3185 Moisture limits.

Dried prunes shall not exceed the moisture limits for the applicable grades and kind and size of packaging as designated in Table IV of this subpart except there is no moisture limit when safe and suitable preservatives have been added. ''Moisture'' means the percentage by weight of the finished dried prunes, exclusive of pits, that is moisture when determined by the Dried Fruit Moisture Tester Method or in accordance with methods that give equivalent results. The moisture limits in Table IV apply only to so-called ''bulk packs'' of dried prunes packaged in non-hermetically sealed containers holding 10 pounds or more of dried prunes when safe and suitable preservatives have not been added. Such containers include, but are not limited to, wood boxes or fiber boxes.

[30 FR 11596, Sept. 10, 1965. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.3186 Definitions for uniformity of size.

(a) *Fairly uniform in size.* ''Fairly uniform in size'' means that in a sample of 100 ounces:

(1) For prunes that average 53 prunes or less per pound, the count per pound of 10 ounces of the smallest prunes does not vary from the count per pound of 10

ounces of the largest prunes by more than 25 points; or

(2) For prunes that average 54 prunes or more per pound, the count per pound of 10 ounces of the smallest prunes does not vary from the count per pound of 10 ounces of the largest prunes by more than 45 points.

### § 52.3187 Definitions and explanations of defects.

Dried prunes damaged or affected by the following are scorable as defects:

(a) *Off-color.* ''Off-color'' means a skin color different from characteristic black, blue-black, reddish-purple, or other characteristic skin color for the type.

(b) *Poor texture.* ''Poor texture'' means porous, woody, or fibrous flesh or immature prunes or prunes possessing flesh interspersed with excessive air pockets in which the texture of the flesh is noticeably different from the flesh of mature prunes which have been properly dried, handled, and processed. ''Excessive air pockets'' means that the prunes are affected by air pockets to the extent that the appearance and eating quality is seriously affected.

(c) *End cracks.* ''End cracks'' means callous apex-end cracks which, singly or in the aggregate on a prune, are more than ⅜ inch in length but not more than ½ inch in length.

(d) *Skin or flesh damage.* ''Skin or flesh damage'' in the case of ''Whole Unpitted'' style means:

(1) Callous growth cracks (other than callous apex-end cracks) which, singly or in the aggregate on a prune, exceed ⅜ inch in length; and callous apex-end cracks which, singly or in the aggregate on a prune, exceed ½ inch in length.

(2) Splits or skin breaks not having callous edges when the flesh is mashed out beyond the protecting skin so as to affect materially the normal appearance of the prune;

(3) Any cracks, splits, or skin breaks open to the pit;

(4) Any skin damage from multiple short skin breaks giving a very ''rough'' appearance to the prune such as may result from over-dipping, rain damage, processing, or other causes which in Type I dried prunes affect materially the appearance or edibility of the prune, or which in other types or other mixtures affect markedly the appearance or edibility of the prune.

(e) *Fermentation.* ''Fermentation'' means that the prune is fermented as evidenced by a distinct sour taste or odor or by darkening in color characteristic of fermentation or souring.

(f) *Scars.* ''Scars'' mean:

(1) Tough or thick scab which, singly or in combination on a prune, exceeds the area of a circle ⅜ inch in diameter such as may result from thrip injury, mildew, leaf chafing, limb rubs, or other means; or

(2) Scab which is not tough or thick and which, singly or in combination on a prune, exceeds the area of a circle ¾ inch in diameter and which is inconsequential but unsightly though practically blending in color with the skin on the portion of the prune not affected.

(g) *Heat damage.* ''Heat damage'' means burning or scorching from the sun or in dehydration so as to damage materially the skin or flesh, or both, of the prune.

(h) *Insect injury.* ''Insect injury'' means healed or unhealed surface blemishes and healed or unhealed blemishes extending into the flesh which affect materially the appearance, edibility, or keeping quality of the prune but which do not possess evidence of insect infestation.

(i) *Other means.* ''Other means'' includes damage by any injury or defect or group of defects not specifically mentioned in this section which materially affects the appearance, edibility, or keeping quality of the fruit, but ''other means'' does not include defects of a nature such as defined in paragraph (j), (k), (l), (m), or (n) of this section.

(j) *Mold.* ''Mold'' means a characteristic fungus growth as evidenced by a moldy or smutty condition and which, singly or in the aggregate on a prune, is equal to or exceeds the area of a circle 3/16 inch in diameter.

(k) *Dirt.* ''Dirt'' means the presence of any quantity of such substance, whether imbedded or adhering to the prune, which gives the prune a dirty, smudgy appearance and which may not be removed readily by washing.

(l) *Foreign material.* ''Foreign material'' means leaves, twigs, pieces of wood, and similar extraneous materials which are objectionable.

