

prior to handling them in accordance with § 979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraphs (d) or (e), and all melons discarded from the grading table shall either be mechanically spiked or mutilated or handled for special purpose outlets in accordance with § 979.152.

(3) Upon approval of the committee, shipments of honeydew melons may be made in pony cartons having dimensions of 17 inches long by 14½ inches wide by 5⅞ inches deep. Container requirements of paragraph (b) of this section shall not apply, but such shipments shall meet all other applicable requirements of this section.

(4) Shipments of cantaloups may be made for experimental purposes in cartons having dimensions of 15⅜ inches in length by 12⅞ inches in width by 10 inches in depth. Such shipments shall be subject to the grade, inspection and reporting requirements set forth in paragraphs (a), (c) and (f) of this section.

(5) The handling to any person of gift packages of melons not exceeding 25 pounds per package, individually addressed to such person and not for resale, is exempt from the container requirements of paragraph (b) of this section, but shall meet all assessment requirements of § 979.42 and the grade and inspection requirements of paragraphs (a) and (c) respectively of this section.

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning, freezing, or experimental purposes under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return

a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* *U.S. melon standards* mean the United States Standards for Grades of Cantaloups (7 CFR 2851.475 through 2851.494c), or the United States Standards for Grades of Honey Dew and Honey Ball Type Melons (7 CFR 2851.3740 through 2851.3749), whichever is applicable, or variations thereof specified in this section. The term *U.S. Commercial* shall have the same meaning as set forth in these standards. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

[47 FR 13118, Mar. 29, 1982, as amended at 47 FR 24110, June 3, 1982; 48 FR 21881, May 16, 1983; 49 FR 15542, Apr. 19, 1984; 50 FR 10207, Mar. 14, 1985; 51 FR 16004, Apr. 30, 1986; 52 FR 17390, May 8, 1987; 53 FR 4958, Feb. 19, 1988; 54 FR 13507, Apr. 4, 1989; 55 FR 19721, May 11, 1990; 59 FR 13432, Mar. 22, 1994; 61 FR 7409, Feb. 28, 1996]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g., sections .200 through .299) and "Handling" regulations (e.g., sections .300 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the "List of CFR Sections Affected" in the Finding Aids section of this volume.

## PART 980—VEGETABLES; IMPORT REGULATIONS

Sec.

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980.501 Safeguard procedures for potatoes, onions, and tomatoes exempt from grade, size, quality, and maturity requirements.

AUTHORITY: 7 U.S.C. 601-674.

### § 980.1 Import regulations; Irish potatoes.

(a) *Findings and determinations with respect to imports of Irish potatoes.* (1)

Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby found that:

(i) Grade, size, quality, and maturity regulations have been issued from time to time pursuant to the following marketing orders: No. 949 (part 949 of this chapter), No. 945 (part 945 of this chapter), No. 948 (part 948 of this chapter), No. 947 (part 947 of this chapter), No. 950 (part 950 of this chapter), No. 946 (part 946 of this chapter), and No. 953 (part 953 of this chapter);

(ii) During the past several years, grade, size, quality, and maturity regulations have been in effect pursuant to two or more of such orders during each month of the year;

(iii) The marketing of Irish potatoes can be reasonably distinguished by the several seasonal categories, i.e., winter, early spring, late spring, early summer, late summer, and fall. The bulk of the fall crop is harvested and placed in storage in the fall and marketed over a period of several months extending into the following summer. But potatoes harvested from the other seasonal crops are generally marketed as the potatoes are harvested. The marketing seasons for these crops overlap.

(iv) Concurrent grade, size, quality, and maturity regulations under two or more of the aforesaid marketing orders are expected in the ensuing and future seasons, as in the past.

(2) Therefore it is hereby determined that:

(i) Imports of red-skinned, round type potatoes during the months of October through the following June are in most direct competition with the marketing of the same type potatoes produced in Area 2, Colorado (San Luis Valley) covered by Order No. 948, as amended (part 948 of this chapter); and during the months of July through September, the marketing of the same type of potatoes is in most direct competition with the same type as produced in the area covered by Order No. 946 (part 946 of this chapter).

(ii) Imports of all other round type potatoes during the period June 5 through July 31 are in most direct competition with the marketing of the same type potatoes produced in the

Southeastern States covered by Order No. 953 (part 953 of this chapter); and during the period August 1 through June 4 of the following year they are in most direct competition with all other round type potatoes produced in Area No. 3, Colorado (Northern Colorado) covered by Marketing Order No. 948, as amended (part 948 of this chapter): *Provided*, That for the period March 6 through June 14, 1968, imports of all other round type potatoes are in most direct competition with the marketing of the same type potatoes produced in the State of Maine covered by Order No. 950 (part 950 of this chapter): *Provided further*, That for the period June 1 through June 4, 1970, imports of all other round type potatoes are in most direct competition with the marketing of the same type potatoes produced in the Southeastern States covered by Order No. 953 (part 953 of this chapter): *Provided further*, That for the period June 1 through June 4, 1971, imports of all other round type potatoes are in most direct competition with the marketing of the same type potatoes produced in the Southeastern States covered by Order No. 953 (part 953 of this chapter).

