

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 51

[Docket Number FV-94-302]

**Bermuda-Granex-Grano Type Onions and Onions (Other Than Bermuda-Granex-Grano and Creole Type); Grade Standards**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This final rule revises the United States Standards for Grades of Bermuda-Granex-Grano Type Onions and United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type). The revision sets a minimum sample size for consumer size packages, provides a "Colossal" size classification and eliminates Export size classifications. It also includes other technical revisions to update the standards in accord with current handling and marketing practices.

EFFECTIVE DATE: October 10, 1995.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** The U.S. Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on substantial number of small entities. This final rule for the revision of U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions and U.S. Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type) will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This

rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The United States Standards for Grades of Bermuda-Granex-Grano Type Onions was last revised February 20, 1985, and the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) was last revised October 1, 1971. In general, the Bermuda-Granex-Grano Type (BGG) standard is applied to southern grown onions that have thin papery outer scales, are harvested in the spring and summer and are not typically kept in storage. The Other Than Bermuda-Granex-Grano and Creole Types (Other Than) standard is generally applied to northern grown onions that have thick outer papery scales, are harvested in the fall and are more commonly stored. The major distinction between the two standards for grades of these onions is the lot tolerances; 10 percent for BGG and 5 percent for Other Than. Although separated by type and tolerances, many similarities exist in the grading of these onions. The different types of onions are affected by most of the same defects. The procedures for sampling and performing grading activities are essentially the same regardless of which standard is being applied. The standards were established and have been revised separately over the years to reflect the needs of their respective industries.

A broad spectrum of growers and shippers of onions who utilize both standards, represented by The National Onion Association (NOA), requested that the minimum sample size for consumer size packages be designated at 20 pounds in each standard. While considering the NOA's request the Agency, through a periodic review, decided to take the opportunity to bring the standards into closer uniformity with each other and conformity to current harvesting, handling and marketing practices by proposing additional revisions including a grade for peeled onions, an additional size designation for colossal onions and technical revisions to promote uniformity and clarity wherever possible.

The proposed rule, United States Standards for Grades of Bermuda-Granex-Grano Type Onions and United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type), was published in the **Federal Register** on February 16, 1995, (60, FR 8973-8981). The 60 day comment period ended April 17, 1995, and a total of eleven comments were received from six individual growers/packers/shippers, four associations and committees and one from an individual consumer.

Three of these comments, which included two growers/packers/shippers and the NOA, were in full support of the proposal. One commentator expressed that, "Since we market onions of both types, we feel the changes to (the) standard are needed and will make the inspection and marketing of onions much easier." The NOA agreed with the agency's effort to modernize and update the standards because it would encourage improved marketing practices and business conditions for U.S. onion producers, shippers, and handlers. Another comment simply stated agreement with the proposed rule.

Three comments were received which were in general support of the proposed changes but which expressed some disagreement on one or two of the specific revisions.

A grower/packer/shipper suggested that the medium size designation be changed from 2 inch minimum to 2<sup>1</sup>/<sub>4</sub> inch minimum and be called large/medium or medium/large. In regards to the new colossal size designation this commentator also stated that "colossal in the trade is generally 4" and larger not 3<sup>3</sup>/<sub>4</sub>." Size designations in the standards are not requirements of the grades but provide reasonable guidelines that may be specified in connection with the grades. These guidelines provide the basis for a common trading language. However, industry members may specify any size qualifications they agree to in their contracts. AMS believes that the consolidation of the separate size classifications from each standard into one has achieved the intended purpose of uniformity and clarity. The colossal size designation provides specifications (3<sup>3</sup>/<sub>4</sub> inches minimum) that would allow for a lot of onions that are packed to 4 inches minimum yet still maintains a reasonable distinction from the next smaller size designation. Therefore, AMS has decided to leave the sizes as designated in the proposal.

Two produce organization groups sent in identical comments in regards to the proposed U.S. No. 1 Peeled grade. They suggested the grade be substantially rewritten as a "U.S. Peeled grade" and