

# EXTRACTS FROM THE CALIFORNIA FOOD AND AGRICULTURAL CODE

## Pertaining to Wine Grapes

### CHAPTER 3. GRAPES FOR WINE AND BYPRODUCTS

#### Article 1. General Provisions

**41101.** The director shall have supervision and control over the commissioners and their deputies or inspectors in the performance of their duties under this chapter.

**41102.** The certificates which are provided for in this chapter are prima facie evidence of the true average soluble solids test of all of the grapes in the lot or load under consideration. The presumption established by this section is a presumption affecting the burden of proof, but it does not apply in a criminal action.

#### Article 2. Exceptions

**41131.** This chapter does not apply to grapes which are marketed by or through a nonprofit cooperative marketing association unless the board of directors of the association elects to have the soluble solid determination of the grapes of its members determined as provided in this chapter and notifies the agricultural commissioner of each county in which the association operates any winery of such election.

**41132.** This chapter does not affect the right of a purchaser of grapes for wine and byproducts purposes to specify a minimum percentage of soluble solids as a definition of maturity of the grapes if the price which is to be paid is determined other than on the basis of the soluble solid contents of the grapes.

#### Article 3. Determination of Soluble Solids Generally

**41161.** In order to prevent fraud and deception in any transaction which involves fresh grapes for wine and byproducts purposes, that requires the extraction or pressing out of the juice, in which the average percentage of soluble solids in the juice of such grapes is the basis for the amount of the purchase price, the determination of such average percentage of soluble solids shall be made by the commissioner or his deputies or his inspectors.

**41162.** Each lot or load of such grapes which is delivered shall be tested at or immediately after the time of delivery and the average soluble solids test of the juice of such grapes shall be certified to by such officer, in accordance with regulations which are prescribed by the director.

**41163.** Each commissioner shall provide for the taking of samples, making tests, and issuing the certificates which are required in this chapter.

**41164.** The board of supervisors of the county shall establish a scale and method of collection of fees, to be paid for each certificate which is provided for in this chapter. The scale of fees which are established for the certificates shall be based upon the approximate cost of the inspection, sampling, and testing which is necessary to the certification of the percentage of the soluble solids in each lot or load of grapes. The certification fee shall be paid by the person that

accepts delivery of the grapes. One-half of the fees may be deducted from funds owed to the person who delivered the grapes.

#### Article 4. Determination of Soluble Solids, Rot, and Foreign Material by the Director

**41191.** Notwithstanding any other provisions which are contained in this chapter and in lieu of such determinations by the commissioner, the director may make determinations of the average percentage of soluble solids in the juice of fresh grapes and certify, by the issuance of a certificate, to marketing order advisory boards, handlers, associations, or financially interested persons the determinations and findings which are so made if both of the following conditions are satisfied:

(a) A marketing order is made effective or the director is requested to determine the average percentage of soluble solids as required by this chapter by any person that is engaged in the business of purchasing fresh grapes for wine and byproducts or processing purposes which require the extraction or pressing out of the juice of the grapes.

(b) The director and the commissioner determine that such determinations can be more effectively made by the director.

**41192.** In order to prevent fraud and deception in any transaction which involves fresh grapes for wine and byproducts purposes, when the percentage of rot or foreign material has any effect on the amount of the purchase price, the determination of such percentage shall be made by the director.

**41193.** When any transaction involves fresh grapes for wine and byproducts purposes, the purchaser shall notify the seller, in writing, prior to delivery, of the conditions relating to soluble solids, rot, and foreign materials affecting the purchase price to be paid for such grapes.

**41194.** For the purpose of carrying out this article, the director may establish necessary regulations, including reasonable fees which are to be charged for the services and for the acceptance of advance fees to effectuate the determination. Any fees which are so established shall be based upon the approximate cost of the service which is rendered. Fees shall be paid by the person that accepts delivery of the grapes. One-half of the fees may be deducted from money owed to the person who shipped the grapes.

**41195.** Any money which is received pursuant to this article shall be paid into the Department of Food and Agriculture Fund to be expended in carrying out this article.

#### Article 5. Wine Grape Inspection Advisory Committee

**41201.5** There is in the department a Wine Grape Inspection Advisory Committee consisting of eight wine producers and eight wine grape growers appointed by the director. The director shall appoint one additional member to the committee, who may be a public member. The members of the committee shall receive no compensation.

