

## § 979.180

## 7 CFR Ch. IX (1-1-05 Edition)

and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and subsequent certificates denied.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 Any handler who has a certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.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.

(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.

(5) These container requirements shall not be applicable to melons sold to Federal agencies.

(c) *Inspection.* (1) No handler may handle any melons regulated hereunder, except pursuant to paragraphs (d) or (e) and (f) of this section, unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment. City and State destinations shall be listed on inspection certificates and release forms.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or the shipment release form furnished by the inspection service identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or shipment release form shall be surrendered upon request to Texas Department of Agriculture personnel designated by the committee.

(3) For purposes of operation under this part, each inspection certificate, shipment release form, or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Designated inspection stations will be located at the Texas Cooperative Inspection Program Office, 1301 W. Expressway, Alamo (Phone (956) 787-4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo (Phone (956) 723-9178 or 9170), to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42.

(d) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 120 pounds net weight of melons per day without regard to the provisions of §§ 979.42, 979.52, 979.60, and 979.80, but this exemption shall not apply to any shipment or any portion thereof of over 120 pounds of melons.

(e) *Special purpose shipments.* (1) The requirements of paragraphs (a) through (c) of this section shall not apply to shipments for charity, relief, canning and freezing if a handler presents a Certificate of Privilege for such melons 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) *Experimental shipments.* (i) Upon approval by the committee, melons may be shipped for experimental purposes exempt from the container requirements specified in paragraph (b) of this section, but shall meet the grade and inspection requirements of paragraphs (a) and (c) of this section and the assessment requirements specified in § 979.219: *Provided*, That the melons are handled in accordance with safeguard provisions of paragraph (f) of this section.

(ii) Upon approval of the committee, melons may be shipped for testing in types and sizes of containers other than those specified in paragraphs (b) and (e)(4) of this section: *Provided*, That the melons are handled in accordance with the provisions of paragraph (f) of this section.

(4) 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 Cantaloupes (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; 64 FR 23759, May 4, 1999]

EFFECTIVE DATE NOTE: At 69 FR 68764, Nov. 26, 2004, §979.304 was suspended, effective November 27, 2004 through September 30, 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