

Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

**Authority:** 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

#### § 319.77–3 [Amended]

2. In § 319.77–3, paragraph (a) would be removed and paragraphs (b) through (e) would be redesignated as paragraphs (a) through (d), respectively.

Done in Washington, DC, this 11th day of June, 2002.

**Peter Fernandez,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02–15074 Filed 6–13–02; 8:45 am]

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#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

#### 7 CFR Part 911

[Docket No. FV97–911–1 PR]

#### Limes Grown in Florida and Imported Limes; Withdrawal of a Proposed Rule

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

**ACTION:** Withdrawal of proposed rule.

**SUMMARY:** This action withdraws a portion of a proposed rule published in the **Federal Register** on April 29, 1997 (62 FR 23185), which would have increased the minimum size requirement prescribed under the lime marketing order and the lime import regulations for the month of June. The order regulates the handling of limes grown in Florida and is administered locally by the Florida Lime Administrative Committee (Committee). The spread of citrus canker in South Florida has decreased production and regulations have been suspended under the marketing order through February 24, 2003. Under section 8e of the Agricultural Marketing Agreement Act of 1937, the lime import regulations also have been suspended through February 24, 2003. Thus, an increase in the size requirements for Florida and imported limes would not be appropriate at this time.

**DATES:** The proposed rule published on April 29, 1997 (62 FR 23185) is partially withdrawn as of June 15, 2002.

**FOR FURTHER INFORMATION CONTACT:** Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884; telephone: (863) 324–3375, Fax: (863) 325–8793; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** Marketing Agreement No. 126 and Marketing Order No. 911, both as amended (7 CFR part 911), regulate the handling of limes grown in Florida, 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.”

This action withdraws a portion of a proposed rule published in the **Federal Register** on April 29, 1997, (62 FR 23185), which would have increased the minimum size requirement for limes and limes imported into the United

States (7 CFR 911.344 and 944.209). Specifically, the Committee recommended increasing the minimum size requirement from 1 $\frac{7}{8}$  inches to 2 inches in diameter for the month of June. Under section 8e of the Act, the same change had to be considered for imported limes. Since that proposal was issued, citrus canker has spread throughout South Florida. This outbreak has significantly reduced lime production and all regulations under the lime marketing order and the lime import regulation have been suspended through February 24, 2003 (67 FR 6837). The suspension is intended to reduce industry costs and help the industry recover from the effects of citrus canker. As a consequence, a size increase for June is not necessary at this time, and that portion of the April 1997 proposal is being withdrawn. The other portions of the proposed rule were finalized in a rule published in the **Federal Register** on August 26, 1997 (62 FR 45142).

Therefore, the portion of the proposed rule regarding a size increase for South Florida and imported limes during the month of June published in the **Federal Register** April 29, 1997, (62 FR 23185) is hereby withdrawn.

#### List of Subjects in 7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

**Authority:** 7 U.S.C. 601–674.

Dated: June 10, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02–15057 Filed 6–13–02; 8:45 am]

BILLING CODE 3410–02–P

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

#### 7 CFR Part 987

[Docket No. FV02–987–1 PR]

#### Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate established for the California Date Administrative Committee (Committee) for the 2002–03 and subsequent crop years from \$0.25 to \$0.90 per hundredweight of dates handled. The Committee locally administers the marketing order that

regulates the handling of dates produced or packed in Riverside County, California. Authorization to assess date handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year begins October 1 and ends September 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by July 15, 2002.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Fax: (202) 720-8938, or E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Toni Sasselli, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey St., suite 102B, Fresno, CA 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 987, both as amended (7 CFR part 987), 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 (USDA) 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, California date handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein will be applicable to all assessable dates beginning on October 1, 2002, and continue until amended, suspended, or terminated. 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 USDA 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. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Committee for the 2002-03 and subsequent crop years from \$0.25 to \$0.90 per hundredweight of assessable dates handled.

The California date marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and producer-handlers of California dates. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2001-02 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate

that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on April 8, 2002, and unanimously recommended 2002-03 expenditures of \$273,450 and an assessment rate of \$0.90 per hundredweight of dates handled. In comparison, last year's budgeted expenditures were \$90,800. The recommended assessment rate of \$0.90 is \$0.65 higher than the rate currently in effect. The higher assessment rate is needed to fund the industry's marketing and promotion programs under the Committee budget. These programs have been implemented under a State marketing order. However, the date industry concluded that it was in its best interest to implement the programs under the Federal marketing order because recent court actions have been filed against several California State marketing orders under which similar programs have been implemented.

Proceeds from the sales of cull dates are usually deposited in a surplus account for subsequent use by the Committee in covering the surplus pool share of the Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets.

Last year, the Committee applied \$5,000 of surplus account monies to cover surplus pool expenses. Based on a recent trend of declining sales of cull dates over the past few years and reduced surplus pool costs, the Committee decided not to apply any of the surplus pool funds toward the 2002-03 Committee budget. The Committee, instead, recommended assessing handlers for the full amount of the increased budget that includes marketing and promotion programs.

The budgeted administrative expenses for the 2002-03 year include \$123,450 for labor and office expenses. This compares to \$90,800 in budgeted expenses in 2000-01. In addition, \$150,000 has been budgeted for marketing and promotion under the program for the 2002-03 crop year.

The assessment rate of \$0.90 per hundredweight of assessable dates was derived by applying the following formula where:

A=Administrative Reserve (\$39,450 of the anticipated \$50,000 Administrative Reserve)

B=2002–03 expected shipments (260,000 hundredweight in pounds)  
 C=2002–03 expenses (\$273,450); (C – A) ÷ B=\$0.90 per hundredweight.

