

marketing order, including tomatoes, imports of that commodity must meet the same or comparable requirements. Since the Act does not authorize the imposition of pack or container requirements on imports, even when such requirements are in effect under a domestic marketing order, no change is necessary in the tomato import regulations as a result of this action.

After consideration of all relevant material presented, the information and recommendations submitted by the Committee, and other available information, it is found that finalizing, without change, the interim final rule as published in the Federal Register (61 FR 55729, October 29, 1996) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 966 which was published at 61 FR 55729 on October 29, 1996, is adopted as a final rule without change.

Dated: February 12, 1997.

Robert C. Kenney,

Director, Fruit and Vegetable Division.

[FR Doc. 97-4110 Filed 2-19-97; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 979

[Docket No. FV97-979-1 IFR]

Melons Grown in South Texas; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the South Texas Melon Committee (Committee) under Marketing Order No. 979 for the 1996-97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of melons grown in South Texas. Authorization to assess Texas melon handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

DATES: Effective on October 1, 1996. Comments received by March 24, 1997, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, FAX 202-720-5698. 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.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Marketing Specialist, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501, telephone 210-682-2833, FAX 210-682-5942, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone 202-720-9918; 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 rule is issued under Marketing Agreement No. 156 and Order No. 979, both as amended (7 CFR part 979), regulating the handling of melons grown in South Texas, 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas melon handlers are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable melons beginning October 1, 1996, and continuing 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 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. Such 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 the date of the entry of the ruling.

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.

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 32 producers of South Texas melons in the production area and approximately 24 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000 and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of South Texas melon producers and handlers may be classified as small entities.

The melon marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas melons. 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 in a public meeting.

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]

BILLING CODE 3410–02–P

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