Dated: December 23, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-31738 Filed 12-28-92; 10:35 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 767]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh domestic markets during the period from December 27, 1992, through January 2, 1993. This action is being taken in response to a recent court action in which a temporary restraining order was granted which enjoined the Secretary from discontinuing weekly volume controls on the fresh sale of lemons.

EFFECTIVE DATE: Regulation 767 (7 CFR 910.1067) is effective for the period from December 27, 1992, through January 2, 1993.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-5127; or Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487-5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department of Agriculture (Department) 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.

This final rule has been reviewed under Executive Order 12778, 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 requesting 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 principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

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 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. 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 handlers and producers of California-Arizona lemons may be classified as small entities. The Administrator of AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Volume regulations were issued under the California-Arizona lemon marketing order during the 1992-93 season for the weeks ending November 28 through December 19. On December 14, the Department concluded that volume regulations were not necessary for the remainder of the season to effectuate the declared policy of the Act.

On December 17, a temporary restraining order (TRO) was granted in U.S. District Court (court) in Washington, D.C. which enjoined the Secretary from suspending weekly volume controls for California-Arizona lemons. At that time, a hearing for a preliminary injunction was scheduled for December 29, 1992.

On December 21, the Department issued Lemon Regulation 766 which established volume regulation at 275,000 cartons. That action was recommended by the Lemon Administrative Committee (Committee) at a December 15, 1992, meeting in Newhall, California.

On December 22, the Committee met in Newhall, California, and recommended volume regulation for the week ending January 2, 1993, of 275,000 cartons.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because this action needs to be in effect by December 27 in order to comply with the December 17 court decision.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

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

2. Section 910.1067 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.1067 Lemon Regulation 767.

The quantity of lemons grown in California and Arizona which may be handled during the period from December 27, 1992, through January 2, 1993, is established at 275,000 cartons.

Dated: December 23, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-31735 Filed 12-28-92; 10:35 am]

BILLING CODE 3410-02-M

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7 CFR Parts 917 and 920

[Docket No. FV92-917-2FR]

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Services, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule the provisions of two interim final rules (without change) authorizing expenditures under Marketing Order 917 and authorizing expenditures and establishing an assessment rate under Marketing Order 920 for the 1992–93 fiscal period. Authorization of these budgets enables the Pear Commodity Committee and the Kiwifruit Administrative Committee (committees) to incur expenses that are reasonable and necessary to administer the programs. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: March 1, 1992, through February 28, 1993 (§ 917.255), and August 1, 1992, through July 31, 1993 (§ 920.209).

FOR FURTHER INFORMATION CONTACT: Britthany Beadle, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 690–0992.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement and Order No. 917 (7 CFR part 917), regulating the handling of fresh pears grown in California, and Marketing Order No. 920 (7 CFR part 920), regulating the handling of kiwifruit grown in California. The marketing agreements and orders 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 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.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action authorizes expenditures for the 1992–93 fiscal year (March 1, 1992–February 28, 1993) under Marketing Order No. 917. Also, under the provisions of Marketing Order No. 920 now in effect, California kiwifruit is subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable kiwifruit handled during the 1992–93 fiscal period which began August 1, 1992. 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 requesting 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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 45 handlers of California pears under Marketing Order No. 917, and approximately 300 pear producers. There are approximately 100 handlers of California kiwifruit under Marketing Order No. 920, and approximately 850 kiwifruit 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 California pear and kiwifruit producers and handlers may be classified as small entities.

The budgets of expenses for the 1992-93 fiscal period were prepared by the committees, the agencies responsible for local administration of the marketing orders in their respective areas, and submitted to the Department for approval. The members of these committees are handlers and producers of California pears and for kiwifruit, producers and a non-industry member. They are familiar with the committee's needs and with the costs of goods and services in their local areas and are thus in a position to formulate appropriate budgets. The budgets were formulated and discussed in public meetings. Thus, all directly affected persons have had an opportunity to participate and provide input.

The Pear Commodity Committee met on June 26, 1992, and unanimously recommended 1992–93 expenditures of $86,509, $1,770 less than the previous season, be allocated from the committee's operating reserve funds to conduct several research projects and to provide for nominal committee expenses. The committee had $86,509 in reserves as of March 1, 1992, an amount within the maximum authorized. Budgeted expenditures represent the entire carryover of reserve funds for the committee. No provision for assessments was made. In comparison, the 1991–92 fiscal period actual expenditures were $1,157,620, and the assessment rate was $0.25 per 36-pound carton or equivalent.

The absence of assessments and the difference between this budget and the budget for the 1991–92 fiscal period are due to the fact that the committee also voted to suspend the marketing order at the conclusion of this season. The budget is designed to utilize the total amount of funds remaining in the committee's reserve during this fiscal season.

Major committee expenditures estimated for 1992–93 are $86,391 for research projects and $118 for nominal committee expenses. This compares with major committee expenditures proposed for 1991–92, which were: Salaries and employee benefits, $88,279; market development and promotion, $1,140,501; and uncollected assessment accounts, $5,000. Total reserves will be sufficient to cover all anticipated 1992–93 expenditures. Since the expenses will be financed from the committee's operating reserve, no additional costs will be imposed on handlers.

The Kiwifruit Administrative Committee met on July 22, 1992, and recommended 1992–93 marketing order expenditures of $152,913, and an assessment rate of $0.02 per tray or tray equivalent of kiwifruit. In comparison, 1991–92 marketing year budgeted expenditures were $138,452, and the assessment rate was $0.015 per tray. Assessment income for 1992–93 is estimated to total $170,000 based on anticipated fresh domestic shipments of 8.5 million trays or tray equivalents of kiwifruit. This will be adequate to cover budgeted expenses. Funds in the reserve at the end of 1992–93 fiscal year, estimated at $29,082, will be within the maximum permitted by the order of one fiscal year's expenses.

The major budget category for 1992–93 is $109,170 for administrative, staff and field salaries.

The assessment rate recommended by the kiwifruit committee was derived by dividing anticipated expenses by expected shipments of kiwifruit. Because this 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.

While this action will impose some additional costs on kiwifruit handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to kiwifruit producers. However, these costs will be offset by the benefits derived from the operation of the marketing order.

The Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

The interim final rules were published in the **Federal Register** on September 16, 1992, for 7 CFR part 917 (57 FR 42683) and October 6, 1992, for 7 CFR part 920 (57 FR 45973). These actions added § 917.255 to authorize expenses for the pear committee, and added § 920.209 to authorize expenses and establish an assessment rate for the kiwifruit committee. These interim final rules provided that interested persons could file comments through October 16, 1992, for M.O. 917 and November 5, 1992, for M.O. 920. No comments were received.

After consideration of all relevant material presented, including the committee's recommendations, and other available information, it is found that this final 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 action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The committees need to have sufficient funds to pay their expenses. Such expenses are incurred on a continuous basis. The 1992–93 fiscal period for the Pear Commodity Committee began on March 1, 1992, and the 1992–93 fiscal period for the Kiwifruit Administrative Committee began on August 1, 1992. Marketing Order 920 requires that any rate of assessment for a fiscal period apply to all assessable kiwifruit handled during that fiscal period. In addition, handlers are aware of these actions which were recommended by the committees at public meetings. No comments were received concerning the two interim final rules that are adopted in this action as a final rule without change.

List of Subjects

7 CFR Part 917

Pears, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 917 and 920 are amended as follows:

1. The authority citation for 7 CFR parts 917 and 920 continues to read as follows:

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

PART 917—FRESH PEARS GROWN IN CALIFORNIA

2. Accordingly, the interim final rule adding § 917.255, which was published in the **Federal Register** (57 FR 42683, September 16, 1992) is adopted as a final rule.

Note: This action will not appear in the annual Code of Federal Regulations.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

3. Accordingly, the interim final rule adding § 920.209, which was published in the **Federal Register** (57 FR 45973, October 6, 1992) is adopted as a final rule.

Note: This action will not appear in the annual Code of Federal Regulations.

Dated: December 21, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–31661 Filed 12–29–92; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 920

[Docket No. FV–92–072]

California Kiwifruit; Establishment of Mail Balloting Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This interim final rule establishes mail balloting procedures for membership on the Kiwifruit Administrative Committee (committee). The California kiwifruit marketing order was amended to authorize the industry to nominate persons to serve on the committee through mail balloting. This action was recommended by the committee, the administrative agency which works with the Department of Agriculture (Department) in administering the marketing order program for kiwifruit grown in California. This action is intended to increase industry wide participation of growers in the selection process by authorizing mail balloting.

DATES: This interim final rule becomes effective December 30, 1992. Comments that are received by January 29, 1993, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action to: Docket Clerk, F&V Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection in the office of the Docket Clerk during regular business hours. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mark A. Hessel, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–3923.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 920 (7 CFR part 920), as amended, regulating the handling of kiwifruit grown in California, 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 has been reviewed by the Department of Agriculture (Department) 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.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action 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 requesting 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 principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome, and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992, memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the fullest extent possible, consistent with law.

The Department has developed and reviewed this regulatory action in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in this action. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this action.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action 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.

It is estimated that 100 handlers of California kiwifruit will be subject to regulation under the order during the current season, and there are approximately 700 kiwifruit producers in California. 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, which include kiwifruit handlers, are defined as those whose annual receipts are less than $3,500,000. Most of the kiwifruit producers may be classified as small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504), the information collection provisions that are included in this interim final rule have been approved by the Office of Management and Budget (OMB) Number 0581–0149. It has been estimated that it will take an average of 20 minutes for each of the approximately 180 growers of kiwifruit to participate in the voluntary mail balloting process.

This interim final rule establishes mail balloting procedures for membership on the committee. The order was recently amended and changes became effective February 12, 1992 (57 FR 1217). The amendment changed provisions of the marketing order concerning the overall administration of the committee, including revisions of committee tenure requirements, adding authorization to change the terms of office, adding authorization for committee nominations to be conducted by mail, and adding authorization for late payment charges on delinquent handler assessments. The amendments are expected to improve the administration and operation of the program in order to benefit all kiwifruit growers and handlers.

At a meeting held April 7, 1992, the committee recommended changes in the nomination procedures. Specifically, the committee recommended procedures to conduct committee nominations by mail to increase grower participation in the nomination process. This change is intended to reduce the administrative costs associated with conducting committee nomination meetings, and reduce costs incurred by individual growers in travelling to and attending the meetings. Establishment of mail balloting procedures is expected to have a positive impact on both large and small kiwifruit growers and handlers.

Currently, the committee is composed of 12 members, each of whom have an alternate. The committee consists of the following: One public member, one member from each of the eight grower districts, and three additional members from the three grower districts with the highest production.

Section 920.22 of the order provides for nominations of members to the committee by procedures conducted by the committee. Under this section, nominations for grower members may be conducted at grower meetings held in each of the order's eight geographic districts. These meetings must be held prior to July 15 of each year with new terms of office beginning on August 1 of each year. This section also authorizes the committee to recommend to the Secretary procedures for conducting nominations by mail. This interim final rule establishes procedures to allow the committee to conduct committee nominations using mail ballots.

To implement mail balloting, the committee recommended the following procedures. Each year that nominations are to be made for particular districts, the committee will request nominations by mail from all kiwifruit growers in the district involved, by a date to be specified by the committee. Nomination forms shall provide for names of nominees, as well as the nominating grower's name, address, telephone number, and signature. Candidates and growers may provide appropriate voluntary information on their candidates' qualifications to serve. Such information might include a background statement or resume. This information may be presented in the ballots submitted to growers.

After receiving nominations from growers, the committee with the Department, will evaluate the qualifications of nominees. If any nominees do not qualify, they will be so notified in writing. Submitted qualifying names will be listed on the ballot. Mail ballots will be sent to all growers by a date to be specified by the committee. Each grower should complete and mail in one ballot for the one district. If the grower produces in more than one district the grower should vote in the one district for which the grower wishes to be represented. In addition, growers may nominate qualified individuals from the district involved other than those appearing on the ballot, by writing in such candidates' names on the mail ballots. Returned ballots will need to be postmarked by a date specified by the committee. The Department will tally the results. Candidates who receive the highest number of votes for each position will be presented to the Secretary for selection. If the vote is tied, another mail ballot will be sent to the affected districts, listing only candidates receiving the tie votes.

The above-described procedures will be utilized until the committee recommends to the Secretary additions to or modifications of these nomination procedures or the Department finds, through other sources, that such modifications are necessary.

Based on the above information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities and that the action set forth herein will benefit producers and handlers of California kiwifruit.

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.

