

(g) *Definitions.* *Hydroponic tomatoes* means tomatoes grown in solution without soil; *greenhouse tomatoes* means tomatoes grown indoors; *specialty packed red ripe tomatoes* means tomatoes which at the time of inspection are #5 or #6 color (according to color classification requirements in the U.S. tomato standards) with their calyx ends and stems attached and cell packed in a single layer container; and *producer field-packed tomatoes* means tomatoes which at the time of inspection are #3 color or higher (according to color classification requirements in the U.S. tomato standards), that are picked and place packed in new containers in the field by a producer as defined in §966.150 and transferred to a registered handler's facilities for final preparation for market. A *Certified Tomato Repacker* is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting, and repacking tomatoes into consumer sized packages and has been certified as such by the committee. *Processing* as used in §§966.120 and 966.323 means the manufacture of any tomato product which has been converted into juice, or preserved by any commercial process, including canning, dehydrating, drying, and the addition of chemical substances. Further, all processing procedures must result in a product that does not require refrigeration until opened. *Pickling* as used in §§966.120 and 966.323 means to preserve tomatoes in a brine or vinegar solution. *U.S. tomato standards* means the revised United States Standards for Fresh Tomatoes (7 CFR 51.1855 through 51.1877), effective October 1, 1991, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

[52 FR 46347, Dec. 7, 1987, as amended at 53 FR 3191, Feb. 4, 1988; 54 FR 51297, Dec. 14, 1989; 56 FR 51148, Oct. 10, 1991; 57 FR 27351, June 19, 1992; 58 FR 57719, Oct. 27, 1993; 59 FR 51091, Oct. 7, 1994; 60 FR 57907, Nov. 24, 1995; 61 FR 55731, Oct. 29, 1996; 63 FR 146, Jan. 5, 1998; 63 FR 12401, Mar. 13, 1998; 63 FR 54559, Oct. 13, 1998; 64 FR 45413, Aug. 20, 1999; 65 FR 66495, Nov. 6, 2000; 66 FR 48532, Sept. 21, 2001; 70 FR 53540, Sept. 9, 2005]

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, which appears in the Finding Aids section of the printed volume and on GPO Access.

PART 980—VEGETABLES; IMPORT REGULATIONS

Sec.

- 980.1 Import regulations; Irish potatoes.
- 980.117 Import regulations; onions.
- 980.212 Import regulations; tomatoes.
- 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. 945 (part 945 of this chapter), No. 948 (part 948 of this chapter), No. 947 (part 947 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 of potatoes produced in the Southeastern States covered by Order No. 953 (part 953 of this chapter); and during the period of 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).

(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.

(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

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which are officially certified and tagged as seed potatoes by the Plant Health and Production Division, Plant Products Directorate, Canadian Food Inspection Agency, and which are subsequently used as seed.

(f) *Designation of governmental inspection services.* The Federal or Federal-State Inspection Service, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture and the Food of Plant Origin Division, Plant Products Directorate, Canadian Food Inspection Agency, 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 § 608e 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 gov-

ernmental 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 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 will be imported.

Ports and points	Inspection offices	Advance notice (days)
All Maine ports and points of entry ...	In-Charge, Post Office Box 1058, Presque Isle, ME 04767 (PH 207-764-2100).	1
Port of Boston, MA	In-Charge, Boston Market Terminal Building, Room 1, 34 Market Street, Everett, MA 02149 (PH 617-389-2480).	1
Port of New York, NY	In-Charge, 465B New York City Terminal Market, Bronx, NY 10474 (PH 718-991-7665).	1
Port of Philadelphia, PA	In-Charge, 210 Produce Building, 3301 South Galloway Street, Philadelphia, PA 19148 (PH 215-336-0845).	1
All other ports and points of entry	Head, Field Operations Section, Fresh Products Branch, Fruit and Vegetable Programs, AMS, USDA, Washington, DC 20250-0240 (PH 1-800-811-2373).	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.

(i) *Definitions.* (1) 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 Grades of Potatoes (§§ 51.1540 to 51.1556, inclusive of this title) may be used.

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

(j) *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; 67 FR 66531, Nov. 1, 2002]

§ 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, and the entire year for imports of pearl and cipolline varieties of onions, 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, not including pearl or cipolline varieties of 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, and the entire year for pearl and cipolline onions, whenever onions grown in designated counties of 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