

Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee, in a telephone vote on September 25, 1996, unanimously recommended 1996–97 administrative expenses of \$100,000 for personnel, office and the travel portion of the compliance budget. These expenses were approved by the Department in October 1996. The assessment rate and funding for the research projects and the road guard station maintenance portion of the compliance budget were to be recommended at a later Committee meeting.

The Committee subsequently met on December 17, 1996, and unanimously recommended 1996–97 expenditures of \$308,000 and an assessment rate of \$0.07 per carton of melons. In comparison, last year's budgeted expenditures were \$395,159. The assessment rate of \$0.07 is the same as last year's established rate. Major expenditures recommended by the Committee for the 1996–97 fiscal period include \$84,500 for personnel and administrative expenses, \$115,500 for compliance, \$64,000 for a melon disease management program, \$33,125 for breeding and variety development, and \$10,875 for melon variety evaluation. Budgeted expenses for these items in 1995–96 were \$95,544, \$139,500, \$86,716, \$32,674, and \$10,875, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas melons. Melon shipments for the year are estimated at 3,870,000 cartons, which should provide \$270,900 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budget expenses. Funds in the reserve will be kept within the maximum permitted by the order.

While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

The assessment rate established in this rule will continue in effect indefinitely unless modified,

suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1996–97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendation 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.

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) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 fiscal period began on October 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable melons handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) 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 959

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is amended as follows:

#### **PART 979—MELONS GROWN IN SOUTH TEXAS**

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new subpart titled "Assessment Rates" consisting of a new § 979.219 and a new subpart heading titled "Handling Regulations" are added immediately preceding § 979.304, to read as follows:

Note: This section will appear in the Code of Federal Regulations.

#### **Subpart—Assessment Rates**

##### **§ 979.219 Assessment rate.**

On and after October 1, 1996, an assessment rate of \$0.07 per carton is established for South Texas melons.

Dated: February 13, 1997.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 97–4112 Filed 2–19–97; 8:45 am]

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#### **7 CFR Part 987**

[Docket No. FV–96–987–3 FR]

#### **Domestic Dates Produced or Packed in Riverside County, California; Temporary Relaxation of Size Requirements for Deglet Noor Dates**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the size requirements currently prescribed for the Deglet Noor variety of dates under the California date marketing order. The marketing order regulates the handling of domestic dates produced or packed in Riverside County, California, and is administered locally by the California Date Administrative Committee (committee). This rule will increase the current tolerance for individual, whole Deglet Noor dates weighing less than 6.5 grams (the prescribed minimum) from 10 to 15 percent and will be in effect through October 31, 1997. The relaxation is necessary because dates from the 1996–97 crop are smaller in size and weight than normal. The decrease in size and weight is due to extremely high temperatures experienced last spring in the production area. This relaxation was recommended by the committee to make a larger quantity of the 1996–97 crop

available for sale domestically and in Canada and is expected to benefit producers, handlers, and consumers.

**EFFECTIVE DATE:** This final rule becomes effective February 21, 1997.

**FOR FURTHER INFORMATION CONTACT:**

Maureen Pello, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax # (209) 487-5906; or Valerie L. Emmer, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2536-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 205-2829, 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 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491; Fax # (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement and Order No. 987 (7 CFR part 987), both as amended, regulating the handling of domestic dates produced or packed in Riverside County, California, hereinafter referred to as the "order." The marketing agreement and order are 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule 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.

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.

This final rule revises the size requirements currently prescribed for the Deglet Noor variety of dates under the California date marketing order. This rule will increase the current tolerance for individual, whole Deglet Noor dates weighing less than 6.5 grams (the prescribed minimum) from 10 to 15 percent. The rule will be in effect through October 31, 1997, and was recommended by the committee.

Section 987.39 of the date marketing order provides authority for the establishment of minimum quality requirements for varieties of California dates to be handled in designated outlets. Section 987.40 of the order also provides authority for the committee to recommend to the Secretary additional grade or size requirements for any variety of dates to be handled in any designated outlet when it deems advisable. Pursuant to § 987.12, there are four designated outlet categories for California dates—"DAC" dates, "dates for further processing" (FP dates), "export" dates, and "product" dates.