(iii) Imports of long type potatoes during each month of the marketing year are in most direct competition with potatoes of the same type produced in the area covered by Order No. 945 (part 945 of this chapter).

(b) *Grade, size, quality, and maturity requirements.* On and after the effective date hereof importation of Irish potatoes, except certified seed potatoes, shall be prohibited unless they comply with the following requirements.

(1) For the period October 1 through the following June of each marketing year, the grade, size, quality, and maturity requirements of Area No. 2, Colorado (San Luis Valley) covered by Marketing Order No. 948, as amended (part 948 of this chapter) applicable to potatoes of the red-skinned round type; and from July 1 through September 30 each marketing year the grade, size, quality, and maturity requirements of Marketing Order No. 946 (part 946 of this chapter) shall be the respective grade, size, quality, and maturity requirements for imported red-skinned round type potatoes, except there shall

be no size requirements for imported red-skinned round type of potatoes that are imported in containers containing a net weight of 3 pounds or less, if the potatoes are U.S. No.1 grade or better.

(2) During the period June 5 through July 31 of each marketing year, the grade, size, quality, and maturity requirements of Marketing Order No. 953 (part 953 of this chapter) applicable to potatoes of the round type shall be the respective grade, size, quality, and maturity requirements for imports of other round type potatoes; and during the period August 1 through the following June 4 of each year the grade, size, quality, and maturity requirements of Area No. 3, Colorado (northern Colorado) covered by Marketing Order No. 948, as amended (part 948 of this chapter) shall be the respective grade, size, quality, and maturity requirements for imports of all other round type potatoes: *Provided*, That for the period March 6 through June 14, 1968, the grade, size, quality, and maturity requirements of Marketing Order No. 950, as amended (part 950 of this chapter) applicable to potatoes of the round type shall be the respective grade, size, quality, and maturity for imports of other round type potatoes: *Provided further*, That for the period June 1 through June 4, 1970, the grade, size, quality, and maturity requirements of Marketing Order No. 953, as amended (part 953 of this chapter) applicable to potatoes of the round types shall be the respective grade, size, quality, and maturity for imports of other round type potatoes: *Provided further*, That for the period June 1 through 4, 1971, the grade, size, quality, and maturity requirements of Marketing Order No. 953, as amended (part 953 of this chapter) applicable to potatoes of the round types shall be the respective grade, size, quality, and maturity for imports of other round type potatoes.

(3) Through the entire year the grade, size, quality, and maturity requirements of Marketing Order 945, as amended (part 945 of this chapter) applicable to potatoes of all long types shall be the respective grade, size, quality, and maturity requirements for imported potatoes of all long types.

(4) The grade, size, quality, and maturity requirements as provided for in this paragraph shall apply to imports of similar types of potatoes, unless otherwise ordered, on and after the effective date of the applicable domestic regulation or amendment thereto, as provided in this paragraph or 3 days following publication of such regulation or amendment in the FEDERAL REGISTER, whichever is later.

(c) *Minimum quantities*. Any importation which, in the aggregate, does not exceed 500 pounds may be imported without regard to the provisions of this section.

(d) *Plant quarantine*. No provisions of this section shall supersede the restrictions or prohibitions of potatoes under the Plant Quarantine Act of 1912.

(e) *Certified seed*. Certified seed potatoes shall include only those potatoes which are officially certified and tagged as seed potatoes by the Plant Health Directorate, Food Production and Inspection Branch, Agriculture Canada, and which are subsequently used as seed.

(f) *Designation of governmental inspection services*. The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are hereby designated as governmental inspection services for the purpose of certifying the grade, size, quality, and maturity of Irish potatoes that are imported, or to be imported, into the United States under the provisions of section 8e of the Act.

(g) *Inspection and official inspection certificates*. An official inspection certificate certifying the potatoes meet the United States import requirements for Irish potatoes under section 8e (7 U.S.C. 608e) issued by a designated governmental inspection service applicable to a particular shipment of potatoes is required on all imports of potatoes other than certified seed.

(1)(i) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables, and other

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products (part 51 of this title), and each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(ii) Since inspectors may not be stationed in the immediate vicinity of a port, or point of entry, an importer of uninspected and uncertified Irish potatoes should make advance arrangements for inspection. Each importer should give at least the specified advance notice to one of the following applicable inspection offices prior to the time the Irish potatoes would be imported.