In making appointments to the committee, the director shall appoint only one person to represent any one winery or growers' firm, and shall make every effort to ensure that there is

geographical representation from the major wine grape production areas in the state. This section shall become operative on January 1, 1996.

**41202.** The Legislature hereby declares that it intends that the wine producers and wine grape growers appointed to the Wine Grape Inspection Advisory Committee pursuant to this article shall represent and further the interests of the grape industry.

The Legislature also declares that this representation and furtherance of the grape industry serves the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed as members of the committee, the grape industry is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

**41203.** The term of office of each member of the committee is three years.

**41205.5** The members of the committee, or their voting alternates, consisting of at least five producers and five processors, shall constitute a quorum. Any action of the committee shall require not less than five affirmative votes of the processor members and five affirmative votes of the producer members.

This section shall become operative on January 1, 1996.

**41206.** The committee shall select a chairperson and a vice chairperson from among its members, and other officers as it deems necessary. The committee may adopt such regulations as it deems necessary for the conduct of its meetings and functions to carry out the objectives of this article.

The office of the chairperson and vice chairperson shall alternate annually between the producer and processor members. In any year that a processor member is the chairperson, a producer member shall be the vice chairperson, and in any year that a producer member is the chairperson, a processor member shall be vice chairperson. The committee may recommend such subcommittees as it deems necessary to assist the committee and the director.

**41207.5** (a) The committee shall be advisory to the director on all matters pertaining to this chapter and certification of the quality of grapes used for processing pursuant to Section 40531 and shall make recommendations concerning the inspection and certification services rendered, including the annual budget and fees necessary to provide adequate inspection services. All recommendations for budgets and assessment fees shall be submitted to the director on or before May 1 of each year.

(b) The committee's primary goal shall be to recommend to the director objective criteria and inspection procedures for all quality conditions that have an effect on the acceptance of, or on the amount of the purchase price of, fresh grapes for wine and byproduct purposes.

(c) This section shall become operative on January 1, 1996.

**41207.6** (a) In order to operate economically and reduce expenses that may adversely impact persons subject to this chapter, the committee may, on or before January 15 of any year, request the director to utilize an appropriate entity, rather than personnel of the department, to supply the field staff and supplies necessary to provide inspection services.

(b) Notwithstanding subdivision (a), the director shall be responsible for the enforcement of this chapter, the establishment of enforcement procedures, and uniformity, accuracy, and integrity of inspection.

(c) This section is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

**41207.7** The director may provide rules and procedures to be used by the entity in administering this chapter. The procedures may include:

(a) Employment, training, supervision, and compensation of inspectors.

(b) Use of existing, and acquisition of, additional equipment and supplies.

**41207.8** The committee shall not recommend and the director shall not utilize, an entity a majority of whose officers and employees are persons regulated by this chapter.

**41207.9** The entity shall keep an accurate record of expenses incurred in performing its responsibilities. Those records shall be available for audit during regular business hours upon request of the director.

**41207.10** The director may require an entity to correct or cease any activity or function that is determined by the director not to be in the public interest or in violation of this chapter, and shall notify the entity in writing of these specific acts.

**41207.11** The director shall reimburse the entity for its actual and necessary expenses upon receipt of an approved invoice.

**41208.** The committee shall meet at the call of the chairperson or at the request to the director of any three members of the committee. The committee shall meet at least once a year. The meetings of the committee shall be held at locations in California which will tend to ensure industry participation and productive meetings.

**41209.** The director shall appoint an alternate member for each committee member. In making the appointments, the director shall appoint a wine producer as the alternate for each wine producer member and a wine grape grower as the alternate for each wine grape grower member, and shall consider persons suggested by the member for whom the alternate is designated to serve.

**41210.** Alternate members shall serve at committee meetings only in the absence of the member for whom they are designated as the alternate.

**41211.** (a) The director, in consultation with the University of California and the California State University, shall conduct a study on the feasibility of establishing a public or private program, or a combination thereof, for the development of new grape-based products and their uses and for promoting and marketing these new products.

(b) The Wine Grape Inspection Advisory Committee, created pursuant to Section 41201, shall form a subcommittee, consisting of five grower members of the committee who shall each

represent geographically different grape growing regions of the state, to advise the director with respect to the study described in subdivision (a).

(c) The director shall report his or her findings to the Governor, the Assembly Committee on Agriculture, and the Senate Committee on Agriculture and Water Resources, not later than January 1, 1992.