Section 987.112a of the order's administrative rules prescribes grade, size, and container requirements for each of the four outlet categories of dates. Paragraph (b)(2) of that section prescribes such requirements for DAC dates. DAC dates are marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and applicable identification requirements for handling in the United States and Canada. Currently, DAC dates must meet the requirements for U.S. Grade B, as specified in the U.S. Standards for Grades of Dates (Standards) issued by the Department. In addition, with respect to whole dates of the Deglet Noor variety, the individual dates in a sample from a lot must weigh at least 6.5 grams, with a tolerance of 10 percent per lot for dates weighing less than 6.5 grams.

Paragraph (c)(2) of § 987.112a provides similar requirements for FP dates. FP dates are marketable whole dates acquired by one handler from another handler that are certified as meeting the same grade and size requirements as for DAC dates, with the exception of moisture requirements and applicable identification requirements. Currently, FP dates must also meet the requirements for U.S. Grade B as specified in the Standards, except for moisture.

Section 987.112a also specifies requirements for the remaining two outlet categories of dates—export and product. Except for some minor differences stated in the section, export and product dates must meet the requirements for U.S. Grade C as specified in the Standards.

At its meeting on October 31, 1996, the committee recommended increasing the current tolerance for individual, whole Deglet Noor dates weighing less than 6.5 grams from 10 to 15 percent to be handled in the DAC and FP outlet categories. The committee also recommended that this relaxation be in effect through October 31, 1997. This will allow the rule to be in effect for the remainder of the 1996-97 season, which ends on September 30, plus an additional month. By the end of October 1997, as prescribed under the order, the committee is required to meet and review its marketing policy for the next season. Five committee members voted for this change, three voted against, and one abstained.

In its deliberations, the committee commented that the average fruit size for the 1996-97 crop is expected to be much smaller this season than in recent years, primarily due to the hot, dry spring. Increasing the tolerance from 10 to 15 percent for dates weighing less than 6.5 grams should allow a greater quantity of Deglet Noor dates which are of good quality but weigh less than 6.5 grams to meet the requirements for DAC and FP dates. Currently, the industry average of the number of dates packed per pound is 60. The additional five percent tolerance for undersize dates will allow handlers to include approximately two additional smaller dates per pound. Thus, more of the crop would be utilized as whole dates domestically and in Canada. The committee estimates total 1996-97 marketable date shipments at 33.5 million pounds. Of that amount, Deglet Noor shipments are estimated at approximately 32.4 million pounds, with about 15 million pounds likely to meet the current requirements for DAC and FP dates. According to the committee, increasing the tolerance from 10 to 15 percent should allow about three to five percent more Deglet Noor dates to meet the DAC and FP requirements, or between 450,000 and 750,000 pounds. Making more Deglet Noor dates of satisfactory quality available for sale domestically and in Canada should provide for maximum utilization of the 1996-97 crop, thereby benefiting producers, handlers, and consumers.

The three committee members who opposed the recommendation believe

that the overall quality of dates packed will be decreased if smaller fruit is allowed to meet the requirements for DAC and FP dates. However, other committee members commented that the smaller size dates will still have to meet all of the other characteristics DAC and FP dates must already meet. Thus, consumers should continue to receive good quality whole dates with only a slight increase in the number of smaller size dates. In addition, the majority of committee members believe that this change will only affect about three to five percent of the Deglet Noor shipments that are expected to meet DAC and FP requirements.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final 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. 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 15 handlers of California dates who are subject to regulation under the marketing order and approximately 135 date producers in the regulated area. Small agricultural service firms 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.

Last year, as a percentage, about 75 percent of the handlers shipped under 4 million pounds of dates and 25 percent shipped over 4 million. Using an average f.o.b. price of \$1.12 per pound, about 75 percent of date handlers could be considered small businesses under SBA's definition and about 25 percent of the handlers could be considered large businesses. The majority of handlers and producers of California dates may be classified as small entities.

