

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 51

[Docket No. FV-00-303]

#### **Peaches, Plums, and Nectarines; Grade Standards**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule revises the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines. These standards are issued under the Agricultural Marketing Act of 1946. The changes are based on the findings of a California Tree Fruit Agreement (CTFA) Task Force that was formed to review the standards, and on subsequent discussions with industry. The revisions will bring the standards into conformity with current packing, marketing and cultural practices. This document also contains conforming and editorial changes.

**EFFECTIVE DATE:** March 29, 2004.

**FOR FURTHER INFORMATION CONTACT:** David Priester, Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1661 South Building, STOP 0240, Washington, DC 20250-0240, Fax (202) 720-8871.

#### **SUPPLEMENTARY INFORMATION:**

#### **Executive Order 12866 and 12988**

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action. This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not

intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

#### **Regulatory Flexibility Act**

The Agricultural Marketing Service (AMS) received a request to update and revise the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines from the CTFA. The United States Standards for Grades of Peaches has not had a major revision since June 1952. There was a minor revision in 1995. The United States Standards for Grades of Fresh Plums and Prunes were last revised in June 1973, and the United States Standards for Grades of Nectarines were last revised April 1966. The CTFA is an industry association representing over 2,000 individual growers, packers and shippers. The CTFA has requested that these standards be revised to bring them into conformity with current packing, marketing and cultural practices. This request also has the support of the California Plum Marketing Board, Peach Commodity Committee, and the Nectarine Administrative Committee. The revisions will benefit all aspects of the peach, plum, prune, and nectarine industries by making the standards current with today's marketing trends and practices.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Accordingly, AMS has prepared this final regulatory flexibility analysis.

This rule will revise the U.S. Standards for Grades of Peaches, the U.S. Standards for Grades of Fresh Plums and Prunes and the U.S. Standards for Grades of Nectarines that were issued under the Agricultural Marketing Act of 1946. Standards issued under the 1946 Act are voluntary.

There are approximately 400 handlers of peaches, plums, prunes, and

nectarines and approximately 2,200 producers of these fruits in the United States. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$750,000. The majority of these handlers and producers may be classified as small entities.

This rule will: delete the "Unclassified" section; establish a 25-count minimum sample; revise standard pack and size requirements for all three grade standards; develop en route or at destination tolerances for grades of peaches; define damage and serious damage by discoloration and growth cracks for grades of plums and prunes; revise color requirements for grades of nectarines.

The effects of this rule are not expected to be disproportionately greater or smaller for small handlers or producers than for larger entities.

This action will make the standards more consistent and uniform with marketing trends and practices. This action will not impose any additional reporting or recordkeeping requirements on either small or large peach, plum, prune, or nectarine producers or handlers. USDA has not identified any Federal rules that duplicate, overlap, or conflict with this rule. However, there are marketing programs which regulate the handling of nectarines and peaches under 7 CFR Parts 916 and 917. Nectarines and peaches under the marketing order have to meet certain requirements set forth in the grade standards for nectarines and peaches.

Alternatives were considered for this action. One alternative would be to not issue a rule. However, the need for revisions have increased as a result of changing marketing characteristics by industry, and the rule is the result of input from all sectors of the peach, plum, prune, and nectarine industries and government. Further, since the purpose of these standards is to facilitate the marketing of agricultural commodities in the United States, not revising the standards could result in confusion in terms of industry marketing and the proper application of the grade standards.

The proposed rule, the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines, was published in the **Federal Register** on September 25, 2002 (67 FR 60171). A comment period of sixty days was issued which closed on November 25, 2002. Two comments were received requesting an extension of the comment period for the proposed rule. The request was granted and a notice of the reopening and extension of the comment period for the proposed rule was published in the **Federal Register** on January 31, 2003 (68 FR 4967). The comment period was reopened and extended for thirty-five days which closed on March 7, 2003.

### Comments

In addition to the two comments requesting the extension of the comment period, six comments were received during the comment period regarding the proposed changes. These included comments from growers, packers, shippers and industry associations representing growers, packers and shippers.