Estimated shipments should provide \$234,000 in assessment income. Income derived from handler assessments and the administrative reserves would be adequate to cover budgeted expenses. Funds in the reserve are expected to total about \$10,550 by September 30, 2003, and therefore would be less than the maximum permitted by the order (not to exceed 50 percent of the average of expenses incurred during the most recent five preceding crop years; § 987.72(c)).

The proposed assessment rate would 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 would be in effect for an indefinite period, the Committee would continue to meet prior to or during each crop year 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2002–03 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by the USDA.

#### Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial 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 the 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 100 producers of dates in the production

area and approximately 9 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those having annual receipts are less than \$5,000,000. Five of the 9 handlers (55 percent) shipped over \$5,000,000 of dates and could be considered large handlers by the Small Business Administration. Four of the 9 handlers (45 percent) shipped under \$5,000,000 of dates and could be considered small handlers. The majority of California date producers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2002–03 and subsequent crop years from \$0.25 to \$0.90 per hundredweight of assessable dates handled. The Committee unanimously recommended 2002–03 expenditures of \$273,450 and the \$0.90 per hundredweight assessment rate. The proposed assessment rate of \$0.90 is \$0.65 higher than the rate currently in effect. The quantity of assessable dates for the 2002–03-crop year is estimated at 260,000 hundredweight. Thus, the \$0.90 per hundredweight rate should provide \$234,000 in assessment income and, together with the administrative reserve funds available to the Committee, be adequate to meet this year's expenses.

The higher assessment rate is needed to fund marketing and promotion programs under the Committee budget. The programs have been implemented under a State marketing order for several years. However, because of legal challenges recently brought against several State marketing order programs implementing marketing and promotion programs, the date industry has decided to implement these programs under the Federal marketing order.

In addition, proceeds from the sales of cull dates are usually deposited in a surplus account for subsequent use by the Committee in covering the surplus pool share of the Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets. The Committee anticipates a reduction in surplus funds available to the Committee from the sale of cull dates. As a consequence, it decided to fund all of the Committee's expenses with assessment funds during 2002–03.

The budgeted administrative expenses for the 2002–03 year include \$123,450 for labor and office expenses. This compares to \$90,800 in budgeted expenses in 2000–01. In addition, \$150,000 has been budgeted for marketing and promotion under the marketing order for the 2002–03 crop year.

The Committee reviewed and unanimously recommended 2002–03 expenditures of \$273,450, which include marketing and promotion programs. Prior to arriving at this budget, the Committee considered alternative expenditure levels, including a proposal to not have a budget. The assessment rate of \$0.90 per hundredweight of assessable dates was then determined by applying the following formula where:

A=Administrative Reserve (\$39,450 of the anticipated \$50,000 Administrative Reserve)  
 B=2002–03 expected shipments (260,000 hundredweight in pounds)  
 C=2002–03 expenses (\$273,450); (C – A) ÷ B=\$0.90 per hundredweight.

Estimated shipments should provide \$234,000 in assessment income. Income derived from handler assessments and the administrative reserves would be adequate to cover budgeted expenses. Funds in the administrative reserve are expected to total about \$10,550 by September 30, 2003, and therefore would be less than the maximum permitted by the order (not to exceed 50 percent of the average of expenses incurred during the most recent five preceding crop years; § 987.72(c)).

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2002–03 season could range between \$30 and \$75 per hundredweight of dates. Therefore, the estimated assessment revenue for the 2002–03 crop year as a percentage of total grower revenue could range between 1 and 3 percent.

This action would increase the assessment obligation imposed on handlers under the Federal marketing order. While assessments impose some additional costs on handlers under the Federal marketing order, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California 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 April 8, 2002 meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California 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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Interested persons may comment on this proposed rule through July 15, 2002. The date of July 15, 2002, is deemed appropriate because: (1) The 2002–03 crop year begins on October 1, 2002, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dates handled during such crop year; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (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.

#### 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 proposed to be amended as follows:

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

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

**Authority:** 7 U.S.C. 601–674.

2. Section 987.339 is revised to read as follows:

#### **§ 987.339 Assessment rate.**

On and after October 1, 2002, an assessment rate of \$0.90 per

hundredweight is established for California dates.

Dated: June 10, 2002.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 02–15058 Filed 6–13–02; 8:45 am]

**BILLING CODE 3410–02–P**

## **DEPARTMENT OF AGRICULTURE**

### **Agricultural Marketing Service**

#### **7 CFR Part 999**

[Docket No. FV02–999–1 PR]

#### **Specialty Crops, Import Regulations; Addition of a New Varietal Type to the Raisin Import Regulation**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule would add Other-Seedless Sulfured raisins, along with quality requirements, to the raisin import regulation. The import regulation is authorized under section 8e of the Agricultural Marketing Agreement Act of 1937 (Act) and requires imports of raisins to meet the same or comparable grade and size requirements as those in effect under Federal Marketing Order No. 989 (order). The order regulates the handling of raisins produced from grapes grown in California. The regulations authorized under the domestic order were recently changed to add Other-Seedless Sulfured raisins, along with quality requirements for this varietal type. This is a new type of raisin being produced by some California industry members. This rule would bring the import regulation into conformity with the regulations for California raisins under the marketing Order.

**DATES:** Comments must be received by August 13, 2002.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax (202) 720–8938, or E-mail: [moab.docketclerk@usda.gov](mailto:moab.docketclerk@usda.gov). All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or

can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

#### **FOR FURTHER INFORMATION CONTACT:**

Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act,” which provides that whenever certain specified commodities, including raisins, 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 commodity.

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

This 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.

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.

This rule would add a new varietal type to the raisin import regulation. This action would add Other Seedless-Sulfured raisins, along with quality requirements, to the import regulation. This action is necessary to bring the import regulation in line with the domestic marketing order. The order