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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 920 and 932

[Docket Nos. FV93–920–3FIR and FV92–932–1FIR, Amendment 1]

Finalization of Interim Final Rules for Specified Marketing Orders (Kiwifruit and Olives)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of two interim final rules that authorized expenses and established assessment rates for the Kiwifruit Administrative Committee and the California Olive Committee (Committees) under Marketing Order Nos. 920 and 932, respectively. Authorization of these budgets enables the Committees to incur expenses that are reasonable and necessary to administer their respective programs. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATE: Section 920.210 is effective August 1, 1993, through July 31, 1994; § 932.226 is effective January 1, 1993, through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Britthany E. Beadle, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2524–S, Washington, DC 20090–6456; telephone: (202) 720–5127; Rose Aquayo (§ 920.210), or Terry Vawter (§ 932.226), California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102 B, Fresno, California 93721, telephone: (209) 487–5906.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 920 (7 CFR Part 920) regulating the handling of kiwifruit grown in California and Marketing Agreement and Marketing Order No. 932 (7 CFR Part 932), both as amended, regulating the handling of olives grown in California. The marketing 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 is being issued in conformance with Executive Order 12866 and it has been determined that it is not a "significant regulatory action."

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, kiwifruit and olives grown in California are subject to assessments. It is intended that the assessment rates specified herein will be applicable to all assessable kiwifruit and olives handled during the 1993–94 fiscal year, beginning August 1, 1993, through July 31, 1994 (M.O. 920), and January 1, 1993, through December 31, 1993 (M.O. 932). 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 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 60 handlers of kiwifruit and 5 handlers of olives grown in California subject to regulation under their respective marketing orders each season. In addition, there are approximately 650 producers of kiwifruit and 1,350 producers of olives 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 are defined as those whose annual receipts are less than $3,500,000. The majority of kiwifruit producers, kiwifruit handlers, and olive producers may be classified as small entities. None of the olive handlers may be classified as small entities.

The respective marketing orders require that the assessment rates for a particular fiscal year shall apply to all assessable kiwifruit and olives handled from the beginning of such year. An annual budget of expenses is prepared by each of the Committees and submitted to the Department for approval. The members of the Kiwifruit Administrative Committee consist of producers and a non-industry member. The members of the California Olive Committee consist of producers and handlers. They are familiar with the Committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rates recommended by the Committees are derived by dividing anticipated expenses by expected shipments of kiwifruit and olives. Because these rates are applied to actual shipments, they must be established at rates which will produce sufficient income to pay the Committees' expected expenses. The recommended budgets and rates of assessment are usually acted upon by the Committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committees will have funds to pay their expenses.

The Kiwifruit Administrative Committee (KAC) met on July 14, 1993, and unanimously recommended 1993–94 marketing order expenses of $156,150 and an assessment rate of $0.01 per tray or tray equivalent of kiwifruit. In comparison, 1992–93 marketing year budgeted expenses were $152,913, which is $3,237 less than the $156,150 recommended for this fiscal year. The assessment rate of $0.01 per tray or tray equivalent is $0.01 less than last year's assessment rate of $0.02. The major budget category for 1993–94 is $92,095 for administrative, staff and field salaries.

Assessment income for 1993–94 is estimated to total $100,000 based on anticipated fresh domestic shipments of 10 million trays or tray equivalents of kiwifruit. The assessment income will be augmented by $56,150 from the KAC's reserves to provide adequate funds to cover budgeted expenses. Funds in the reserve at the end of the 1993–94 fiscal year are estimated to be $109,882. These reserve funds will be within the maximum permitted by the order of one fiscal year's expenses.

This action was published as an interim final rule in the **Federal Register** (58 FR 45232, August 27, 1993) and provided a 30-day comment period for interested persons. No comments were received.

The California Olive Committee (COC) met on December 7, 1992, and unanimously recommended total expenses for the 1993 fiscal year of $2,796,000 and an assessment rate of $25.75 per ton of assessable olives handled. This action was published as an interim final rule in the **Federal Register** (58 FR 8538, February 16, 1993) and provided a 30-day comment period which ended March 18, 1993. The recommended 1993 expenses and assessment rate were adopted in a final rule and published in the **Federal Register** (58 FR 33013, June 15, 1993). There were no comments received prior to publication of the final rule.

At a meeting held on July 7, 1993, the COC voted unanimously to increase its expenses by $23,760 to cover additional production research projects not anticipated by the COC in December of 1992. This increased the total budget approved by the Department from $2,796,000 to $2,819,760. These increased expenses are in the form of additional funding levels for five research projects currently being conducted. No change in the assessment rate was recommended by the COC. Adequate funds are available in the COC's reserves to cover the increase in expenses resulting from this action. The amended budget was published as an interim final rule in the **Federal Register** (58 FR 45234, August 27, 1993). There were no comments received concerning the budget increase.

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** (58 FR 45232, August 27, 1993), for 7 CFR part 920 and (58 FR 8538, February 16, 1993) and (58 FR 45234, August 27, 1993), for 7 CFR part 932. Each interim final rule provided a 30-day comment period for interested persons. No comments were received.

It is found that the specified expenses for the marketing orders covered in this rule 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 1993–94 fiscal years for the programs began on August 1, 1993, for California kiwifruit and January 1, 1993, for olives. The marketing orders require that the rates of assessment for the fiscal year apply to all assessable kiwifruit and olives handled during the fiscal year.

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 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 920 and 932 are hereby amended as follows:

1. The authority citation for 7 CFR parts 920 and 932 continue to read as follows:

Authority: 7 U.S.C. 601–674.

Note: These sections will not appear in the annual Code of Federal Regulations.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

2. Accordingly, the interim final rule amending 7 CFR part 920 which was published at 58 FR 45232, on August 27, 1993, is adopted as a final rule without change.

PART 932—OLIVES GROWN IN CALIFORNIA

3. Accordingly, the interim final rule amending 7 CFR part 932 which was published at 58 FR 45234, on August 27, 1993, is adopted as a final rule without change.

Dated: November 8, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–28035 Filed 11–15–93; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 926

[Docket No. FV–92–035FR]

Tokay Grapes Grown in San Joaquin County, CA; Final Rule Revising the Minimum Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds the U.S. No. 1 Institutional grade to the minimum grade requirements under the handling regulation in effect for fresh market shipments of California Tokay grapes. This action will aid handlers in developing new markets for table grapes.

EFFECTIVE DATE: December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Mark J. Kreaggor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O.

Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 720–1755; or Kellee J. Hopper, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California, 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 926 (7 CFR part 926), both as amended, regulating the handling of Tokay grapes grown in San Joaquin County, California. The marketing agreement and order are authorized 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 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 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 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 5 handlers of San Joaquin County, California Tokay grapes subject to regulation under the marketing order, and approximately 20 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 the Tokay grape handlers and producers may be classified as small entities.

The Tokay Grape Industry Committee (committee), the agency responsible for local administration of the order, met on February 4, 1992, and unanimously recommended revising the minimum grade requirements in the handling regulation to include the U.S. No. 1 Institutional grade as set forth in the United States Standards for Grades of Table Grapes (European and Vinifera Type) (7 CFR 51.880 to 51.913) hereinafter referred to as the Standards.

Under current requirements, from August 12 through November 15 each season, Tokay grapes must meet the minimum grade and size requirements specified for U.S. No. 1 Table as set forth in the Standards, and must meet applicable color requirements.

The committee recommended adding the U.S. No. 1 Institutional grade to the minimum grade requirements in the domestic handling regulation. The requirements of the U.S. No. 1 Institutional grade are the same as for U.S. No. 1 Table grade except for bunch size and container marking requirements. Individual bunches of table grapes grading U.S. No. 1 Table cannot weigh less than one-fourth pound (4 ounces). Individual bunches of grapes grading U.S. No. 1 Institutional cannot weigh less than 2 ounces nor more than 5 ounces. Additionally, at least 95 percent of the containers in a lot of table grapes grading U.S. No. 1 Institutional must be legibly marked "Institutional Pack." No labelling requirements are established under the U.S. No. 1 Table grade.

The committee believes that adding the U.S. No. 1 Institutional grade to the handling regulation will promote domestic sales and exports of institutional grape packs, particularly to Canada. The committee reports an increased demand for institutional grape packs by the foodservice industry (e.g., school systems, airlines and restaurants). Due to the requirements of the current handling regulation, Tokay grape handlers are prohibited from making domestic and export shipments of institutional grape packs. The Standards were amended in April 1991 to establish the U.S. No. 1 Institutional grade.

A proposed rule concerning this action was published in the **Federal Register** (58 FR 40756, July 30, 1993).. Comments concerning this action were invited until August 30, 1993. No comments were received.