One comment, received from an industry association representing peach shippers, was in favor of the proposal with the exception of the change adding a definition for "well filled" to the U.S. Standards for Grades of Peaches. Peaches packed in loose or volume filled containers are required to be well filled in order to meet the optional standard pack requirement in Section 51.1217.

AMS proposed adding the following definition for this term: "Well filled" means that the peaches are packed within one inch from the top of the container. The commenter stated the issue with definition is that "early season peach varieties grown in Georgia and South Carolina are smaller fruit. This smaller sized fruit sometimes does not reach within one inch of the top of the box, as would be required under the guidelines, but in fact is a full half bushel of fruit." The commenter further stated the new definition would require the producers to purchase new containers in order to pack this smaller fruit and this would be an economic disadvantage for the producers. However, as previously noted, the standard pack requirements are optional. Producers may choose not to pack standard pack requirements and still meet the requirements for all the U.S. grades for peaches. Also, as the commenter stated, this is only an issue sometimes for early season varieties. AMS believes while in some cases this

may require the purchase of additional containers, the industry as a whole will benefit by having a uniform definition of well filled. Therefore, the term well filled will be added to the standards.

Two additional comments were received from representatives of an industry association regarding the addition of the definition of well filled to all three standards. These commenters recommended adding "packed in loose or volume filled containers" to the definitions of well filled. They felt this addition would clarify that this term is only applied to loose or volume filled containers. AMS agrees, and all three standards will be revised based on these comments. The definition of "well filled" in the U.S. Standards for Grades of Peaches will be revised to read as follows: "Well filled" means that the peaches packed in loose or volume filled containers are packed within 1 inch of the top of the container. The definition of well filled in the U.S. Standards for Grades of Fresh Plums and Prunes will be revised to read as follows: "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. Also, the definition of well filled in the U.S. Standards for Grades of Nectarines will be revised to read as follows: "Well filled" means that the nectarines packed in loose or volume filled containers are packed within 1 inch of the top of the container.

Four comments, two from individual growers, packers and shippers and two from industry associations representing growers, packers and shippers, were received regarding the proposal to establish a 25-count minimum sample size for all three grade standards. These commenters felt the proposed 25-count minimum sample was not enough to accurately determine the percentage of defects present in a lot. One of the commenters recommended a 50-count minimum sample size for all three standards. The three other commenters recommended a 40-count minimum sample size for peaches and 50-count minimum sample size for plums and nectarines. These commenters stated that these minimum sample sizes have been the accepted standard in the industry for many years. These commenters also recommended the comingling of the contents of adjacent consumer size packages, when necessary, to obtain the minimum sample size. AMS agrees that an increase in the minimum sample size is warranted for packages with 50 or more fruit. However, while a 40-count sample size for peaches is an industry standard in some regions of the country, AMS

feels it would be preferable and beneficial to have a uniform and consistent 50-count minimum sample for peaches, plums, prunes, and nectarines. Additionally, with regard to consumer size packages, AMS believes that requiring a larger than 25-count minimum sample for consumer size packages will cause undue destruction of packages. Therefore, the U.S. Standards for Grades of Peaches, § 51.1214, the U.S. Standards for the Grade of Fresh Plums and Prunes, § 51.1525 and the U.S. Standards for Grades of Nectarines, § 51.3150 will be revised as follows: 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.

One comment, received from a grower, packer and shipper, recommended the following additional requirement to each standard: "a minimum of at least 2 samples must be examined to certify a lot." AMS feels that currently requiring in the inspection instructions that a minimum of 3 samples be examined to certify a lot provides for a more representative sample of the lot and therefore should remain unchanged. This commenter further recommended adding an application of tolerances for consumer size packages which would allow individual packages to be unrestricted as to the percentages of defects. This issue was not addressed in the proposed rule, and further review from industry would be needed before including this recommendation.

Five comments were received regarding the addition of the definition for damage and serious damage scoring criteria for discoloration for grades of fresh plums and prunes. The proposal defined damage as, "Discoloration when greenish to brown definitely contrasting with the normal surface color of the fruit and affecting more than 10 percent of the surface." The proposal defined serious damage as, "Discoloration when greenish to brown definitely contrasting with the normal surface color of the fruit and affecting more than 25 percent of the surface."

