

regulated. While monitoring compliance during the 1995–96 season, committee staff became aware of a lack of documentation on fruit intended for use within the production area. Such fruit was on occasion found outside the production area without having been inspected and certified as meeting marketing order requirements. The committee recognized the need to make handlers responsible for ensuring that sales of their fruit intended for resale inside the production area, but subsequently leaving the production area, meet the provisions of the order. The Certification Form was developed to help track such sales. Currently, documentation on sales to peddlers and cash buyers, and other transactions not supported by an inspection certificate or a diversion report (used to track shipments for processing, relief, or charity), is minimal or non-existent. In the process of conducting its compliance program, the committee encountered difficulty in tracking movement of such citrus and detecting violations of the order.

The form will be completed by the seller (handler) in triplicate. The buyer will sign the certification statement on the form. One copy will be submitted by the handler to the committee within 7 days after the sale. One copy will be retained by the handler and the third copy will be given to the buyer. The forms will be reviewed by the committee's compliance staff as they are received and will be compared against handler records and inspection certificates. In addition, the form will also provide valuable statistical information on fruit sold and marketed for use within the production area. Currently, there is no tracking system for local use fruit. Collection of this information will fill a void in the committee's statistical database which will be used to determine total utilization of fruit and further assist the industry in making marketing decisions.

Throughout the past season, the committee considered possible options to monitor shipments of uninspected oranges and grapefruit. It was noted that local use fruit is presently not accounted for, which leaves a significant void in the committee's database. The committee considered, for example, compiling an "approved peddler" list, and allowing uninspected fruit to be sold only to those appearing on the list. This option was determined to be impractical for the industry, as such a list would change constantly and could never be accurately maintained. Development of the Certification Form was the only option believed to be viable. Use of the form will raise

awareness of both the sellers' and buyers' responsibility to comply with the provisions of the marketing order. This option will result in the smallest increase in regulatory burden of the options considered, including the establishment of additional regulatory requirements, such as inspection of all shipments, regardless of destination. Therefore, the committee recommended that § 906.151 be amended by designating the existing paragraph in this section as (a) and adding a new paragraph (b).

The proposed rule concerning this action was published in the September 18, 1996, Federal Register (61 FR 49078), with a 30-day comment period ending October 18, 1996. No comments were received. The proposed rule also announced AMS's intention to request a revision to the currently approved information collection requirements issued under the marketing order. The informal collection requirements in the referenced section have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581–0068.

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 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: (1) the Texas citrus shipping season began in mid-September; (2) this rule was unanimously recommended by the committee at a public meeting and all interested persons had an opportunity to express their views and provide input; (3) Texas orange and grapefruit handlers are aware of this rule and need no additional time to comply with the requirements; and (4) a 30-day comment period was provided for in the proposed rule and no comments were received.

#### List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements, Oranges, 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. In § 906.151 the existing text is designated as paragraph (a) and new paragraphs (b) and (c) are added to read as follows:

### § 906.151 Reports.

\* \* \* \* \*

(b) Each handler who sells over 400 pounds of oranges or grapefruit or a combination of both for resale inside the production area shall, for each transaction, report to the committee on a form approved by it the following information:

- (1) Name and address of seller;
- (2) Name and address of buyer;
- (3) Description and quantity of oranges or grapefruit sold;
- (4) Destination of fruit;
- (5) A statement that the buyer certifies that fruit that is subsequently taken outside the production area for resale will be inspected; and

(6) Such other pertinent information as the committee may require.

(c) The handler shall prepare the report in triplicate. The buyer shall sign the certification statement. The pink copy shall be submitted to the committee within 7 days. The green copy shall be retained by the handler and the blue copy shall be given to the buyer. Such form shall be reviewed by the committee staff and the information compiled for the committee's use.