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 action until 30 days after publication in the **Federal Register** because:

(1) This nomination process should be available immediately to reduce the costs of administering the order;

(2) Kiwifruit growers and handlers are aware of this action which was unanimously recommended by the committee at a public meeting; and

(3) This interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

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

2. Section 920.122 is added to read as follows:

§ 920.122 Nomination procedures.

(a) The manner of nominating grower members and alternate members to the committee shall be as follows:

(1) The committee's mailing of an approved nomination form to all kiwifruit growers of record shall constitute notice of nominations. All eligible kiwifruit growers may nominate themselves or any other eligible kiwifruit grower to vacant committee positions for the nominee's district. Completed nomination forms shall be returned to the office of the committee by a date specified by the committee and approved by an agent of the Secretary. Nomination forms shall provide for names of nominees, as well as the nominating grower's name, address, telephone number, and signature. Incomplete nominations forms will not be considered valid.

(2) For each district involved in the current year's nominations, committee staff, with the Secretary's oversight, shall establish a slate of candidates with the names of all qualified nominees received. Persons submitting invalid nomination forms shall be notified of such by the committee. Within a reasonable time period, a ballot containing a slate of candidates shall be mailed to all growers of record within the respective district represented by such candidates. The committee shall provide a reasonable period of time to growers to cast votes on the candidates and return the completed ballots for tallying.

(3) To be eligible to vote, growers must be producing kiwifruit during the crop year nominations are held and within the district represented by the candidates on the ballot. A grower may only vote for candidates from one district and may only cast one ballot. Growers may also cast votes for eligible candidates who do not appear on the ballots by writing in the name of such candidates on the ballot. Each ballot shall provide for a voter eligibility certification which must include the voter's name, address, telephone number, and signature, as well as the name(s) of all handlers which handled the current season's crop. At the discretion of the Secretary, the ballots may include other background information about each candidate.

(4) In order to be valid, ballots must be executed in accordance with the instructions set forth on the ballot, and are to be returned to the Secretary's agent who will tally the ballots with such assistance from the committee as may be requested by the agent. Such ballots shall be postmarked by a date specified by the committee and approved by an agent of the Secretary.

(5) The names of the persons receiving the highest total number of votes for a particular position shall be submitted to the Secretary as the nominees for such positions. In the event of a tie vote, a ballot containing only the names of the candidates receiving the tied vote shall be mailed to all growers in the affected district.

(b) In the event of a vacancy as specified in § 920.26, the committee shall utilize the same procedure as prescribed in § 920.122 (a)(1) through (a)(5) to fill such vacancy.

Dated: December 21, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–31659 Filed 12–29–92; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 932 and 944

[Docket No. FV–92–067FR]

Olives Grown in California and Olives Imported Into the United States; Revision of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (Department) is adopting as a final rule the provisions of two interim final rules which relaxed size requirements established for California and imported olives. For California olives, this action allows "Large" size olives of the Ascolano, Barouni, and St. Agostino varieties to be used in the production of canned ripe whole or whole pitted olives. This action also makes adjustments in the Medium, Jumbo, Colossal, and Super Colossal size designations established for California olives, and revises the minimum size requirements in effect for California olives. This action is intended to help the California olive industry better meet current market

requirements, and make smaller olives of certain varieties available for use in the production of canned ripe olives. The changes were unanimously recommended by the California Olive Committee, which works with the Department in administering the marketing order program for olives grown in California. As required under section 8(e) of the Agricultural Marketing Agreement Act of 1937, this section also changes the olive import regulation, so that it conforms with the requirements established under the California olive marketing order. Thus, this final rule relaxes minimum size requirements established for imported olives of the Ascalano, Barouni, St. Agostino, and Obliza varieties. It also eliminates obsolete and unnecessary language in the import regulation.

EFFECTIVE DATE: January 29, 1993.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96458, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 932 (7 CFR part 932), both as amended, regulating the handling of olives grown in California, 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 final rule is also issued pursuant to section 8(e) of the Act, which provides that whenever specified commodities, including olives, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity.

This final rule has been reviewed by the Department 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.

This final rule has been reviewed under Executive Order 12778, 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 603c(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 requesting 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 principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action 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. Thus, this action should also have small entity orientation and should impact both small and large business entities in a manner comparable to rules issued under such marketing orders.

It is estimated that 6 handlers of California olives are subject to regulation under the order during the current season, and there are approximately 1,350 producers of California olives. There are approximately 25 importers of olives subject to the olive import regulation. 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, which include olive handlers and importers, are defined as those whose annual receipts are less than $3,500,000. Most of the olive producers may be classified as small entities. None of the olive handlers may be classified as small entities. The majority of olive importers may be classified as small entities.

Interim final rules changing the domestic and import regulations were issued on August 6, 1992, and published in the **Federal Register** on August 13, 1992 (57 FR 36351 and 57 FR 36354). These rules provided that interested persons could file comments through September 14, 1992. No comments were received. These rules changed § 932.152 of the order (7 CFR 932.152) and paragraphs (b)(3) and (b)(5) of the olive import regulation (7 CFR 944.401). The interim final rules were effective for the period August 6, 1992, through July 31, 1993.

Nearly all of the olives grown in the United States are produced in California. The growing areas are scattered throughout California, with most of the commercial production coming from inland valleys. In 1990, about 77 percent of the production came from the San Joaquin Valley and 23 percent from the Sacramento Valley. California olives are primarily used for canned ripe whole and whole pitted olives which are eaten out of hand as hors d'oeuvres or used as an ingredient in cooking and in salads. The canned ripe olive market is essentially a domestic market. Very few California olives are exported.

Olive production has fluctuated from a low of 24,200 tons during the 1972-73 crop year to a high of 146,500 tons during the 1982-83 crop year. The California Olive Committee (committee) indicated that 1990-91 production totalled about 126,872 tons. The various varieties of olives produced in California have alternate bearing tendencies with high production one year and low the next. The 1991-92 production totaled approximately 63,260 tons. Estimated 1992-93 production is 125,000 tons.

Section 932.152 of the rules and regulations in effect under the olive marketing order establishes outgoing regulations for packaged olives. Such regulations include the requirement that canned ripe whole and whole pitted olives must conform to seven established size designations, ranging from Small to Super Colossal. These size designations are defined in terms of average count ranges per pound for each of four variety groups. For example, the Small size is defined for Variety Group 2, except Obliza, to mean there are from 128 to 140 olives per pound, and the Colossal size for all variety groups is defined to mean that there are 41 to 50 olives per pound.