Two comments were received from an industry association representing growers, packers and shippers requesting the terms "mottled discoloration" and "discolored surface area" be added to clarify the definition.

The proposed definition provides a scoring criteria for all discoloration. If the term mottled was added, it would exclude other types of discoloration. One of the commenters, a grower, packer and shipper, requested the removal of the proposed definition due to their concern that characteristic mottled color of some varieties such as Catalina and Mariposa would be confused as a defect. The proposed definition states "definitely contrasting with the normal surface color of the fruit." This means that varieties for which mottled color is characteristic, the mottled color would be considered "normal surface color" and would not be considered a defect. Another comment, received from a grower, packer and shipper, requested that this change be postponed until further research could be conducted to assess how this proposal would affect the industry. The commenter further stated it is their belief that both consumers and producers would be greatly impacted by the inclusion of the definition. They feel the definition is too broad and not as restrictive as the scoring criteria for small peaches. The proposed surface area is appropriate for plums and prunes. Additionally, it is currently used by most of the industry. Consumers or producers should not be impacted negatively, as adding this defined scoring criteria will provide a more objective means of evaluating this defect. One comment received from a grower and packer expressed concern with the proposal, stating that most plums grown in their area "need to be harvested at maturity levels precluding full dark color. Consequently, many marketable plums have more than 10 percent greenish to brown color which definitely contrasts with the normal surface color of the fruit." This comment has merit and we are deleting reference to greenish and brown color in the plum and prunes standard. The proposed definitions for damage and serious damage are intended to be applied to discoloration resulting from injury to the fruit, not due to early harvesting, immaturity, or characteristic color of the variety.

Based on these comments AMS will revise the defined scoring criteria for damage as follows: "Discoloration when definitely contrasting with the normal surface color of the fruit and affects more than 10 percent of the surface." The defined scoring criteria for serious damage will be revised to read as follows: "Discoloration when definitely contrasting with the normal surface color and affects more than 25 percent of the surface."

Two comments were received from two industry association representatives requesting a defined scoring criteria for hollow cavities be added to the U.S. grades for plums and prunes. They requested the following be added to Damage, § 51.1532, "Hollow areas or cavities in the blossom end of Kesley, Empress and similar varieties is characteristic of the variety and shall not be considered as damage. However, flesh discoloration of the cavity, which materially affects the appearance of the area, shall be considered." They requested the following be added to Serious damage, § 51.1536, "Hollow areas or cavities in the blossom end of Kesley, Empress and similar varieties is characteristic of the variety and shall not be considered as damage. However, flesh discoloration of the cavity, which seriously affects the appearance of the area, shall be considered." A similar request was discussed prior to the proposed rule. AMS stated at that time and continues to be of the view that these types of scoring guides are included in the inspection instructions, as they are variety specific and it is not possible to determine in which varieties hollow cavities would be characteristic. Accordingly, AMS still believes that this scoring guide is best stated in the inspection instructions for grades of plums and prunes.

Accordingly, AMS amends the United States Standards for Grades of Peaches, the United States Standards for Grades of Fresh Plums and Prunes, and the United States Standards for Grades of Nectarines.

#### List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

■ For reasons set forth in the preamble, 7 CFR part 51 is amended as follows:

#### PART 51—[AMENDED]

■ 1. The authority citation for 7 CFR part 51 continues to read as follows:

**Authority:** 7 U.S.C. 1622, 1624.

■ 2. Subpart—United States Standards for Peaches is revised to read as follows:

#### Subpart—United States Standards for Grades of Peaches

##### Grades

Sec.

- 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 Grades of Peaches

##### 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.*<sup>1</sup> 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 soft, overripe, or 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;  
(ii) 2 percent for peaches which are affected by soft, overripe, or decay.

#### 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.

<sup>1</sup> 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.

