

inches, a No. 35 standard box measures $3\frac{1}{2}$ to $7\frac{15}{16} \times 15\frac{1}{16}$ to $15\frac{13}{16} \times 23\frac{1}{4}$ to $23\frac{3}{4}$ inches, and a No. 36 standard box measures 5 to $6\frac{1}{2} \times 13\frac{1}{4} \times 17\frac{1}{4}$ inches. All dimensions are given in depth (inside dimensions) by width and by length (outside dimensions). "Individual consumer packages" means packages holding 15 pounds or less net weight of peaches. "Tree ripe" means "tree ripened" and fruit shipped and marked as "tree ripe," "tree ripened," or any similar terms using the words "tree" and "ripe" must meet the minimum California Well Matured standards.

(c) Each container of peaches in plastic, $12 \times 19\frac{3}{4}$ inch reusable and recyclable containers shall meet and bear, on the container lid or on the outside end, all applicable marking requirements under the order.

(d) During the period April 1 through November 23, each container or package when packed with peaches meeting "CA Utility" quality requirements, shall bear the words "CA Utility," along with all other required container markings, in letters at least $\frac{3}{8}$ inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as "CA Utility," along with all other required markings, in letters at least $\frac{3}{8}$ inch in height.

[50 FR 39074, Sept. 27, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §917.442, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

Subpart—Grade and Size Regulation

§917.459 California Peach Grade and Size Regulation.

(a) During the period beginning April 1 and ending November 23, no handler shall ship any package or container of any variety of peaches marked "CA WELL MAT" or "California Well Matured" except in accordance with the following terms and conditions:

(1) Any lot or package or container of any variety of peaches shall meet the following requirements of U.S. No. 1 grade: *Provided*, That an additional 25 percent tolerance shall be permitted for fruit with open sutures which are

damaged, but not seriously damaged: *Provided further*, That peaches of the Peento type shall be permitted blossom end cracking that is well healed and does not exceed the aggregate area of a circle $\frac{3}{8}$ inch in diameter, and/or does not exceed a depth that exposes the pit; *Provided further*, That any handler may handle peaches if such peaches meet "CA Utility" quality requirements. The term "CA Utility" means that not more than 40 percent of the peaches in any container meet or exceed the requirement of the U.S. No. 1 grade, except that when more than 30 percent of the peaches in any container meet or exceed the requirements of the U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Peaches; and that such peaches are well mature and are:

(i) Free from insect injury which has penetrated or damaged the flesh; split pits which cause an unhealed crack or one or more healed cracks which, either singly or in the aggregate, are more than $\frac{1}{2}$ inch in length; and mold, brown rot, and decay; and

(ii) Free from serious damage due to cuts, skin breaks, growth cracks, bruises, scab, rust, blight, disease, hail or other causes. Damage to any peach is serious when it causes a waste of 10 percent or more, by volume, of the individual peach.

(iii) *Tolerances*. Not more than 10 percent, by count, of the peaches in any container may be below the requirements prescribed by this paragraph. Not more than one-half of this tolerance shall be allowed for any one cause. Individual containers in any lot may contain not more than one and one-half times the tolerances specified if the percentage of defects of the entire lot averages within the tolerances.

(iv) The Federal or Federal-State Inspection Service shall make the final determinations on maturity through the use of color chips or other tests as determined appropriate by the inspection agency. The Federal or Federal-State Inspection Service will use the maturity guides listed in Table 1 in making maturity determinations for the specified varieties when inspecting to the "well matured" level of maturity. For these varieties, not less than

90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety, except that for the Joanna Sweet variety of peaches, any of the fruit surface that is not red shall meet the color guide established for the variety, including any color noted in the stem cavity. For varieties not listed, the Federal or Federal-State Inspection Service will use such tests as it deems proper. A variance for any variety from the application of the maturity guides specified in Table 1 may be granted during the season to reflect changes in crop, weather, or other conditions that would make the specified guides an inappropriate measure of "well matured."

TABLE 1

Column A variety	Column B maturity guide
Angelus	I
August Dream	J
August Lady	L
Autumn Flame	J
Autumn Gem	I
Autumn Lady	H
Autumn Red	J
Autumn Rose	H
Bev's Red	I
Blum's Beauty	G
Bright Princess	L
Brittney Lane	J
Burpeachfive (July Flame®)	L
Burpeachfourteen (Spring Flame® 20)	J
Burpeachone (Spring Flame® 21)	J
Burpeachsix (June Flame®)	L
Burpeachthree (September Flame®)	I
Burpeachtwo (Henry II®)	J
Cal Red	I
Candy Red	J
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
Country Sweet	J
David Sun	I
Diamond Princess	J
Earlirich	H
Earlitreat	H
Early Delight	H
Early Elegant Lady	L
Early May Crest	H
Early O'Henry	I
Early Top	G
Elberta	B
Elegant Lady	L
Fairtime	G
Fancy Lady	J
Fay Elberta	C
Fire Red	I
First Lady	D
Flamecrest	I

