

(1) Mechanically spiked or mutilated at the packing shed rendering them unsuitable for fresh market; or

(2) Handled for special purpose outlets approved under § 979.54 of this part.

(b) As a safeguard against culls entering fresh market channels each handler under paragraph (a)(2) of this section shall apply for and obtain a certificate from the committee which shall require the handler to furnish such reports or other information as the committee may request.

[44 FR 28781, May 17, 1979]

EFFECTIVE DATE NOTE: At 69 FR 68764, Nov. 26, 2004, § 979.152 was suspended, effective November 27, 2004 through September 30, 2005.

§ 979.155 Safeguards.

(a) *Policy.* Whenever shipments of melons for special purposes pursuant to § 979.54 are relieved in whole or in part from regulations issued under § 979.52, the committee may require information and evidence on the manner, methods, and timing of such shipments as safeguards against the entry of any such melons in trade channels other than those for which intended. Such information and evidence shall include requirements set forth below with respect to Certificates of Privilege.

(b) *Qualification.* Before handling melons for special purposes which do not meet regulations issued pursuant to § 979.52, a handler, when required by such regulations, must qualify with the committee to handle shipments for special purposes. To qualify one must (1) apply for and receive a Certificate of Privilege indicating the intent to so handle melons, (2) agree to comply with reporting and other requirements set forth in § 959.155 with respect to such shipments, and (3) receive approval of the committee, or its duly authorized agents, to so handle melons. Such approval will be based upon evidence furnished in the application for Certificate of Privilege and other information available to the committee.

(c) *Application.* (1) Applications for a Certificate of Privilege shall be made on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of the handler; the quantity by grade, size, quality and container of the melons to be shipped; the mode of

transportation; the consignee; the destination; the purpose for which the melons are to be used; and certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown thereon, and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents for the purposes stated in § 979.155.

(2) The committee may require each handler making shipments of melons for export to include with his application a copy of the Department of Commerce Shippers Export Declaration Form No. 7525-V applicable to such shipment.

(d) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application, based upon the determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall cover a specified period and specified qualities and quantities of melons to be sold or transported to a designated consignee for the purpose declared.

(e) *Reports.* Each handler of melons shipping under Certificates of Privilege shall supply the committee with reports as requested by the committee, or its duly authorized agents, showing the name and address of the shipper; the car or truck identification; the loading point; destination; consignee; the inspection certificate number when inspection is required; and any other information deemed necessary by the committee.

(f) *Disqualification.* The committee from time to time may conduct surveys of handling of melons for special purposes requiring Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that the handler or consignee is failing to comply with requirements and regulations applicable to handling of melons in special outlets

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and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and subsequent certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee, but in no event shall it extend beyond the date of the succeeding fiscal period. Any handler who has a certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.

[44 FR 28781, May 17, 1979]

EFFECTIVE DATE NOTE: At 69 FR 68764, Nov. 26, 2004, § 979.155 was suspended, effective November 27, 2004 through September 30, 2005.

§ 979.180 Reports.

Each handler shall furnish every two weeks during the planting season to the committee on a form provided by the committee the number of acres of cantaloupes and honey dew melons planted by the handler or growers for whom the handler packs melons during such period and the location of such plantings. However, during the first season of operation under the order each handler need only report the number of acres each of cantaloupes and honey dew melons planted together with the location of all such plantings.

[44 FR 28781, May 17, 1979, as amended at 64 FR 23759, May 4, 1999]

Subpart—Assessment Rates

§ 979.219 Assessment rate.

On and after October 1, 2003, an assessment rate of \$0.09 per carton is established for South Texas melons.

[69 FR 21949, Apr. 26, 2004]

EFFECTIVE DATE NOTE: At 69 FR 68764, Nov. 26, 2004, § 979.219 was suspended, effective November 27, 2004 through September 30, 2005.

Subpart—Handling Regulations

§ 979.304 Handling regulation.

During the period beginning May 1 and ending on June 20 of each season no person shall handle cantaloupe or honeydew melons unless they meet the requirements of paragraphs (a) through (c), (d) or (e) and (f) of this section.

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(a) *Grade requirements.* (1) Cantaloupes shall be U.S. Commercial grade or better, except that not more than 8 percent serious damage including not more than 5 percent decay shall be permitted.

(2) At least 50 percent of the honeydew melons in any lot shall meet the requirements of U.S. Commercial grade except that not more than 20 percent serious damage shall be allowed including not more than 10 percent for melons affected by decay. In addition, the combined juice from the edible portion of a sample of honeydew melons selected at random shall contain not less than 8 percent soluble solids as determined by an approved hand refractometer. Individual cartons shall contain not less than 25 percent U.S. Commercial or better quality.

(3) Individual packages may contain not more than double the specified lot tolerance.

(b) *Container requirements.* (1) Except as provided in paragraphs (b)(4), (d) or (e) and (f) of this section all cantaloupes shall be packed in fiberboard cartons with inside dimensions of not more than 17¼ inches in length, not more than 13 nor less than 12¾ inches in width, and not more than 11⅞ nor less than 9¾ inches in depth. All honeydew melons shall be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7½ inches nor less than 6½ inches deep. A tolerance of ¼ inch for each dimension shall be permitted.

(2) Each carton shall be marked to indicate the count; the name, address, and zip code of the shipper; the name of the product; and the words "Produce of U.S.A." or "Product of U.S.A."

(3) If the carton in which the melons are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the carton shall be conspicuously marked with the words "USED BOX" in letters not less than three-fourths (¾) inch high.

(4) Honeydew melons may be packed in rectangular or octagonal bulk containers having dimensions of 48 inches long by 40 inches wide by 24 to 36 inches deep. A tolerance of 1½ inch for each dimension shall be permitted.