

this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1995-96 fiscal year begins on September 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable cranberries handled during the fiscal year; and (3) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

#### List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is amended as follows:

#### **PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK**

1. The authority citation for 7 CFR part 929 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

**Note:** This section will not appear in the Code of Federal Regulations.

2. A new § 929.235 is added to read as follows:

#### **§ 929.235 Expenses and assessment rate.**

Expenses of \$201,336 by the Cranberry Administrative Committee are authorized, and an assessment rate of \$0.03 per 100-pound barrel assessable cranberries is established for the 1995-96 fiscal year ending on August 31, 1996. Unexpended funds may be carried over as a reserve.

Dated: August 4, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*

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#### **7 CFR Part 959**

[FV95-959-1FR]

#### **Onions Grown in South Texas; Changes in Bulk Bin Requirements**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes a requirement that polyethylene liners be used in bulk shipping bins. Such liners limit air flow inside the container and may cause the onions to decay more easily and result in a loss of product. Removal of this requirement should reduce product loss due to excessive decay and lessen the chances of receiver rejection. This rule also prohibits the use of bulk bins for shipments of onions for fresh whole use because the arrival condition of such onions is critical. Onions transported in bulk bins are not protected from damage, such as bruising, as well as those packed in smaller size cartons or bags. However, the arrival condition of onions for fresh chopping, slicing, or peeling, or other fresh use in which the form of the onion is changed is not as critical. The use of bulk bins, which are more cost effective for such shipments, may continue.

**EFFECTIVE DATE:** September 11, 1995.

#### **FOR FURTHER INFORMATION CONTACT:**

Robert F. Matthews, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456, telephone: (202) 690-0464; or Belinda G. Garza, McAllen Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501; telephone: (210) 682-2833, FAX (210) 682-5942.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 143 and Marketing Order No. 959 (7 CFR part 959), as amended, regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this action.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with

law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 35 handlers of South Texas onions who are subject to regulation under the order and approximately 70 producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000. The majority of handlers and producers of South Texas onions may be classified as small entities.

At a public meeting on November 8, 1994, the South Texas Onion Committee (committee) recommended deleting a requirement that perforated polyethylene liners (poly liners) be used in the bulk bins under the authority for experimental shipments. It also recommended limiting the use of bulk bins to shipments of onions for peeling, slicing, chopping, or other fresh use in which the form of the onion is changed. Fourteen members and alternates were present, and all recommendations were unanimous.

Sweet onions normally have a high moisture content, and a poly liner, even when perforated, acts as a vapor barrier. Moisture remains inside the bin, or container, which can cause mold, bacteria, and other decay microorganisms to develop. To avoid such a warm, damp environment, air

circulation is necessary. However, use of the poly liner blocks air movement and may cause "sweating" and decay of the onions. Because satisfactory arrival condition is important to onion receivers, the committee recommended that the requirement for poly liners be removed. This should lessen the chances of receiver rejections due to excessive decay.

At the meeting, the committee also recommended permitting onions for fresh peeling, chopping, or slicing to be shipped in bulk bins, as authorized by the provision for experimental shipments in the handling regulation. Although bags and cartons provide better protection during shipping, the committee does not believe that such additional protection is necessary for onions moving to processing outlets. Handlers have found that both bags and cartons are more difficult to load and unload than are bulk containers. In addition, bags and cartons are more expensive to buy and only last for one shipment, while bins can be used repeatedly. Also, bags and cartons must be disposed of at the destination, an additional cost, while bins can be returned for further use.

Therefore, subparagraph (i) of paragraph (f)(3) *Experimental shipments*. is hereby revised to remove the requirement for a poly liner and be limited to shipments for peeling, slicing, and chopping, and redesignated as (f)(3) *Peeling, slicing, and chopping*. The remaining parts of paragraph (3) *Experimental shipments*. are redesignated (f)(4) *Experimental shipments*. but are otherwise unchanged. Both paragraphs (f)(3) and (f)(4) continue to be subject to the safeguards under paragraph (g).

In accordance with the Paperwork Reduction Act of 1988 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB number 0581-0074.

A proposed rule was published in the **Federal Register** on June 12, 1995 (60 FR 30794). That rule provided that interested persons could file comments through July 12, 1995. No comments were received.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the committee and other

available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

**List of Subjects in 7 CFR Part 959**

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is hereby amended as follows:

**PART 959—ONIONS GROWN IN SOUTH TEXAS**

1. The authority citation for 7 CFR part 959 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

2. Paragraphs (f)(4) and (f)(5) of § 959.322 are redesignated (f)(5) and (f)(6) respectively; paragraphs (f)(3)(ii) and (f)(3)(iii) are redesignated (f)(4)(i) and (f)(4)(ii) and revised; paragraph (f)(3)(i) is redesignated as (f)(3) and revised; and the introductory text of paragraphs (g) and (g)(4) are revised to read as follows:

**§ 959.222 Handling regulation.**

\* \* \* \* \*

(f) \* \* \*

(3) *Peeling, chopping, and slicing.* (i) Upon approval of the committee, onions for peeling, chopping, and slicing may be shipped in bulk bins with inside dimensions of 47 inches x 37½ inches x 36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Such shipments shall be exempt from paragraph (c) of this section, but shall be handled in accordance with the safeguard provisions of § 959.54 and shall meet the requirements of paragraphs (a), (b), (d), and (g) of this section.

(4) *Experimental shipments.* (i) 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 § 959.54 and paragraph (g) of this section.

(ii) Upon approval of the committee, onions may be shipped for testing in types and sizes of containers other than those specified in paragraphs (c) and (f)(2) of this section, provided that the handling of onions in such experimental containers shall be under the supervision of the committee.

\* \* \* \* \*

(g) *Safeguards.* Each handler making shipments of onions for relief, charity,

processing, experimental purposes, or peeling, chopping and slicing shall:

\* \* \* \* \*

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

\* \* \* \* \*

Dated: August 4, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*  
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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 95-NM-130-AD; Amendment 39-9335; AD 95-15-52]

**Airworthiness Directives; Boeing Model 747-100 and -200 Series Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T95-15-52 that was sent previously to all known U.S. owners and operators of certain Boeing Model 747-100 and -200 series airplanes by individual telegrams. This AD requires a revision of the Airplane Flight Manual (AFM) and Airplane Weight and Balance Supplement to restrict cargo loading to a certain level. This AD also provides for the removal of the restrictions following accomplishment of a modification of the longitudinal floor beams. This amendment is prompted by a determination that inadequate strength in the floor beams exists on certain airplanes that have been modified for cargo configurations. The actions specified by this AD are intended to prevent failure of the longitudinal floor beams, which may cause the keel beam to fail and result in rupture of the fuselage.

**DATES:** Effective August 25, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95-15-52, issued July 14, 1995, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before October 10, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation