

set. Nine certified samples of mohair top, grades 40s through 20s.

(2) *Individual sample.* Individual certified samples of mohair top, grades 40s through 20s.

(b) Each application for standard samples of mohair top shall be upon an application form furnished or approved by the Agricultural Marketing Service, shall be signed by the applicant, and shall be accompanied by certified check, draft, postal money order, or express money order, payable to the "Agricultural Marketing Service," in an amount to cover the cost of the samples requested and shall incorporate the following agreement:

(1) That no samples representative of the official mohair top standards shall be considered or used as representing such standards after cancellation in accordance with this section.

(2) That the said standard samples shall be subject to inspection by the Secretary or by any duly authorized officer or agent of the Department of Agriculture during usual business hours of the person having custody of the samples.

(3) That the certificate covering any of the samples representative of the standards may be revoked and cancelled by the Director of the Livestock Division, if it is found upon such inspection that the said samples are not representative of the official standards.

[38 FR 967, Jan. 8, 1973]

§ 32.403 Cost of Standard samples for mohair top grades.

(a) *Complete set.* Twenty-seven dollars each, delivered to any destination within the United States and \$30 each, delivered to any destination outside the United States.

(b) *Individual sample.* Three dollars each, delivered to any destination within the United States, and \$3.50 each, delivered to any destination outside the United States.

[38 FR 967, Jan. 8, 1973]

PART 33—EXPORT APPLES AND PEARS

DEFINITIONS

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REGULATIONS

- 33.10 Minimum requirements.
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- 33.13 Notice.
- 33.14 Opportunity for hearing.
- 33.15 Suspension of inspection.
- 33.16 Service of notice or order.

INTERPRETATIVE RULES

- 33.50 Apples and pears for processing.

AUTHORITY: The provisions of this Part 33 issued under sec. 7, 48 Stat. 124; 7 U.S.C. 587.

SOURCE: The provisions of this Part 33 appear at 24 FR 6609, Aug. 14, 1959, unless otherwise noted.

DEFINITIONS

§ 33.1 Act.

"Act" and "Export Apple and Pear Act" are synonymous and mean "An act to promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," approved June 10, 1933 (48 Stat. 123; 7 U.S.C. 581 et seq.).

§ 33.2 Person.

"Person" means an individual, partnership, association, corporation, or any other business unit.

§ 33.3 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

§ 33.4 Carrier.

"Carrier" means any common or private carrier, including, but not being limited to, trucks, railroads, airplanes, vessels, tramp or chartered steamers whether carrying for hire or otherwise.

§ 33.5 Apples.

"Apples" means fresh whole apples in packages whether or not they have been in storage.

§ 33.6 Pears.

"Pears" means fresh whole pears in packages whether or not they have been in storage.

§ 33.7 Package.

"Package" means any container of apples or pears.

§ 33.8 Less than carload lot.

Less than carload lot means a quantity of apples or pears in packages not exceeding 20,000 pounds gross weight or 400 standard boxes or equivalent.
[29 F.R. 13559, Oct. 2, 1964]

REGULATIONS

§ 33.10 Minimum requirements.

No person shall ship, or offer for shipment, and no carrier shall transport, or receive for transportation, any shipment of apples or pears to any foreign destination unless:

(a) Apples grade at least U.S. No. 1 grade or U.S. No. 1 Early grade, as specified in the United States Standards for Apples (§§ 51.300-51.323; 28 F.R. 9685), do not contain apple maggot and do not have more than 2 percent, by count, of apples with apple maggot injury, nor more than 2 percent, by count, of apples infested with San Jose scale or scale of similar appearance;

(b) Pears grade at least U.S. No. 2 grade, as specified in the United States Standards for Summer and Fall Pears, such as Bartlett, Hardy, and other similar varieties (§§ 51.1260 to 51.1280 of this chapter), or in the United States Standards for Winter Pears, such as Anjou, Bosc, Comice, and other similar varieties (§§ 51.1300 to 51.1323 of this chapter) do not contain apple maggot, and do not have more than 2 percent, by count, of pears with apple maggot injury, nor more than 2 percent, by count, of pears infested with San Jose scale or scale of similar appearance;

(c) Each package of apples or pears is packed so that the apples or pears in the top layer shall be reasonably representative in size, color, and quality of the contents of the package; and

