

## Agricultural Marketing Service, USDA

§917.461

the Federal or Federal-State Inspection Service prior to the time such pears are shipped from the packing facility. Any pears shipped to any such facility which, upon inspection, do not meet the requirements of the then effective grade, size, or quality regulations, may be shipped, or handled, within the State, for consumption by any charitable institution or for distribution by any relief agency or for conversion into products. Prior to any such shipment or handling, there shall first have been submitted to the committee proof satisfactory to the committee that the pears will not be handled contrary to the requirements of the marketing agreement and order. Such proof shall include a written certificate, executed by both the handler and the intended receiver, stating that the pears will not be used for any purpose not authorized by this section.

[41 FR 31180, July 27, 1976]

EFFECTIVE DATE NOTE: At 59 FR 10056, Mar. 3, 1994, §917.149 was suspended, effective Apr. 4, 1994.

### REGULATION OF DAILY SHIPMENTS

#### REPORTS

##### §917.176 Pears.

(a) *Report of daily packout.* When requested by the Pear Commodity Committee, each shipper who ships pears shall furnish to the manager of the Control Committee or when designated to the Federal-State Inspection Service a report of the number of packages by container type, by variety and by district of origin, which the shipper packed during the preceding day.

(b) *Recapitulation of shipments.* When requested by the Pear Commodity Committee, each shipper of pears shall furnish to the manager of the Control Committee a recapitulation of his shipments. The recapitulation shall show:

- (1) The name of the shipper,
- (2) The shipping point,
- (3) The district of origin,
- (4) The variety, and
- (5) The number of packages, by size, for each container type.

(c) *Report of pears held in storage.* Each shipper who has pears under refrigeration in a storage warehouse shall upon request, file with the man-

ager of the Control Committee within the time specified in the request an accurate report containing the following information:

(1) The name and address of the shipper; and

(2) The total quantity, as of the date specified in the request, of pears in storage outside of the State of California and in storage in the State of California.

[39 FR 27117, July 25, 1974]

EFFECTIVE DATE NOTE: At 59 FR 10056, Mar. 3, 1994, §917.176 was suspended, effective Apr. 4, 1994.

### Subpart C—Grade and Size Requirements

#### §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 with not less than 50 percent, by count, grading at least U.S. No. 1 and the remainder grading at least U.S. No. 2, except that russetting shall not be scored as a defect for such organic pears. Handlers who intend to ship organic pears in accordance with this paragraph shall provide, upon request of the committee, with the approval of the Secretary, information to indicate that the pears were grown in accordance with the provisions of paragraph (b)(5) of this section.

(2) Any box or container, including consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such pears are of a size not smaller than the size known commercially as size 165;

(3) Any box or container, other than consumer packages in master containers and consumer packages not in master containers, of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears unless such box or container is stamped or otherwise

marked, in plain sight and in plain letters, on one outside end with the name of the variety;

(4) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in closed containers, other than consumer packages in master containers and consumer packages not in master containers, unless such box or container conforms to the requirement of standard pack, except that such pears may be fairly tightly packed;

(5) Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears, when packed in other than a closed container, unless such pears do not vary more than  $\frac{3}{8}$  inch in their transverse diameter for counts 120 or less, and  $\frac{1}{4}$  inch for counts 135 to 165, inclusive: *Provided*, That 10 percent of the containers in any lot may fail to meet the requirements of this subparagraph: *Provided further*, That such varieties of pears shipped in bulk bin containers containing 300 pounds or more of pears shall be exempt from the requirements in this subparagraph.

(6) Any volume-filled box or container of Bartlett or Max-Red (Max-Red Bartlett, Red Bartlett) varieties of pears (not packed in rows and not wrap packed), other than consumer packages in master containers and consumer packages not in master containers, unless (i) such boxes or containers are well filled with pears fairly uniform in size; (ii) such pears are packed fairly tight; (iii) there is an approved top pad in each box or container that will cover the fruit with no more than  $\frac{1}{4}$  inch between the pad and any side or end of the box or container; and (iv) the top of the box or container shall be securely fastened to the bottom: *Provided*, That 10 percent of the boxes or containers in any lot may fail to meet the requirements of this paragraph.

(7) Each master container, when filled with pears packed in consumer packages, shall bear on one outside end in plain sight and plain letters the varietal name and size description of the contents; the number of consumer packages packed in the master container; the net weight of each consumer package; and the name and address, including zip code, of the handler.

(8) Each individual consumer package shall bear the name and address, including the zip code, of the handler and the net weight of the contents. When a consumer package is not shipped in a master container, it must also bear the varietal name, number and size description of pears contained in the package.

(b) *Definitions*. (1) *Size known commercially as size 165* means a size of pear that will pack a standard pear box, packed in accordance with the specifications of standard pack, with 165 pears and that one-half of the count size designated, representative of the size of the pears in the box or container, shall weigh at least 22 pounds.

(2) *Standard pear box* means the container so designated in §1380.19 of the regulations of the California Department of Food and Agriculture.

(3) *U.S. No. 1, U.S. No. 2, U.S. Combination, and Standard Pack* mean the same as defined in the United States Standards for Summer and Fall Pears (7 CFR 51.1260 to 51.1280).

(4) *Approved top pad* shall mean a pad of wood-type excelsior construction, fairly uniform in thickness, weighing at least 160 pounds per 1,000 square feet (e.g., an 11 inch by 17 inch pad will weigh at least 21 pounds per 100 pads) or an equivalent made of material other than wood excelsior approved by the committee.

(5) *Organic pears* means pears which are produced, harvested, distributed, stored, processed and packaged without application of synthetically compounded fertilizers, pesticides, or growth regulators. In addition, no synthetically compounded fertilizers, pesticides, or growth regulators shall be applied by the grower to the field or area in which the pears are grown for 12 months prior to the appearance of flower buds and throughout the entire growing and harvest season for pears.

(6) *Consumer package* means a package holding 15 pounds or less net weight of pears.

[46 FR 48116, Oct. 1, 1981, as amended at 47 FR 34116, Aug. 6, 1982; 54 FR 32796, Aug. 10, 1989; 55 FR 25958, June 26, 1990; 56 FR 32063, July 15, 1991; 57 FR 31093, July 14, 1992]

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