

**§ 920.213**

**7 CFR Ch. IX (1–1–10 Edition)**

and “KISS/Shipment,” on or before November 5th, or such other later time as the committee may establish. Subsequent KISS forms, including all three sections, shall be filed with the committee by the fifth day and again by the twentieth day of each calendar month, or such other later time as the committee may establish, and will contain the following information:

(1) The beginning inventory of the handler by size and container type;

(2) The quantity of fruit the handler lost in repack and repacked into other container types;

(3) The total domestic and export shipments of the handler by size and container type; and

(4) Any other adjustments which increase or decrease posted handler inventory.

(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.

(d) *KISS Price/Shipment report.* Each handler who ships 100,000 or more trays, or the equivalent thereof, per season, shall file the KISS Price/Shipment report with the committee. Handlers are not required to report organic kiwifruit shipments on this report. The handler shall file the report weekly following the first week he or she makes shipments and shall continue filing reports until he or she submits a final report for the season. Each such report shall be filed with the committee no later than 5:00 p.m. (the close of business) on the Tuesday immediately following the shipping week. For the purpose of this subsection, the shipping week is defined as Sunday through Saturday. The report shall show:

(1) The company name, contact person, and phone number of the handler;

(2) Weekly period covered by the report;

(3) Total fresh market shipments and gross f.o.b. sales of kiwifruit by pack style and size; and

(4) Total fresh market shipments and gross f.o.b. sales to export markets by pack style and size.

(e) Handlers who file the KISS Price/Shipment report specified in paragraph (d) of this section are exempt from filing the shipping report specified in paragraph (a) of this section and the KISS/Shipment report specified in paragraph (b) of this section.

[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; 74 FR 46309, Sept. 9, 2009]

**§ 920.213 Assessment rate.**

On and after August 1, 2008, an assessment rate of \$0.035 per 9-kilo volume-fill container or equivalent of kiwifruit is established for kiwifruit grown in California.

[73 FR 75540, Dec. 12, 2008]

**§ 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  | ⅝-inch (9.5 mm).                             |
| 36 .....                  | 46  | ⅝-inch (9.5 mm).                             |
| 39 .....                  | 49  | ⅝-inch (9.5 mm).                             |
| 42 .....                  | 53  | ⅝-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) con-

sumption 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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §920.302 see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§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