(m) *Insect infestation.* ''Insect infestation'' means the presence of dead insects, insect fragments, or insect remains. (No live insects are permitted).

(n) *Decay.* ''Decay'' means a state of decomposition, wholly or in part, of the prune.

[21 FR 8177, Oct. 25, 1956, as amended at 30 FR 11596, Sept. 10, 1965. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981]

WORK SHEET

## § 52.3188 Work sheet for dried prunes.

Size and kind of container.
Container mark or identification.
Label or brand.
Varietal type.
Style.
Size:
Count per pound (Average).
Uniformity.
( ) Extra large.
( ) Large.
( ) Medium.
( ) Small.
Moisture content percent; Uniformity.
Varietal characteristics: ( ). Similar. ( ) Dissimilar.

| Defects and summary of allowances [1] | Grade A maximum | Grade B maximum | Grade C maximum | Substandard maximum |
|---|---|---|---|---|
| Total of all defects, including off-color | 10 percent | 15 percent | | No limit except as indicated below. |
| Total of all defects, including off-color and poor texture. | | | 20 percent. | |
| Poor texture, end cracks, skin or flesh damage, [3] fermentation, scars, heat damage, insect injury, other means, mold, dirt, foreign material, insect infestation, decay. | But no more than 6 percent. | But no more than 8 percent. | | |
| End cracks, [2] skin or flesh damage, [3] fermentation, scars, heat damage, insect injury, other means, mold, dirt, foreign material, insect infestation, decay. | | | 10 percent [2]. | |
| Skin or flesh damage, [3] fermentation, scars, heat damage, insect injury, other means, mold, dirt, foreign material, insect infestation, decay. | | | But no more than 8 percent. | |
| Mold, dirt, foreign material, insect infestation, decay. | 3 percent | 4 percent | 5 percent | 5 percent. |
| Decay | But no more than 1 percent. | But no more than 1 percent. | But no more than 1 percent. | But no more than 1 percent. |

Total
U.S. Grade (including all factors)

[1] Percentages of defects are "by weight."
[2] Except that each 1 percent of end cracks to, and including 8 percent, by weight, shall be considered as ½ percent damaged by end cracks; and any additional end cracks shall be calculated as true percentage, by weight.
[3] Allowances for "skin or flesh damage" apply only to "Whole Unpitted" style.

[21 FR 8177, Oct. 25, 1956, as amended at 30 FR 11596, Sept. 10, 1965. Redesignated at 42 FR 32514, June 27, 1977 and at 46 FR 63203, Dec. 31, 1981]

## Subpart—United States Standards for Grades of Canned Ripe Olives [1]

SOURCE: 42 FR 38585, July 29, 1977, unless otherwise noted. Redesignated at 46 FR 63203, Dec. 31, 1981.

PRODUCT DESCRIPTION, TYPES, STYLES, AND GRADES

### § 52.3751 Product description.

Canned ripe olives are prepared from properly matured olives which have first been properly treated to remove the characteristic bitterness; are packed in a solution of sodium chloride, with or without spices, and are sufficiently processed by heat in hermetically sealed containers. Canned olives which are not oxidized in processing and which possess a tan to light bronze color indicative of preparation from olives of advanced maturity and commonly referred to as ''tree-ripened'' or ''home-cured'' are not covered by the standards in this subpart.

### § 52.3752 Types of canned ripe olives.

Canned ripe olives are processed as two distinct types. Unless a specific type is stated in this subpart, ''canned ripe olives'' refers to olives of either ''ripe-type'' or ''green-ripe type.''

(a) *Ripe type.* ''Ripe type'' olives are those which have been treated and oxidized in processing to produce a typical dark brown to black color.

(b) *Green-ripe type.* ''Green-ripe type'' olives are those which have not been oxidized in processing; which range in color from yellow-green; green-yellow or other greenish casts; and which may be mottled.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or with applicable State laws and regulations.

### § 52.3753 Styles of canned ripe olives.

(a) *Whole.* ''Whole'' olives are those which have not been pitted.

(b) *Pitted.* ''Pitted'' olives are those from which pits have been removed.

(c) *Halved.* ''Halved'' olives are pitted olives in which each olive is cut lengthwise into two approximately equal parts.

(d) *Segmented.* ''Segmented'' olives are pitted olives in which each olive is cut lengthwise into three or more approximately equal parts.

(e) *Sliced.* ''Sliced'' olives consist of parallel slices of fairly uniform thickness prepared from pitted olives.

(f) *Chopped.* ''Chopped'' olives are random-size cut pieces or cut bits prepared from pitted olives.

(g) *Broken pitted.* ''Broken pitted'' olives consist substantially of large pieces that may have been broken in pitting but have not been sliced or cut.