(Rev. 5/31/01)

## GROUP 10. GRAPES FOR WINE AND BY-PRODUCTS

### TITLE 3, CALIFORNIA CODE OF REGULATIONS

#### Article 1, Subchapter 1, Chapter 3

#### **1650. Notification.**

Notification in writing shall be made by the winery requesting inspection to the Director or county agricultural commissioner of the county in which the testing location is designated. Grapes shall be inspected at a location designated by the winery.

#### **1650.1. Prior Notice.**

Notification shall be made five (5) or more days prior to the date of inspection.

Less than five days notification may be made if it has been established to the satisfaction of the Director or county agricultural commissioner that the inspection facilities, equipment, and trained personnel are available.

#### **1650.2. Prior Agreement.**

The date, time, and hours of the day that inspection will be conducted shall be based on the availability of the inspection facilities, equipment, and trained personnel. An agreement shall be established prior to inspection between the Director or county agricultural commissioner and the winery requesting inspection.

#### **1650.15. Request for Defect Inspection.**

(a) After January 1, 1994, the Director shall be notified by May 1, of each year, by the person requesting defect inspection of the selection of the "hand sort method" or an "approved immunoassay procedure".

(b) Persons not specifying a method by May 1, may not utilize the immunoassay procedure that harvest season unless the Director determines that adequate facilities, equipment, supplies, and trained personnel are available.

#### **1652. Inspection Facilities.**

Each winery shall provide a safe and adequate inspection facility approved by the Director or county agricultural commissioner for inspection, sampling, and certification.

### **1652.1 Adequate Facilities**

Adequate facilities are defined as a grading platform and equipment established at a location or area of inspection that will accomplish the objectives of the Director or county agricultural commissioner.

### **1652.2 Inspection Station Requirements.**

The inspection platform and other facilities required for material other than grapes or defect inspection are as follows:

- (a) Grading platform or area shall be approximately 15 feet wide by 20 feet in length for one grading table, and 18 feet by 25 feet for two grading tables. The platform shall be high enough so that the inspector may observe the top of the load of grapes to be graded and designate the sample locations. The grading platform or area shall be covered by a roof.
- (b) A standard grading table built according to the specifications of the Director. Grading table specifications are available from the Department.
- (c) An approved mechanized sampling tube which will produce approximately 35 pounds or more for material other than grapes and defect inspection, and a minimum of 6 1/2 pounds for soluble solids testing.
- (d) Potable water supply.
- (e) Toilet facilities.
- (f) Adequate lighting.

### **1655. Additional Winery Personnel.**

If additional personnel are required at the station, they shall be furnished without charge by the winery upon the request of the Director or county agricultural commissioner.

The additional personnel may probe for inspection samples, crush and obtain the grape juice for testing, and perform other duties as designated by an authorized inspector. The additional personnel shall be under the immediate direction of an authorized inspector and shall not assist in any determination of the testing, grading, or activity of inspection that could influence the results of inspection.

### **1656. Formula for Fees.**

The Department hereby adopts a formula to establish a fee charged to each winery to defray the cost of State inspection or reinspection upon request, as specified by Section 41194 of the Food and Agricultural Code.

- (a) The formula for the fee each winery will pay the Wine Grape Inspection Program is: divide the estimated annual budget of the program by the estimated tons inspected. The result is the cents per ton. The cents per ton is multiplied by the net tons per load as determined by a

certified weight certificate on each load inspected. For wineries that receive small tonnages per week, a minimum tonnage inspected shall be established per week for the season. Wineries that receive tonnage below the minimum shall be charged an hourly rate comparable to the tonnage rate charged to large tonnage wineries.

(b) At the end of each calendar week, the winery requesting inspection shall remit to Cashier, California Department of Food and Agriculture, the fee for inspection for the week.

(c) Upon written demand of the Department, a winery requesting inspection shall remit an advance deposit of \$1,000 to Cashier, California Department of Food and Agriculture prior to the start of inspection. This requirement shall be based upon the Department's knowledge of the financial status of a winery or the winery's past performance in remitting its inspection fees to the Department.

At the close of each inspection season, the amount of advance deposit not used for inspection purposes shall be refunded to the winery from which it was received.

### **1657. Contract.**

Prior to inspection, each winery shall provide, on request of the Director or county agricultural commissioner, written evidence that a contract exists between the winery and the grower for loads of grapes to be presented for inspection.