The size designations established in § 932.152 are related to the minimum size requirements for canned ripe whole and whole pitted olives that are established under § 932.52 of the order. These minimum size requirements include tolerances for undersized olives. For example, the minimum canning size for whole or whole pitted olives of the Obliza variety is established at 1/121 pound. Under § 932.152, the smallest size designation authorized for Obliza olives is Medium, with a count range of 106 to 121 olives per pound. Thus, the minimum weight requirement under § 932.52 equals the weight of the smallest Obliza olives authorized for canning uses.

Section 932.52 also provides an allowance for olives that weigh less than the specified minimum weights. For the Obliza variety, up to 35 percent of the olives in lots of Medium size category olives may weigh less than 1/121 pound, including up to 7 percent of the olives in such lots which may weigh less than 1/135 pound. The 1/135 pound represents the mid-point of the Small size designation, which is defined to mean that there are between 128 and 140 olives per pound. The Small size designation is one size smaller than the Medium size designation, which is the smallest size designation authorized for Obliza olives for canning use. For Obliza olives that fall within authorized size designations larger than Medium, not more than 5 percent of the olives may weigh less than 1/121 pound.

The order also provides that olives that are smaller than those authorized for use as whole and whole pitted olives may be authorized for use in the production of limited use styles of olives, such as halved, segmented, sliced or chopped olives. Limited use sizes are specified in terms of minimum weights for individual olives in various size categories by variety groups. This is to recognize the different sizing characteristics of the individual varieties and types of California olives. Olives used in limited use styles are too small to be desirable for use as whole or whole pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles. Authorizing the smaller-sized olives to be used for limited use styles makes more olives available for canning.

At a meeting held March 5, 1992, the committee, the agency responsible for local administration of the marketing order, recommended changes in the size requirements to become effective on or about August 1, 1992, when the 1992–93 season for California olives began. Section 932.52 of the order provides that the Secretary, on the basis of a recommendation of the committee or other available information, may change the sizes, tolerances or percentages specified in that section. Specifically, the committee recommended that the current size requirements be relaxed to allow "Large" size olives of the Ascolano, Barouni, and St. Agostino varieties to be used in the production of canned ripe whole or whole pitted olives. The committee also recommended adjustments in the Medium, Jumbo, Colossal, and Super Colossal size designations established for all variety groups of California olives, and revisions in the minimum size requirements established in § 932.52 so that they are consistent with the revised size designations. Finally, the committee recommended changes in the count ranges established for limited use size olives.

Prior to the issuance of the interim final rule, olives of the Ascolano, Barouni, and St. Agostino varieties were required to be at least Extra Large in size to be used in the production of canned ripe whole or whole pitted olives. This action provides that smaller olives of such varieties (those falling in the Large size category) also be authorized for canning uses. This action is designed to increase the availability of Large sized canning olives, consistent with current market requirements.

This action also revises the average count ranges established in § 932.152(f). The Medium size, defined as having from 106 to 121 olives per pound, is redefined to mean that there are between 106 and 127 olives per pound. This change in the Medium size range will permit fruit which would otherwise be classified as Small sized fruit to be classified as medium sized fruit.

Additionally, the Jumbo size designation is being redefined to mean 47 to 60 olives per pound, compared with the previous range of 51 to 60 olives per pound. Likewise, the Colossal size designation is being redefined to mean 33 to 46 olives per pound, compared with 41 to 50 olives per pound, and the Super Colossal size will mean there are 32 or fewer olives per pound rather than 40 or fewer olives per pound.

The committee reports that the industry has an excess of Super Colossal sized fruit which has a more limited demand and is harder to sell than fruit of the Jumbo and Colossal sizes. The committee therefore recommended that the minimum number of fruit per pound established for the Super Colossal size designation be increased so that a greater volume of fruit will be available to be marketed in the more popular size designations. Adjustment of the size ranges will decrease inventories of larger size fruit, by permitting some of this fruit into the size ranges which are more in demand. This will allow producers and handlers to better meet current market requirements.

This rule also adds a new paragraph (h) to § 932.152 to revise the minimum size requirements, which are specified in § 932.52 of the order. The minimum size requirements that appear in § 932.52 of the order and that remain unchanged are also included in the new paragraph (h). These changes in the minimum size requirements are necessary so that they are consistent with the revised size designations discussed previously. For example, the minimum size requirement for olives of the Ascolano, Barouni, and St. Agostino varieties is being changed from 1/88 pound to 1/105 pound to reflect the authority to use Large sized fruit of such varieties for canning purposes.

Section 932.152 also contains average count ranges for limited use size olives. This action revises the average count range established for the Ascolano, Barouni, and St. Agostino varieties of olives to reflect the previously discussed revision to allow Large sized olives of these varieties to be used in the production of whole and whole pitted styles. The current count range of 91 to 140 olives per pound is being changed to a count range of 106 to 180 olives per pound.

As required under section 8(e) of the Act, this action makes conforming changes in the olive import requirements.

Currently, canned ripe olives, and bulk olives for processing into canned ripe olives, imported into the United States must meet certain minimum grade and size requirements specified in Olive Regulation 1 (7 CFR 944.401). All canned ripe olives are required to be inspected and certified prior to importation (release from custody of the United States Custom Service), and all bulk olives for processing into canned ripe olives must be inspected and certified prior to canning. "Canned ripe olives" means olives in hermetically sealed containers and heat sterilized under pressure, of two distinct types, "ripe" and "green-ripe", as defined in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR 52.3751–52.3764). The term does not include Spanish-style green olives. Any lot of olives failing to meet the import requirements may be exported or disposed of under the supervision of the Processed Products Branch of the Fruit and Vegetable Division, with the costs of certifying the disposal of the olives borne by the importer. Any person may import up to 100 pounds (drained weight) of canned ripe olives or bulk olives exempt from these grade and size requirements.

This final rule modifies paragraphs (b)(3) and (b)(5) of the olive import regulation to relax the minimum size requirements established for imported canned whole ripe olives of the Ascolano, Barouni, St. Agostino, and Obliza varieties. It also eliminates obsolete and unnecessary language in the import regulation.

As previously indicated, the grade and size requirements contained in the olive import regulation are based on those in effect for olives grown in California under Marketing Order No. 932. The changes in the import requirements reflect the changes in the minimum size requirements established for domestically grown olives.

Based on the above information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

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.

In accordance with section 8(e) of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

List of Subjects

7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives and Oranges.

