

### § 33.2

as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," approved June 10, 1933 (48 Stat. 123; 7 U.S.C. 581 *et seq.*).

### § 33.2 Person.

*Person* means an individual, partnership, association, corporation, or any other business unit.

### § 33.3 Secretary.

*Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

### § 33.4 Carrier.

*Carrier* means any common or private carrier, including, but not being limited to, trucks, railroads, airplanes, vessels, tramp or chartered steamers whether carrying for hire or otherwise.

### § 33.5 Apples.

*Apples* means fresh whole apples in packages whether or not they have been in storage.

### § 33.6 Pears.

*Pears* means fresh whole pears in packages whether or not they have been in storage.

### § 33.7 Package.

*Package* means any container of apples or pears.

### § 33.8 Less than carload lot.

*Less than carload lot* means a quantity of apples in packages not exceeding 20,000 pounds gross weight or 400 standard boxes or equivalent, or a quantity of pears in packages not exceeding 50,000 pounds gross weight or 1,000 standard boxes or equivalent.

[54 FR 29318, July 12, 1989]

## REGULATIONS

### § 33.10 Minimum requirements.

No person shall ship, or offer for shipment, and no carrier shall transport, or

## 7 CFR Ch. I (1-1-05 Edition)

receive for transportation, any shipment of apples or pears to any foreign destination unless:

(a) Apples grade at least U.S. No. 1 or U.S. No. 1 Early: *Provided*, That apples for export to Pacific ports of Russia shall grade at least U.S. Utility or U.S. No. 1 Hail for hail-damaged apples, as specified in the United States Standards for Apples (§§ 51.300-51.323 of this chapter): *Provided further*, That apples for export to any foreign destination do not contain apple maggot, and do not have more than 2 percent, by count, of apples with apple maggot injury, nor more than 2 percent, by count, of apples infested with San Jose scale or scale of similar appearance;

(b) Pears grade at least U.S. No. 2 as specified in the United States Standards for Summer and Fall Pears, such as Bartlett, Hardy, and other similar varieties (Sections 51.1260-51.1280 of this chapter), or in the United States Standards for Winter Pears, such as Anjou, Bosc, Comice, and other similar varieties (Sections 51.1300-51.1323 of this chapter), do not contain apple maggot, and do not have more than 2 percent, by count, of pears with apple maggot injury, nor more than 2 percent, by count, of pears infested with San Jose scale or scale of similar appearance: *Provided*, That the minimum quality requirements for pears exported to Pacific ports of Russia are as follows:

(1) Summer and fall pears shall be of one variety which are mature, hand picked, clean, sound and free from hard-end; and free from serious damage caused by broken skin, insects, disease, hail marks, limbrubs, heavy russet, or other means; and shall not be so excessively elongated or flattened as to preclude the cutting of one good half. Broken skin must not exceed 1/4 inch in diameter. The following definitions shall apply to all varieties:

*Clean* means reasonably free from dust, dirt, or honey dew.

*Free from serious damage* means defects when taken singly or collectively shall not seriously affect the edible or culinary value of the fruit.

*Hand picked* means that pears do not show evidence of rough handling or of having been on the ground.

*Hard-end* means pears which show an abnormally yellow or green color at the blossom end or an abnormally smooth rounded base with little or no depression at the calyx, or if the flesh near the calyx is abnormally dry and tough or woody. Pears affected by hard-end shall be considered defects. Rat-tail shaped pears, or second bloom pears that are tough or ridged shall be considered defects. At the time of packing, not more than 10 percent, by count, of any lot may be below the requirements of the grade, and not more than one-tenth of this amount or 1% shall be allowed for decay and/or breakdown. For a tolerance of 10 percent or more, individual packages in any lot may contain not more than one and one-half times the tolerance specified, except that when the package contains 15 specimens or less, individual packages may contain not more than double the tolerance specified. For a tolerance of less than 10 percent, individual packages in any lot may contain not more than double the tolerance specified, provided at least one specimen which does not meet the requirements shall be allowed in any one package. Slight imperfections which are not discernible in good commercial sorting practice shall not be considered as defects. Small inconspicuous skin breaks of less than  $\frac{1}{8}$  inch in diameter or depth shall not be considered as damage, and not more than 15 percent of the pears in any container may have not more than one skin break from  $\frac{1}{8}$  inch to  $\frac{3}{16}$  inch, inclusive, in diameter or depth. After pears have been placed in storage, or in transit; scald, breakdown, decay, bitter pit, or physical injury affecting keeping quality, which may have developed or may only have become evident after pears are packed, are defined as applying to condition rather than to grade. Pears also shall not contain apple maggot, and shall not have more than 2 percent, by count, of pears with apple maggot injury, nor more than 2 percent, by count, of pears infested with San Jose scale or scale of similar appearance.

*Mature* means having reached the stage of maturity which will insure a proper completion of the ripening process. Firmness of the flesh shall be considered only in connection with other

factors to determine the degree of maturity.

