

§ 1207.512

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shall be due only on that portion utilized for human consumption and seed.

§ 1207.512 Designated handler.

The assessment on each lot of potatoes produced in the 50 States of the United States and handled shall be paid by the designated handler as hereafter set forth.

(a) Unless otherwise provided in paragraphs (a)(8), (b), and (c) of this section, the designated handler shall be the first handler of such potatoes. The first handler is the person who initially performs a handler function as heretofore defined. Such person may be a fresh shipper, processor, or other person who first places the potatoes in the channels of commerce. A producer who grades, packs, or otherwise performs handler functions thereby becomes a handler and as such assumes first handler responsibilities under this part. The following examples are provided to aid in identification of first handlers who are designated handlers:

(1) Producer delivers field-run potatoes of his own production to a handler for preparation for market. The handler in this instance is the designated handler, regardless of whether he subsequently handles such potatoes for his own account or for the account of the producer.

(2) Producer delivers field-run potatoes of his own production to a handler who takes title to such potatoes and places them in storage for subsequent handling. The handler who purchases such potatoes from the producer is the designated handler.

(3) Producer delivers field-run potatoes to a commercial storage facility for the purpose of holding such potatoes under his own account for later sale. There is no designated handler in this instance since such potatoes have not been handled as heretofore defined and no assessment is due. The designated handler of such potatoes would be identified on the basis of subsequent handling of such potatoes.

(4) Fresh shipper purchases a lot of potatoes from a producer, packs a portion of such potatoes for fresh market, and delivers the balance to a processor. The fresh shipper is the designated handler for all potatoes in the lot.

(5) Handler purchases potatoes from a producer's field or storage for the purpose of preparing such potatoes for market or for transporting such potatoes to storage for subsequent handling. The handler who purchases such potatoes from the producer is the designated handler.

(6) Producer packs and sells potatoes of his own production from the field, roadside stand, or storage to a consumer, itinerant trucker, or other buyer. In performing such handler functions the producer assumes the responsibility of designated handler.

(7) Processor utilizes potatoes of his own production in the manufacture of potato chips, frozen, dehydrated, or canned products for human consumption. In so handling potatoes, the processor assumes the responsibility of designated handler.

(8) Producer utilizes potatoes of his own production for seed in planting his subsequent crop. Such seed potatoes do not enter the current of commerce; there is no designated handler in this instance since the potatoes have not been handled as heretofore defined and no assessment is due. However, seed potatoes sold or shipped to other producers for planting or to other persons for subsequent disposition enter the current of commerce and are subject to assessment. The producer of seed potatoes shall be the designated handler of such potatoes shipped to other producers for planting and the assessment is due when he first sells or otherwise handles such potatoes. The first person who acquires seed potatoes from the producer thereof for subsequent disposition other than planting by said person shall be the designated handler of such potatoes. However, the seed producer will be the designated handler responsible for filing reports and making payments, unless he can show that the first person who obtained the potatoes from him disposed of them other than by planting. To show this the seed producer must submit to the Potato Board the name and address of the first person who obtained the potatoes from him and an invoice of sale or settlement sheet on which it is indicated that such person will be the designated

handler and therefore will be responsible for the payment of the assessments. Only by showing this is the seed producer no longer considered the designated handler and therefore not liable for the assessments.

(b) Any person who handles potatoes for a producer thereof under oral or written contract or agreement providing for the sale thereof shall be the designated handler for such potatoes, notwithstanding the fact that the producer may have graded, packed, or otherwise handled such potatoes and thereby became the first handler of such potatoes.

Examples. A cooperative marketing association, or other person, who makes an accounting to the producer, or pay the proceeds of the sale to the producer would be the designated handler responsible for the assessment.

(c) Any processor who purchases potatoes from the producer thereof shall be the designated handler even though the producer may have graded, packed, or otherwise handled such potatoes and thereby became the first handler of such potatoes.

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§ 1207.513 Payment of assessments.

(a) *Time of payment.* The assessment on domestically produced potatoes shall become due at the time a determination of assessable potatoes is made in the normal handling process, pursuant to §1207.511. If no determination is made of the utilization of a lot, assessments shall be due on the entire lot when it enters the current of commerce. The assessment on imported potatoes, potato products, and seed potatoes shall become due at the time of entry, or withdrawal, for consumption into the United States.

(b) *Responsibility for payment.* (1) The designated handler is responsible for payment of the assessment on domestically produced potatoes. He may pay with no reimbursement from the producer. In the alternative, he may collect the assessment from the producer, or deduct such assessment from the proceeds paid to the producer on whose potatoes the assessment is made, pro-

vided he furnishes the producer with evidence of such payment. Any such collection or deduction of assessment shall be made not later than the time when the assessment becomes payable by the handler to the Board. Failure of the handler to collect or deduct such assessment does not relieve the handler of his obligation to remit the assessment to the Board.

(2) The Customs Service shall collect payment of assessment on imported potatoes, potato products, and seed potatoes from importers and forward such assessment per agreement between the Customs Service and the U.S. Department of Agriculture. Importers shall be responsible for payment of assessment directly to the Board of any assessment due but not collected by the Customs Service at the time of entry, or withdrawal, for consumption into the United States. An importer may apply to the Board for reimbursement of assessments paid on exempted products.

(c) *Payment directly to the Board.* (1) Except as provided in paragraphs (b) and (d) of this section, each designated handler or importer shall remit assessments directly to the Board by check, draft, or money order payable to the National Potato Promotion Board, or NPPB, not later than 10 days after the end of the month such assessment is due together with a report (preferably on Board forms) thereon.

(2) All designated handlers, including a designated handler whose own production is handled and assessments to the Board paid by another designated handler, shall report to the Board:

(i) Date of report (which is also date of payment to the Board).

(ii) The name and address of the designated handler;

(iii) The period potatoes were handled;

(iv) The total quantity of potatoes determined to be assessable during the period potatoes were handled, pursuant to §1207.511.

(3) Designated handlers who collect assessments from producers or withhold assessments from their accounts or pay the assessment themselves shall also include a list of all such producers whose potatoes were handled during the period, their addresses and the