**§ 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.

■ 3. Subpart—United States Standards for Grades of Fresh Plums and Prunes is revised to read as follows:

**Subpart—United States Standards for Grades of Fresh Plums and Prunes****Grades**

|         |                   |
|---------|-------------------|
| Sec.    |                   |
| 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 | Sunscauld.           |
| 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 Fresh Plums and Prunes****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.*<sup>1</sup> 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

<sup>1</sup>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.

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.

(3) *For defects of Italian type prunes at shipping point.*<sup>1</sup> 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.*<sup>1</sup> 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 "7 $\frac{2}{3}$  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) Russetting which exceeds any of the following aggregate areas of any one type of russetting, or a combination of two or more types of russetting the seriousness of which exceeds the maximum allowed for any one type:
    - (1) Rough russetting 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 russetting 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 russetting 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              |

| Inches             | Millimeters (mm) |
|--------------------|------------------|
| 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            |

■ 4. Subpart—United States Standards for Grades of Nectarines is revised to read as follows:

**Subpart—United States Standards for Grades of Nectarines**

**Grades**

- Sec.
- 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 Nectarines**

**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.<sup>1</sup> 8 percent for nectarines

<sup>1</sup> Shipping point, as used in these standards, means the point of origin of the shipment in the



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 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*.<sup>1</sup> 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:

<sup>1</sup> 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.

(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             |

| Inches             | Millimeters (mm) |
|--------------------|------------------|
| 1-3/4 equals ..... | 44.5             |
| 2 equals .....     | 50.8             |
| 3 equals .....     | 76.2             |
| 4 equals .....     | 101.6            |

Dated: February 20, 2004.

**A. J. Yates,**  
*Administrator, Agricultural Marketing Service.*  
 [FR Doc. 04-4221 Filed 2-26-04; 8:45 am]  
**BILLING CODE 3410-02-P**

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 72**

[RIN 3150-AH20]

**List of Approved Spent Fuel Storage Casks: Standardized NUHOMS® -24P, -52B, -61BT, -32PT, and -24PHB Revision, Confirmation of Effective Date**

**AGENCY:** Nuclear Regulatory Commission.  
**ACTION:** Direct final rule: Confirmation of effective date.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is confirming the effective date of March 2, 2004, for the direct final rule that was published in the **Federal Register** on December 18, 2003. This direct final rule amended the NRC's regulations to revise the Transnuclear, Inc., Standardized NUHOMS® Horizontal Modular Storage System (Standardized NUHOMS® System) listing within the "List of approved spent fuel storage casks" to include Amendment No. 7 in Certificate of Compliance (CoC) Number 1004.

**EFFECTIVE DATE:** The effective date of March 2, 2004, is confirmed for this direct final rule.

**ADDRESSES:** Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (<http://ruleforum.llnl.gov>). For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6219, e-mail [jmm2@nrc.gov](mailto:jmm2@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On December 18, 2003 (68 FR 70423), the NRC published a direct final rule amending its regulations in 10 CFR part 72 to revise the Standardized NUHOMS® System listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 7 to CoC No. 1004. This amendment incorporates changes in support of the Amergen Corporation plans to load damaged fuel and additional fuel types at its Oyster Creek Nuclear Station. Specifically, the amendment adds damaged Boiling Water Reactor spent fuel assemblies and additional fuel types to the authorized contents of the NUHOMS®-61BT Dry Shielded Canister under a general license. In addition, the amendment includes three minor changes to the Technical Specifications to correct inconsistencies and remove irrelevant references. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on March 2, 2004. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 23rd day of February, 2004.

For the Nuclear Regulatory Commission.  
**Michael T. Lesar,**  
*Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.*

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**BILLING CODE 7590-01-P**

**NATIONAL CREDIT UNION ADMINISTRATION**

**12 CFR Parts 701 and 790**

**Organization and Operations of Federal Credit Unions; Description of NCUA**

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Final rule.

**SUMMARY:** The National Credit Union Administration (NCUA) Board decided to restructure NCUA's regions, effective January 1, 2004, due to economic and operational factors. The final rule amends the NCUA's regulations to reflect the resulting elimination of one office and the relocation of another office. The final rule also amends the office description of NCUA's Executive Director to include the delegated responsibility of being the NCUA's Director of Equal Employment Opportunity (EEO).