For the reasons set forth in the preamble, 7 CFR parts 932 and 944 are amended as follows:

1. The authority citation for 7 CFR parts 932 and 944 continues to read as follows:

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

PART 932—OLIVES GROWN IN CALIFORNIA

2. Accordingly, the interim final rule amending the provisions of § 932.152 which was published in the **Federal Register** (57 FR 36351, August 13, 1992), is adopted as a final rule.

PART 944—FRUITS; IMPORT REGULATIONS

3. Accordingly, the interim final rule amending the provisions of § 944.401 which was published in the **Federal Register** (57 FR 36354, August 13, 1992), is adopted as a final rule.

Dated: December 21, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–31663 Filed 12–29–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 932 and 944

[Docket No. FV–91–460FR]

Olives Grown in California and Imported Olives; Final Rule for Limited Use Olives Grown in California and Olive Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (Department) is adopting as a final rule the provisions of two interim final rules that authorized the use of smaller sized California and imported olives in the production of limited use styles. Olives used in limited use styles are too small to be desirable for use as whole or whole pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles such as wedges, halves, slices, or segments. This action will help the California olive industry and importers to meet the increasing market needs of the food service industry by making smaller olives available for use in the production of limited use styles.

EFFECTIVE DATE: This action is effective on January 29, 1993.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96458, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–8139.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 932 (7 CFR part 932), both as amended, regulating the handling of olives grown in California, 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 final rule is also issued pursuant to section 8(e) of the Act, which provides that whenever specified commodities, including olives, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements as those in effect for the domestically produced commodity.

This final rule has been reviewed by the Department of Agriculture (Department) 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.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action 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 requesting 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 principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action 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. Thus, this action should also have small entity orientation and should impact both small and large business entities in a manner comparable to rules issued under such marketing orders.

It is estimated that 6 handlers of California olives are subject to regulation under the order during the current season, and there are approximately 1,350 olive producers in California. There are approximately 25 importers of olives subject to the olive import regulation. 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. Most of the olive producers may be classified as small entities and none of the olive handlers may be classified as small entities. The majority of olive importers may be classified as small entities.

Interim final rules modifying the marketing order and import regulations are issued on August 5, 1992, and published in the **Federal Register** on August 11, 1992 (57 FR 35745 and 57 FR 35747). These rules provided that interested persons could file comments through September 10, 1992. No comments were received. These rules modified section 932.153 of the order (7 CFR 932.153) and paragraph (b)(12) of the olive import regulation (7 CFR 944.401). These modifications are finalized in this action. The interim final rules became effective on August 1, 1992.

Nearly all of the olives grown in the United States are produced in California. The growing areas are scattered throughout California, with most of the commercial production coming from inland valleys. In 1990, about 77 percent of the production came from the San Joaquin Valley and 23 percent from the Sacramento Valley. California olives are primarily used for canned ripe whole and whole pitted olives, which are eaten out of hand as hors d'oeuvres or used as an ingredient in cooking and in salads. The canned ripe olive market is essentially a domestic market. Very few California olives are exported.

Olive production has fluctuated from a low of 24,200 tons during the 1972–73 crop year to a high of 146,500 tons during the 1982–83 crop year. The California Olive Committee (committee) indicated that 1990–91 production totalled about 126,872 tons. The various varieties of olives produced in California have alternate bearing tendencies with high production one year and low the next. Total production for 1991–92 totaled about 63,260 tons. Estimated production for the 1992–93 season is 125,000 tons. However, based on past production and marketing experience, the committee believes that handlers will need smaller sized olives during the 1992–93 crop year to meet market requirements for limited use styles of canned olives. Absent this action, olives which are smaller than those authorized for whole and whole pitted canning uses will have to be disposed of by handlers into non-canning uses such as crushing into oil.

Paragraph (a)(3) of § 932.52 of the order for California olives, provides that processed olives smaller than the sizes prescribed for whole and whole pitted styles may be used for limited uses if recommended by the committee and approved by the Secretary. Until October 1, 1991, paragraph (a)(3) also prescribed minimum sizes, by variety group, which could be authorized for use in the production of limited use styles by the Secretary. The sizes were specified in terms of minimum weights for individual olives in various size categories by variety groups. This was to recognize the different sizing characteristics of the individual varieties and types of California olives. Olives used in limited use styles are too small to be desirable for use as whole or whole pitted canned olives because their flesh-to-pit ratio is too low. However, they are satisfactory for use in the production of limited use styles. Such styles include halved, segmented, sliced, and chopped canned ripe olives.

Effective October 1, 1991, certain non-canning size disposition requirements specified in § 932.51(a)(3) and minimum sizes authorized for limited use specified in § 932.52(a)(3) of the order were suspended. The committee may now recommend the use of olives for limited uses that are smaller than those previously permitted under the order. Minimum size and grade requirements may be recommended annually by the committee and approved by the Secretary. The sizes authorized herein are the same as those established for the 1991–92 crop year.

The minimum sizes which could previously be authorized for limited uses were established in a 1971 amendment to the order. Olives smaller than the prescribed minimum sizes which could be authorized for limited uses had to be disposed of for less profitable non-canning uses such as crushing for oil. Returns to producers are lower on smaller fruit used for such purposes. The use of smaller sized olives for limited use styles has been authorized in all but two crop years since the order was instituted in 1965.

Since the 1971 amendment, there have been substantial changes within the olive industry. In spite of the annual limited use authorization, in recent years the industry has not been able to meet market requirements for its products, especially the limited use styles used primarily by the food service industry. The demand for processed olives and for limited use styles is expected to continue to increase. At the same time, the industry has not been able to increase production to meet market needs for canned ripe olives.

The committee conducted a study during the 1990–91 crop year to determine the feasibility of utilizing smaller sized olives in the production of limited use styles and to determine which sizes could be efficiently processed into such styles. All olive handlers within the industry participated in the study. All handlers reported that smaller sizes can be efficiently processed into limited use styles. Advanced technology in the form of better processing equipment is currently available. The new technology allows handlers to process smaller olives into limited use styles more efficiently than was possible in the past.

On December 2, 1991, the committee recommended the establishment of minimum sizes to be authorized for use in the production of limited use styles during the 1992–93 season. The size requirements are based on the study conducted by the committee during the 1990–91 crop year. The grade requirements are the same as established in recent seasons. The specific sizes for the variety groups are the minimum sizes, which are deemed desirable for use in the production of limited use styles at this time. As in past year, permitting the use of smaller olives in the production of limited use styles will allow handlers to take advantage of the strong market for halved, segmented, sliced, and chopped canned ripe olive. Handlers will be able to market more olives than will be permitted in the absence of this relaxation in size requirements. This additional opportunity is provided to maximize the use of the available olive supplies and facilitate market expansion, thereby increasing returns to producers. In the absence of this action, the smaller fruit would have to be disposed of for less profitable uses.