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for table grapes under a domestic marketing order, imported table grapes must meet the same or comparable requirements. Because this final rule relaxes the minimum grade requirements to add U.S. No. 1 Institutional to the domestic handling regulation, a corresponding change is needed in the table grape import regulation. Such change will be addressed in a separate rulemaking action.

Based on the above, 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, the information and recommendations submitted by the committee, and other information, it is found that this action will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 926

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 926 is amended as follows:

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

1. The authority citation for 7 CFR Part 926 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 926.324 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 926.324 California Tokay Grape Regulation 23.

(a) * * *

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table grade or U.S. No. 1 Institutional, and the following additional

requirement: Of 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

* * * * *

(b) *Definitions.* "U.S. No. 1 Table grade," "U.S. No. 1 Institutional," and "characteristic color," shall mean the same in the United States Standards for Grades for Table Grapes (European or Vinifera type) (7 CFR 51.880 through 51.912).

Dated: November 8, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93-28032 Filed 11-15-93; 8:45 am]

BILLING CODE 3410-02-P

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7 CFR Part 944

[Docket No. FV-92-036FR]

Tokay Grapes Imported Into the United States; Final Rule Revising the Minimum Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds the U.S. No. 1 Institutional grade to the minimum grade requirements for imported Tokay grapes. Currently, imported Tokay grapes must grade at least U.S. No. 1 Table, which includes a requirement that individual bunches weigh at least one-fourth pound (4 ounces). This action will permit smaller bunches of Tokay grapes to be imported into the United States, and is required under section 8e of the amended Agricultural Marketing Agreement Act of 1937.

EFFECTIVE DATE: December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Mark J. Kreaggor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526-S, Washington, DC 20090-6456, telephone (202) 720-5127; or Kellee J. Hopper, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California, 93721; telephone: (209) 487-5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act, which provides that whenever certain specified commodities, including grapes, 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 final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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.

Import regulations issued under the Act are based on those established under Federal marketing orders. Thus, they should also have small entity orientation, and impact both small and large business entities in a manner comparable to rules issued under such marketing orders.

There are no known importers of Tokay grapes at this time. Small agricultural service firms, which include grape importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000.

A proposed rule concerning this action was published in the **Federal Register** (58 FR 40758, July 30, 1993). Comments concerning this action were invited until August 30, 1993. No comments were received.

This action is being taken because section 8e of the Act requires imported Tokay grapes to meet the same or comparable requirements as those established under a domestic marketing order. Under this final rule, imported Tokay grapes have to meet the same minimum grade requirements as domestically produced Tokay grapes that are grown in southeastern California and regulated under Marketing Order No. 926 (7 CFR part 926).

Under the terms of the marketing order, from August 12 through November 15 each season, Tokay grapes must meet minimum grade and size requirements as specified for U.S. No. 1 Table, as set forth in the United States Standards for Table Grapes (European or Vinifera Type) (7 CFR 51.880 to 51.913), hereinafter referred to as the Standards. In addition, under the handling regulation Tokay grapes are subject to an additional color requirement. Effective April 18, 1991, a new U.S. No. 1 Institutional grade was established under the Standards.

The Tokay Grape Industry Committee (committee), the agency responsible for local administration of the marketing order, recommended that the minimum grade requirements established for domestically grown Tokay grapes be revised to include the new U.S. No. 1 Institutional grade.

The U.S. No. 1 Institutional grade will: (1) Provide greater tolerance by permitting more weight variance of individual bunches; individual bunches of grapes grading U.S. No. 1 Institutional cannot weigh less than 2 ounces or more than 5 ounces; and (2) provide that at least 95 percent of the containers in a lot of grapes grading U.S. No. 1 Institutional are required, under the Standards, to be marked "Institutional Pack." Grapes grading U.S. No. 1 Table consist of bunches of well developed grapes, which are fairly well colored, uniform in appearance, and free from decay, mold and other condition factors. Bunches must weigh at least one-fourth pound (4 ounces). The requirements of the U.S. No. 1 Institutional grade are the same as for U.S. No. 1 Table grade except for bunch size and container marking requirements.

The committee's recommendation to revise domestic handling requirements is being taken under a separate rulemaking action. This final rule relaxing the minimum grade requirement for imported Tokay grapes is necessary to make import requirements consistent with those in effect under the marketing order. This action permits smaller bunches of grapes to be imported into the United States by adding the U.S. No. 1 Institutional grade to the minimum grade requirements for Tokay grape imports.

