

expected to result in improved grower returns.

Permitting shipments of pack size 112 grapefruit grading at least U.S. No. 1 will enable Texas grapefruit handlers to meet market needs and compete with similar size grapefruit expected to be shipped from Florida.

These changes in pack and size requirements for Texas oranges and grapefruit are intended to broaden the range of sizes and increase the amount of fruit available to consumers and increase grower returns. An alternative to this rule is to leave the current regulations in place. However, that would result in more of the larger oranges and grapefruit and the smaller grapefruit going to processors, and less fruit going to the more lucrative fresh market, which yields higher returns to growers.

After consideration of all relevant material presented, including the TVCC's recommendation, and other available information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting 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) To be of maximum benefit, this action should be effective by September 1, the beginning of the 1996-97 season; (2) Texas citrus handlers are aware of this relaxation which was recommended by the TVCC at a public meeting, and they will need no additional time to comply with its requirements; and (3) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 906

Oranges, Marketing agreements, Grapefruit, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR part 906 continues to read as follows:

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

2. Paragraph (a)(2)(i)(a) of § 906.340 is revised to read as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) * * *

(2) * * *

(i) * * *

(a) Oranges, except Navel oranges and Valencia and similar late-type oranges, when packed in any box, bag, or carton shall be sized in accordance with the sizes set forth in the following Table I, except as otherwise provided by regulations issued pursuant to this part, and otherwise meet the requirements of standard pack; and when in containers not packed according to a definite pattern shall be sized in accordance with the sizes set forth in the following Table I and otherwise meet the requirements of standard sizing: *Provided*, That the packing tolerances, which are set forth in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona), shall be applicable to fruit so packed.

TABLE I.—1½ BUSHEL BOX
[Diameter in inches]

Pack size	Minimum	Maximum
46's	4 ⁵ / ₁₆	5
54's or 56's	4 ² / ₁₆	4 ¹² / ₁₆
64's	3 ¹⁵ / ₁₆	4 ⁹ / ₁₆
70's or 72's	3 ¹³ / ₁₆	4 ⁵ / ₁₆
80's	3 ¹⁰ / ₁₆	4 ² / ₁₆
100's	3 ⁷ / ₁₆	3 ¹³ / ₁₆
112's	3 ⁵ / ₁₆	3 ¹¹ / ₁₆
125's	3 ³ / ₁₆	3 ⁹ / ₁₆
163's	2 ¹⁵ / ₁₆	3 ⁵ / ₁₆
200's	2 ¹¹ / ₁₆	3 ¹ / ₁₆
252's	2 ⁷ / ₁₆	2 ¹² / ₁₆
288's	2 ⁴ / ₁₆	2 ⁹ / ₁₆
324's	2 ³ / ₁₆	2 ⁸ / ₁₆

3. Paragraph (a)(2)(i)(c) of § 906.340 is amended by redesignating "Table I" as "Table II".

4. Paragraph (a)(2)(ii) of § 906.340 is revised to read as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) * * *

(2) * * *

(ii) *Grapefruit*. Grapefruit, when packed in any box, bag or carton, shall be within the diameter limits specified for the various pack sizes in 7 CFR 51.630(c) of the United States Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona): *Provided*, That the minimum diameter limit for pack size 36 grapefruit shall be 4¹⁵/₁₆ inches and the maximum diameter limit shall be 5⁹/₁₆ inches; *Provided*, That the minimum diameter limit for pack size 96 grapefruit shall be 3⁹/₁₆ inches and for pack size 112 grapefruit shall be 3⁵/₁₆ inches; and *Provided further*, That any

grapefruit in boxes or cartons shall be packed in accordance with the requirements of standard pack.

* * * * *

5. Section 906.365 is amended by revising paragraph (a)(4) to read as follows:

§ 906.365 Texas Orange and Grapefruit Regulation 34.

(a) * * *

(4) Such grapefruit are at least pack size 96, except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3⁹/₁₆ inches: *Provided*, that any handler may handle grapefruit, which are smaller than pack size 96, if such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3⁵/₁₆ inches.