Canned ripe olives, and bulk olives for processing into canned ripe olives, imported into the United States must meet certain minimum grade and size requirements specified in Olive Regulation 1 (7 CFR 944.401). All canned ripe olives are required to be inspected and certified prior to importation (release from custody of the United States Custom Service), and all bulk olives for processing into canned ripe olives must be inspected and certified prior to canning. "Canned ripe olives" means olives in hermetically sealed containers and heat sterilized under pressure, of two distinct types, "ripe" and "green-ripe", as defined in the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR 52.3751–52.3764). The term does not include

Spanish-style green olives. Any lot of olives failing to meet the import requirements may be exported or disposed of under the supervision of the Processed Products Branch of the Fruit and Vegetable Division, with the costs of certifying the disposal of the olives borne by the importer. Any person may import up to 100 pounds (drained weight) of canned ripe olives or bulk olives exempt from these grade and size requirements.

This final rule modifies paragraph (b)(12) of the olive import regulation (7 CFR 944.401) to authorize the importation of bulk olives which do not meet the minimum size requirements established for olives for whole and whole pitted uses to be used in the production of limited use styles for the 1992–93 season which began August 1, 1992. This rule also establishes size requirements for such olives in paragraph (b)(12).

The grade and size requirements contained in the olive import regulation are based on those established for olives grown in California under the order. This action reflects the changes made in the requirements for olives for limited use styles grown in California.

The minimum sizes for limited use styles will be the same as those established for the 1991–92 season. The size requirements are specified in terms of minimum weights for individual olives in various variety groups and are the same for both domestic and imported olives. An extra category is contained in the import regulation to apply comparable requirements for varieties not grown domestically. The minimum sizes are as follows:

	Pound
Variety Group I, except the Ascolano, Barouni, or St. Agostino varieties	1/105
Variety Group I of the Ascolano, Barouni, or St. Agostino varieties	1/180
Variety Group 2, except the Obliza variety	1/205
Variety Group 2 of the Obliza variety	1/180
Olives not identifiable as to variety or variety group	1/205

Each of the categories includes a 35 percent tolerance for olives weighing less than the specified minimum size.

This action is necessary because section 8(e) of the Act provides that when domestically produced olives are regulated under a Federal marketing order, imported olives must meet the same or comparable grade, size, quality, and maturity requirements. Thus, authorizing the use of smaller sized California olives in the production of limited use styles and establishing size regulations for such olives requires that the same or comparable regulations be issued for imported bulk olives.

In accordance with section 8(e) of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including 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

7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

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 parts 932 and 944 are amended as follows:

PARTS 932 AND 944 [AMENDED]

1. The authority citation for 7 CFR parts 932 and 944 continue to read as follows:

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

§ 932.153 [Amended]

2. Accordingly, the interim final rule amending the provisions of § 932.153, which was published in the **Federal Register** (57 FR 35745, August 11, 1992), is adopted as a final rule.

§ 944.401 [Amended]

3. Accordingly, the interim final rule amending the provisions of § 944.401, which was published in the **Federal Register** (57 FR 35747, August 11, 1992), is adopted as a final rule.

Dated: December 21, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–31664 Filed 12–29–92; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 945

[FV–92–087IFR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Establishment of Positive Lot Identification Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This action invites comments on the establishment of procedures for handlers who utilize positive lot identification (PLI) for lots of potatoes inspected and certified under the Idaho-Eastern Oregon potato marketing order. This action will: (1) Allow handlers to ship positive lot identified potatoes without a valid inspection certificate; (2) establish inspection procedures for positive lot identified potato lots that are not shipped within four days of inspection; and (3) requires handlers to report the quantities of potatoes shipped under PLI. These procedures will allow handlers to operate more efficiently when they use PLI as a method of inspection. This action was unanimously recommended by the Idaho-Eastern Oregon Potato Committee (Committee), which is responsible for local administration of the order.

DATES: Interim final rule effective December 30, 1992. Comments received by January 29, 1993 will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. Comments received will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Dennis West, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Northwest Marketing Field Office, 1220 S.W. Third Avenue, room 369, Portland, Oregon 97204; telephone (503) 326–2724, or Valerie L. Emmer, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 205–2829.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement No. 98 and Marketing Order No. 945 (7 CFR part 945), both as amended, regulating the handling of Irish potatoes grown in certain counties in Idaho and Malheur County, Oregon. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (17 U.S.C. 601–674), hereinafter referred to as the Act.

The Department of Agriculture (Department) is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome, and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992, memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the fullest extent possible, consistent with law.

The Department has developed and reviewed this regulatory proposal in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this interim final rule.

This interim final rule has been reviewed by the Department of Agriculture (Department) 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.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This interim 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 requesting 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 principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity 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 Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action 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.

There are approximately 66 handlers of Idaho-Eastern Oregon potatoes who are subject to regulation under the marketing order and approximately 2,200 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 $3,500,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A majority of the handlers and producers of Idaho-Eastern Oregon potatoes may be classified as small entities.

This interim final rule revises § 945.341 of the rules and regulations of the order. This action was unanimously recommended by the Idaho-Eastern Oregon Potato Committee (Committee), which is responsible for local administration of the marketing order program, at its June 9, 1992, meeting.

Currently, paragraph (d)(1) of § 945.341 provides that no handler shall handle potatoes unless the potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and all shipments are covered by a valid inspection certificate. However, many handlers of Idaho-Eastern Oregon potatoes have been using positive lot identification (PLI) inspection procedures approved by the Fresh Products Branch of the Fruit and Vegetable Division. Positive lot identification provides that a specific load or lot can be linked to an official inspection certificate or numbered notesheet (Federal or Federal-State) that shows the produce has been officially sampled, inspected, and certified by a USDA authorized inspector. This can be accomplished by sealing conveyances with pre-numbered seals, pre-stamped identification tags inserted or attached to containers, stamping containers with official stamping devices, taping and/or tagging unitized pallets of products, or other methods if approved by the Fresh Products Branch. Copies of these procedures are attainable from Scott P. Brubaker, Federal Supervisor, Federal-State Inspection Service, Fresh Fruit and Vegetable Inspection, 2270 Old Penitentiary Road, Boise, Idaho 83712; telephone (208) 334–3830. Under these procedures, the lot can be tied to a particular inspection certificate, numbered notesheet or shipping clearance report. A numbered notesheet or inspection certificate is used by inspectors to list results of inspections completed during the day. A shipping clearance report is also used as evidence of inspection when previously inspected positive lot identified lots are subsequently re-inspected and found to meet marketing order regulations. The PLI procedures would make the inspection more valuable to the shipper because the shipper can more easily show that condition problems at destination more likely occurred during transit and not at the packing facility. In addition, the Committee is able to verify handler compliance with inspection and certification requirements more easily.

