

**§ 1560.3**

(g) *Fresh Fruit or Vegetable* means a fruit or vegetable determined in accordance with §1560.3 within one of the HS headings.

(h) *HS heading* means any of the following tariff headings of the Harmonized System (HS) as modified by the description for each heading:

HS tariff heading	Description
07.01 .....	Potatoes, fresh or chilled.
07.02 .....	Tomatoes, fresh or chilled.
07.03 .....	Onions, shallots, garlic, leeks, and other alliaceous vegetables, fresh or chilled.
07.04 .....	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled.
07.05 .....	Lettuce ( <i>lactuca sativa</i> ) and chicory ( <i>cichorium</i> spp.), fresh or chilled.
07.06 .....	Carrots, salad beets or beetroot, salsify, celeriac, radishes and similar edible roots (excluding turnips), fresh or chilled.
07.07 .....	Cucumbers and gherkins, fresh or chilled.
07.08 .....	Leguminous vegetables, shelled or unshelled, fresh or chilled.
07.09 .....	Other vegetables (excluding truffles), fresh or chilled.
08.06.10 .....	Grapes, fresh.
08.08.20 .....	Pears and quinces, fresh.
08.09 .....	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh.
08.10 .....	Other fruit (excluding cranberries and blueberries), fresh.

(i) *Import Price* means the unit value based on data available from the U.S. Customs Service of a particular Canadian fresh fruit or vegetable imported into the U.S. from Canada taking into account any other relevant data, as necessary.

(j) *Secretary* means the Secretary of Agriculture.

(k) *United States* means the United States Customs Territory which includes the fifty states, the District of Columbia and Puerto Rico.

(l) *Wine Grape* means grapes of *labrusca*, *vinifera* or hybrid *vinifera* varieties used for making wine.

(m) *Working Day* means a day which falls on a Monday through Friday, excluding holidays observed by the United States Government and days in which the U.S. Customs Service is not operating.

**§ 1560.3 Determination of fresh fruit or vegetable.**

The specific group of articles that will be monitored as a particular fresh fruit or vegetable will be determined based on the practicability of monitoring at the eight digit subheading

level of the Harmonized Tariff Schedule of the United States. The determination of practicability will be made by the Administrator taking into account: (a) The availability of reliable volume and price data on imports from Canada and data on U.S. planted acreage, (b) market differentiation for the group of articles, and (c) such other factors as the Administrator determines to be appropriate.

**§ 1560.4 Calculation of data to support imposition of temporary duty.**

The Administrator will inform the Secretary when the following conditions are met with respect to a particular fresh fruit or vegetable imported into the United States from Canada:

(a) If for each of five consecutive working days the import price of the fresh fruit or vegetable is below ninety percent of the corresponding five-year average monthly import price for such fresh fruit or vegetable excluding the years with the highest and lowest corresponding monthly import price; and

(b) The planted acreage in the United States for such fresh fruit or vegetable based on the most recent data available is no higher than the average planted acreage over the preceding five years excluding the years with the highest and lowest planted acreages. For the purposes of calculating any planted acreage increase attributed directly to a reduction in wine grape planted acreage existing on October 4, 1987 shall be excluded.

**§ 1560.5 Calculation of data to support removal of temporary duty.**

During the time a temporary duty on a particular fresh fruit or vegetable is imposed pursuant to section 301(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, the Administrator will inform the Secretary if the F.O.B. point of shipment price in Canada of such fresh fruit or vegetable exceeds, for five consecutive working days, ninety percent of the corresponding five-year average monthly import price excluding the years with the highest and lowest average corresponding monthly import price, adjusted to an F.O.B. point of