

requirements that they be reasonably well formed and not more than slightly rough, and *Provided*, Further that the UglyRipe™ and Vintage Ripes™ tomatoes meet the requirements of the Identity Preservation program, Fresh Products Branch, Fruit and Vegetable Programs, AMS, USDA.

(e) *Report of packouts.* Each registered handler shall, at the end of each day during which handling activities have been conducted, or the following morning as the committee may prescribe, provide to the committee or its designated agent a complete and accurate accounting of the number of containers of tomatoes packed that day. The report shall include an accounting of the grade, size, maturity, and net weight of the containers packed in each such category. The total packout report shall be provided to the committee or its authorized agent in a timely fashion that allows the committee to compile a daily, industry-wide packout report.

(f) *Assessments.* Handlers shall pay assessments as provided in §966.42. Assessment will be based on inspection certificates supplied to the committee by the Federal-State Inspection Service.

(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, provided that §51.1863 shall not apply to tomatoes covered by this part. Other terms in this section shall have the same meaning as when used in this part and the U.S. tomato standards.

[52 FR 46347, Dec. 7, 1987]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §966.323, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

## 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 each month of the marketing year are in most direct competition with potatoes of the same type produced in the area covered by Marketing Order No. 946 (part 946 of this chapter).

(ii) Imports of all other round type potatoes during each month of the marketing year are in most direct competition with potatoes of the same type produced in Area 2, Colorado (San Luis Valley) 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 and red skinned, round types of potatoes, shall be prohibited unless they comply with the following requirements.

(1) Through the entire year, the grade, size, quality, and maturity requirements of Area II, Colorado (San Luis Valley) covered by Marketing Order No. 948, as amended (part 948 of

this chapter), applicable to potatoes of the round type, other than red-skinned varieties, shall be the respective grade, size, quality, and maturity requirements for imports of all other round type potatoes.

(2) 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.

(3) 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 of red skinned, round type or long type potatoes, or 2,000 pounds for all other round type potatoes, 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 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.

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(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 governmental 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 Customs entry number pertaining to the lot or shipment covered by the certificate;
- (iv) The commodity inspected;
- (v) The quantity of the commodity covered by the Certificate;

(vi) The principal identifying marks of the containers;

(vii) The railroad car initials and number, the truck and trailer number, the name of the vessel, or other identification of the shipment; and

(viii) 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

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51.1556, inclusive of this title) may be used.

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

(j) *Exemptions.* (1) 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.

(2) There shall be no size requirements for potatoes that are imported in containers with a net weight of 3 pounds or less, if the potatoes are otherwise U.S. No. 1 grade or better.

[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; 74 FR 2808, Jan. 16, 2009; 74 FR 65394, Dec. 10, 2009; 79 FR 8256, Feb. 12, 2014; 80 FR 22361, Apr. 22, 2015]

**§ 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 in 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 under Marketing Order No. 959, imported onions, not including pearl and cipolline onions, shall comply with the grade, size, quality, and maturity requirements imposed under that order.

(c) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 110 pounds (50 kilograms) may be imported without regard to the provisions of this section.

(d) *Plant quarantine.* Provisions of this section shall not supercede the restrictions or prohibitions on onions under the Plant Quarantine Act of 1912.

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(e) *Designation of governmental inspection service.* 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 onions that are imported, or to be imported, into the United States under the provisions of section 8e of the Act.

(f) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the onions meet the U.S. import requirements for onions under section 8e (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of onions.

