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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

[Docket No. FV94-911-1-IFR]

Limes Grown in Florida; Temporary Suspension of Volume Regulation and Pack-Out Reporting Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments; suspension.

SUMMARY: This document temporarily suspends for the next two seasons certain volume regulation and pack-out reporting requirement provisions under the marketing order for fresh limes grown in Florida. These provisions will not be needed during the next two seasons due to reduced Florida lime production.

DATES: The suspension becomes effective March 22, 1994 through March 31, 1996. Comments which are received by April 21, 1994, will be considered prior to issuance of any final action.

ADDRESSES: Interested persons are invited to submit written comments concerning this action to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: 202–720–5331; or Aleck J. Jonas, Southeast Marketing Field Office, USDA/AMS, P.O. Box 2276, Winter Haven, Florida 33883; telephone: 813–299–4770.

SUPPLEMENTARY INFORMATION: This action is issued under the provisions of section 8c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act; and of Marketing Agreement and Marketing Order No. 911 (7 CFR part 911) regulating the handling of limes grown in Florida, hereinafter referred to as the order. This 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.

The Department is issuing this rule in conformance with Executive Order 12866.

This action has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This action will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this action.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(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 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 about 20 Florida lime handlers subject to regulation under the marketing order covering limes grown in Florida, and about 25 lime producers in Florida. 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. A majority of these handlers and producers may be classified as small entities.

The Florida Lime Administrative Committee (committee) unanimously recommended this suspension. The committee meets prior to and during each season to review the rules and regulations effective on a continuous basis for limes regulated under this order. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

Sections 911.53–59 (7 CFR 911.53–59) of the order contain provisions pertaining to the issuance of volume regulations for fresh limes grown in Florida. This action suspends such provisions upon publication in the **Federal Register** through March 31, 1996. The committee collects information from handlers and maintains such information under these order provisions, so that it is in a position to recommend to the Department that lime volume regulations be issued, when and if needed. The committee has determined that volume regulations will not be needed during the next two seasons, and, thus, there is no need for such information at the present time. Such volume regulations will not be needed, because lime production in Florida is down considerably due to hurricane damage to the lime groves in 1992. Further, lower lime production has

resulted in reduced assessment collections, necessitating a reduction in committee administrative costs and staff.

Section 911.111 (7 CFR 911.111) contains provisions requiring Florida handlers to file certain reports with the committee on their fresh Florida lime shipments. This action suspends such provisions upon publication in the **Federal Register** through March 31, 1996, since information collected under these provisions is not needed when lime production is so low. These provisions would require handlers to furnish the committee information on types and number of containers of limes they pack each day. Sufficient information from other sources will be available to meet committee needs during the next two seasons. Information needed for committee operations, marketing policies, and compliance is available from inspection certificates collected on a daily basis by committee staff.

This suspension ends on March 31, 1996, since Florida lime production is expected to have recovered by that time and the volume regulation and reporting requirement provisions may then be needed. The committee reports that its staff and assessment income have been reduced substantially, and that this suspension will help reduce its administrative costs and work load.

This action reflects the committee's and the Department's appraisal of the need to suspend certain volume regulation and pack-out reporting provisions under the order, as specified. Such suspension temporarily removes certain reporting requirements on the part of Florida lime handlers, and lessens the overall reporting and recordkeeping burden under the order. The Department's view is that this suspension has a beneficial impact on Florida lime producers and handlers, since it lessens the reporting burden on handlers and committee expenses incurred under the order.

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.

The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB Number 0581–0091. This action temporarily suspends the annual reporting burden currently estimated at 210.4 hours for all Florida lime handlers who: (1) apply for a prorate base and allotment; (2) report daily the percentages, by size category, of the limes packed by them; and (3) report daily the number of containers of limes sold and delivered by them within the State of Florida.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that the provisions detailed below, at this time, do not tend to effectuate the declared policy of the Act.

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 action 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 relieves restrictions by temporarily suspending certain volume regulation and pack-out reporting provisions under the order for fresh limes grown in Florida; (2) Florida lime handlers are aware of this suspension which was unanimously recommended by the committee at a public meeting, and they will need no additional time to comply; (3) Florida fresh lime shipments are currently in progress, and they are expected to continue throughout the entire year; (4) such requirements need to be suspended promptly, so they are of maximum benefit to handlers and the committee; and (5) the suspension provides a 30-day comment period, and any comments received will be considered prior to any finalization of this interim final action.

List of Subjects in 7 CFR Part 911

Limes, Marketing agreements, Reporting and recordkeeping requirements.