### § 52.3754 Size designations for whole and pitted styles.

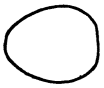
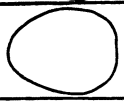
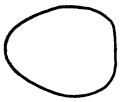
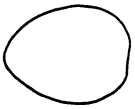
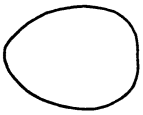
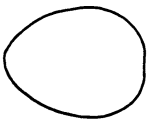
(a) *General.* (1) ''Average count'' for canned whole ripe olives is determined from all containers in the sample and is calculated on the basis of the drained weight of the olives.

(2) Diameters of canned whole and pitted ripe olives are determined by measuring the smallest diameters at the largest circumferences at right angles to the longitudinal axes of the olives. The longitudinal axis is a line running from the stem to the apex of the olive.

(b) *Size determination.* Size of canned whole or pitted olives shall conform to the applicable count per pound range indicated in Table I in the case of whole olives, or conform closely to the applicable illustration in Table I in the case of pitted olives. When the count per pound of whole olives falls between two count ranges, the size designation shall be the next smaller size.

TABLE I

SIZE - CANNED WHOLE AND PITTED RIPE OLIVES

| DESIGNATION | COUNT PER POUND | ILLUSTRATION | APPROXIMATE DIAMETER RANGE ILLUSTRATED (mm) |
|---|---|---|---|
| SMALL | 128 - 140 |  | 16 - 17 |
| MEDIUM | 106 - 121 | | 17 - 19 |
| LARGE | 91 - 105 |  | 19 - 20 |
| EXTRA LARGE | 65 - 88 |  | 20 - 22 |
| JUMBO | 51 - 60 |  | 22 - 24 |
| COLOSSAL | 41 - 50 |  | 24 - 26 |
| SUPER COLOSSAL | 40 or less |  | 26 and over |

[42 FR 38585, July 29, 1977, as amended at 46 FR 39564, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 48 FR 41012, Sept. 13, 1983]

### § 52.3755 Minimum drained weights.

(a) *General.* (1) The minimum drained weights for the various applicable styles in Table II and III are not incorporated in the grade of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The minimum drained weights are based on equalization of the product 30 days or more after the product has been canned.

(b) *Method for determining drained weight.* The drained weight of canned ripe olives is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing eight meshes to the inch (2.3 mm (0.0937 inch), ±3 percent, square openings) so as to distribute the product evenly over the sieve. Without shifting the product, incline the sieve at an angle of 17 degrees to 20 degrees to facilitate drainage and allow to drain for 2 minutes. The weight of drained olives is the weight of the sieve and product less the weight of the dry sieve. A sieve 20 mm (8 inches) in diameter is used for

containers with total contents of 1.5 kg (3.3 lbs) and less, and a sieve 30 mm (12 inches) in diameter is used for containers with total contents greater than 1.5 kg (3.3 lbs).

(c) *Compliance with minimum drained weights.* A lot of canned ripe olives is considered as meeting the minimum drained weights if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample is equal to or greater than the acceptance value for drained weights for the size (designated as ''$X_2$'' in Tables II and III); and

(2) There shall be no unreasonable shortage in any individual container.

TABLE II—ACCEPTANCE VALUES FOR DRAINED WEIGHTS—WHOLE

| | 211 × 304 | | 300 × 407 | | 603 × 700 | |
|---|---|---|---|---|---|---|
| | $\bar{X}d$ ounces | $\bar{X}d$ grams | $\bar{X}d$ ounces | $\bar{X}d$ grams | $\bar{X}d$ ounces | $\bar{X}d$ grams |
| Small | 4.5 | 127.5 | 7.75 | 219.7 | 66.0 | 1871.1 |
| Medium | 4.5 | 127.5 | 7.75 | 219.7 | 66.0 | 1871.1 |
| Large | 4.5 | 127.5 | 7.75 | 219.7 | 66.0 | 1871.1 |
| Extra large | 4.5 | 127.5 | 7.5 | 212.6 | 66.0 | 1871.1 |
| Jumbo | 4.0 | 113.4 | 7.25 | 205.5 | 64.0 | 1814.4 |
| Colossal | 4.0 | 113.4 | 7.25 | 205.5 | 64.0 | 1814.4 |
| Super colossal | 4.0 | 113.4 | 7.25 | 205.5 | 64.0 | 1814.4 |

TABLE II—ACCEPTANCE VALUES FOR DRAINED WEIGHTS—PITTED

| | 211 × 304 | | 300 × 407 | | 603 × 700 | |
|---|---|---|---|---|---|---|
| | $\bar{X}d$ ounces | $\bar{X}d$ grams | $\bar{X}d$ ounces | $\bar{X}d$ grams | $\bar{X}d$ ounces | $\bar{X}d$ grams |
| Small | 3.25 | 92.1 | 6.0 | 170.1 | 51.0 | 1445.8 |
| Medium | 3.25 | 92.1 | 6.0 | 170.1 | 51.0 | 1445.8 |
| Large | 3.5 | 99.2 | 6.0 | 170.1 | 51.0 | 1445.8 |
| Extra large | 3.5 | 99.2 | 6.0 | 170.1 | 51.0 | 1445.8 |
| Jumbo | 3.25 | 92.1 | 5.75 | 163.0 | 49.0 | 1389.1 |
| Colossal | 3.25 | 92.1 | 5.75 | 163.0 | 49.0 | 1389.1 |
| Super colossal | 3.25 | 92.1 | 5.75 | 163.0 | 49.0 | 1389.1 |