(d) Each package of apples or pears is marked plainly and conspicuously with (1) the name and address of the grower,

packer, or domestic distributor: *Provided*, That the name of the foreign distributor may be placed on consumer unit packages shipped in a master container if such master container is marked with the name and address of the grower, packer, or domestic distributor; (2) the variety of the apples or pears; (3) the name of the U.S. grade or the name of a state grade if the fruit meets each minimum requirement of a U.S. grade specified in this section; and (4) the numerical count or the minimum size, or, for pears, the count size in terms of the number required to fill a standard western pear box in accordance with the standard pack requirements set forth in the applicable U.S. Standard specified in this section. If count size is used, the number denoting count shall be followed by the word "size," e.g., 120 size.

[24 F.R. 6610, Aug. 14, 1959, as amended at 28 F.R. 12901, Dec. 12, 1963; 32 F.R. 9298, June 30, 1967; 33 F.R. 12819, Sept. 11, 1968]

§ 33.11 Inspection and certification.

(a) Each person shipping, or offering for shipment, apples or pears to any foreign destination shall cause them to be inspected by the Federal or Federal-State Inspection Service in accordance with regulations governing the inspection and certification of fresh fruits, vegetables and other products (Part 51 of this chapter) and certified as meeting the requirements of the act and this part. No carrier shall transport, or receive for transportation, apples or pears to any foreign destination unless they have been so inspected and certified. Inspection and certification may be obtained at any time prior to exportation of the apples or pears. Such a Federal or Federal-State certificate shall be designated as an "Export Form Certificate" and shall include the following statement: "Meets requirements of Export Apple and Pear Act." The shipper shall deliver a copy of the Export Form Certificate or Memorandum of Inspection to the export carrier. Whenever apples or pears are inspected and certified at any point other than the port of exportation, the shipper shall deliver a copy of the Export Form Certificate or Memorandum of Inspection to the agent of the first carrier that thereafter transports such apples or pears and such agent shall deliver such copy to the proper official of the carrier on which the apples or pears, covered by such cer-

tificate or memorandum, are to be exported. A copy of the Export Form Certificate or Memorandum of Inspection shall be filed by the export carrier for a period of not less than three (3) years after date of export.

(b) If the inspector has reason to believe that samples of a lot of apples or pears have been obtained for a determination as to compliance with tolerance for spray residue, established under the Federal Food, Drug and Cosmetic Act, as amended (52 Stat. 1040; 21 U.S.C. 301 et seq.), he shall not issue a certificate on the lot unless it complies with such tolerances.

EXEMPTIONS

§ 33.12 Apples and pears not subject to regulation.

Except as otherwise provided in this section, any person may, without regard to the provisions of this part, ship or offer for shipment, and any carrier may, without regard to the provisions of this part, transport or receive for transportation to any foreign destination:

(a) A quantity of apples or pears to any foreign country not exceeding a total of 5,000 pounds gross weight or 100 boxes of apples or pears packed in standard boxes on a single conveyance: *Provided*, That pears may be shipped to Venezuela or Mexico in less than carload lots not exceeding one such lot to any one consignee or receiver on a single conveyance.

(b) Apples or pears to Pacific ports west of the International Date Line which do not meet maturity standards of the grade specified in § 33.10, if the packages are conspicuously marked or printed with the words "Immature Fruit;" (in letters at least two inches high) if inspected and certified as meeting all other requirements of §§ 33.10 and 33.11.

(c) Apples for processing which do not meet the grade standards specified in § 33.10, if such apples grade at least U.S. No. 1 as specified in U.S. Standards for Apples for Processing (§§ 51.340 to 51.344 of this chapter), and if the containers are conspicuously marked "Cannery" (in letters at least two inches high) if inspected and certified as meeting all other requirements of §§ 33.10 and 33.11.

(d) Pears for processing which do not meet the grade standards specified in

§ 33.10, if such pears grade at least U.S. No. 1 as specified in U.S. Standards for Pears for Canning (§§ 51.1345 to 51.1358 of this chapter), and if the containers are conspicuously marked "Cannery" (in letters at least two inches high) if inspected and certified as meeting other requirements of §§ 33.10 and 33.11.

[24 F.R. 6610, Aug. 14, 1959, as amended at 30 F.R. 8775, July 13, 1965]

WITHHOLDING CERTIFICATES

§ 33.13 Notice.

