

## SUBCHAPTER 43F - MARKETING AND BRANDING: APPLES AND PEACHES

### SECTION .0100 - DEFINITIONS AND STANDARDS

#### 02 NCAC 43F .0101 DEFINITIONS

(a) For the purpose of these Regulations reference is made, unless otherwise specified to Chapter 106, Articles 17 and 18 of the General Statutes:

- (1) "Regulations" is defined to mean rules and regulations of the Board of Agriculture under this Section.
- (2) "Deception" is defined to mean any of the following:
  - (A) any false representation or misleading statement printed, stamped, labeled, branded or attached to any open or closed receptacle designating the name of product, variety, count, size, quality, condition or grade of the product; or
  - (B) when the face, top layer or exposed portion of the contents of any open or closed container is not representative of remaining portion of the receptacle as to variety, count, size, color, quality, condition or grade.
- (3) "Principal Display Panel" is defined to mean that part of a label, bag, bag insert, or other container that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.
- (4) "Fairly Uniform Size" is defined to mean not more than one-fourth of one inch variation between the diameter of the smallest and the largest apple in the package.
- (5) "Closed Container" is defined to mean any container on which the customary top, lid or other covering has been placed or any other container or wrapping in which apples or peaches are enclosed for use in delivery, display or sale of the commodity.
- (6) "Mature" is defined as follows: Apples shall be deemed mature when the soluble solids of Red Delicious or Delicious are not less than 9.5 and Golden Delicious are not less than 10.5 as determined by use of an NCDA approved standard refractometer calibrated to zero with distilled water; and when the firmness of Red Delicious or Delicious does not exceed 20 pounds and of Golden Delicious does not exceed 19 pounds, as determined by an NCDA approved pressure tester. The tests detailed in this Rule when administered by an approved NCDA official will constitute the final decision of the Department of Agriculture. In case of extreme weather conditions, the Commissioner of Agriculture, upon request of the Board of Directors of the N. C. Apple Growers Association, may adjust the percent soluble solids and pounds of firmness criteria.

(b) Words used in this Section in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

*History Note:* Authority G.S. 106-185; 106-188; 106-189; 106-195;  
Temporary Amendment Eff. August 5, 1985, for a Period of 120 Days to Expire on December 3, 1985;  
Eff. August 1, 1982;  
Amended Eff. December 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

#### 02 NCAC 43F .0102 ADMINISTRATION

The Commissioner of Agriculture and his agents are charged with the supervision of the performance of all duties rising in the administration of this Section.

*History Note:* Authority G.S. 106-186; 106-187; 106-195;  
Eff. August 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

#### 02 NCAC 43F .0103 STANDARDS FOR RECEPTACLES: LABELING: ETC.

All closed containers in which apples or peaches are packed for sale, exposed for sale, or offered for sale, shall clearly and conspicuously be marked immediately after the containers are closed in accordance with the following regulations:

- (1) The name and address (including zip code) of grower, packer, shipper, or distributor must be shown on the principal display panel.
- (2) The name of the product must be shown on the principal display panel.
- (3) The variety of apples must be shown; however, it may be shown on the principal display panel or on the bag closure. The words "Variety Unknown" may be used in lieu of the variety on containers in which apples are packed that are normally marketed during the summer months and meet the grade U.S. No. 1, Early.
- (4) The variety of peaches must be shown on the principal display panel. The words "Clingstone Peaches," "Semi-clingstone Peaches," or "Freestone Peaches," as applicable, may be used in lieu of variety.
- (5) The net quantity of contents (weight, measure or count) must be shown on the principal display panel in a uniform location, as required by the Federal Fair Packaging and Labeling Act.
- (6) The minimum size must be shown on the principal display panel; however, when fairly uniform size apples or peaches are packed in a container and sold by count, count may be used in lieu of net weight and minimum size markings. However, overwrap packages that contain six or less apples or peaches that are fully visible to the purchaser need not include a statement of count.
- (7) Apple containers must show the applicable U.S. Grade on the principal display panel or be marked "Unclassified," "Not Graded," or "Grade Not Determined." Peach containers are not required to show grade markings; however, when grade is shown, the product must meet that standard.