TABLE III—ACCEPTANCE VALUE FOR DRAINED WEIGHTS (OUNCES)

| | Water capacity oz. avdp. | Halved, segmented, sliced | | Chopped | |
|---|---|---|---|---|---|
| | | $X_d$ | *LL* | $X_d$ | *LL* |
| 200 × 214 | ..... | 2.3 | 1.9 | 4.2 | 3.9 |
| 211 × 200 | 4.9 | 2.3 | 1.9 | 4.2 | 3.9 |
| 305 × 109 | ..... | 3.0 | 2.6 | 5.5 | 5.2 |
| 307 × 113 | ..... | 3.0 | 2.6 | 5.5 | 5.2 |
| 211 × 304 | 8.65 | 3.8 | 3.4 | 7.6 | 7.2 |
| No. 300 (300 × 407) | 15.2 | 6.5 | 6.1 | 13.3 | 12.7 |
| No. 10 (603 × 700) | 109.45 | 55.0 | 53.4 | 90.0 | 87.8 |
| No. 10 (brine pack) | ..... | ..... | ..... | 64.0 | 62.4 |
| BROKEN PITTED | | | | | |
| No. 300 (300 × 407) | 15.2 | 5.6 | 4.7 | | |
| No. 10 (603 × 700) | 109.45 | 51.0 | 48.8 | ..... | ..... |

TABLE III—ACCEPTANCE VALUE FOR DRAINED WEIGHTS (GRAMS)

| | Water capacity | Halved, segmented, sliced | | Chopped | |
|---|---|---|---|---|---|
| | | $X_d$ | *LL* | $X_d$ | *LL* |
| 200 × 214 | ..... | 65.2 | 53.9 | 119.1 | 110.6 |
| 211 × 200 | 138.9 | 65.2 | 53.9 | 119.1 | 110.6 |
| 305 × 109 | ..... | 85.0 | 73.7 | 155.9 | 147.4 |
| 307 × 113 | ..... | 85.0 | 73.7 | 155.9 | 147.4 |
| 211 × 304 | 245.2 | 107.7 | 96.4 | 215.4 | 204.1 |
| No. 300 (300 × 407) | 430.9 | 184.2 | 172.9 | 377.0 | 360.0 |

TABLE III—ACCEPTANCE VALUE FOR DRAINED WEIGHTS (GRAMS)—Continued

| | Water capacity | Halved, segmented, sliced | | Chopped | |
|---|---|---|---|---|---|
| | | $X_d$ | LL | $X_d$ | LL |
| No. 10 (603 × 700) | 3102.8 | 1559.2 | 1513.8 | 2551.4 | 2489.0 |
| No. 10 (brine pack) | ..... | ..... | ..... | 1814.3 | 1769.0 |
| BROKEN PITTED | | | | | |
| No. 300 (300 × 407) | 430.9 | 158.8 | 133.2 | | |
| No. 10 (603 × 700) | 3102.8 | 1445.8 | 1383.4 | | |

[42 FR 38585, July 29, 1977; 42 FR 44542, Sept. 6, 1977, as amended at 46 FR 39566, Aug. 4, 1981. Redesignated at 46 FR 63203, Dec. 31, 1981]

### § 52.3756 Grades of canned ripe olives.

(a) *U.S. Grade A* is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that has a good flavor, that has a good color, that is practically free from defects, that has a good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 90 points: *Provided,* That such canned ripe olives may have a reasonably good color if the total score is not less than 90 points; and further *Provided,* That in the styles of whole and pitted olives, the variation in diameters does not exceed 4 mm, and of the 90 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 3 mm.

(b) *U.S. Grade B* is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that has a good flavor, that has a reasonably good color, that is reasonably free from defects, that has a reasonably good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 80 points: *Provided,* That for the styles of whole and pitted olives, the variation in diameters does not exceed 8 mm, and of the 80 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more than 4 mm.

(c) *U.S. Grade C* is the quality of canned ripe olives of whole, pitted, halved, segmented, sliced, chopped, and broken pitted styles that has a reasonably good flavor, that has a fairly good color, that is fairly free from defects, that has a fairly good character; and that for those factors which are rated in accordance with the scoring system outlined in this subpart, the total score is not less than 70 points; *Provided,* That for the styles of whole and pitted olives, of the 60 percent, by count, of the most uniform in size, the diameter of the largest does not exceed the diameter of the smallest by more that 4 mm.