* * * * *

Dated: August 16, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-21331 Filed 8-20-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Parts 911 and 944

[Docket No. FV96-911-2FR]

Limes Grown in Florida and Imported Limes; Change in Regulatory Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; suspension.

SUMMARY: This rule suspends the regulatory period currently prescribed under the lime marketing order and the lime import regulations. The marketing order regulates the handling of limes grown in Florida and is administered locally by the Florida Lime Administrative Committee (committee). By temporarily reducing the regulatory period and its associated costs, this rule should decrease industry expenses and allow the committee to evaluate its impact. The changes in import requirements are necessary under section 8e of the Agricultural Marketing Agreement Act of 1937.

EFFECTIVE DATES: June 1, 1997, through December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Aleck Jonas, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299-4770, Fax: (941) 299-5169; or Caroline Thorpe, Marketing Order Administration Branch, F&V, AMS, USDA, room

2522-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-8139, Fax: (202) 720-5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; telephone (202) 720-2491; Fax: (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 911 (7 CFR Part 911), as amended, regulating the handling of limes, hereinafter referred to as the "order." This 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."

This final rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including limes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule 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 rule.

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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule 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. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 10 handlers subject to regulation under the order and about 115 producers of Florida limes. There are approximately 35 importers of limes. Small agricultural service firms, which include lime handlers and importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. A majority of these handlers, producers, and importers may be classified as small entities.

This rule changes the regulatory period by suspending both the domestic and import regulations from June 1, 1997 through December 31, 1997. By temporarily reducing the regulatory period and its associated costs, this rule should provide a decrease in industry expenses. Both large and small growers, handlers and importers should benefit from the reduced costs of no regulations, such as no inspection fees during the deregulated period.

In addition, small handlers usually use block inspection. Under block inspection, the fruit is packed and palletized, and then inspection is requested. The handler must wait for an available Federal-State inspector to inspect and certify the limes prior to shipment. Larger facilities use continuous inspection because their volume of fruit justifies the constant presence of an inspector. By relaxing regulations for this seven month period, small handlers will benefit by being able to ship fruit without the delay of waiting for an inspector. Small and large

handlers should both benefit from the reduction in inspection costs and committee expenses from fewer meetings and less compliance monitoring. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Section 911.48 of the lime marketing order provides authority to issue regulations establishing specific pack, container, grade and size requirements. These requirements are specified under Sections 911.311, 911.329 and 911.344. Section 911.51 requires inspection and certification that these requirements are met. Currently, there is no regulatory period stated in the order, and these regulations are applied on a continuous year-round basis.

This rule changes the regulatory period by suspending both the domestic and import regulations from June 1, 1997 through December 31, 1997. The committee met on December 13, 1995, and in a vote of six in favor and four opposed, recommended a change in the regulatory period.

There is general agreement in the industry for the need to reduce costs and increase grower returns under current market conditions. The committee made this recommendation to decrease industry expenses by reducing the regulatory period and its associated costs. Prior to Hurricane Andrew, there were approximately 6,500 producing acres of limes in the production area. Currently, there are approximately 1,500 acres of producing lime trees in the production area. Growers are expending approximately \$2,500 per acre to plant new groves and replant lost ones. They are also spending approximately \$1,500 per acre per year to maintaining new groves of young trees which will not produce fruit in commercially significant volumes for several years, thus, giving no return for their investments.

During the 1991-1992 season, prior to Hurricane Andrew, assessments were collected on 1,682,677 bushels. In the 1993-1994 and the 1994-1995 seasons, after the storm, assessments were collected on 228,455 bushels and 283,977 bushels respectively. Lost income from reduced volume and the costs of replanting and maintaining groves, with no immediate monetary return, has caused the industry to seek cost saving measures.

Historically, the June 1 through December 31 period is a time when fruit is plentiful, prices are low, and the overall quality of the crop is good for both domestic and imported supplies. The committee maintains that under these abundant and good quality fruit

conditions, competition and market demand will keep quality standards high.

Conversely, during the time period January 1 through May 31, past seasons have shown that for both domestic and imported fruit, skins are thicker, the juice content is lower and supplies of fruit are limited. Because the temptation to ship poor quality is greater under these high demand and low supply conditions, the committee believes regulations are necessary to prevent poor quality fruit from entering and damaging the lime market. Therefore, the committee believes that for the period June 1, 1997 through December 31, 1997, pack, container, grade and size regulations can be suspended. Competition under good quality and high supply conditions should protect the consumer from poor quality fruit entering market during the deregulated period. The application of regulations from January 1 through May 31 will insure uniform quality throughout the year. The committee will evaluate the impact of this action on the market at the end of the suspension.

Growers, handlers and importers should benefit from the reduced costs of no regulations, such as no inspection fees during the deregulated period. Committee expenses should also be reduced by requiring fewer meetings and less compliance monitoring. Reporting requirements are not affected by this change, and handler reports will continue to be collected during the period of suspension.

Several alternatives to this action were discussed by the committee. One alternative was to leave the regulations in place year-round. This alternative was rejected by the committee because the need to take some action was considered necessary under current market conditions. It was argued that when these regulations were put in place, the quality of both the domestic and imported lime supply varied greatly. Over the years, improved agricultural practices have produced a more consistent, high quality lime supply. This is particularly true during the June through December time period.

Another alternative raised was to terminate the marketing order. Although seriously considered, committee members rejected the idea under arguments that during the January through May time period when supplies are reduced and juice content of all limes is lower, poor quality fruit could enter the market. Consumer dissatisfaction with poor quality limes could lead to product rejection and substitution with lemons, causing lost market share.

This rule represents a compromise of the alternatives considered. The committee believes that this change will provide the consumer with quality fruit throughout the year, while reducing industry costs.

Section 8e of the Act provides that when certain domestically produced commodities, including limes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule changes the regulatory period under the domestic handling regulations, a corresponding change to the import regulations must also be implemented.

Minimum grade and size requirements for limes imported into the United States are currently in effect under Section 944.209 [7 CFR 944.209]. This rule will result in relaxed import requirements because the lime import regulations will not be in effect during the period June 1, 1997, through December 31, 1997. This should reduce costs to importers.

Mexico is the largest exporter of limes to the United States. During the 1994-95 season, Mexico exported 6,075,685 bushels to the United States, while all other sources shipped a combined total of 201,053 bushels during the same time period. The majority of Mexican imports enter the United States between June 1 and December 31, the deregulated period covered in this rule.

A proposed rule concerning this action was published in the May 8, 1996, Federal Register (61 FR 20754), with a 30-day comment period ending June 7, 1996. The comment period was extended to July 8, 1996, through a notice published in the June 26, 1996, Federal Register (61 FR 33047). Eight comments were received. Three comments recommended modifications to the proposed rule, and five comments opposed the proposed rule.

The three comments requesting modification to the proposed rule were submitted by the committee administrator, Gail Knodel, on behalf of the committee. The first comment requested that the proposed rule be modified from a permanent change to a one year trial basis. On April 17, 1996, this recommendation was passed by the committee on a majority vote of seven in support, none against and one abstention. The committee modified its original position because it believes that it is important that this change be thoroughly evaluated before making the suspension on a permanent basis. At the end of the trial year, the committee will evaluate the impact of this action on the

industry and determine if continuation is justified.

The second committee comment requested an extension of the comment period. This request was made due to the complexity of the proposed rule and the potential impact of the proposed changes to the industry. A reopening of the comment period was granted by the Department and published in the June 26, 1996, Federal Register (61 FR 33047).

The third committee comment was a request to make the effective date of the rule June 1, 1997. Because the extension of the comment period would delay the effective date of a final rule, making it impossible to begin the period of deregulation effective June 1, 1996, the committee voted to postpone the effective date to allow for a continuous period of deregulation from June 1 to December 31. The committee believes that this will be beneficial for handlers. The committee also believes that this will allow for a more accurate analysis of the impact of the suspension. The recommendation to change the effective date to June 1, 1997, was made by unanimous vote of the committee. This rule has been modified to reflect the committee's recommendations.

