

the total sample shall be whole kernels.

(4) *Small Pieces*: Portions of kernels of which not more than 10 percent will remain on a  $\frac{1}{64}$  inch round opening, provided that not more than 3 percent of the total sample shall pass through a  $\frac{5}{64}$  inch round opening. Not more than 3 percent of the total sample shall be whole kernels.

(5) *Mixed sizes*: Means a mixture of any combination of whole kernels or pieces. The percentage of whole kernels and/or pieces may be specified. Not more than 5 percent of the total sample shall pass through a  $\frac{5}{64}$  inch round opening.

[55 FR 28747, July 13, 1990; 55 FR 30796, July 25, 1990]

#### § 51.2560 Definitions.

(a) *Well dried* means the kernel is firm and crisp.

(b) *Very well dried* means the kernel is firm and crisp and the average moisture content of the lot does not exceed 7 percent of lower levels, if specified (See § 51.2561).

(c) *Foreign material* means leaves, sticks, in-shell nuts, shells or pieces of shells, dirt, or rocks, or any other substance other than pistachio kernels. No allowable tolerances for metal or glass.

(d) *Whole kernel* means  $\frac{3}{4}$  of a kernel or more.

(e) *Pieces* means less than  $\frac{3}{4}$  of a kernel.

(f) *Damage* means any specific defect described in paragraph (f) (1) through (3) of 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 individual kernel or of the lot. (For tolerances, see § 51.2557, Table I.)

(1) *Minor white or gray mold* is mold that is not readily noticeable on the kernel and which can be easily rubbed off with the fingers.

(2) *Immature kernels* are excessively thin kernels.

(3) *Kernel spotting* refers to dark brown or dark gray spots aggregating more than one-eighth of the surface of the kernel.

(g) *Serious damage* means any specific defect described in paragraph g (1)

through (5) of 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 individual kernel or of the lot. (For tolerances see § 51.2557 Table I.)

(1) *Mold* which is readily visible on the kernel.

(2) *Minor insect or vertebrate injury* means the kernel shows conspicuous evidence of feeding on the kernel.

(3) *Insect damage* is an insect, insect fragment, web, or frass attached to the kernel. No live insects shall be permitted.

(4) *Rancidity* means the kernel is distinctly rancid to taste. Staleness of flavor shall not be classed as rancidity.

(5) *Decay* means any portion of the kernel is decomposed.

#### § 51.2561 Average moisture content.

(a) Determining average moisture content of the lot is not a requirement of the grades, except when kernels are specified as "very well dried." It may be carried out upon request in connection with grade analysis or as a separate determination.

(b) Kernels shall be obtained from a randomly drawn composite sample. Official certification shall be based on the air-oven method or other officially approved methods or devices. Results obtained by methods or devices not officially approved may be reported and shall include a description of the method or device and owner of any equipment used.

#### Subpart—United States Standards for Grades for Sweet Cherries<sup>1</sup>

SOURCE: 36 FR 8502, May 7, 1971, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

<sup>1</sup>Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.

## GRADES

## § 51.2646 U.S. No. 1.

“U.S. No. 1” consists of sweet cherries which meet the following requirements:

- (a) Similar varietal characteristics;
- (b) Mature;
- (c) Fairly well colored;
- (d) Well formed; and
- (e) Clean.
- (f) Free from:
  - (1) Decay;
  - (2) Insect larvae or holes caused by them;
  - (3) Soft, overripe or shriveled;
  - (4) Undeveloped doubles; and,
  - (5) Sunscald.
- (g) Free from damage by any other cause. (See § 51.2655.)
- (h) *Size*. Unless otherwise specified, the minimum diameter of each cherry shall be not less than three-fourths inch. The maximum diameter of the cherries in any lot may be specified in accordance with the facts.
  - (i) For tolerances see § 51.2648.

## § 51.2647 U.S. Commercial.

“U.S. Commercial” consists of sweet cherries which meet the requirements for the U.S. No. 1 grade except for minimum diameter and except for increased tolerances.

(a) *Size*. Unless otherwise specified, the diameter of each cherry shall be not less than five-eighths inch. The maximum diameter of the cherries in any lot may be specified in accordance with the facts.

- (b) For tolerances see § 51.2648.

## TOLERANCES

## § 51.2648 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

- (a) *For defects at shipping point*<sup>2</sup>—(1) U.S. No. 1. 8 percent for cherries which

<sup>2</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

fail to meet the requirements for this 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 cherries which are affected by decay.

(2) *U.S. Commercial*. 16 percent for cherries which fail to meet the requirements for this 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 cherries affected by decay.

(b) *For defects en route or at destination*—(1) U.S. No. 1. 12 percent for cherries in any lot which fail to meet the requirements for this grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for cherries which fail to meet the requirements for this grade because of permanent defects; or,

(ii) 6 percent for cherries which are seriously damaged, including therein not more than 4 percent for cherries which are seriously damaged by permanent defects and not more than 2 percent for cherries which are affected by decay.

(2) *U.S. Commercial*. 24 percent for cherries in any lot which fail to meet the requirements for this grade: *Provided*, That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 16 percent for cherries which fail to meet the requirements for this grade because of permanent defects; or,

(ii) 6 percent for cherries which are seriously damaged, including therein not more than 4 percent for cherries which are seriously damaged by permanent defects and not more than 2 percent for cherries which are affected by decay.

(c) *For off-size*. 5 percent for cherries which fail to meet the specified minimum diameter and 10 percent for cherries that fail to meet any specified maximum diameter.

continental United States, the port of entry into the United States.