The rules and regulations currently require that no handler shall handle potatoes unless the potato shipments are covered by a valid inspection certificate. Because each lot is positive lot identified under Fresh Products Branch procedure, each lot can be linked directly to a valid inspection certificate, numbered notesheet, or shipping clearance report, the Committee recommended that valid copies of these documents not be required to accompany positive lot identified potatoes. Containers or lots of potatoes not shipped under PLI procedures would have to be accompanied with a copy of a valid inspection certificate, numbered notesheet, or shipping clearance report. Such containers or lots have no identifying marks other than those placed on them by the shipper, and it is sometimes difficult to determine if all cartons in the lot have been inspected.

The second change will establish inspection procedures for positive lot identified potatoes not shipped within four days of inspection. Paragraph (d)(3) of § 945.341 currently provides that inspection certificates issued for potatoes which are to be shipped outside the production area must be issued within four days of shipment. Otherwise, another inspection is required. A new inspection will continue to be conducted on positive lot identified lots that are not shipped within a four-day period. If the subsequent inspection verifies that the handling regulation requirements, specified in paragraphs (a), (b), and (c) of § 945.341 have been met, a new inspection certificate, a new numbered notesheet, or a new shipping clearance report will be issued which references the original PLI number. A new PLI number will not be required on the lots. However, if the lot does not meet the requirements of the handling regulations, the lot will be required to be reconditioned in the presence of an authorized representative from the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service prior to the close of the business day. If the lot is reconditioned to bring the lot into conformity with the handling regulation requirements, a new inspection certificate or new numbered notesheet must be issued and a new PLI number or modified PLI number will be applied. If the failing lot is not reconditioned prior to the close of business, all PLI numbers will be obliterated. This procedure will save time since handlers will not have to apply a new PLI number to the lots that are required to be reinspected and which continue to meet the handling regulation requirements.

The third change will require handlers to report to the Committee, either orally or in writing, the quantity of potatoes shipped under PLI procedures. Handlers are currently required under paragraph (d)(4) of § 945.341 to provide the Committee with destination zip codes of all potatoes handled, by permitting the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service to review bills of lading upon inspection to determine the destination zip codes. Currently, these zip codes, along with the quantity of potatoes shipped, are included on the inspection certificates which are received by the Committee. However, only the destination zip codes are included on the numbered notesheets which are used for PLI inspections. Inspectors inspecting potatoes under PLI will indicate a full day's inspection information on the inspection certificate or numbered notesheet and issue one inspection certificate for all lots inspected that day. Therefore, separate quantities of each shipment to a specific destination zip code will not be indicated on the numbered notesheet or the single inspection certificate. For the Committee to receive the quantities shipped to each destination zip code, it recommended that the handler inform the Committee either orally or in writing of the quantities so shipped under PLI procedures. The Committee needs this information to ascertain the exact quantities of PLI potatoes shipped to each destination zip code for greater statistical accuracy.

The information collection requirements that are contained in these regulations have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB Control No. 0581–0069.

On the basis of the foregoing, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the Committee and other available information, it is found that this interim final rule 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 impractical, 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 action until 30 days after publication in the **Federal Register** because:

(1) This action relaxes requirements on potato handlers;

(2) This action was recommended at a public meeting;

(3) The industry usually begins packing and shipping new crop potatoes by mid-August; and

(4) This action provides for a 30-day comment period and all comments timely received will be considered prior to the finalization of this action.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 945 is amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 945 continues to read as follows:

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

2. Section 945.341 is amended by revising paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) to read as follows:

§ 945.341 Handling regulation.

* * * * *

(d) * * *

(1) No handler shall handle potatoes unless such potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and are covered and accompanied by a valid inspection certificate, numbered notesheet, or shipping clearance report: *Provided*, That a valid inspection certificate, numbered notesheet, or shipping clearance report is not required to accompany positive lot identified potatoes.

(2) Each lot shipped shall be accompanied by a copy of a valid inspection certificate, a numbered notesheet, shipping clearance report, or the lot must meet PLI requirements established by the Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service of the U.S. Department of Agriculture.

(3) Inspection certificates, numbered notesheets or shipping clearance reports for potatoes to be shipped outside the area of production must be issued within four days of such shipment. Otherwise, such potatoes, including lots that are positive lot identified, can only be shipped outside the area of production if a new inspection is performed to verify that the potatoes meet the requirements specified in paragraphs (a), (b), and (c) of this section. If the subsequent inspection verifies that the lot meets the requirements of paragraphs (a), (b), and (c) of this section, a new certificate, a new numbered notesheet, or a new shipping clearance report shall be issued and, if positive lot identified, shall reference the original PLI number, and a new PLI number need not be applied to the lot. However, if upon subsequent inspection, the lot does not meet the requirements specified in either paragraphs (a), (b), or (c) of this section, the lot shall be reconditioned in the presence of an authorized

representative of the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service prior to the close of the business day. If the lot is reconditioned prior to the close of the business day, a new certificate, a new numbered notesheet, or a new shipping clearance report must be issued, and either a new PLI number must be applied to the lot or the original PLI number must be modified. If the PLI numbered lot is not reconditioned prior to the close of the business day, all PLI numbers must be obliterated. Any inspection certificate, numbered notesheet, or shipping clearance report issued upon a subsequent inspection, including when a lot is reconditioned, must be issued within four days of shipment of the potatoes outside the production area.

(4) Handlers shall provide the Committee with the destination zip codes of all potatoes handled by permitting the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service to review the bills of lading upon inspection to determine the destination zip codes. The destination zip codes shall be included on the inspection certificates. The destination zip codes and the quantity shall be provided by the handler to the Committee on lots which are positive lot identified, either orally or in writing. Whenever potatoes are diverted to a different destination, the handler shall notify the Committee of the new destination zip code and quantity orally or in writing as soon as practicable.