The five opposing comments were submitted by Steve Biondo, grower; Gregory P. Nelson, president of Bernard Egan & Company, grower/importer; Barney W. Rutzke, president of Barney W. Rutzke, Inc., grower/handler; Tina Marie Rutzke, operations manager of Florida Brands Inc., grower/handler; and the fifth was jointly submitted by Herbert Yamamura, president of LIMECO, Inc., grower/handler; Joe Guggino, registered agent for Primo Groves, Inc., grower; Richard Takeshita, grower; Edna Batho, grower; Elizabeth Harrill, grower; Robert Yamamura, grower; Donald Strock, grower; and April Yamamura, grower.

All of the opposing comments expressed concerns that loss of regulation and the associated quality standards will result in poor quality limes on the market and consumer dissatisfaction. Ms. Rutzke states that the loss of regulations will lead to consumer rejection of limes and the substitution of lemons, causing a loss of overall market share. Both the comment of Mr. Rutzke and the jointly signed comment expressed concerns that low quality imported limes will be dumped on the domestic market.

The committee, upon further discussion, shared these concerns, and therefore recommended that the proposed rule be modified from a permanent change to a one year trial basis. The committee believes that there

is an adequate supply of high quality limes to meet consumer demands during the requested deregulation period. However, the committee also believes that a test of the deregulation period will determine if consumer demand will keep quality high or result in substitution of lemons and loss of market share.

Four of the opposing comments allege that the proposed rule was passed by a committee with unqualified members seated, and therefore the proposal should not have been acted on by the Department. Commenters claim that, when the original recommendation was made on December 13, 1995, some members were serving in positions that they were not qualified to hold. However, since that time, a new committee has been seated. At its organizational meeting on April 17, 1996, the newly elected members of the committee took up the discussion of the suspension. The new committee voted to recommend that the proposed rule be modified from a permanent change to a one year trial basis. Consequently, the changes provided for in this rule were affirmed by the current committee with a majority vote of seven in support, none opposed, and one abstention.

The jointly signed comment disagreed with the proposed rule's contention that, historically, the June 1 through December 31 period is a time when fruit prices are low, and the overall quality of the crop is good. They argued that prices in June, September, October, November and December often have differed from year to year, between low to moderately high, and that lime prices in 1993 and 1994 remained moderate during the months of July and August.

In terms of quality, they state that during the June through December time period, quality is not considered high quality. For example, they state there is a relatively large amount of styler-end breakdown, which is a weakening of the rind at the fruit's blossom end which deteriorates over time. In its deliberations of this rule, the committee considered the availability of quality fruit during the proposed period of suspension. The proposed rule noted that historically prices are low, and the overall quality of the crop is good, indicating a trend and general view of the time period. This does not mean to imply that fluctuations do not occur during various months within the period or from year to year. However, during the period from June to December, juice content improves, fruit matures, and the overall quality of limes is better. The committee plans to review the effects of the suspension on the

market, and base further action on its analysis.

After thoroughly analyzing the comments received and other available information, the Department has concluded that this final rule is appropriate.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

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 the provisions of the regulations to be suspended, as hereinafter set forth, no longer tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 911 and 944 are amended as follows:

1. The authority citation for 7 CFR parts 911 and 944 continues to read as follows:

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

PART 911—LIMES GROWN IN FLORIDA

§§ 911.311, 911.329, 911.344 [Amended]

2. Effective June 1, 1997, through December 31, 1997, §§ 911.311, 911.329, and 911.344 are suspended.

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.209 [Amended]

3. Effective June 1, 1997, through December 31, 1997, § 944.209 is suspended.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-21210 Filed 8-20-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 947

[Docket No. FV96-947-1 FIR]

Oregon-California Potatoes; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, with an addition, the provisions of an interim final rule that established an assessment rate for the Oregon-California Potato Committee (Committee) under Marketing Order No. 947 for the 1967-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Oregon-California. Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: Effective on July 1, 1996.

FOR FURTHER INFORMATION CONTACT:

Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, FAX 202-720-5698, or Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724, FAX 503-326-7440. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-2491, FAX 202-720-5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR part 947), regulating the handling of Irish potatoes grown in Oregon-California, 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Oregon-California potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning July 1,