TABLE 1—Continued

Column A variety	Column B maturity guide
Flavorcrest	G
Flavor Joy	H
Flavor Queen	H
Flavor Red	G
Franciscan	G
Goldcrest	H
Golden Princess	L
Henry III	J
Honey Red	G
Island Princess	H
Joanna Sweet	J
John Henry	J
July Elberta	C
June Lady	G
Junelicious	I
June Pride	J
Kaweah	L
Kern Sun	H
Kingscrest	H
Kings Lady	I
Kings Red	I
King Sweet	I
Lacey	I
Lady Lou	I
Lady Sue	L
Late Ito Red	L
Madonna Sun	J
Magenta Queen	J
May Crest	G
May Sun	I
May Sweet	I
Merrill Gem	G
Merrill Gemfree	G
Morning Lord	J
O'Henry	I
Pacifica	G
Pretty Lady	J
Prima Gattie 8	L
Prima Gattie 10	J
Prima Peach IV	J
Prima Peach 23	J
Queencrest	G
Ray Crest	G
Red Dancer (Red Boy)	I
Redhaven	G
Red Lady	G
Redtop	G
Regina	G
Rich Lady	J
Rich May	H
Rich Mike	H
Rio Oso Gem	I
Royal Lady	J
Royal May	G
Ruby May	H
Ryan Sun	I
September Sun	I
Sharise	J
Shelly	J
Sierra Gem	J
Sierra Lady	I
Sierra Rich	J
Sparkle	I
Sprague Last Chance	L
Springcrest	G
Spring Delight	G
Spring Gem	J
Spring Lady	H
Springtreat (60EF32)	I
Sugar Time (214LC68)	I
Summer Fling	L

TABLE 1—Continued

Column A variety	Column B maturity guide
Summer Kist	J
Summer Lady	L
Summerset	I
Summer Zee	L
Suncrest	G
Supechfour (Amber Crest)	G
Super Chief	H
Super Rich	H
Sweet Amber	J
Sweet Blaze	J
Sweet Crest	H
Sweet Dream	J
Sweet Gem	J
Sweet Kay	J
Sweet Mick	J
Sweet Scarlet	J
Sweet September	I
Topcrest	H
Tra Zee	J
Vista	J
Willie Red	G
Zee Diamond	J
Zee Lady	L

NOTE: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above. On varieties with less than 10 percent surface ground color required to determine California Well-Matured, the stem cavity color will be utilized to make the determination. As a guide, stem cavities for most varieties should be at least yellowish-green as defined by the H maturity guide. Confirmation may be further established by using other California well matured characteristics.

(v) If a grower or handler believes his/her fruit is meeting the appropriatematurity level but the fruit has not been so graded by the inspector, he/she may appeal the inspection by calling the officer-in-charge of the local Federal-State Inspection Service office to arrange for an on-site examination of the fruit.

(2) Any package or container of Earlitreat, Snow Angel, Supechfifteen, or Super Lady variety peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in paragraph (a)(2)(i) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more

than 96 peaches except for Peento type peaches.

(3) Any package or container of Island Prince, Snow Peak, Spring Princess, or Super Rich variety peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 88 peaches in the box; or

(ii) Such peaches in any container when packed other than as specified in paragraph (a)(3)(i) of this section are of a size that a 16-pound sample representative of the peaches in the package or container, contains not more than 92 peaches except for Peento type peaches.

(4) Any package or container of May Saturn (Early Saturn) variety peaches unless:

(i) Such peaches when packed in molded forms (tray pack) in a No. 22D standard lug box are of a size that will pack, in accordance with the requirements of standard pack, not more than 84 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of a standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(4) (i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 83 peaches except for Peento type peaches.

(5) Any package or container of Babcock, Bev's Red, Bright Princess, Brittney Lane, Burpeachone (Spring Flame® 21), Burpeachfourteen (Spring Flame® 20), Burpeachnineteen (Spring Flame® 22), Candy Red, Crimson Lady, Crown Princess, Early May Crest, Flavorcrest, Honey Sweet, Ivory Duchess, Ivory Queen, June Lady, Magenta Queen, May Crest, May Sweet, Prima Peach IV, Queencrest, Rich May, Sauzee Queen, Scarlet Queen, Sierra Snow, Snow Brite, Springcrest, Spring Lady, Spring Snow, Springtreat (60EF32), Sugar Time (214LC68),

Supecheight (012-094), Supechnine, Sweet Scarlet, or Zee Diamond variety peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack, in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(iii) Such peaches in any container when packed other than as specified in paragraph (a)(5)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 77 peaches except for Peento type peaches.

