

**§ 920.213**

**7 CFR Ch. IX (1-1-08 Edition)**

and “KISS/Shipment,” on or before December 5th, or such other later time as the committee may establish.

(c) *Handler report of returned fruit.* After fruit is returned to a grower, each handler shall file with the committee, no later than five days from the date the fruit is returned, or such other time as the committee may establish, a Return Receipt of Kiwifruit to Grower Form.

[50 FR 4856, Feb. 4, 1985, as amended at 52 FR 37130, Oct. 5, 1987; 59 FR 53565, Oct. 25, 1994; 61 FR 51576, Oct. 3, 1996; 67 FR 54332, Aug. 22, 2002]

**§ 920.213 Assessment rate.**

On and after August 1, 2005, an assessment rate of \$0.045 per 9-kilo volume-fill container or equivalent of kiwifruit is established for kiwifruit grown in California.

[70 FR 56563, Sept. 28, 2005]

**§ 920.302 Grade, size, pack, and container regulations.**

(a) No handler shall ship any kiwifruit unless such kiwifruit meet the following requirements:

(1) *Grade requirements.* Fresh shipments of kiwifruit shall be at least KAC No. 1 quality.

(2) *Size Requirements.* Such kiwifruit shall be at least a minimum Size 45. Size 45 is defined as a maximum of 55 pieces of fruit in an 8-pound sample.

(3) *Maturity requirements.* Such kiwifruit shall have a minimum of 6.2 percent soluble solids at the time of inspection.

(4) *Pack Requirements.* (i) Kiwifruit 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. Such fruit shall be fairly uniform in size.

(ii) (A) Kiwifruit packed in any container shall be subject to the size designation, maximum number of fruit per 8-pound sample, and the size variation tolerance specified as follows:

SIZE DESIGNATION AND SIZE VARIATION CHART

Column 1 size designation	Column 2 maximum number of fruit per 8-pound sample	Column 3 size variation tolerance (diameter)
18 or larger .....	25	½-inch (12.7 mm).
20 .....	27	½-inch (12.7 mm).
23 .....	30	½-inch (12.7 mm).
25 .....	32	½-inch (12.7 mm).
27/28 .....	35	½-inch (12.7 mm).
30 .....	39	½-inch (12.7 mm).
33 .....	43	⅜-inch (9.5 mm).
36 .....	46	⅜-inch (9.5 mm).
39 .....	49	⅜-inch (9.5 mm).
42 .....	53	⅜-inch (9.5 mm).
45 or smaller .....	55	¼-inch (6.4 mm).

(B) The average weight of all sample units in a lot must weigh at least 8 pounds, but no sample unit may be more than 4 ounces less than 8 pounds.

(C) Not more than 10 percent, by count, of the containers in any lot and not more than 5 percent, by count, of kiwifruit in any container, (except that for Sizes 42 and 45 kiwifruit, the tolerance, by count, in any one container, may not be more than 25 percent) may

fail to meet the size variation requirements of this paragraph.

(iii) All volume fill containers of kiwifruit designated by weight shall hold 19.8-pounds (9-kilograms) net weight of kiwifruit unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit.

(b) *Definitions.* The term *KAC No. 1 quality* means kiwifruit that meets the requirements of the U.S. No. 1 grade as

defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340) except that the kiwifruit shall be “not badly misshapen,” and an additional tolerance of 7 percent is provided for kiwifruit that is “badly misshapen,” and except that all varieties of kiwifruit are exempt from the “tightly packed” standard as defined in § 51.2338(a) of the U.S. Standards for Grades of Kiwifruit. The terms *fairly uniform in size and diameter* mean the same as defined in the U.S. Standards for Grades of Kiwifruit.

(c) *Exemptions.* Any person may handle kiwifruit without regard to the provisions of this section provided that such kiwifruit is handled for (1) consumption by charitable institutions; (2) distribution by relief agencies; or (3) commercial processing into products. For the purposes of this section, *commercial processing into products* means that the kiwifruit is physically altered in form or chemical composition through freezing, canning, dehydrating, pulping, juicing, or heating of the product. The act of slicing, dicing, or peeling shall not be considered commercial processing into products.

[50 FR 36568, Sept. 9, 1985, as amended at 51 FR 33564, Sept. 22, 1986; 52 FR 37130, Oct. 5, 1987; 53 FR 34035, Sept. 2, 1988; 53 FR 48513, Dec. 1, 1988; 54 FR 41436, Oct. 10, 1989; 55 FR 42181, Oct. 18, 1990; 56 FR 64942, Dec. 13, 1991; 57 FR 41854, Sept. 14, 1992; 57 FR 46243, Oct. 7, 1992; 58 FR 3069, Jan. 7, 1993; 58 FR 43245, Aug. 16, 1993; 59 FR 45620, Sept. 2, 1994; 59 FR 53565, Oct. 25, 1994; 60 FR 32260, June 21, 1995; 62 FR 49131, Sept. 19, 1997; 63 FR 46866, Sept. 3, 1998; 64 FR 41019, July 29, 1999; 65 FR 54948, Sept. 12, 2000; 66 FR 39270, July 30, 2001; 66 FR 54414, Oct. 29, 2001; 67 FR 1413, Jan. 11, 2002; 67 FR 54332, Aug. 22, 2002; 68 FR 44195, July 28, 2003; 69 FR 54199, Sept. 8, 2004; 70 FR 48841, Aug. 22, 2005]

### § 920.303 Container marking regulations.

No handler shall ship any kiwifruit except in accordance with the following terms and conditions:

(a) Each package or container of kiwifruit shall bear on at least one outside principal display panel in plain sight and in plain letters, the word *kiwifruit*, the name of the variety (if other than the Hayward variety), if known or, when the variety is not known, the words *unknown variety*.

(b) Each package or container of kiwifruit shall bear on one outside principal display panel in plain sight and in plain letters the name and address (including the city, state, and zip code) of the shipper.

(c) Each package or container of kiwifruit shall bear on one outside principal display panel in plain sight and in plain letters the following information regarding the quantity of kiwifruit packed within the container:

(1) The quantity shall be indicated in terms of count and size for kiwifruit packed in cell compartments, cardboard fillers, or molded trays, and the contents shall conform to the count.

(2) The quantity shall be indicated in terms of the size designation and either the net weight for volume-fill containers packed by weight or the count for volume-fill containers packed by count.

(3) For bulk containers or individual consumer packages not within a master container, the quantity shall be indicated in terms of the size designation and net weight, or in terms of the size designation and count.

(4) Master containers, which hold more than one individual package, must be properly marked with the quantity of the contents. The size designation must also be indicated.

(5) The quantity shall be indicated in terms of either net weight or count (or both) for individual consumer packages within a master container. If count is used, it must be accompanied by the size designation.

(6) Designations of size, count, and net weight on each container shall be accompanied by the words *size*, *count*, or *net weight* as applicable.

(d) Except as provided in paragraph (f) of this section, containers of kiwifruit must be positive lot identified prior to shipment in accordance with the following requirements. All exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on the pallet, shall be positive lot identified with a plain mark corresponding to the lot inspection conducted by an authorized inspector, except for individual consumer packages within a master container and containers that are being directly loaded into a vehicle for export