If the Secretary is considering withholding the issuance of certificates under the act for a period of not exceeding 90 days to any person who ships, or offers for shipment, apples or pears to any foreign destination in violation of any provisions of the act or this part, he shall cause notice to be given to the person accused of the nature of the charges against him and of the specific instances in which violation of the act or the regulations in this part is charged.

§ 33.14 Opportunity for hearing.

The person accused shall be entitled to a hearing, provided he makes written request therefor and files a written responsive answer to the charges made not later than 10 days after service of such notice upon him. The right to hearing shall be restricted to matters in issue. At such hearing, he shall have the right to be present in person or by counsel and to submit evidence and argument in his behalf. Failure to request a hearing within the specified time or failure to appear at the hearing when scheduled shall be deemed a waiver of the right to hearing. Such person may, in lieu of requesting an oral hearing, file a sworn written statement with the Secretary not later than 10 days after service of such notice upon him.

§ 33.15 Suspension of inspection.

Any order to withhold the issuance of a certificate, as provided in section 6 of the act, will be effective from the date specified in the order but no earlier than the date of its service upon the person found to have been guilty. Such order will state the inclusive dates during which it is to remain in effect, and during this period no inspector employed or licensed by the Secretary shall issue any Export Form Certificate or Memorandum of Inspection to such person.

§ 33.16 Service of notice or order.

Service of any notice or order required by the act or prescribed by the regulations in this part shall be deemed sufficient if made personally upon the person served, by registered mail, or by leaving a copy of such notice or order with an employee or agent at such person's usual place of business or abode or with any member of his immediate family at his place of abode. If the person named is a partnership, association, or corporation, service may similarly be made by service on any member of the partnership or any officer, employee, or agent of the association or corporation.

INTERPRETATIVE RULES

§ 33.50 Apples and pears for processing.

The terms "apples for processing" and "pears for processing" as used in § 33.12 of this part apply only and are restricted to packages of apples or pears which were originally packaged for processing and marked "Cannery" as required by § 33.12 (c) and (d) of this part. Packages of apples or pears not so originally packaged and marked are not eligible for certification as "apples for processing" or "pears for processing" for purposes of this part.

[25 F.R. 12430, Dec. 6, 1960]

PART 34—TOBACCO SEED AND PLANT EXPORTATION ACT

GENERAL PROVISIONS

Sec. 34.1 Definitions.

ADMINISTRATION

34.2 Administrator.

PERMITS

34.3 Permit required.
34.4 Restrictions upon issuance of permits.
34.5 Method of obtaining permits.
34.6 Exceptions.

INSTRUCTIONS TO SHIPPERS

34.7 Marking packages.
34.8 Shipments by mail.
34.9 Shipments by railway, ferry boat, or vehicle.
34.10 Shipments by seagoing vessel or airplane.

DISPOSITION OF USED PERMITS

34.11 Procedure.

AUTHORITY: The provisions of this Part 34 issued under sec. 1, 54 Stat. 231; 7 U.S.C. 516.

SOURCE: The provisions of this Part 34 appear at 11 F.R. 6171, June 7, 1946; 19 F.R. 57, Jan. 6, 1954, unless otherwise noted.

GENERAL PROVISIONS

§ 34.1 Definitions.

(a) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(b) "Administrator" means the Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, or any employee of the U.S. Department of Agriculture to whom authority has heretofore lawfully been delegated or to whom authority may hereafter lawfully be delegated to act in his stead.

(c) "Director" means the Director of the Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(d) "Act" means the Tobacco Seed and Plant Exportation Act.

ADMINISTRATION

§ 34.2 Administrator.

The Administrator is charged with the administration of the provisions of the act and the regulations in this part.

PERMITS

§ 34.3 Permit required.

No tobacco seed or live tobacco plants may be exported from the United States or any Territory subject to the jurisdiction thereof to any foreign country, port, or place unless such exportation or transportation shall have been authorized in advance by a written permit of the Secretary countersigned by the Director.

§ 34.4 Restrictions upon issuance of permits.

(a) Permits will be granted only where the evidence indicates that the consignee is a representative of a government institution or an agency engaged in conducting agricultural experiments in the course of scientific research.

(b) Quantities permitted to be exported will be restricted to 14 grams or ½ ounce of seed or 500 live plants of any one variety, with the exception of the species *Nicotiana rustica*, to which this restriction will not apply.