Dated: December 21, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-31667 Filed 12-29-92; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 955 and 987

[Docket No. FV92-955-1FIR]

Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is adopting as a final rule the provisions of two interim final rules (without change) authorizing expenditures and establishing assessment rates under Marketing Orders 955 and 987 for the 1992-93 fiscal period. Authorization of these budgets enables the Vidalia Onion Committee and the California Date Administrative Committee (Committees) to incur expenses that are reasonable and necessary to administer the programs. Funds to administer these programs are derived from assessments on handlers.

DATES: September 16, 1992, through September 15, 1993 (§ 955.205), and October 1, 1992, through September 30, 1993 (§ 987.335).

FOR FURTHER INFORMATION CONTACT: Kellee J. Hopper (M.O. 987), California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, suite 102B, 2202 Monterey Street, Fresno, CA 93721, telephone 209-487-5901; John R. Toth (M.O. 955), Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883-2276, telephone 813-299-4770; or Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement and Order No. 955 [7 CFR Part 955], regulating the handling of Vidalia onions grown in Georgia, and Marketing Agreement and Order No. 987 [7 CFR Part 987], both as amended, regulating the handling of dates produced or packed in Riverside County, California. The marketing agreements and orders 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 (Department) 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.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, Vidalia onions and California dates are subject to assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable Vidalia onions handled during the 1992-93 fiscal period which began September 16, 1992, through September 15, 1993, and all assessable California dates handled during the 1992-93 crop year which began October 1, 1992, through September 30, 1993. 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 requesting 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 principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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 250 producers of Georgia Vidalia onions under Marketing Order No. 955, and approximately 145 handlers. Also, there are approximately 135 producers of California dates under Marketing Order No. 987, and approximately 25 handlers. 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 the producers and handlers may be classified as small entities.

The budgets of expenses for the 1992-93 fiscal period were prepared by the Vidalia Onion Committee and the California Date Administrative Committee, the agencies responsible for local administration of the orders, and submitted to the Department for approval. The members of these Committees are handlers and producers of Georgia Vidalia onions and California dates. They are familiar with the Committees' needs and with the costs for goods and services in their local areas and are thus in a position to formulate appropriate budgets. The budgets were formulated and discussed in public meetings. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rates recommended by the committees were derived by dividing anticipated expenses by expected shipments of Georgia Vidalia onions and California dates. Because these rates will be applied to actual shipments, they must be established at rates that will provide sufficient income to pay the Committees' expenses.

The Vidalia Onion Committee met July 23, 1992, and unanimously recommended a 1992–93 budget of $338,497. This is $145,697 more than the previous year. The size of the increase in the budget is due in large part to increased marketing activity, which appears necessary to the Committee as the crop size continues to grow. Increases include: $4,000 for furniture/ equipment lease and maintenance, $6,177 for office overhead, $14,255 for contract management, $22,950 for research, and $127,965 for marketing. These budget increases will be partially offset by decreases of $1,000 for office supplies and $2,000 for postage/courier, and the elimination of the supplemental marketing category for which $27,300 was budgeted last year.

The Committee also unanimously recommended an assessment rate of $0.10 per 50-pound bag, the same as last year. This rate, when applied to anticipated shipments of 2,094,517 50-pound bags, will yield $209,451 in assessment income. This, along with $14,000 in interest income and $115,046 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the Committee's authorized reserve at the beginning of the 1992–93 fiscal period, estimated at $134,588, will be within the maximum permitted by the order of three fiscal periods' expenses.

The California Date Administrative Committee met on July 16, 1992, and recommended 1992–93 crop year expenditures of $495,500 and an assessment rate of $1.40 per hundredweight of assessable dates shipped under M.O. 987. In comparison 1991–92 crop year budgeted expenditures were initially established at $479,400 and the assessment rate was established at $1.40 per hundredweight. Subsequently, the Committee recommended an increase in expenditures of $155,000 for additional advertising and promotion expenditures, for a total budget of $634,400.

Included in 1992–93 budgeted expenditures is an operating budget of $121,703, with a 20% surplus account allocation, for a net operating budget of $97,363. The major expenditure item this year is $392,470 for continuation of the Committee's market promotion program. The industry is faced with an oversupply of product dates and the Committee considers this program necessary to stimulate sales. The remaining expenditures are for program administration and are budgeted at about last year's amounts.

Income for the 1992–93 season is expected to total $495,500. Such income consists of $490,000 in assessments based on shipments of 35,000,000 assessable pounds of dates at $1.40 per hundredweight, and $5,500 in interest income.

The Committee also recommended that any unexpended funds or excess assessments from the 1991–92 crop year be placed in its reserve. The Committee's reserve is well within the maximum amount authorized under the order.

While this action 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 from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Interim final rules were published in the **Federal Register** on October 6, 1992, for 7 CFR part 955 (57 FR 45974), and 7 CFR part 987 (57 FR 45975). Those interim final rules added § 955.205 and § 987.335, authorized expenses, and established assessment rates for the Committees. Those rules provided that interested persons could file comments through November 5, 1992. No comments were received.

It is found that the specified expenses for the marketing orders covered in this rulemaking are reasonable and likely to be incurred and that such expenses and the specified assessment rates to cover such expenses 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 action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1992–93 fiscal periods for the programs began on September 16, 1992, for Georgia Vidalia onions and October 1, 1992, for California dates, and the marketing orders require that the rates of assessment for the fiscal periods apply to all assessable onions and dates handled during the fiscal periods. In addition, handlers are aware of these actions which were recommended by the Committees at public meetings and published in the **Federal Register** as interim final rules. No comments were received concerning the two interim final rules that are adopted in this action as a final rule without change.

List of Subjects

7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 955 and 987 are hereby amended as follows:

1. The authority citation for 7 CFR Parts 955 and 987 continue to read as follows:

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

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

Note: This section will not appear in the Code of Federal Regulations.

2. For the reasons set forth in the preamble, the interim final rule adding § 955.205 which was published at 57 FR 45974 on October 6, 1992, is adopted as a final rule without change.

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

Note: This section will not appear in the Code of Federal Regulations.

3. For the reasons set forth in the preamble, the interim final rule adding § 987.335 which was published at 57 FR 45975 on October 6, 1992, is adopted as a final rule without change.

Dated: December 21, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–31662 Filed 12–29–92; 8:45 am]

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