Dated: November 27, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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BILLING CODE 3410–02–P

## 7 CFR Parts 911

[Docket No. FV96–911–1 FR]

### Limes Grown in Florida and Imported Limes; Increase in the Minimum Size Requirement

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

**ACTION:** Final rule.

**SUMMARY:** This final rule increases the current minimum size requirement for limes grown in Florida and for limes imported into the United States. This change was recommended by the Florida Lime Administrative Committee (Committee), the agency responsible for the local administration of the

marketing order covering limes grown in Florida. This rule increases the minimum size requirement from 1 $\frac{7}{8}$  inches to 2 inches in diameter during the period of January 1 through May 31. Larger fruit tend to have a higher juice content. Therefore, the increase in fruit size will enable handlers to better meet the 42 percent juice content requirement specified in the regulations for limes shipped to the fresh market. The changes in import requirements are necessary under section 8e of the Agricultural Marketing Agreement Act of 1937.

**EFFECTIVE DATE:** This final rule becomes effective January 3, 1997.

**FOR FURTHER INFORMATION CONTACT:**

Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: 202-720-5127, or Fax # 202-720-5698; or Aleck J. Jonas, Southeast Marketing Field Office, USDA/AMS, P.O. Box 2276, Winter Haven, Florida 33883; telephone: 941-299-4770, or Fax # 941-299-5169. 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 No. 126 and Order No. 911 (7 CFR part 911), as amended, regulating 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 rule is also issued under section 8e of the Act, which requires the Secretary of Agriculture to issue grade, size, quality, or maturity requirements for certain listed commodities, including limes, imported into the United States that are the same as, or comparable to, those imposed upon the domestic commodities regulated under the Federal marketing orders.

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action 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 in equity 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 approximately 30 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 increases the minimum size requirement for Florida and imported

limes, which could impose some additional costs on handlers and importers, including small entities. However, any additional costs are minimal and will not impose a significant economic impact. The minimum size requirement will be applied to both small and large handlers and importers in proportion to this. With an increase in the minimum size, the larger limes are more likely to meet the 42 percent minimum juice content requirement. This change is expected to reduce the incidence of repacking, resulting in lower costs to handlers and importers. Increasing the minimum size also ensures that such limes will be more mature and have a higher juice content, which encourages repeat purchases by consumers. This increase in quality to the consumer is expected to increase returns to handlers, importers, and producers. Therefore, 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, the minimum size requirement for Florida limes is that they measure at least 1 $\frac{7}{8}$  inches in diameter.

The destruction caused by Hurricane Andrew in 1992 has drastically reduced the lime acreage in Florida from 6,500 acres to approximately 1,500 acres. During the 1991-92 season, prior to Hurricane Andrew, 1,682,677 bushels of limes were assessed. For the 1993-94 season, assessments were collected on 228,455 bushels, and for the 1994-95 season, assessments were collected on 283,977 bushels of limes. These factors led the Committee to reconsider current marketing order requirements, including the 1 $\frac{7}{8}$  inches in diameter size requirement.

The Committee met on January 10, 1996, and recommended to increase the minimum size requirement for Florida limes from 1 $\frac{7}{8}$  inches to 2 inches in diameter during the period of January 1 through May 31. The recommendation passed by a vote of seven in favor to one opposed. The one dissenting voter did not comment on why he was opposed to the increase.

Florida lime production and the quantity of lime imports into the United States reach their lowest point from January through May. During the 1994-95 season, 32,035 bushels of Florida

limes and 2,402,987 bushels of imported limes, were shipped to the fresh market during the January through May production period. In comparison, 257,178 bushels of Florida limes and 5,980,669 bushels of imported limes, were shipped to the fresh market during the peak production period of June through December.

This rule needs to be effective by January 1, 1997, because during the January through May period, prices are generally higher while lime quality is lower. Market demand however, remains the same as in the peak production period. These factors have resulted in an incentive to pack low quality fruit. Also, the juice content requirement for limes shipped to the fresh market is 42 percent. Handlers have had difficulty meeting the requirement during the low production period because limes are less mature and have thicker skins. The thicker-skinned limes tend to have lower juice content.

