

**DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED REGULATIONS**

Text proposed to be added is displayed in underline type. Text proposed to be deleted is displayed in ~~strikethrough~~ type.

California Code of Regulations
Title 3. Food and Agriculture
Division 3. Economics
Chapter 1. Fruit and Vegetable Standardization
Subchapter 4. Fresh Fruits, Nuts and Vegetables
Article 21 Cherries

§1428.3. Cherries, Mature, Red or Black Variety., 1428.6 Cherries, Tolerance,
1428.7 Cherries-Extra Tolerance for Immaturity, 1428.8 Cherries, Markings on
Containers, 1428.10 Cherries, Packed Row Size, and 1428.12 Cherries, Loose;
Marking and Size Requirement.

§1428.3. Cherries, Mature, Red or Black Variety.

No red or black variety of cherries shall be considered mature unless at time of picking the entire surface of the cherries has attained at least a solid, light red color- or test not less than 14 percent soluble solids in a composite sample of the juice from not less than 10 representative cherries as shown by a standard refractometer instrument.

§ 1428.6. Cherries, Tolerance.

Not more than 10 percent by count, of the cherries in any one container or bulk lot, may be below the requirements which are prescribed by this article. Not more than one-half of this tolerance shall be allowed for any one cause. In addition, 5 percent of the cherries in any one container or bulk lot may be slightly below the maturity requirements pertaining to the surface color which are prescribed in this article. ~~In no case however, may such cherries show any green areas, except cherries of the Bing variety which test not less than 16 percent or cherries of the Tartarian variety, which test not less than 14 percent, soluble solids in a composite sample of the juice from not less than 10 representative cherries as shown by a standard refractometer instrument.~~

Note: Authority cited: Sections 407 and 4264, Food and Agriculture Code.
Reference: Section 42941, Food and Agriculture Code.

§ 1428.7. Cherries - Extra Tolerance for Immaturity.

The regular tolerance of 10 percent of cherries failing to meet the standards in Section 1428.6 with a limitation of 5 percent for any one of such requirements

applies to maturity also. Other defects permitting, 5 percent of the cherries could be immature without restriction.

The section further provides as follows: "In addition, 5 percent of the cherries in any one container or bulk lot may be slightly below the maturity requirements of this section, ~~but in no case may such cherries show any green areas, excepting the Bing variety when testing not less than 16 percent and the Tartarian variety when testing not less than 14 percent soluble solids in a composite sample of the juice from not less than 10 representative cherries as shown by a standard refractometer instrument.~~ When applying the additional tolerance for cherries which may be slightly below the maturity requirements, in containers where the regular 10 and 5 percent tolerance is used by other defects, an additional 5 percent may be below the solid light red color requirement; providing red and black cherries in this additional tolerance do not show any green areas. ~~Except that cherries of the Bing and Tartarian varieties may show green areas if such cherries test not less than 16 percent and 14 percent respectively as defined by law.~~

Note: Authority cited: Sections 407 and 42684, Food and Agricultural Code.
Reference: Section 42941, Food and Agricultural Code.

§ 1428.8. Cherries, Markings on Containers.

In addition to the basic marking requirements of Section 1359, every nonconsumer type container of cherries shall be clearly and conspicuously marked with the following information:

(a) The name of the variety, if known, ~~the words "Unknown Variety" or "Sweet Cherries".~~

(b) ~~If two or more varieties are placed in the same container, it shall be marked with the words "Mixed Varieties."~~

Note: Authority cited: Sections 407 and 42682, Food and Agricultural Code.
Reference: Section 42941, Food and Agricultural Code.

§ 1428.10. Cherries, Packed Row Size.

Every container of row-packed cherries shall be marked with the number of rows of cherries which are packed laterally across the end of the container, directly followed by the word "row" or "rows" or the letter "R" in like size letters. No row size marking is, however, permitted for containers of less than 12 1/2 14 row size, ~~and smaller in the Tartarian variety of cherries and less than 13 row size and smaller in the Bing variety of cherries.~~

Note: Authority cited: Sections 407 and 42682, Food and Agricultural Code.
Reference: Section 42941, Food and Agricultural Code.

§ 1428.12. Cherries, Loose; Marking and Size Requirements.

Every nonconsumer container of loose cherries shall be clearly and conspicuously marked with one of the following:

(a) The row size, as determined by the "standard cherry row sizer" approved by the department, followed by the term "row size." No row size marking is permitted for containers of less than ~~44~~12 1/2-row size and smaller. ~~In the Tartarian variety cherries and less than the 13 row size and smaller in the Bing variety of cherries.~~

(b) The "minimum diameter" of the cherries in the container expressed in inches or fractions of an inch followed by the term "inch minimum diameter," "inches minimum diameter," or a proper abbreviation or variation of such designation. No such minimum diameter marking shall be permitted on containers of ~~Tartarian variety~~ cherries which are less than ~~46~~51/64 inch minimum diameter. ~~And Bing variety cherries which are less than 48/64 inch minimum diameter.~~

(c) Containers of cherries packed by the face and fill method shall not be required to be marked with a size designation, provided that:

(1) When the containers are marked with a size designation, the cherries in both the face and the fill shall comply with the size marked on the container.

(2) When the containers are not marked with a size designation, all of the cherries in the fill may be one full size smaller than cherries in the face. Not more than 10%, by count of the cherries in the fill may be two full sizes smaller than the cherries in the face.

~~(3) The minimum size restriction specified above for the Tartarian and Bing varieties shall apply to the face and fill method of pack.~~

Note: Authority cited: Sections 407 and 42682, Food and Agricultural Code.
Reference: Section 42941, Food and Agricultural Code.