

§ 959.123

the mode of transportation; the consignee; the destination; the purpose for which the onions 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 § 959.120.

(b) The committee may require each handler making shipments of onions 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.

§ 959.123 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 onions to be sold or transported to a designated consignee for the purpose declared.

§ 959.124 Reports.

Each handler of onions 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.

§ 959.125 Disqualification.

The committee from time to time may conduct surveys of handling of onions 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

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requirements and regulations applicable to handling of onions in special outlets and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and subsequent certificates denied.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.

§ 959.126 Handling of culls.

(a) The handling of culls, i.e., onions which fail to meet the grade, size and quality requirements established under § 959.52(b) of this part, is prohibited, unless such onions are:

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

(2) Handled for special purpose outlets approved under § 959.53 of this part; or

(3) Handled for canning or freezing.

(b) As a safeguard against culls entering fresh market channels each handler of culls under paragraphs (a) (2) or (3) 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.

[28 FR 60, Jan. 3, 1963]

Subpart—Assessment Rates

§ 959.237 Assessment rate.

On and after August 1, 2004, an assessment rate of \$0.02 per 50-pound equivalent is established for South Texas onions.

[69 FR 78298, Dec. 30, 2004]

Subpart—Handling Regulations

§ 959.322 Handling regulation.

During the period beginning March 1 and ending July 15, no handler shall handle any onions, including onions for peeling, chopping, and slicing, unless they comply with paragraphs (a) through (c) or (d) or (e) of this section.

(a) *Grade requirements.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.* (1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) "Medium"—2 to 3½ inches in diameter; or

(4) "Jumbo" or "Large"—3 inches or larger in diameter; or

(5) "Colossal"—3¾ inches or larger in diameter.

(6) Tolerances for size in the U.S. onion standards shall apply except that for "repacker" and "medium" sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (d), (e)(1), or (e)(2) of this section unless an inspection certificate has been issued by the Federal or Federal-State Inspection Service, Texas Cooperative Inspection Program, covering them and the certificate is valid at the time of shipment. City 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 onions 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) Handlers shall pay assessment on all assessable onions according to the provisions of § 959.42.

(d) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 110 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 110 pounds of onions.

(e) *Special purpose shipments.* (1) The minimum grade, size, quality, and inspection requirements set forth in paragraphs (a) through (c) of this section shall not be applicable to shipments of onions for charity, relief, export, and processing if handled in accordance with paragraph (f) of this section.

(2) *Experimental shipments.* Upon approval by the committee, onions may be shipped for experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52 and 959.60, provided they are handled in accordance with the safeguard provisions of paragraph (f) of this section.

(3) *Onions failing to meet requirements.* Onions failing to meet the grade and size requirements of this section, and not exempt under paragraphs (d) or (e) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (f) of this section shall be mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(f) *Safeguards.* Each handler making shipments of onions for charity, relief, export, processing, or experimental purposes shall:

(1) Apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Furnish reports of each shipment made under the applicable Certificate of Privilege;

(3) Such reports, in accordance with §959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Each handler shall maintain records of such shipments pursuant to §959.80(c), and the records shall be subject to review and audit by the committee to verify reports thereon.

(4) In addition to provisions in the preceding paragraphs, each handler making shipments for processing shall:

(i) Weigh or cause to be weighed each shipment prior to, or upon arrival at, the processor.

(ii) Attach a copy of the weight ticket to a completed copy of the Report of Special Purpose Onion Shipment and return both promptly to the committee office.

(iii) Make each shipment directly to the processor or the processor's subcontractor and attach a copy of the Report of Special Purpose Onion Shipment.

(iv) Each processor or processor's subcontractor who receives cull onions shall weigh the onions upon receipt, complete the Report of Special Purpose Shipment which accompanies each load and mail it immediately to the committee office.

(v) Each processor who receives cull onions shall make available at its business office at any reasonable time during business hours, copies of all applicable purchase orders, sales contracts, or disposition documents for examination by the Department or by the committee, together with any other information which the committee or the Department may deem necessary to enable it to determine the disposition of the onions.

(vi) If a processor employs a subcontractor for any stage of processing, such processor shall be responsible for ensuring that the subcontractor accounts for all quantities of onions received and processed or otherwise disposed of, and that the subcontractor reports to the committee in the same manner and frequently as the processor.

(5) Cull onions transported in bags shall be transported in unlabelled bags, or shall have labelled bags reversed so that the label is not visible.

(g) *Definitions.* *U.S. onion standards* means the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195-51.3209), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 51.2830-51.2854), whichever is applicable to the particular variety, or variations thereof specified in this section. The term *U.S. No. 1* shall have the same meaning as set forth in these standards. *Processing* means cooking or freezing the onions in such a way, or with such other food components, that the consistency of the product is changed. Canning and freezing shall be considered forms of processing. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

[47 FR 8552, Mar. 1, 1982, as amended at 49 FR 4932, Feb. 9, 1984; 52 FR 19281, May 22, 1987; 52 FR 20192, May 29, 1987; 54 FR 8520, Mar. 1, 1989; 55 FR 7690, Mar. 5, 1990; 57 FR 28592, June 26, 1992; 59 FR 13431, Mar. 22, 1994; 59 FR 17267, Apr. 12, 1994; 60 FR 40748, Aug. 10, 1995; 61 FR 24878, May 17, 1996; 62 FR 19668, Apr. 23, 1997; 62 FR 38204, July 17, 1997; 63 FR 9131, Feb. 24, 1998; 65 FR 7715, Feb. 16, 2000; 68 FR 11466, Mar. 11, 2003; 68 FR 37068, June 23, 2003; 72 FR 17362, Apr. 9, 2007; 72 FR 25679, May 7, 2007]

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 966—TOMATOES GROWN IN FLORIDA

Subpart—Order Regulating Handling

DEFINITIONS

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