(d) *Substandard* is the quality of canned ripe olives of any style that fail to meet the applicable requirements for U.S. Grade C.

[42 FR 38585, July 29, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981, and amended at 48 FR 41013, Sept. 13, 1983]

### § 52.3757 Standard sample unit size.

Compliance with requirements for the various quality factors except ''size designation'' is based on the following standard sample unit size for the applicable style:

(a) *Whole and pitted*—50 olives.

(b) *Halved*—100 units.

(c) *All other styles*—255 g (9 ounces).

### § 52.3758 Determining the grade of a sample unit.

(a) *General.* In addition to considering other requirements outlined in the standards the following quality factors are evaluated:

(1) *Factors not rated by score points.* (i) Flavor; (ii) Uniformity of size (styles of whole and pitted only).

(2) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum

number of points that may be given such factors are:

| | Points |
|---|---|
| (i) Color | 30 |
| (ii) Absence of defects | 40 |
| (iii) Character | 30 |
| Total score | 100 |

(b) *Definition of flavor*—(1) *Good flavor*. (i) ''Good flavor'' in ripe type means a distinctive flavor characteristic of ripe type olives (including that of properly spiced olives) which have been properly prepared and processed and which are free from objectionable flavors of any kind.

(ii) ''Good Flavor'' in green-ripe type means a distinctive mellow flavor characteristic of green-ripe type olives which have been properly prepared and processed and which are free from objectionable flavors of any kind.

(2) *Reasonably good flavor*. ''Reasonably good flavor'' in either ripe type or green-ripe type (including that of properly spiced olives) means that the flavor may be slightly lacking in distinctly characteristic flavor for the respective type but the olives are free from objectionable flavors of any kind.

### § 52.3759 Determining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example ''27 to 30 points'' means 27, 28, 29, and 30 points).

### § 52.3760 Color.

(a) *General*. The evaluation of color shall be determined within five minutes after the olives are removed from the container and is based upon the uniformity of the exterior color or general appearance as to color of the olives within the container. The evaluation of color in ''halved'' style is based on the uncut surfaces.

(b) *Color measurement of ripe type*. The color of ripe type is determined by comparison with a spinning disc of variations in percentages of the following Munsell color discs: Red (5R 4/14), Yellow (2.5Y 8/12), and Black (N/1 Glossy).

(c) *Composite color standards*. Composite USDA Color Standards for Canned Ripe Olives are available and are comparable to the colors produced by the spinning discs.

(d) *Color appearance of green-ripe type*. Normal color for green-ripe type olives is yellow-green, green-yellow, or other greenish casts, any of which may have a mottled appearance that is typical of green-ripe type olives. Off-color means dark brown, dark purple or black olives.

(e) The USDA spinning color discs and the USDA composite color standards cited in paragraphs (b) and (c) of this section are available from the USDA licensed supplier:

Munsell Color Company, Inc., 2441 North Calvert Street, Baltimore, Md. 21218.

(f) *Grade A*. Canned ripe olives that have a good color may be given a score of 27 to 30 points. ''Good color'' has the following meanings with respect to the applicable type and style:

(1) *Ripe type*—(i) *Whole; pitted; halved*. The olives or units have a practically uniform black or dark brown color. Not less than 90 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color Standard or that produced by spinning the Munsell discs specified in paragraph (b) of this section in the following combination: 3½ percent Red, 3½ percent Yellow, and 93 percent Black.

(ii) *Segmented; sliced, chopped*. The general color impression of the olive as a mass is normal and typical of these styles prepared from olives with good color.

(2) *Green-ripe type*. The general color appearance of the olives shall be normal. Not less than 90 percent, by count, shall be practically uniform in such normal color for the type, and no off-color olives may be present.

(g) *Grade B*. If the canned ripe olives have a reasonably good color, a score of 24 to 26 points may be given. ''Reasonably good color'' has the following meanings with respect to the applicable type and style:

(1) *Ripe type*—(i) *Whole; pitted; halved*. The olives or units have a reasonably uniform black, dark brown or reddish-

brown color. Not less than 80 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color Standard or that produced by spinning the Munsell color discs specified in paragraph (b) of this section in the following combination: 6 percent Red, 6 percent Yellow, and 88 percent Black.

(ii) *Segmented; sliced; chopped.* The general color impression of the olives as a mass is normal and typical of these styles prepared from olives with reasonably good color.

(2) *Green-ripe type.* The general color appearance of the olives shall be normal. Not less than 80 percent, by count, shall be reasonably uniform in such normal color for the type, and no off-color olives may be present.