The primary purpose of the Standards is to provide uniform trading terms relative to quality criteria commonly recognized by buyers and sellers of grapes. Because the requirements for U.S. No. 1 Table and U.S. No. 1 Institutional grapes are identical except for bunch size, it has been determined that the U.S. No. 1 Institutional grade requirements must include a container marking requirement to avoid buyer confusion in the marketplace. Because this requirement has been determined to be essential in identifying U.S. No. 1 Institutional grapes, imports of U.S. No. 1 Institutional grade Tokay grapes have to meet all of the requirements of that grade set forth in the Standards, including the requirement that containers of such grapes be marked "Institutional Pack."

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

Based on the above, 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, the information and recommendations submitted by the committees and other information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 944

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

For the reasons set forth in the preamble, 7 CFR part 944 is amended as follows:

PART 944—FRUITS; IMPORT REGULATIONS

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

Authority: 7 U.S.C. 601–674.

2. Section 944.605 is amended by revising paragraph (a) to read as follows:

§ 944.605 Tokay Grape Import Regulation 5.

(a) *Applicabilty to imports.* Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, during the period August 12 through November 15 of each year the importation into the United States of Tokay variety grapes is prohibited unless such grapes meet the grade and size specifications of U.S. No. 1 Table Grade, or U.S. No. 1 Institutional, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type) (7 CFR 51.880 through 51.913), and the following additional requirement: Of the 25 percent, by count, of berries of each bunch which are attached to the lower part of the stem, including laterals, at least 30 percent, by count, shall show characteristic color.

* * * * *

Dated: November 8, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–28033 Filed 11–15–93; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 958

[Docket No. FV–92–093FR]

Onions Grown in Certain Designated Counties in Idaho and Malheur County, OR; Amendment to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires shipments of pearl onions to be inspected and certified as being within the maximum permissible size of 1¾ inches in diameter and requires handlers to pay assessments on such onions. Under the current regulation, pearl onions are exempt from inspection and assessments as well as minimum grade and size requirements, but cannot be larger than 1¾ inches in diameter. To eliminate redundancy in the regulations, this rule also removes one paragraph regarding imported onions, which is the same as requirements in effect under 7 CFR 980.117 for imported onions.

EFFECTIVE DATE: November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Gary Olson, Northwest Marketing Field Office, 1220 SW. Third Avenue, room 369, Portland, Oregon, 97204, telephone (503) 326–2724, or Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone (202) 690–0464, FAX (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 130 and Order No. 958 (7 CFR part 958) (order), both as amended, hereinafter referred to as the order, regulating the handling of onions grown in Idaho and Malheur County, Oregon. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule is being issued in conformance with Executive Order 12866, and it has been determined that it is not a "significant regulatory action."

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final 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. 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 a 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 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 35 handlers of Idaho-Oregon onions subject to regulation under the marketing order, and approximately 450 producers in the production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $3,500,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of onion producers and handlers subject to regulations under the order may be classified as small entities.

Onions grown in Idaho and Eastern Oregon are regulated all year by grade, size, and pack under the handling regulation (7 CFR 958.328). Paragraph (h) of § 958.328 currently defines pearl onions as onions grown using specific cultural practices that limit growth to the same general size as boiler and pickler onions, measuring 1¾ inches in diameter or less. The regulation groups all small onions under the heading of boilers and picklers with sizes up to 1¾ inches in diameter. The United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type) (7 CFR 51.2834) states that the size range for boiler onions shall be 1 to 1⅞ inches while picklers shall be 1 inch or less in diameter.

Pursuant to paragraph (e) of § 958.328, pearl onions are handled as special purpose shipments and, thus, are exempt from the grade, size, maturity, assessment and inspection requirements of the order. However, handlers of pearl onions must comply with safeguard requirements of the order.

The Department previously increased the exempted size of pearl onions to 1¾ inches in diameter (55 FR 36601, September 6, 1990). That increase was justified because a small number of the culturally-grown, pearl onions were larger than the intended size of 1 inch or less in diameter. The Committee had reported that buyers were more willing to purchase the somewhat larger onions in lots of pearl onions than to pay the additional handling costs associated with sorting the various sizes. Because pearl onions are sold as a specialty item, distinct from other onions grown in the production area, it was not expected that the increase in exemption size would adversely affect the marketing of other onions.

