

Rules and Regulations

Federal Register

Vol. 57, No. 15

Thursday, January 23, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 801

RIN 0580-AA21

Official Performance Requirements for Grain Inspection Equipment

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations under the United States Grain Standards Act, as amended, concerning the Official Performance Requirements for Grain Inspection Equipment. It incorporates by reference the applicable sections of the Grain Moisture Meters Code and General Code of the National Institute of Standards and Technology (NIST) Handbook 44, which is entitled "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," 1991 edition (Handbook 44), into the regulations.

EFFECTIVE DATE: February 24, 1992.

FOR FURTHER INFORMATION CONTACT:

George Wollam, Federal Grain Inspection Service, USDA, room 0619 South Building, Box 96454, Washington, DC 20090-6454; telephone (202) 720-0292.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

John C. Foltz, Administrator, FGIS, has determined that this proposed rule

will not have a significant economic impact on a substantial number of small entities because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

Background

In the June 12, 1991, Federal Register (56 FR 26944), FGIS proposed to revise the regulations under the United States Grain Standards Act, as amended, entitled Official Performance Requirements for Grain Inspection Equipment to incorporate by reference the applicable requirements of the Grain Moisture Meters Code and General Code of the National Institute of Standards and Technology (NIST) Handbook 44, which is entitled "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," 1991 edition (Handbook 44) into the regulations.

Incorporation of applicable sections of the Grain Moisture Meters Code and General Code is consistent with efforts to achieve greater uniformity of specifications and technical requirements for grain moisture determinations. Those provisions of Handbook 44 that did not pertain to or were not practical for moisture meters used in the official system are not included in the incorporation by reference.

During the 60-day comment period one comment was received from a grain industry association. The association stated that they did not oppose the proposal and that they generally support the development of nationally uniform standards, specifications, and tolerances for inspection equipment.

Final Action

Accordingly, FGIS is revising Part 801 of the regulations, Official Performance Requirements for Grain Inspection Equipment, to incorporate by reference the applicable requirements contained in the 1991 edition of the NIST Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," as stated in the June 12, 1991, proposed rule.

List of Subjects in 7 CFR Part 801

Administrative practice and procedure, Export, Grain, Incorporation by reference.

For reasons set forth in the preamble, 7 CFR part 801 is amended as follows:

1. The authority citation for Part 801 continues to read as follows:

Authority: Pub. L. 94-582, 90 stat. 2867, as amended, (7 U.S.C. 71 *et seq.*).

PART 801 [AMENDED]

2. Part 801 is amended to add § 801.12 to read as follows:

§ 801.12 Design requirements incorporated by reference.

(a) *Moisture meters.* All moisture meters approved for use in official grain moisture determination and certification shall meet applicable requirements contained in the FGIS Moisture Handbook and the General Code and Grain Moisture Meters Code of the 1991 edition of the National Institute of Standards and Technology's (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices." Pursuant to the provisions of 5 U.S.C. 552(a), the materials in Handbook 44 are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register.

The NIST Handbook is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20403. It is also available for inspection at the Office of the Federal Register, room 8401, 1100 "L" Street, NW., Washington, DC.

The following Handbook 44 requirements are not incorporated by reference:

General Code (1.10.)

G-S.5.5. Money Values, Mathematical Agreement

G-T.1. Acceptance Tolerances

G-UR.3.3. Position of Equipment

G-UR.3.4. Responsibility, Money-Operated Devices

Grain Moisture Meters (5.56.)

N.1.1. Transfer Standards

N.1.2. Minimum Test

N.1.3. Temperature Measuring Equipment

T.2. Tolerance Values

T.3. For Test Weight Per Bushel Indications or Recorded Representations

UR.3.2. Other Devices not used for Commercial Measurement

UR.3.7. Location
UR.3.11. Posting of Meter Operating Range
(b) [Reserved]
Dated: December 11, 1991.

John C. Foltz,
Administrator.

[FR Doc. 92-776 Filed 1-22-92; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 944

[Docket No. FV-91-423IR]

Fruits; Import Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule; correction.

SUMMARY: This action corrects an incorrect effective date specified in the regulatory text of an interim final rule which temporarily suspended the grade requirements for oranges imported into the United States. The October 31, 1991, date specified should be October 24, 1991.

EFFECTIVE DATE: January 23, 1992.

FOR FURTHER INFORMATION CONTACT:

Gary D. Rasmussen, Marketing Specialist, 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.

SUPPLEMENTARY INFORMATION: This action makes a correction in an interim final rule which appeared in the *Federal Register* (56 FR 55983, October 31, 1991). The correction changes the effective date specified in paragraph (a)(1) of § 944.312 from October 31, 1991, so that it conforms with the date appearing in the "Effective Date" section on the first page of the interim final rule.

The interim final rule was issued under section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

List of Subjects in 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 part 944 is amended as follows:

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 944.312 is amended by revising paragraph (a)(1) to read as follows:

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

§ 944.312 Orange import regulation.

(a) * * *

(1) Such oranges grade at least U.S. No. 2: *Provided*, That such requirement is hereby temporarily suspended beginning October 24, 1991.

* * *

Dated: January 17, 1992.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-1630 Filed 1-22-92; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 979

[Docket No. FV-91-450]

South Texas Melons; Amended Expenses and Establishment of Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases the level of authorized expenses and establishes the assessment rate under Marketing Order No. 979 for the 1991-92 fiscal period. Authorization of this budget enables the South Texas Melon Committee (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: October 1, 1991, through September 30, 1992.

FOR FURTHER INFORMATION CONTACT:

Martha Sue Clerk, 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.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement No. 156 and Order No. 979 (7 CFR part 979), regulating the handling of melons grown in South Texas. 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.

This rule has been reviewed by the Department of Agriculture in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA),

the Administrator of 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 27 handlers of South Texas melons under this marketing order, and approximately 27 producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The majority of South Texas melon producers and handlers may be classified as small entities.

The budget of expenses for the 1991-92 fiscal period was prepared by the South Texas Melon Committee, the agency responsible for local administration of the marketing order, and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of South Texas melons. They are familiar with the committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected shipments of South Texas melons. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the committee's expenses.

Committee administrative expenses of \$93,187, recommended in a mail vote completed September 19, 1991, were approved on November 13, 1991, and published in the *Federal Register* on November 19, 1991 (56 FR 58302). The committee subsequently met on November 18, 1991, and unanimously recommended funding for several research and promotion projects and adjustments to a number of the previously approved administrative items. The 1991-92 budget of \$285,309.51