(h) *Grade C.* If the ripe olives have a fairly good color, a score of 21 to 23 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C regardless of the total score for the product (this is a limiting rule). ''Fairly good color'' has the following meanings with respect to the applicable type and style:

(1) *Ripe type*—(i) *Whole; pitted; halved.* The olives or units have a fairly uniform black, dark brown or reddish-brown color. Not less than 60 percent, by count, of the olives or units have a color equal to or darker than the appropriate USDA Composite Color Standard or that produced by spinning the Munsell color discs specified in paragraph (b) of this section in the following combination: 6 percent Red, 6 percent Yellow, and 88 percent Black.

(ii) *Segmented; sliced; chopped.* The general color impression of the olives as a mass is normal and typical of these styles prepared from olives of fairly good color.

(iii) *Broken pitted.* The general color impression of the olives as a mass is normal and may be variable, but is typical of this style prepared from olives of good, reasonably good, or fairly good color.

(2) *Green-ripe type.* The general color impression of the olives shall be normal but may vary markedly for the type. No more than 10 percent, by count, of off-color olives may be present.

(i) *Substandard (SStd.).* Canned ripe olives that are abnormal in color for any reason or that fail to meet the requirements of paragraph (h) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.3761 Defects.

(a) *General.* The factor of absence of defects refers to the degree of freedom from harmless extraneous vegetable material, stems, and portions thereof, blemishes, wrinkles, mutilated olives, and from any other defects which affect the appearance or edibility of the product.

(b) *Definition of defects*—(1) *Blemishes* mean dark-colored surface marks in either ripe type or green-ripe olives which may or may not penetrate into the flesh. Olives or pieces of olives affected by blemishes are classified as follows:

(i) *Minor blemishes* mean surface discolorations on olives or pieces of olives which individually or collectively materially affect the appearance of the unit.

(ii) *Major blemishes* mean surface discolorations or black flesh (oxidized) on olives or pieces of olives which may or may not be associated with a soft texture below the skin and which individually or collectively seriously affect the appearance or edibility of the unit.

(iii) *Severe blemishes* mean dark brown, dark purple, or black surface areas on olives or pieces of olives of the green-ripe type; or any other blemishes, whether or not specifically defined, which severely affect the appearance or edibility of the unit.

(2) *Blowout* refers to a soft pitted olive in which the pit has been pushed out instead of cut out leaving an irregular ring of flesh that materially affects its appearance.

(3) *Broken piece* in halved, segmented, and sliced style olives means any piece of olive flesh that appears to be less than three-fourths of a full unit. Also included are poorly cut units and end slices less than one-half the average size slice.

(4) *Cross pitted* refers to olives pitted along an axis other than the stem-flower axis. A defect is a unit where the angle of these two axes exceeds 45 degrees.

(5) *Harmless extraneous vegetable material.* Harmless extraneous vegetable material (HEVM), harmless extraneous material (HEM), and extraneous vegetable material (EVM), are synonymous terms and mean any vegetable substance that is harmless.

(6) *Mechanically damaged* means a unit in whole, pitted, and halved styles that is punctured, cut or damaged by means other than pitting so that its appearance is materially affected.

(7) *Misshapen* refers to an olive that does not have a normal shape for a given variety.

(8) *Mutilated* refers to an olive in whole or pitted styles that is so pittertorn or damaged by other means that the entire pit cavity is exposed or the appearance of the olive is seriously affected.

(9) *Obvious split pit* means a pit in an olive that can be determined visually as split.

(10) *Pitter damage* means a loss of skin and flesh from a pitted olive caused by the pitter on the cut end exceeding the area of a circle 3 mm in diameter but is not mutilated.

(11) *Plunger damage* means a loss of skin and flesh from a pitted olive equal to or exceeding the area of a circle 5 mm in diameter.

(12) *Stem* means a stem that measures 3 mm or more from the shoulder of the olive. Stems are classified as follows:

(i) *Minor stem* is a stem that measures more than 3 mm but not more than 4 mm from the shoulder of the olive.

(ii) *Major stem* is a stem that measures more than 4 mm from the shoulder of the olive.

(iii) *Detached stem,* when it measures 4 mm or more, is a defect which shall be scored as a minor stem for whole pitted, halved, and broken pitted style olives and a major stem for segmented, sliced, and chopped style olives.

(13) *Wrinkles* are grooves 0.5 mm or more in width. Classification of wrinkles shall be determined immediately after removing surface moisture and any increase in wrinkles due to dehydration after removing from the container shall not be considered. Olives or pieces of olives affected by wrinkles are classified as follows:

(i) *Minor wrinkles* are wrinkles which collectively do not more than materially affect the appearance of the unit.

(ii) *Major wrinkles* are wrinkles which collectively more than materially affect the appearance of the unit.