Limes that are 2 inches or larger in diameter have a higher juice content than smaller limes. The larger limes, therefore, have a greater chance of meeting the 42 percent juice content requirement. Increasing the minimum size to 2 inches in diameter is expected to result in more fresh limes meeting the 42 percent juice content requirement. These limes are more likely to pass inspection without the expense of repacking and regrading the fruit which will reduce handling costs.

The increase in minimum size has a positive cost effect on consumers because it allows handlers of limes to provide the consumer with higher quality fruit at a reasonable cost. According to the Committee, the industry's past sales records indicate that consumers have a preference for the larger sized limes. Producers and importers of limes will also benefit by experiencing higher return rates.

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 increases the minimum size requirement for Florida limes, a corresponding change also applies to imports.

In a separate rulemaking action, as finalized in the Federal Register on August 21, 1996 (61 FR 43141), the Department reduced the regulatory period for Florida limes and limes imported into the United States. That action modified language in both the domestic and import regulations to

change the regulatory period to January 1 through May 31 from a continuous, year round, implementation.

Minimum grade, size, quality, and maturity requirements for limes imported into the United States are currently in effect under § 944.209 (7 CFR 944.209). This rule increases the minimum size requirement for imported limes from 1 $\frac{7}{8}$  inches to 2 inches in diameter during the period of January 1 through May 31. By increasing the minimum size, this rule will result in more imported limes passing the 42 percent juice content requirement, providing higher quality fruit at a reasonable cost.

The largest exporter of limes to the United States is Mexico, with the heaviest volumes of lime shipments occurring between June 1 and December 31. Mexico exported 6,075,685 bushels of fresh limes to the United States during the 1994-95 season, while other import sources shipped a total of 201,053 bushels, combined.

The 1 $\frac{7}{8}$  inches in diameter size requirement is not specifically stated in the lime import regulation. Therefore, no change is needed in the text of § 944.209.

The proposed rule concerning this action was issued on July 31, 1996, and was published in the August 5, 1996, Federal Register (61 FR 40551), with a 60-day comment period ending October 4, 1996. No comments were received. However, a request to extend the comment period to October 31, 1996, was received. This request was denied as the proposed rule already had an extended 60-day comment period. Therefore, the Department continues to believe that this was sufficient time to file comments. This rule needs to be implemented by January 1. Due to market conditions, the period from January through May is when the prices for limes tend to be higher and the quality of limes tends to be lower. This creates an incentive to pack low quality fruit that can hurt the marketing of limes. Because of this situation, the Department has determined not to reopen the comment period.

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 this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

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

Limes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth above, 7 CFR part 911 is amended as follows:

1. The authority citation for 7 CFR part 911 continues to read as follows:

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

#### PART 911—LIMES GROWN IN FLORIDA

##### § 911.344 [Amended]

2. In Section 911.344, paragraph (a)(3) the words "at least 1 $\frac{7}{8}$  inches" are revised to read "at least 2 inches".

Dated: November 27, 1996

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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#### NUCLEAR REGULATORY COMMISSION

##### 10 CFR Part 60

RIN 3150-AD51

#### Disposal of High-Level Radioactive Wastes in Geologic Repositories; Design Basis Events

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

**SUMMARY:** The Nuclear Regulatory Commission is amending its regulations on the protection of public health and safety from activities conducted at a geologic repository operations area (GROA) before permanent closure. In particular, the final rule addresses the measures that are required to provide defense in depth against the consequences of "design basis events." These measures include prescribed design requirements, quality assurance requirements, and the establishment of a preclosure controlled area from which members of the public can be excluded. **EFFECTIVE DATE:** January 3, 1997.

**FOR FURTHER INFORMATION, CONTACT:** Dr. Richard A. Weller, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-7287.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under the Nuclear Waste Policy Act of 1982, as amended, the U.S. Nuclear