(6) Any package or container of 116LM397, 382LN469, August Lady, August Saturn, Autumn Flame, Autumn Jewel, Autumn Red, Autumn Rich, Autumn Rose, Autumn Snow, Autumn Sun, Burpeachtwo (Henry II[®]), Burpeachthree (September Flame[®]), Burpeachfour (August Flame[®]), Burpeachfive (July Flame[®]), Burpeachsix (June Flame[®]), Burpeachseven (Summer Flame[®] 29), Burpeachfifteen (Summer Flame[®] 34), Burpeachtwenty (Summer Flame[®]), Burpeachtwentyone (Summer Flame[®] 26), Candy Princess, Country Sweet, Crimson Jewel, Diamond Candy, Diamond Princess, Earlich, Early Elegant Lady, Elegant Lady, Fancy Lady, Fay Elberta, Full Moon, Galaxy, Glacier White, Golden Moon, Henry III, Henry IV, Ice Princess, Ivory King, Ivory Princess, Jasper Gem, Jillie White, Joanna Sweet, John Henry, Kaweah, Klondike, Last Tango, Natures #10, O'Henry, Peach-N-Cream, Pearl Princess, Pink Giant, Pink Moon, Prima Gattie 8, Prima Peach 13, Prima Peach XV, Prima Peach 20, Prima Peach 23, Prima Peach XXVII, Queen Jewel, Rich Lady, Ruby Queen, Ryan Sun, Saturn (Donut), September Blaze, September Snow, September Sun, Sierra Gem, Sierra Rich, Snow Beauty, Snow Blaze, Snow Duchess, Snow Fall, Snow Gem, Snow Giant,

Snow Jewel, Snow King, Snow Magic, Snow Princess, Sprague Last Chance, Strawberry, Sugar Crisp, Sugar Giant, Summer Dragon, Summer Fling, Summer Lady, Summer Sweet, Summer Zee, Sweet Blaze, Sweet Dream, Sweet Henry, Sweet September, Tra Zee, Valley Sweet, Vista, White Lady, or Zee Lady variety peaches unless:

(i) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(ii) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard pack, not more than 65 peaches in the lug box.

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(6)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 66 peaches, or if the peaches are "well matured," not more than 73 peaches, except for Peento type peaches.

(b) During the period April 1 through June 30 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(1) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 96 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in paragraphs (b)(1) and (b)(2) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not

§917.461

7 CFR Ch. IX (1-1-11 Edition)

more than 96 peaches, except for Peento type peaches.

(c) During July 1 through October 31 of each fiscal period, no handler shall handle any package or container of any variety of peaches not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(1) Such peaches when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box are of a size that will pack, in accordance with the requirements of standard pack, not more than 80 peaches in the box; or

(2) Such peaches when packed in a No. 12B standard fruit (peach) box are of a size that will pack in accordance with the requirements of standard pack, not more than 65 peaches in the box; or

(3) Such peaches in any container when packed other than as specified in paragraphs (c)(1) and (c)(2) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 73 peaches, except for Peento type peaches.

(d) The following procedure shall be used in determining whether peaches meet the minimum size requirements specified for each size category in this section applying a 16-pound sample. A sample consisting of one-half of the number of fruit specified for a 16-pound sample for a particular size category shall be used, provided such sample weighs at least eight pounds. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit shall be used to determine the sample weight. If a sample fails with respect to minimum size requirements on the basis of an 8-pound sample, a 16-pound sample shall be used to determine if the fruit meets the minimum size requirements.

(e) *Container tolerances.* The contents of individual packages in the lot are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified in this part:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided, individual

packages 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 shall have not more than double the tolerance specified.

(2) For packages which contain 10 pounds or less, individual packages are not restricted as to the percentage of defects.

(f) As used herein, *U.S. No. 1, mature*, and *standard pack*, mean the same as defined in the United States Standards for Grades of Peaches (7 CFR 51.1210 through 51.1223); and *No. 22D standard lug box* and *No. 12B standard fruit (peach) box* mean the same as defined in section 1380.19 (18) of the "Regulations of the California Department of Food and Agriculture". *Well matured* means a condition distinctly more advanced than *mature*.

[59 FR 15841, Apr. 5, 1994]

EDITORIAL NOTES: 1. For FEDERAL REGISTER citations affecting §917.459, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

2. At 74 FR 7782, Feb. 20, 2009, §917.459 was amended by adding paragraph (a)(6)(iii); however, the amendment could not be incorporated due to an inaccurate amendatory instruction. For the convenience of the user, the added text is set forth as follows.

§917.459 California peach grade and size regulation.

- (a) * * *
(6) * * *

(iii) Such peaches in any container when packed other than as specified in paragraphs (a)(6)(i) and (ii) of this section are of a size that a 16-pound sample, representative of the peaches in the package or container, contains not more than 73 peaches, except for Peento type peaches.

* * * * *

§917.461 Pear Regulation 12.

(a) No handler shall ship:

(1) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears which do not grade at least U.S. Combination with not less than 80 percent, by count, of the pears grading at least U.S. No. 1: Provided, That for the 1992 crop year, no handler shall ship organic pears of these varieties unless they grade at least U.S. Combination