(2) 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 (7 CFR part 51). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the onions will be imported.

| Ports                     | Office   | Advance notice (days) |
|---------------------------|--|-----------------------|
| All California points ..  | Officer-in-charge, 784 South Central Ave., room 266, Los Angeles, Calif. 90021. Phone 213-688-2489.  | 3                     |
| All Hawaii points .....   | Officer-in-charge, P.O. Box 22159, Pawa Substation, Honolulu, Hawaii 96822. Phone 808-941-3071.  | 1                     |
| All Puerto Rico points    | Officer-in-charge, P.O. Box 9112, Santurce, P.R. 00908. Phone 809-783-2230 or 809-783-4116.  | 2                     |
| New York City, N.Y. ..    | Officer-in-charge, room 28A, Hunts Point Market, Bronx, N.Y. 10474. Phone 212-991-7669 or 212-991-7668.  | 1                     |
| New Orleans, La .....     | Officer-in-charge, 5027 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans, La. 70113. Phone 504-589-6741 or 504-589-6742.                  | 1                     |
| Miami, Fla .....          | Officer-in-charge, 1350 Northwest 12th Ave., room 530, Miami, Fla. 33136. Phone 305-324-6116 or 305-324-6117.                                    | 1                     |
| All other Florida points. | Officer-in-charge, P.O. Box 1232, Winter Haven, Fla. 33880. Phone 813-294-3511, extension 33.  | 1                     |
| All other points .....    | Chief, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, Washington, D.C. 20250. Phone 202-447-5870. | 3                     |

(4) Inspection certificates shall cover only the quantity of onions that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any onions 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 Customs entry number pertaining to the lot or shipment covered by the certificate;
- (iv) The commodity inspected;
- (v) The quantity of the commodity covered by the certificate;
- (vi) The principal identifying marks on the containers;
- (vii) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or

| Ports                    | Office  | Advance notice (days) |
|--------------------------|---|-----------------------|
| All Texas points .....   | Officer-in-charge, 1301 West Expressway, Alamo, Tex. 78516. Phone 512-787-4091 or 512-787-6881. | 1                     |
| All Arizona points ..... | Officer-in-charge, P.O. Box 1614, Nogales, Ariz. 85621. Phone 602-287-4783.                     | 1                     |

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other identification of the shipment; and

(viii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e-1.

(g) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of onions for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, *Onions* means all varieties of *Allium cepa* marketed dry, except dehydrated, canned, or frozen onions, pickling onions in brine, onion sets, green onions, or braided red onions. The term *U.S. No. 2* has the same meaning as set forth in the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195 through 51.3209), the United States Standards for Grades of Creole Onions (7 CFR 51.3955 through 51.3970), or the United States Standards for Grades of Onions Other Than Bermuda-Granex-Grano and Creole Types (7 CFR 51.2830 through 51.2854), whichever is applicable to the particular variety, and variations thereof specified in this section. The term *moderately cured* means the onions are mature and are more nearly well cured than fairly well cured. *Importation* means release from the custody of U.S. Customs and Border Protection. The term *pearl onions* means onions produced using specific cultural practices that limit growth to 2 inches in diameter or less.

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not be applicable to onions imported for processing, livestock feed, charity, or relief, and pearl onions, onion sets (plantings), braided red onions, and minimum quantity shipments of 110 pounds, but such onions shall be subject to the safeguard provisions in § 980.501. Processing includes canning, freezing, dehydration, extraction (juice) and pickling in brine. Processing does not include fresh chop, fresh cut, convenience food or other pre-packaged salad operations. Pearl

onions must be inspected for size prior to entry into the United States.

[43 FR 5500, Feb. 9, 1978, as amended at 52 FR 8872, Mar. 20, 1987; 52 FR 19281, May 22, 1987; 54 FR 8520, Mar. 1, 1989; 58 FR 69189, Dec. 30, 1993; 59 FR 46912, Sept. 13, 1994; 61 FR 13060, Mar. 26, 1996; 61 FR 25557, May 22, 1996; 69 FR 56671, Sept. 22, 2004; 74 FR 2808, Jan. 16, 2009; 74 FR 65394, Dec. 10, 2009; 75 FR 1269, Jan. 11, 2010]

§ 980.212 Import regulations; tomatoes.

(a) *Findings and determinations with respect to fresh tomatoes.* (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 from time to time under Marketing Order No. 966, as amended;

(ii) The marketing of fresh tomatoes from Florida covered by Marketing Order No. 966, as amended, can reasonably be expected to occur during the months of October through June;

(2) Therefore, it is hereby determined that imports of fresh tomatoes during the months of October through June are in most direct competition with the marketing of fresh tomatoes produced in Florida covered by Marketing Order No. 966, as amended.