This final rule revises the size requirements currently prescribed for the Deglet Noor variety of dates under § 987.112a of the California date marketing order. Deglet Noor dates from the 1996-97 crop are smaller in size and weight than normal, due to extremely high temperatures experienced last

spring in the production area. The committee recommended increasing the current tolerance for individual, whole Deglet Noor dates weighing less than 6.5 grams (the prescribed minimum) from 10 to 15 percent, to make a larger quantity of the 1996-97 crop available for sale domestically and in Canada, thereby benefitting producers, handlers, and consumers. This rule will be in effect through October 31, 1997.

At the meeting, the committee discussed the impact of this change on handlers and producers in terms of cost. Handlers and producers receive higher returns for dates that meet DAC and FP requirements. As previously mentioned, dates sold as DAC or FP must meet the requirements for U.S. Grade B dates (with the exception of moisture for FP dates) as specified in the Standards and dates sold in other outlet categories such as product and export must meet requirements specified for U.S. Grade C dates. According to industry members, handlers receive about \$.50 per pound more for U.S. Grade B dates than U.S. Grade C, and growers receive about \$.30 more per pound more for U.S. Grade B dates.

In addition, as previously mentioned, 1996-97 marketable Deglet Noor shipments are estimated to be approximately 32.4 million pounds, of which about 15 million pounds should meet DAC and FP requirements. If, as the committee anticipates, increasing the tolerance for smaller size fruit will impact about three to five percent of the crop, this change should allow between about 450,000 and 750,000 pounds more Deglet Noor dates to be sold as DAC and FP dates. With a net increase to handlers and producers of about \$.50 per pound and \$.30 per pound, respectively, for U.S. Grade B dates, this change could mean an increase in total net returns of \$225,000-\$375,000 for all handlers and \$135,000-\$225,000 for all producers. The benefits for this rule are not expected to be disproportionately greater or less for small handlers or producers than for larger entities.

The committee discussed alternatives to this change, including not increasing the tolerance at all, as well as increasing the tolerance by 10 percent rather than five percent. While only a small amount of the crop is expected to be affected by increasing the tolerance, the committee believes that an increase should benefit producers and handlers with smaller fruit this season. The committee considered increasing the tolerance from 10 to 20 percent but believed that this could put too much smaller size fruit on the market. In addition, committee members commented that the tolerance was increased by five

percent during the 1992-93 season and in prior seasons because of similar problems of an abundance of small size fruit due to hot temperatures, and that the five percent increase was satisfactory. Thus, the majority of committee members agreed that the tolerance for the size of Deglet Noor dates should be increased from 10 to 15 percent through October 31, 1997.

This final rule will relax size requirements under the date marketing order. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

As noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this final rule. However, as previously stated, DAC and FP dates must meet the requirements for U.S. Grade B, as specified in the U.S. Standards for Grades of Dates (7 CFR 52.1001 through 52.1011) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627). Standards issued under the Agricultural Marketing Agreement Act of 1946 are voluntary. Further, the public comments received concerning the proposal did not address the initial regulatory flexibility analysis.

In addition, the committee's meeting was widely publicized throughout the date industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the October 31, 1996, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The committee itself is composed of nine members, of which six are handlers/producers and three are producers only, the majority of whom are small entities.

A proposed rule concerning this action was issued by the Department on December 2, 1996, put on public display at the Office of the Federal Register on December 5, 1996, and published in the Federal Register on Friday, December 6, 1996 (61 FR 64638). Copies of the rule were made available to industry members on December 5, 1996, at a meeting of the California Date Commission (Commission), a State organization that conducts promotional activities for the date industry. Many of the committee members also sit on the Commission. Copies of the rule were also mailed or sent via facsimile to all committee members and date handlers.

Finally, the rule was made available through the Internet by the Office of the Federal Register.

A 15-day comment period was provided to allow interested persons to respond to the proposal. Fifteen days was deemed appropriate because a rule finalizing the action would need to be in place as soon as possible since handlers are already shipping dates from the 1996–97 crop.

