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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Doc. Number AMS-FV-12-0013]

Onions Other Than Bermuda-Granex-Grano/Creole; Bermuda-Granex-Grano

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type) and the United States Standards for Grades of Bermuda-Granex-Grano Type Onions which were issued under the Agricultural Marketing Act of 1946. The Agricultural Marketing Service (AMS) is proposing to amend the “similar varietal characteristic” and “one type” requirements to allow mixed colors of onions when designated as a mixed or specialty pack. The purpose of this revision is to update and revise the standards to more accurately represent today’s marketing practices and to provide the industry with greater flexibility.

DATES: Comments must be received by (Insert date 60 days after date of publication in the **Federal Register**).

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Branch, Specialty Crops Inspection Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, National Training and Development Center, Riverside Business Park, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406; Fax: (540) 361-1199, or on the web at: www.regulations.gov. Comments should make reference to

the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours. Comments can also be viewed as submitted, including any personal information you provide, on the www.regulations.gov website.

FOR FURTHER INFORMATION CONTACT: Dave Horner, Specialty Crops Inspection Division, (540) 361-1128 or 1150. The current United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type) and the United States Standards for Grades of Bermuda-Granex-Grano Type Onions are available through the Specialty Crops Inspection Division website at www.ams.usda.gov/scihome.

SUPPLEMENTARY INFORMATION:

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this regulatory flexibility analysis. 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.

Proposed changes in two sets of standards would permit specified packs of mixed colors of onions to be certified to a U.S grade. The proposed revisions apply to the United States standards for grades for two categories of onions: (1) Other Than Bermuda-Granex-Grano (BGG) and Creole Type and (2) BGG Type.

In each of the standards, except the section in the Other Than BGG and Creole Type standards which affects the U.S. No. 2 grade, it currently states that one of the requirements to be certified in a grade is that the onion pack contains “similar varietal characteristics.” The wording would be changed to: “Similar varietal characteristics, except color when designated as a specialty or mixed pack.” In the U.S. No. 2 grade for the Other Than BGG and Creole Type standards, the wording would be changed to “One type, except when designated as a specialty or mixed pack.” The additional wording would permit onions of different colors in the same pack as long as the pack is appropriately designated as a “specialty or mixed pack.” Allowing the commingling of mixed colors in an onion pack, when designated, will facilitate the marketing of onions by providing the industry with more flexibility that reflects current industry practices, thereby encouraging additional commerce.

A farm-level estimate of the size of the U.S. onion industry can be obtained from National Agricultural Statistics Service (NASS) data. Averaging NASS onion production for the most recent 3 years (2009-2011) yields a U.S. production estimate of 74.4 million hundredweight (cwt), of which about 10 million cwt (13 percent) are onions for processing. Subtracting 10 million for processing from the total 74.4 million cwt yields an estimate of 64.4 million cwt sold for the fresh market. The total 3-year average onion crop value is \$955.4 million and the value of onions for processing is \$86.5 million. The difference is a computed estimate of \$868.9 million for the crop value sold into the fresh market. Average onion acreage for the period 2009-2011 is 149,320. Dividing total crop value by acreage yields a 3-year average grower revenue per acre estimate of about \$6,400.

An estimate of the total number of onion farms from the 2007 Agricultural Census (the most recent data available on farm numbers) is 4,074. An onion farm is defined by the Census as

a farm from which 50 percent or more of the value of agricultural sales are from onions. The Small Business Administration (SBA) threshold for a large business in farming is \$750,000 in annual sales. With average revenue per acre of \$6,400, 117 acres of onions would generate approximately \$750,000 in crop value. Census data shows that 3,679 out of a total of 4,074 farms (91 percent) are less than 100 acres. Most onion farms would therefore be considered small businesses under the SBA definition, in terms of onion sales only (not including sales of other crops). There is no published data with which to make comparable estimates of the number of packers or shippers of onions.

Three fourths of the value of production for U.S. onions comes from six states. In declining order of magnitude, with market shares ranging from 18 to 8 percent, those states are: California, Washington, Oregon, Georgia, Texas, and Nevada. The remaining states for which NASS reports onion production are New Mexico, Idaho, New York, Colorado, Michigan, Wisconsin, and Arizona.