(b) *Grade, size, quality and maturity requirements.* On and after the effective date hereof no person may import fresh tomatoes except pear shaped, cherry, hydroponic and greenhouse tomatoes as defined herein, unless they are inspected and meet the following requirements:

(1) From October 10 through June 15 of each season, tomatoes offered for importation shall be at least 2<sup>3</sup>/<sub>32</sub> inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter. All lots of tomatoes shall be at least U.S. No. 2 grade. *Provided*, That UglyRipe™ and Vintage Ripes™ tomatoes shall be graded and at least meet the requirements specified for U.S. No. 2 under the U.S. Standards for Grades of Fresh Tomatoes, except they are exempt from the requirements that they be reasonably well formed and not more than slightly rough, and *Provided*,

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Further that the UglyRipe™ and Vintage Ripes™ tomatoes meet the requirements of the Identity Preservation program, Fresh Products Branch, Fruit and Vegetable Programs, AMS, USDA.

(2)—(3) [Reserved]

(c) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 60 pounds may be imported without regard to the provisions of this section.

(d) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on tomatoes under the Plant Quarantine Act of 1912.

(e) *Designation of governmental inspection service.* 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 tomatoes that are imported, or to be imported, into the United States under the provisions of section 8e of the Act.

(f) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the tomatoes meet the United States import requirements for tomatoes under Section 8e (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of fresh tomatoes.

(2) 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 (7 CFR part 51). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since the inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection of-

office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the tomatoes will be imported.

| Ports                     | Office   | Advance notice (days) |
|---------------------------|--|-----------------------|
| All Texas points .....    | Officer-in-charge, 1301 West Expressway, Alamo, Tex. 78516, phone 512-787-4091 or 6881.  | 1                     |
| All Arizona points .....  | Officer-in-charge, P.O. Box 1614, Nogales, Ariz. 85621, phone 602-287-2902.  | 1                     |
| All California points ..  | Officer-in-charge, 784 South Central Ave., room 266, Los Angeles, Calif. 90021, phone 213-688-2489.  | 1                     |
| All Hawaii points .....   | Officer-in-charge, P.O. Box 22159, Pawa substation, Honolulu, Hawaii 96822, phone 808-941-3071.  | 1                     |
| All Puerto Rico points    | Officer-in-charge, P.O. Box 9112, Santurce, P.R. 00908, phone 809-783-2230 or 4116.  | 2                     |
| New York, N.Y. ....       | Officer-in-charge, room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone 212-991-7669 or 7668.  | 1                     |
| New Orleans, La. ....     | Officer-in-charge, 5027 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans La. 70113, phone 504-589-6741 or 6742.                         | 1                     |
| Miami, Fla. ....          | Officer-in-charge, 1350 Northwest 12th Ave., room 530, Miami, Fla. 33136, phone 305-324-6116 or 6117.  | 1                     |
| All other Florida points. | Officer-in-charge, P.O. Box 1232, Winter Haven, Fla. 33880, phone 813-294-3511, ext. 33.   | 1                     |
| All other points .....    | Chief, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, Washington, DC 20250, phone 202-447-5870. | 3                     |

(4) Inspection certificates shall cover only the quantity of tomatoes that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any tomatoes 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;

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(iii) The Customs entry number pertaining to the lot or shipment covered by the certificate;

(iv) The commodity inspected;

(v) The quantity of the commodity covered by the certificate;

(vi) The principal identifying marks on the containers;

(vii) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(viii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e–1.

(g) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of tomatoes for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, *Importation* means release from custody of the United States Bureau of Customs. *Cherry tomatoes* means cerasiform types commonly referred to as “cherry tomatoes.” *Pear shaped tomatoes* means elongated types, commonly referred to as pear shaped or paste tomatoes and include San Marzano, Red Top and Roma varieties. *Hydroponic tomatoes* means tomatoes grown in solution without soil. *Greenhouse tomatoes* means tomatoes grown indoors. The terms relating to grade and size, as used herein, shall have the same meaning as when used in the U.S. Standards for Grades of Fresh Tomatoes (7 CFR 51.1855 through 51.1877).