On June 30, 1992, the Idaho-Eastern Oregon Onion Committee (Committee) unanimously recommended amending the order's handling regulation to change the term "pearl onions" to "pickler onions" and to reduce the maximum size of such onions to not more than 1 inch in diameter. A proposed rule was published in the October 6, 1992, issue of the **Federal Register** (57 FR 45993), giving interested persons until November 5, 1992, to file comments with respect to the proposal. In response to the proposal, four comments were received. One extensive comment from the only current pearl onion producer (Magic Valley Foods, Ltd.) presented arguments contrary to those of the Committee. To allow both the Committee and other interested persons sufficient time to study the comments and provide additional comments and background material, the comment period was reopened until January 22, 1993 (58 FR 3234, January 8, 1993).

The Committee held a meeting on December 16, 1992, to resolve the apparent differences between the comments filed and the original recommendations of the Committee. Representatives of Magic Valley Foods, Ltd. participated in the meeting.

As a result of the meeting, the Committee filed a comment to withdraw its original recommendations to reduce the pearl onion maximum size requirement to 1 inch in diameter. The Committee believes that, because the majority of pearl onions shipped are 1 to 1¼ inches in diameter, the current requirement of 1¾ inches maximum diameter is acceptable and need not be changed.

In its comment, the Committee also requested withdrawal of its original recommendation to change the term "pearl" onion to "pickler" onion because the term pickler refers to smaller size pearl onions which are not representative of the majority of pearl onions marketed.

During the meeting, the Committee also considered further action with regard to pearl onions. It was pointed out that market inspection reports indicated that some exempt onions larger than 1¾ inches in diameter have appeared in marketing channels. The Committee concluded that the size exemption must be verified and the best way to do that would be to add inspection requirements to verify the maximum size on all pearl onions. Thus, the Committee recommended unanimously that all pearl onions be inspected and certified for maximum size.

The Committee also discussed whether pearl onions should be subject to assessments. It believes that all segments of the Idaho-Eastern Oregon onion industry, including the pearl onion segment of the industry, benefit from the order's research and promotion activities. Thus, the Committee recommended unanimously that pearl onion shipments be assessed.

Based on this recommendation, the Department issued a revised proposed rule which was published in the June 30, 1993 issue of the **Federal Register** (58 FR 34944), giving interested persons until July 30, 1993, to file comments with respect to the proposal. In response to the proposal, no comments were received. The Department is herein adopting the June 30 proposals without change.

Under this rule, all pearl onions up to a maximum of 1¾ inches in diameter would be shipped under paragraph (e) *Special purpose shipments* but such onions will be subject to maximum size, assessment, and inspection requirements. The reference to pearl onions will be removed from paragraph (f) *Safeguards*, of § 958.328, since such requirements no longer are necessary. Also, for clarification, the reference to pearl onions under paragraph (h) *Definitions*, is revised by adding after the words "boilers and picklers" the words "* * * and that have been inspected and certified as * * *."

This action also removes paragraph (i) *Applicability to imports*, of § 958.328 from the handling regulation. That paragraph provides information that is contained in 7 CFR 980.117 Import regulations; onions. Because the same information applicable to imported onions is contained in the import regulations, paragraph (i) in the domestic handling regulations should be removed to eliminate redundancy of regulations.

These changes are intended to result in clearer terminology, a more consistent application of assessments, and an improved ability by the committee to oversee compliance with program requirements.

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 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 No. 0581–0087.

After consideration of all relevant matters presented, the committee's recommendation and other available information, it is found that the issuance of this rule 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 section until 30 days after publication in the **Federal Register** because (1) the shipping season for onions has already begun and for maximum effectiveness this rule should apply to as many shipments as possible; (2) the proposed rule was discussed at two open public meetings, the last of which was attended by representatives of the only pearl onion grower of record in the production area; (3) no comments were filed to the June 30 proposed rule; and (4) there are no special preparations required of the handler that cannot be completed by the effective date.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR Part 958 continues to read as follows:

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

2. Section 958.328 is amended by revising paragraphs (e), (f) introductory text, (f)(2) and (h), and removing paragraph (i) to read as follows:

§ 958.328 Handling regulation.

* * * * *

(e) *Special purpose shipments.* The minimum grade, size, maturity, assessment, and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes: (1) planting, (2) livestock feed, (3) charity, (4) dehydration, (5) canning, (6) freezing, (7) extraction, and (8) pickling. In addition, the minimum grade, size, and maturity requirements set forth in paragraph (a) of this section shall not be applicable to shipments of pearl onions, but the maximum size requirements in paragraph (h) of this section and the assessment and inspection requirements shall be applicable to shipments of pearl onions.