### **1658. Sampling Procedure.**

The authorized inspector may require samples from any location in the load or lot of grapes in order to produce by such sampling a fair representation of the entire load or unit.

All samples shall be taken from widely separated parts of the load or lot being inspected. The number of samples from each load or lot of grapes shall be designated by the authorized inspector, and shall be taken according to the sampling method provided in these regulations.

#### **1658.1. Lot or Load Definition.**

A lot or load shall consist of a single delivery of the same ownership and shall be sampled and inspected as one unit, except where different varieties are separated by container.

The Director, county agricultural commissioner, grower, or winery representative may request a separate sample and inspection of a lot or load when the lots are clearly segregated. Separate inspections shall be made and a certificate shall be issued for each inspection.

#### **1658.2. Mixed Varieties of Grapes.**

Varieties of grapes mixed in one tank shall be graded as mixed, and a certificate issued specifying the variety as "mixed".

### **1658.3. Reinspection.**

Inspectors, of their own volition, or at the request of a winery representative, or a grower, or a grower representative, may make a second inspection if reasonably necessary, based on the inspection results of previous deliveries.

A complete and new representative sample shall be obtained for reinspection. The results of the first and second inspections shall be averaged together and the average shall be the final result for lot or load inspected.

Not more than one reinspection shall be made on any one lot or load. If it is established to the satisfaction of the Director or count agricultural commissioner that a soluble solids inspection is not representative of the lot or load, the inspection may be discarded and a new inspection made.

### **1658.4. Bulk Load (Gondola Sampling).**

The following schedule will be used on gondola loads:

1 or 2 tanks	2 samples
3 or 4 tanks	3 samples
5 or 6 tanks	4 samples
7 or more tanks	5 samples

### **1658.5. Sampling Tube.**

The sampling tube shall be pushed from the top to the bottom level of the grapes in the load in order to obtain, from each sample, grapes from the top, center, and bottom layers.



### **1658.6. Box Load (Grapes in Boxes) Sampling.**

The number of boxes selected for inspection shall be according to the following table:

Lots or loads having:

2 to 50 boxes,	sample 2 boxes
51 to 100 boxes,	sample 3 boxes
101 to 250 boxes,	sample 4 boxes
251 to 400 boxes,	sample 5 boxes
401 to 600 boxes,	sample 6 boxes
601 and over,	sample 7 boxes

Not less than 10 percent by volume of the grapes shall be taken, at random, from each of the boxes selected.

### **1659. Receiving-Hopper Sampling.**

When grapes are placed in the receiving hopper, the bulk load (gondola) sampling procedure is applicable. Tube samples may be taken from the hopper, provided the load is separate from other loads of grapes and stationary, to avoid mixing with other lots or loads.

#### **1659.1. In-Line Testing for Soluble Solids.**

- (a) The Director or county agricultural commissioner may take in-line samples for determination of the average percentage of soluble solids in any lot or load placed in a crusher or which has been field crushed.
- (b) The samples shall be taken from the pipeline which delivers the grape juice into the winery. All grapes or grape juice from previous lot or load shall be out of the crusher or pipeline prior to sampling.
- (c) A representative juice sample shall be obtained from the pipeline by taking equal samples at four (4) intervals during delivery of the grape juice into the winery.
- (d) The samples shall total approximately five (5) gallons and shall be combined, stirred and strained of all skins, seeds, and other foreign material.

#### **1660. Method of Testing for Soluble Solids.**

All grape samples collected for soluble solids testing from the same lot or load shall be combined and completely crushed without unnecessary crushing of the stems. The juice sample shall be stirred and mixed thoroughly prior to test.

A sieve or metal screen strainer shall be used to strain any pulp or solids from the sample to be tested.

The juice sample shall be tested, using a hand-held temperature compensating refractometer or refractometer analytical unit approved by the Secretary.

The refractometer or refractometer analytical unit shall be clean and free from any contamination prior to each test.

The hand-held refractometer shall be immersed to a depth in the juice sample that will ensure complete coverage of the prism. The prism cover shall be closed immediately and the refractometer lifted out of the sample and read to the nearest 0.1 degree.

#### **1660.1 Equipment.**

The hand refractometer shall be temperature compensating, read directly in Brix percentage scale, with divisions not more than 0.2 degrees, that can be read with accuracy to 0.1 degree, have a sharp demarcation line (shadow), and be without interference by color or an indistinct line, and sealed with acid-proof material on the face, where the juice is placed.