Ports and points	Inspection office	Advance notice (days)
All Maine ports and points.	Officer-In-Charge, Post Office Box 688, Caribou, Maine 04736 (Telephone—496-8511).	1
Port of Boston, Mass	Officer-In-Charge, Room 725, 408 Atlantic Ave., Boston, Mass. 02210 (Telephone—223-7753).	1
Port of New York, N.Y.	Officer-In-Charge, Room 28A, Hunts Point Market, Bronx, N.Y. 10474 (Telephone—991-7669 and 7668).	1
Port of Philadelphia, Pa.	Officer-In-Charge, Room 239, Produce Bldg., 3301 South Galloway St., Philadelphia, Pa. 19148 (Telephone—Dewey 6-0845).	1
Port of New Orleans, La.	Officer-In-Charge, Room 5027, Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113 (Telephone—527-6741 and 6742).	.....
All other ports and points.	Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (Telephone—447-5870).	3

(2) In the event the required inspection is performed prior to the arrival of the potatoes at the port of entry, the inspection certificate that is issued must show that the inspection was performed at the time of loading such potatoes for direct transportation to the United States; and if transportation is by water, the certificate must show that the inspection was performed at the time of loading onto the vessel.

(3) Inspection certificates shall cover only the quantity of potatoes that is being imported at a particular port of entry by particular importers.

(4) Each inspection certificate issued with respect to any Irish potatoes to be imported into the United States shall set forth, among other things:

- (i) The date and place of inspection;
- (ii) The name of the shipper, or applicant;
- (iii) The commodity inspected;
- (iv) The quantity of the commodity covered by the Certificate;
- (v) The principal identifying marks of the containers;
- (vi) The railroad car initials and number, the truck and trailer number, the name of the vessel, or other identification of the shipment; and
- (vii) The following statement if the facts warrant: Meets U.S. Import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937.

(h) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of Irish potatoes for the purpose of making it eligible for importation under the Act.

(1) *Definitions.* (i) For the purpose of this part potatoes meeting the requirements of Canada No. 1 grade and Canada No. 2 grade shall be deemed to comply with the requirements of the U.S. No. 1 grade and U.S. No. 2 grade, respectively, and the tolerances for size, as set forth in the U.S. Standards for Potatoes (§§ 51.1540 to 51.1556, inclusive of this title) may be used.

(2) *Importation* means release from custody of the U.S. Bureau of Customs.

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to potatoes imported for canning, freezing, other processing, livestock feed, charity, or relief, but such potatoes shall be subject to the safeguard provisions contained in § 980.501. Processing includes canning, freezing, dehydration, chips, shoestrings, starch and flour. Processing does not include potatoes that are only peeled, or cooled, sliced,

diced, or treated to prevent oxidation, or made into fresh potato salad.

[34 FR 8044, May 22, 1969, as amended at 35 FR 8204, May 26, 1970; 36 FR 9634, May 27, 1971; 37 FR 8059, Apr. 25, 1972; 54 FR 22577, May 25, 1989; 57 FR 30382, July 9, 1992; 58 FR 69189, Dec. 30, 1993; 61 FR 13060, Mar. 26, 1996]

**§ 980.117 Import regulations; onions.**

(a) *Findings and determinations with respect to onions.* (1) Under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby found that:

(i) Grade, size, quality, and maturity regulations have been issued regularly under Marketing Orders No. 958 and 959, both as amended;

(ii) Since December 9, 1985, grade, size, quality, and maturity regulations have been in effect pursuant to these orders during the period August through July;

(iii) The marketing of onions can be reasonably distinguished by the seasonal categories, i.e., late summer and early spring. The bulk of the late summer crop is harvested and placed in storage in late summer and early fall and marketed over a period of several months extending into the following spring. But the onions harvested from the early spring crop are generally marketed as soon as the onions are harvested. The marketing seasons for these crops overlap;

(iv) Concurrent grade, size, quality, and maturity regulations under the two marketing orders are expected in future seasons, as in the past.

(2) Therefore, it is hereby determined that: Imports of onions during the June 5 through March 9 period are in most direct competition with the marketing of onions produced in designated counties of Idaho and Malheur County, Oregon, covered by Marketing Order No. 958, as amended (7 CFR part 958), and during the March 10 through June 4 period the marketing of imported onions is in most direct competition with onions produced in designated counties in South Texas covered by Marketing Order No. 959, as amended (7 CFR part 959).

(b) *Grade, size, quality, and maturity requirements.* On and after the effective date hereof no person may import onions as defined herein unless they are

inspected and meet the following requirements:

(1) During the period June 5 through March 9 of each marketing year, whenever onions grown in designated counties in Idaho and Malheur County, Oregon, are regulated under Marketing Order No. 958, imported onions shall comply with the grade, size, quality, and maturity requirements imposed under that order.

(2) During the period March 10 through June 4 of each marketing year, whenever onions grown in designated counties in South Texas are regulated under Marketing Order No. 959, imported onions shall comply with the grade, size, quality, and maturity requirements imposed under that order.

(c) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 110 pounds (50 kilograms) may be imported without regard to the provisions of this section.

(d) *Plant quarantine.* Provisions of this section shall not supercede the restrictions or prohibitions on onions under the Plant Quarantine Act of 1912.

(e) *Designation of governmental inspection service.* The Federal or the Federal-State Inspection Service, Food Safety and Quality Service, U.S. Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality, and maturity of onions that are imported into the United States under the provisions of section 8e of the act.

(f) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the onions meet the U.S. import requirements for onions under section 8e (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of onions.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 2851). Each lot shall be made available and accessible for inspection as provided therein. Cost