(i) *Exemptions.* The grade, size, quality and maturity requirements of this section shall not apply to tomatoes for charity, relief, canning or pickling, but such tomatoes shall be subject to the safeguard provisions contained in § 980.501. Processing includes canning and pickling.

[42 FR 55192, Oct. 14, 1977, as amended at 43 FR 3349, Jan. 25, 1978; 57 FR 27352, June 19, 1992; 58 FR 69189, Dec. 30, 1993; 61 FR 13060, Mar. 26, 1996; 63 FR 12401, Mar. 13, 1998; 72 FR 2172, Jan. 18, 2007; 74 FR 2808, Jan. 16, 2009; 74 FR 45736, Sept. 4, 2009; 74 FR 65394, Dec. 10, 2009; 81 FR 87412, Dec. 5, 2016]

**§ 980.501 Safeguard procedures for potatoes, onions, and tomatoes exempt from grade, size, quality, and maturity requirements.**

(a) Each person who imports or receives any of the commodities listed in paragraphs (a)(1) through (5) of this section shall file (electronically or paper) an “Importer’s Exempt Commodity Form” (FV–6) with the Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA. A “person who imports” may include a customs broker, acting as an importer’s representative (hereinafter referred to as “importer”). A copy of the completed form (electronic or paper) shall be provided to the U.S. Customs and Border Protection. If a paper form is used, a copy of the form shall accompany the lot to the exempt outlet specified on the form. Any lot of any commodity offered for inspection and, all or a portion thereof, subsequently imported as exempt under this provision shall also be reported on an FV–6 form. Such form (electronic or paper) shall be provided to the Marketing Order and Agreement Division in accordance with paragraph (d) of this section. The applicable commodities are:

(1) Potatoes, onions or tomatoes for consumption by charitable institutions or distribution by relief agencies;

(2) Potatoes, onions, or tomatoes for processing;

(3) Potatoes or onions for livestock feed; or

(4) Pearl onions; or

(5) Tomatoes to be used in non-commercial outlets for experimental

(b) *Certification of exempt use.* (1) Each importer of an exempt commodity as specified in paragraph (a) of this section shall certify on the FV–6 form (electronic or paper) as to the intended exempt outlet (*e.g.*, processing, charity, livestock feed). If certification is made using a paper FV–6 form, the importer shall provide a handwritten signature on the form.

(2) Each receiver of an exempt commodity as specified in paragraph (a) of this section shall also receive a copy of the associated FV–6 form (electronic or paper) filed by the importer. Within two days of receipt of the exempt lot, the receiver shall certify on the form (electronic or paper) to the Marketing



Order and Agreement Division that such lot has been received and will be utilized in the exempt outlet as certified by the importer. If certification is made using a paper FV-6 form, the receiver shall provide a handwritten signature on the form.

(c) It is the responsibility of the importer to notify the Marketing Order and Agreement Division of any lot of exempt commodity rejected by a receiver, shipped to an alternative exempt receiver, returned to the country of origin, or otherwise disposed of. In such cases, a second FV-6 form must be filed by the importer, providing sufficient information to determine ultimate disposition of the exempt lot, and such disposition shall be so certified by the final receiver.

(d) All FV-6 forms and other correspondence regarding entry of exempt commodities must be submitted electronically, by mail, or by fax to the Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; telephone (202) 720-2491; email [ComplianceInfo@ams.usda.gov](mailto:ComplianceInfo@ams.usda.gov); or fax (202) 720-5698.

[80 FR 15677, Mar. 25, 2015, as amended at 81 FR 87412, Dec. 5, 2016]

**PART 981—ALMONDS GROWN IN CALIFORNIA**

**Subpart A—Order Regulating Handling**

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