Two comments were received during the comment period in response to the proposal. The commenters, both representing the same producer operation, opposed the proposed relaxation. The points made by the commenters were thoroughly discussed prior to the committee vote.

The commenters disagreed with the statement in the proposed rule that the relaxation would benefit both producers and handlers. They claimed that the increased returns to the handlers would not be passed down to the producers. While this may differ between and among individual handlers and producers, it is the Department's understanding that growers are paid for their dates by handlers either on a weight basis (so much money per pound of dates delivered) or on a packout basis (so much money per pound of U.S. Grade B or U.S. Grade C dates). Committee members indicated at the meeting that, when growers are paid based on packout, such growers receive about \$.30 more per pound for U.S. Grade B dates than U.S. Grade C dates. As previously mentioned, the committee anticipates that increasing the tolerance for smaller size fruit will allow more dates to meet U.S. Grade B and be sold as DAC and FP dates and thus, will benefit handlers and producers in the industry.

The commenters also contend that the proposed relaxation will lower industry quality standards at a time when the industry should be striving for higher standards. However, as discussed by the committee and specified in the proposed rule, the 5 percent increase in the number of smaller size dates should result in an average of only 2 additional smaller sized dates in each package of approximately 60 dates. The majority of the committee members felt such a relaxation would not significantly affect the overall quality of each date package.

One commenter claimed that the estimate of 450,000 to 750,000 pounds of additional dates made available by the proposed rule is not accurate because the industry's carry-in inventory was 14 million pounds. While the total inventory is, indeed, estimated at 14.7 million pounds, the inventory of DAC dates—those dates affected by the

relaxation—is only 5.7 million pounds, which is less than normal. The committee's estimate of an additional 450,000 to 750,000 pounds of DAC dates is accurate.

The commenter also suggested that smaller dates would not necessarily come only from the 1996 crop. The commenter stated that the rule's expiration date of October 31, 1997, overlaps the 1997 crop harvest. The commenter contends that smaller dates from the 1997 crop could be packed with the 1996 crop. However, harvest usually begins in mid to late October and only a small amount of dates are harvested and processed before the end of the month. Also, it is common industry practice to store dates for up to 10 months prior to processing, packaging and shipment. Therefore, the October 1997 time period would allow stored 1996 crop dates to be used.

The commenter also claimed that the relaxation is a short term solution and questioned whether other commodities lower quality standards because of adverse weather conditions. Such action has been recommended by other marketing order committees and approved by the Secretary for some commodities. Such recommendations have helped marketing order industries to fully utilize available production when harvests are diminished by adverse weather or other disasters.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

After consideration of all relevant matter presented, including the information and recommendation 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because handlers are already shipping dates from the 1996–97 crop and handlers want to take advantage of the relaxation as soon as possible. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule.

#### List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

## PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

### § 987.112a [Amended]

2. In § 987.112a, paragraphs (b)(2) and (c)(2), the words “December 29, 1992, and ending October 31, 1993,” are removed and the words “February 21, 1997, and ending October 31, 1997,” are added in their place.

Dated: February 14, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–4335 Filed 2–18–97; 2:02 pm]

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## Rural Utilities Service

### 7 CFR Part 1710

RIN 0572–AB30

## Pre-Loan Procedures for Electric Loans

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

**SUMMARY:** The Rural Utilities Service (RUS) is issuing a minor amendment to its pre-loan procedures that will clarify that use of a conventional utility indenture as a security instrument for loans to power supply borrowers is permissible. This amendment will give these borrowers and RUS the flexibility to address the complex issues surrounding power supply loans in the rapidly changing electric industry. The rule will also enhance loan security and, by conforming more closely to private lending practice, allow easier access to private sector financing.

In the proposed rules section of this Federal Register, RUS is proposing approval of and soliciting comments on this action. If adverse comments are received on this action, RUS will withdraw this final rule prior to its effective date and address the comments received in response to this action in a final rule on the related proposed rule, which is published in the proposed rules section of this Federal Register. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

**DATES:** This rule will become effective on April 7, 1997, unless we receive written adverse comments or notice of intent to submit adverse comments on or before March 24, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.