#### **1660.2. Refractometer Accuracy Testing**

The refractometer analytical unit shall be temperature compensated, not affected by turbid solution, read directly in Brix percentage scale, with smallest division, 0.1 degree.

#### **1660.3. Refractometer Accuracy Testing.**

Refractometers and refractometer analytical units shall be tested for accuracy by the Director or county agricultural commissioners prior to each grape season. The accuracy of each unit shall be tested periodically during each day of inspection.

#### **1660.4. Soluble Solids Sample Screen.**

The screen or sieve shall not be less than eight mesh per linear inch.

#### **1660.5. Hand Sampling Tube Specifications.**

The hand sampling tube shall have an inside diameter of four (4) inches and a length of approximately 54 inches. The open end, which is pushed into the grapes, shall at all times have edges sharp enough to cut through the grapes and stems. The sampling tube shall be constructed to retain a minimum of 6 1/2 pounds.

#### **1660.6. Equipment Material Specifications.**

Any equipment used shall be made of a material that will not affect or be affected by the grape stems or grape juice that would cause an incorrect test.

#### **1660.7. Standard Sample Container.**

A standard plastic sample container shall be used for holding each probe of grapes obtained by the standard mechanized sampling tube. The sample container shall not hold less than 35 pounds.

#### **1661. Method of Grading.**

The Director shall perform inspection for material other than grapes and defects.

##### **1661.1. Material Other Than Grapes Inspection.**

Material other than grapes inspection shall be done in conjunction with defect inspection.

The grapes in each sample selected shall be placed on the grading table and inspected.

Material other than grapes, such as leaves, canes, and other material foreign to grapes, shall be sorted from the sample.

##### **1661.2. Defects Definition.**

"Defects" shall be considered defective grapes due to evidence of mold, rot, or mildew resulting in decomposition. Defective grapes shall be sorted from the sample.

##### **1661.3. Official Charts.**

The official charts issued by the Director shall be used to determine the percentage and pounds per ton of material other than grapes and percentage of defects. The charts are used for the mathematical computations necessary to report the inspection results.

##### **1661.4. Request for Discontinuing Inspection.**

A written request by the winery to discontinue inspection may be granted by the Director when the amount of grapes considered defective and removed from the sample is equal to or greater than the percentage specified in the request. The word "exceeds" and the percentage specified in the request shall be entered on the certificate.

Example: PERCENT ROT DEFECTS  
exceeds 10%

## **1662. Certification.**

- (a) A certificate of inspection or a combination of the inspection and weight certificates shall be issued for each lot or load inspected. Each certificate shall provide all information relevant to the inspection.
- (b) The certificate shall bear the statement that inspection and certification have been conducted under authority of Division 16, Chapter 3, of the Food and Agricultural Code of California, and shall provide space for the authorized inspector to sign the certificate.
- (c) When applicable, and on completion of inspection of the required number of samples, the following shall be reported on the certificate as the true results of the inspection by the Director.
- (d) Soluble solids test shall be reported as Brix percentage on the certificate.
- (e) Material other than grapes and hand sorted defects shall be weighed and may be reported in ounces, pounds per ton, and/or percentage.
- (f) The results of inspections for defects determined by an approved immunoassay procedure shall be reported in a manner approved by the Director.
- (g) Each certificate shall bear the name of the agency issuing the certificate and shall be numbered serially.
- (h) Each inspection certificate shall provide the name of the grower or growers and shall bear the date, time, weight certificate number, and the license numbers (when applicable), and the total number of samples, including retests or regrade.
- (i) The original or duplicate original of the certificate shall be retained by the Director or county agricultural commissioner. Each certificate copy shall be a duplicate original.
- (j) A certificate or duplicate original shall be invalid if it has been altered in any way, unless the alteration is initialed by an authorized inspector. Any alternations, properly initialed, shall be made on the original and on all duplicate originals of the certificate.
- (k) The official inspection certificate may be combined with the official weight certificate used by the winery, provided the combined form is approved by the Director or county agricultural commissioner.

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Regulation change effective January 29, 1982 repeals Group 5, Sections 1488 thru 1494, and Group 10, Article 1, Sections 1650 of Regulations, and adopts Article 1 in Group 10, Sections 1650 thru 1662, Subchapter 1, Chapter 3, Title 3, California Code of Regulations