*History Note:* Authority G.S. 106-185; 106-188; 106-195;  
 Eff. August 1, 1982;  
 Amended Eff. July 1, 1998; July 1, 1986; February 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

#### **02 NCAC 43F .0104      INSERTS**

Inserts may be used only where the outer wrapper is fully transparent (no printing of any type on the wrapper) and the printed information on the insert can be clearly read through the wrapper.

*History Note:* Authority G.S. 106-185; 106-188; 106-189; 106-189.1; 106-189.2; 106-195; 106-197;  
 Eff. August 1, 1982;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

#### **02 NCAC 43F .0105      SPLIT-LABELING**

"Split-Labeling" is not allowed, except for "Variety" which may be shown on the bag closure. All other markings and lettering must be shown on the principal display panel.

*History Note:* Authority G.S. 106-185; 106-188; 106-189; 106-189.1; 106-189.2; 106-195; 106-197;  
 Eff. August 1, 1982;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

#### **02 NCAC 43F .0106      EXEMPTIONS**

All gift packages containing four or more different fruits are exempt from marking requirements.

*History Note:* Authority G.S. 106-185; 106-188; 106-189; 106-189.1; 106-189.2; 106-195; 106-197;  
 Eff. August 1, 1982;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

**02 NCAC 43F .0107 ENROUTE OR AT DESTINATION TOLERANCES FOR APPLES**

A total of 40 percent for apples which fail to meet the requirements of the United States Standards for apples; provided, that included in this amount not more than 10 percent shall be allowed for permanent defects or not more than 10 percent shall be allowed for decay or internal breakdown.

*History Note: Authority G.S. 106-185; 106-188; 106-189; 106-189.1; 106-189.2; 106-195; 106-197; Eff. August 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

**02 NCAC 43F .0108 POSSESSION AND OWNERSHIP OF APPLES AND PEACHES**

(a) It shall be unlawful for any person, firm or corporation to possess for purposes of sale any apples or peaches in closed containers which are not marked, branded or labeled according to the regulations adopted by the Board of Agriculture.

(b) All apples and peaches shall be considered the property of the person in whose possession or on whose premises they are found except those in the custody of common carriers, or persons, firms or corporations engaged only to haul apples and peaches or public warehouses where the owner is identified by record.

*History Note: Authority G.S. 106-185; 106-188; 106-189; 106-189.1; 106-189.2; 106-195; 106-197; Eff. August 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

**02 NCAC 43F .0109 FRAUDULENT ADVERTISEMENT**

Any words, phrases, pictures or other representatives used in advertising the official grades, classifications or variety which misrepresent the product, whether written or oral, are prohibited.

*History Note: Authority G.S. 106-185; 106-188; 106-189; 106-189.1; 106-189.2; 106-195; 106-197; Eff. August 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

**02 NCAC 43F .0110 CUCUMBERS SIZE STANDARDS**

There are hereby established three cucumber size standards which shall be used when cucumbers are offered for sale or bought according to size and there shall be no other size standard used. The "Number One" size standard shall be any cucumber one and one-sixteenth inches in diameter or less, regardless of length. The "Number Two" size standard shall be any cucumber over one and one-sixteenth inches in diameter, but not over one and one-half inches in diameter, regardless of length. The "Number Three" size standard shall be any cucumber over one and one-half inches in diameter, but not over two inches in diameter, regardless of length.

*History Note: Authority G.S. 106-185; 106-188; 106-189; 106-195; Eff. May 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

**02 NCAC 43F .0111 THE STANDARD OF MEASURE**

Any person, firm or corporation who buys or sells cucumbers according to size shall provide ways and means of separating cucumbers into one or more of the standard sizes hereby established. However, said ways and means may provide for further separation within the range of any one of the standard sizes hereby established, provided that all cucumbers within the range of a standard size shall constitute and be considered a part of the standard size from which it was separated.

*History Note: Authority G.S. 106-185; 106-188; 106-189; 106-195; Eff. May 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