(c) *Grade A.* Canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that are practically free from defects may be given a score of 36 to 40 points. ''Practically free from defects'' means that any defects present, but not specifically limited in Table IV, may not more than slightly affect the appearance or edibility of the olives; and, in addition, specified defects may be present in all other styles except ''broken pitted'' not to exceed the allowances for grade A provided in Table IV.

(d) *Grade B.* If canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles are reasonably free from defects, a score of 32 to 35 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade B regardless of the total score for the product (this is a limiting rule). ''Reasonably free from defects'' means that any defects present but not specifically limited in Table V may not more than materially affect the appearance or edibility of the olives; and in addition, specified defects may be present in all other styles except ''broken pitted'' not to exceed the allowances for grade B provided in Table V.

(e) *Grade C.* If canned ripe olives of whole, pitted, halved, segmented, sliced, chopped, and broken pitted styles are fairly free from defects, a score of 28 to 31 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). ''Fairly free from defects'' means that any defects present but not specifically limited in Table VI may more than materially affect the appearance and edibility of the olives; and in addition, specified defects may be present in all other styles not to exceed the allowances for grade C provided in Table VI.

(f) *Substandard (SStd.).* Canned ripe olives that fail to meet the requirements of paragraph (e) of this section may be given a score of 0 to 27 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE IV—LIMITS FOR DEFECTS IN GRADE A

| | Whole per 50 olives | Pitted per 50 olives | Halved per 100 halves | Segmented per 255 g (9 oz) | Sliced per 255 g (9 oz) | Chopped per 255 g (9 oz) |
|---|---|---|---|---|---|---|
| HEVM, HEM, or EVM | 1 | 1 | 1 | Practically free ... | Practically free ... | Practically free. |
| Stems: | | | | | | |
| Minor and major stems incl. | 2 | 2 | 2 | | | |
| Major stems | 1 | 1 | 1 | Practically free ... | Practically free ... | Practically free. |
| Minor and major blemishes, minor and major wrinkles and mutilated. | 5 | 5 | 10 | Practically free ... | Practically free ... | Practically free. |
| Provided: | | | | | | |
| Major blemishes, major wrinkles do not exceed. | 2 | 2 | 5 | | | |
| Further Provided: Multilated do not exceed. | 1 | 1 | | | | |
| Broken pieces and poorly cut units. | ..... | ..... | 8 | Practically free ... | Practically free. | |
| Mechanical damage | 2 | 2 | 5 | | | |
| Blowouts, cross pitted, plunger and pitter damage. | ..... | 5 | | | | |
| Obvious split pit or misshapen | 2 | | | | | |
| Severe blemishes (green-ripe type only). | 0 | 0 | 0 | ..... | ..... | |

TABLE V—LIMITS FOR DEFECTS IN GRADE B

| | Whole per 50 olives | Pitted per 50 olives | Halved per 100 halves | Segmented per 255 g (9 oz) | Sliced per 255 g (9 oz) | Chopped per 255 g (9 oz) |
|---|---|---|---|---|---|---|
| HEVM, HEM or EVM | 1 | 1 | 1 | Reasonably free | Reasonably free | Reasonably free. |
| Stems: | | | | | | |
| Minor and major stems incl. | 3 | 3 | 3 | | | |
| Major stems | 1 | 1 | 1 | Reasonably free | Reasonably free | Reasonably free. |
| Minor and major blemishes, minor and major wrinkles and mutilated. | 10 | 10 | 20 | Reasonably free | Reasonably free | Reasonably free. |
| Provided: | | | | | | |
| Major blemishes, major wrinkles do not exceed. | 5 | 5 | 10 | | | |
| Further provided: | | | | | | |
| Mutilated do not exceed | 2 | 2 | | | | |
| Broken pieces and poorly cut units. | ..... | ..... | 15 | Reasonably free | Reasonably free. | |
| Mechanical damage | 5 | 5 | 10 | | | |
| Blowouts, cross pitted, plunger and pitter damage. | ..... | 10 | | | | |
| Obvious split pit or misshapen | 5 | | | | | |
| Severe blemishes (green-ripe type only). | 0 | 0 | 0 | ..... | ..... | |

TABLE VI—LIMITS FOR DEFECTS IN GRADE C

| | Whole per 50 olives | Pitted per 50 olives | Halved per 100 halved | Segmented per 255 g (9 oz.) | Sliced per 255 g (9 oz.) | Chopped per 255 g (9 oz.) | Broken Pitted per 255 g (9 oz.) |
|---|---|---|---|---|---|---|---|
| HEVM, HEM, or EVM | 1 | 1 | 1 | Fairly free | Fairly free | Fairly free | 2 |
| Minor and major stems inclusive | 4 | 4 | 4 | | | | |
| Major stems | 2 | 2 | 2 | Fairly free | Fairly free | Fairly free | 4 |
| Minor, major blemishes, major, minor wrinkles. | No limit | No limit | No limit | Fairly free | Fairly free | Fairly free | No limit. |