(f) *Safeguards.* Each handler making shipments of onions for dehydration, planting, canning, freezing, extraction or pickling pursuant to paragraph (e) of this section shall:

* * * * *

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section;

(3) * * *

* * * * *

(h) *Definitions.* The terms "U.S. No. 1," "U.S. Commercial," and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 51.2830 through .2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195 through .3209), as amended, whichever is applicable to the particular variety, or variations thereof specified in this section. The term "braided red onions" means onions of red varieties with tops braided (interlaced). "Pearl onions" means onions produced using specific cultural practices that limit growth to the same general size as boilers and picklers, and that have been inspected and certified as measuring 1¾ inches in diameter or less. The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

Dated: November 8, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93-28034 Filed 11-15-93; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-78-AD; Amendment 39-8728; AD 93-22-03]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires a one-time inspection of the rudder (brake) pedal assemblies for correct installation of retainer rings and installation of a retainer ring, if necessary. This amendment is prompted by a report of a missing retainer ring in the rudder (brake) pedal. The actions specified by this AD are intended to prevent reduced braking authority and reduced directional control of the airplane while it is on the ground.

DATES: Effective December 16, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 16, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the Federal Register on July 6, 1993 (58 FR 35905). That action proposed to require a one-time inspection of the rudder (brake) pedal assemblies for correct installation of retainer rings and installation of a retainer ring, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposal.

Another commenter, the Air Transport Association (ATA) of America, requests that the proposal be withdrawn because it is unnecessary. The ATA indicates that both of its affected member operators are already in full compliance with the proposed actions. Additionally, since the Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, has already notified other world airline regulators of the subject discrepancy, there is no reason for the FAA to issue an AD to advise operators outside of the United States. The FAA does not concur. The FAA is encouraged by the fact that the affected ATA member operators have acted prudently and have already completed the requirements of this AD. The phrase, "Required as indicated, unless accomplished previously," as contained in the AD, indicates that those operators that have accomplished the actions specified in the rule are not required to repeat those actions. However, should any additional non-U.S.registered Fokker Model F28 Mark 0100 series airplanes be imported and added to the U.S. Register in the future, this AD is necessary to ensure the accomplishment of the required actions on those airplanes before they are placed in service. In light of this, the FAA has determined that the issuance of this AD is warranted and appropriate.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 65 airplanes of U.S. registry will be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,575, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

However, the FAA has been advised that at least 40 U.S.-registered airplanes have been inspected in accordance with the requirements of this AD. Therefore, the future economic cost impact of this rule on U.S. operators is now only $825.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

93-22-03 Fokker: Amendment 39-8728. Docket 93-NM-78-AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11407, inclusive, 11409, and 11410; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced braking authority and reduced directional control of the airplane while it is on the ground, accomplish the following:

(a) Within 30 days after the effective date of this AD, conduct an inspection of the rudder (brake) pedal assemblies, to verify installation of retainer rings, part number (P/N) MS16624-1075, in accordance with Fokker Service Bulletin SBF100-27-047, Revision 1, dated February 9, 1993.

(1) If all of the retainer rings are installed correctly, no further action is required by this AD.

(2) If any retainer ring is not installed, or is not installed correctly, prior to further flight, install retainer ring, P/N MS16624-1075, in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection and necessary installation shall be done in accordance with Fokker Service Bulletin SBF100-27-047, Revision 1, dated February 9, 1993, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1	1	February 9, 1993.
2-4	Original	August 28, 1992

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on December 16, 1993.

Issued in Renton, Washington, on October 28, 1993.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-26968 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-85-AD; Amendment 39-8727; AD 93-22-02]

Airworthiness Directives; Fokker Model F27 Rough Field Version (RFV) Series Airplanes, Excluding Model F27 Mk 050 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F27 RFV series airplanes, that requires inspection of the main landing gear (MLG) legs to determine if parts are missing or damaged, and modification, if necessary; and periodic measurements of the extension of each MLG shock absorber sliding member. Additionally, this amendment will provide for the accomplishment of a certain modification as optional terminating action for the periodic measurements. This amendment is prompted by reports of overextension of the MLG sliding member due to missing parts in the MLG leg assembly. The actions specified by this AD are intended to prevent loss of the MLG sliding member, which could result in reduced structural integrity of the MLG.

DATES: Effective December 16, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 16, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314; and Dowty Aerospace, Cheltenham Road, Goucester GS2 9QH, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.