*Sound* means that pears at time of packing are free from visible defects such as decay, breakdown, scald, bitter pit, or physical injury affecting keeping quality. The following conditions shall not be considered serious damage: healed insect depressions or other surface blemishes which do not prevent the cutting of one good half;

(2) Winter pears shall be of one variety which are mature, hand picked, clean, sound, not very seriously misshapen, free from black end, free from damage caused by hard end, broken skins, and from serious damage caused by cork spot or bruises. The following definitions shall apply to all varieties:

*Black end* is evidenced by an abnormally deep green color around the calyx, or black spots usually occurring on one-third of the surface nearest to the calyx, or by an abnormally shallow calyx cavity.

*Clean* means free from excessive dirt, dust, spray residue, or other foreign material. *Damage* by skin break means any pear with one skin break larger than  $\frac{3}{16}$  inch in diameter or depth, or with more than one skin break  $\frac{1}{8}$  inch or larger in diameter or depth. Such pear shall be considered damaged, and scored against the grade tolerance.

*Damage* by skin break means any pear with one skin break larger than  $\frac{3}{16}$  inch in diameter or depth, or with more than one skin break  $\frac{1}{8}$  inch or larger in diameter or depth. Such pear shall be considered damaged, and scored against the grade tolerance.

*Handpicked* means that the pears do not show evidence of having been on the ground.

*Hard end* is an abnormal yellow color at the blossom end, or an abnormally smooth, rounded base with little or no depression at the calyx, or if the flesh near the calyx is abnormally dry and tough or woody.

*Mature* means that the pear has reached the stage of maturity which will insure the proper completion of the ripening process.

*Overripe* means dead ripe, very mealy or soft, past commercial utility.

*Serious damage* by *cork spot* is when more than two cork spots are visible externally, or when the visible external

### § 33.11

injury affects an aggregate area of more than ½ inch in diameter. *Serious damage* by bruising is bruising which seriously affects the appearance, edible or shipping quality. For a tolerance of 10 percent or more, individual packages in any lot may contain not more than one and one-half times the tolerance specified, except that when the package contains 15 specimens or less, individual packages may contain not more than double the tolerance specified. For a tolerance of less than 10 percent, individual packages in any lot may contain not more than double the tolerance specified, provided at least one specimen which does not meet the requirements shall be allowed in any one package. Pears also shall not contain apple maggot, and shall not have more than 2 percent, by count, of pears with apple maggot injury, nor more than 2 percent, by count, of pears infested with San Jose scale or scale of similar appearance;

(c) Decay, scald or any other deterioration which may have developed on apples or pears after they have been in storage or transit shall be considered as affecting condition and not the grade.

(d) Each package of apples or pears is packed so that the apples or pears in the top layer shall be reasonably representative in size, color, and quality of the contents of the package; and

(e) Each package of apples or pears is marked plainly and conspicuously with:

(1) The name and address of the grower, packer, or domestic distributor: *Provided*, That the name of the foreign distributor may be placed on consumer unit packages shipped in a master container if such master container is marked with the name and address of the grower, packer, or domestic distributor;

(2) The variety of the apples or pears;

(3) The name of the U.S. grade or the name of a state grade if the fruit meets each minimum requirement of a U.S. grade specified in this section; and *Provided further*, That the marking requirements of this paragraph shall not apply to pears meeting minimum qual-

### 7 CFR Ch. I (1-1-05 Edition)

ity requirements of this section and shipped to Pacific ports of Russia.

[24 FR 6610, Aug. 14, 1959, as amended at 28 FR 12901, Dec. 12, 1963; 32 FR 9298, June 30, 1967; 33 FR 12819, Sept. 11, 1968; 61 FR 50422, Sept. 26, 1996; 62 FR 1033, Jan. 8, 1997]

#### § 33.11 Inspection and certification.

(a) Each person shipping, or offering for shipment, apples or pears to any foreign destination shall cause them to be inspected by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection and certification of fresh fruits, vegetables and other products (Part 2851<sup>1</sup> of this chapter) and certified as meeting the requirements of the Act and this part. No carrier shall transport, or receive for transportation, apples or pears to any foreign destination unless they have been so inspected and certified. Inspection and certification may be obtained at any time prior to exportation of the apples or pears. Such a Federal or Federal-State certificate shall be designated as an "Export Form Certificate" and shall include the following statement: "Meets requirements of Export Apple and Pear Act." The shipper shall deliver a copy of the Export Form Certificate or Memorandum of Inspection to the export carrier. Whenever apples or pears are inspected and certified at any point other than the port of exportation, the shipper shall deliver a copy of the Export Form Certificate or Memorandum of Inspection to the agent of the first carrier that thereafter transports such apples or pears and such agent shall deliver such copy to the proper official of the carrier on which the apples or pears, covered by such certificate or memorandum, are to be exported. A copy of the Export Form Certificate or Memorandum of Inspection shall be filed by the export carrier for a period of not less than three (3) years after date of export.

(b) If the inspector has reason to believe that samples of a lot of apples or pears have been obtained for a determination as to compliance with tolerance for spray residue, established

<sup>1</sup>Part 2851 was redesignated as part 51 at 46 FR 63203, Dec. 31, 1981.