TABLE VI—LIMITS FOR DEFECTS IN GRADE C—Continued

| | Whole per 50 olives | Pitted per 50 olives | Halved per 100 halved | Segmented per 255 g (9 oz.) | Sliced per 255 g (9 oz.) | Chopped per 255 g (9 oz.) | Broken Pitted per 255 g (9 oz.) |
|---|---|---|---|---|---|---|---|
| Provided: | | | | | | | |
| Major blemishes, major wrinkles do not exceed. | 13 | 13 | 25 | ..... | ..... | ..... | 51 g [1] |
| Further Provided: | | | | | | | |
| Multilated, major blemish and major wrinkles do not exceed. | 15 | 15 | 30 | | | | |
| Multilated do not exceed ..... | 5 | 5 | 10 | ..... | ..... | ..... | No limit. |
| Broken pieces and poorly cut units. | ..... | ..... | 25 | Fairly free | Fairly free | | |
| Mechanical damage ..... | 10 | 10 | 20 | | | | |
| Blowouts, cross pitted, plunger and pitter damaged. | ..... | 15 | | | | | |
| Obvious split pit or misshapen .. | No limit | | | | | | |
| Severe blemishes (green-ripe type only). | 3 | 3 | 3 | 0 | 0 | 0 | |

[1] Major blemishes only.

[48 FR 41013, Sept. 13, 1983]

### § 52.3762 Character.

(a) *General.* The factor of character refers to the firmness, tenderness, and texture characteristics for the variety and type.

(b) *Grade A.* Canned ripe olives of whole, pitted, halved, segmented, sliced, and chopped styles that have a good character may be given a score of 27 to 30 points. ''Good character'' means that, for the type, the olives have a fleshy texture characteristic for the variety and size; that not less than 95 percent, by count, of whole, pitted and halved olives and by weight of other style olives are practically uniform in texture and are tender but not soft. The remaining 5 percent may be soft but not excessively soft.

(c) *Grade B.* If canned ripe olives of whole, pitted, halved, segmented, sliced and chopped styles have a reasonably good character, a score of 24 to 26 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade B regardless of the total score for the product (this is a limiting rule). ''Reasonably good character'' means that, for the type, the olives generally have a fleshy texture characteristic for the variety and size; that not less than 90 percent, by count, of whole, pitted and halved olives, and by weight of other style olives are practically uniform in texture and are tender but not soft. The 10 percent may be soft but not more than ½, or 5 percent, may be excessively soft.

(d) *Grade C.* If canned ripe olives of whole, pitted, halved, segmented, sliced, chopped and broken pitted styles have a fairly good character, a score of 21 to 23 points may be given. Canned ripe olives that fall into this classification shall not be graded above U.S. Grade C regardless of the total score for the product (this is a limiting rule). ''Fairly good character'' means that the olives generally have a fleshy texture characteristic for the variety and size; that not less than 80 percent, by count, of whole, pitted and halved olives and by weight of other style olives are practically uniform in texture and are tender but not soft. The remaining 20 percent may be soft but not more than ½, or 10 percent, may be excessively soft.

(e) *Substandard* (*SStd*). Canned ripe olives that fail to meet the requirements of paragraph (d) of this section may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

### § 52.3763 Determining the grade of a lot.

The grade of a lot of canned ripe olives covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits

and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.83).

### § 52.3764 Score sheet.

Number, size and kind of container.
Label (including size declaration).
Container mark or identification.
Net weight (ounces).
Vacuum (inches).
Drained weight (ounces).
Size.
Style.
Average count per pound (whole style).

| Factors | | | Score points |
|---|---|---|---|
| Color | 30 | (A) | 27–30 |
| | | (B) | 24–26 |
| | | (C) | [1] 21–23 |
| | | (SStd.) | [1] 0–20 |
| Absence of defects. | 40 | (A) | 36–40 |
| | | (B) | [1] 32–35 |
| | | (C) | [1] 28–31 |
| | | (SStd.) | [1] 0–27 |
| Character | 30 | (A) | 27–30 |
| | | (B) | [1] 24–26 |
| | | (C) | [1] 21–23 |
| | | (SStd.) | [1] 0–20 |
| Total Score | 100 | | |

Flavor: ( ) Good ( ) Reasonably good ( ).
Off.
Grade ..... – –s0

[1] Indicates limiting rule.

# FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts, and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

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For changes to this volume of the CFR prior to this listing, consult the annual edition of the monthly List of CFR Sections Affected (LSA). The LSA is available at *www.fdsys.gov*. For changes to this volume of the CFR prior to 2001, see the ''List of CFR Sections Affected, 1949–1963, 1964–1972, 1973–1985, and 1986–2000'' published in 11 separate volumes. The ''List of CFR Sections Affected 1986–2000'' is available at *www.fdsys.gov*.

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