Benefits of the proposed changes substantially outweigh the costs. The only additional cost borne by packers/shippers, which is expected to be minimal, is when “specialty or mixed packs” are designated by means of labeling. There are no other additional costs to packers/shippers or growers from this change, and smaller entities would not bear a disproportionate cost. The proposed change in the standards reflects a shift in onion packing/shipping practices that is already underway. The additional flexibility in the revised standards will facilitate additional onion sales, to the benefit of growers, packers, and consumers.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of the rule.

Background and Proposed Rule

AMS has observed that the industry is packing mixed colors of onions, primarily in Idaho, Oregon, Washington, and Texas. In addition, Marketing Order 958 for Idaho and Oregon Onions, administrated by the Idaho-Eastern Oregon Onion Committee, was amended November, 2011, to allow pearl onion packs and experimental shipments of mixed colors. Furthermore, in a May 2012 meeting with the Marketing Order Administration Division, AMS was informed that Washington State, which is outside of marketing order 958, has packed mixed colors of larger Walla Walla type onions for Canada. Currently, the U.S. onion standards do not permit mixing colors in the same pack. The proposed revision will provide the flexibility for shippers and packers to do so. AMS believes that permitting mixed colors when designated as a specialty or mixed pack will facilitate the marketing of onions by aligning the standards with current marketing practices. Therefore, AMS proposes to amend the similar varietal characteristic requirement for:

Onions Other Than BGG and Creole Type in Sections 51.2830, 51.2831, and 51.2832, which affects the U.S. No. 1, U.S. Export No. 1, and U.S Commercial grades, by adding “except color when designated as a specialty or mixed pack.” Likewise, AMS proposes to amend the one type requirement in Section 51.2835, which affects the U.S. No. 2 grade, by adding “except when designated as a specialty or mixed pack.”

Bermuda-Granex-Grano (BGG) Type Onions in Sections 51.3195 and 51.3197, which affects the U.S. No. 1, U.S. Combination, and U.S No. 2 grades, by adding “except color when designated as a specialty or mixed pack.”

Comments Invited

AMS proposes to amend the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type) and the United States Standards for Grades of Bermuda-Granex-Grano Type Onions. This rule provides for a 60 day comment period for interested parties to comment on the proposed revisions in the standards.

List of subjects in 7 CFR part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and record keeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR part 51 is proposed to be amended as follows:

Part 51 – FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

1. The authority citation for part 51 continues to read as follows:

Authority: 7 U.S.C. 1621 – 1627.

2. In § 51.2830, paragraph (a) (1) is revised to read as follows:

§ 51.2830 U.S. No. 1.

* * * * *

(a) * * *

(1) Similar varietal characteristics, except color when designated as a specialty or mixed pack;

* * * * *

3. In § 51.2831, paragraph (a) (1) is revised to read as follows:

§ 51.2831 U.S. Export No. 1

* * * * *

(a) * * *

(1) Similar varietal characteristics, except color when designated as a specialty of mixed pack;

* * * * *

4. In § 51.2832, paragraph (a) (1) is revised to read as follows:

§ 51.2832 U.S. Commercial

* * * * *

(a) * * *

(1) Similar varietal characteristics, except color when designated as a specialty or mixed pack;

* * * * *

5. In § 51.2835, paragraph (a) (1) is revised to read as follows:

§ 51.2835 U.S. No. 1 Boilers

* * * * *

(a) * * *

(1) One type, except when designated as a specialty or mixed pack;

* * * * *

6. In § 51.3195, paragraph (a) (1) is revised to read as follows:

§ 51.3195 U.S. No. 1

* * * * *

(a) * * *

(1) Similar varietal characteristics, except color when designated as a specialty or mixed pack;

* * * * *

7. In § 51.3197, paragraph (a) (1) is revised to read as follows:

§ 51.3197 U.S. No. 2

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(a) * * *

(1) Similar varietal characteristics, except color when designated as a specialty or mixed pack;

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Dated: August 16, 2013

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

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