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

PART 911—[SUSPENDED IN PART]

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

Authority: 7 U.S.C. 601–674.

2. In part 911, §§ 911.53 through 911.59 and § 911.111 are suspended effective March 22, 1994 through March 31, 1996.

Dated: March 16, 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Service.

[FR Doc. 94–6651 Filed 3–21–94; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Parts 959 and 979

[Docket No. FV93–959–3IFR]

Onions Grown in South Texas; and Melons Grown in South Texas; Revision of Continuing Handling Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule relaxes the handling regulations for South Texas onions and melons by allowing handlers the option to submit a shipment release form to Texas Department of Agriculture (TDA) authorities at road guard stations. The shipment release form provides adequate information to enable the TDA to determine whether the onions and melons have been inspected and meet marketing order requirements, thereby helping ensure compliance with order provisions. The regulations currently provide that a copy of the applicable inspection certificate is the only satisfactory inspection document that may accompany onion and melon shipments.

DATES: Effective on March 22, 1994. Comments which are received by April 21, 1994 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, Fax # (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501, telephone: (210) 682–2833; 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.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 959 (7 CFR part 959), as amended, regulating the handling of onions grown in South Texas, and Marketing Order No. 979 (7 CFR Part 979), regulating the

handling of melons grown in South Texas, hereinafter referred to as the "orders." These orders are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 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 action.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided 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 38 handlers of South Texas onions subject to regulation under Marketing Order No. 959 and 97 onion producers in the production area. There are 19 handlers of South Texas melons subject to regulation under Marketing Order No. 979 and 40 melon 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 as those having annual receipts of less than $500,000. The majority of the handlers and producers may be classified as small entities.

The South Texas Onion and Melon Committees (committees) met November 9 and December 9, 1993, respectively, and discussed procedures for clearing shipments of onions and melons at road guard stations operated by the TDA. The committees unanimously recommended revising paragraphs (d)(2) of § 959.322 and (c)(2) of § 979.304, respectively, to make the regulations consistent with current industry practice.

Currently, the regulations specify that onion and melon shipments must be accompanied by a copy of the inspection certificate or other documentary evidence indicating that the shipment has been inspected and meets marketing order requirements and that such documents be presented to TDA road guard authorities. This rule allows shipments of onions and melons to be accompanied by a shipment release form issued by the Federal or Federal-State Inspection Service which would be surrendered to authorities. The shipment release form identifies truck lots to which inspection certificates are applicable and certifies that the shipment of onions or melons has been inspected and meets the respective marketing order requirements. The shipment release form may be used as proof of such clearance when presented at a road guard station.

The TDA requested the committees to specify that TDA personnel are the proper authorities for reviewing inspection certificates or shipment release forms at road guard stations. Therefore, the committees recommended that handlers be required to surrender either the appropriate inspection certificate or shipment release form to TDA personnel at road guard stations. This action will enable the TDA to determine whether onions and melons shipped from the respective production areas meet order requirements and should help ensure compliance with the two orders' provisions.

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.

In accordance with the Paperwork Reduction Act of 1988 (44 U.S.C. chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0074 for onions and 0581–0076 for melons. This action does not entail additional recordkeeping on the part of the handlers because the shipment release form is not a new form.

After consideration of the committees' recommendations and other relevant information presented, 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 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) These actions were unanimously recommended by the committees at public meetings; (2) no new forms are required to be prepared by handlers; (3) handlers need to be aware of the changes in the requirements; and (4) these actions provide a 30-day comment period, and any comments received will be considered prior to finalization of this rule.

List of Subjects

7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 959 and 979 are amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR parts 959 and 979 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 959.322 *Handling Regulation* is amended by revising paragraphs (d)(2) and (d)(3) to read as follows:

§ 959.322 Handling regulation.

* * * * *

(d) * * *

(2) No handler may transport by motor vehicle or cause such

transportation of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or the shipment release form furnished by the inspection service identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or shipment release form shall be surrendered upon request to Texas Department of Agriculture personnel designated by the committee.

(3) For purposes of operation under this part, each inspection certificate, shipment release form, or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

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3. Section 979.304 *Handling Regulation* is amended by revising paragraphs (c)(2) and (c)(3) to read as follows:

§ 979.304 Handling regulation.

* * * * *

(c) * * *

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or the shipment release form furnished by the inspection service identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or shipment release form shall be surrendered upon request to Texas Department of Agriculture personnel designated by the committee.

(3) For purposes of operation under this part, each inspection certificate, shipment release form, or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

* * * * *

Dated: March 16, 1994.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–6654 Filed 3–21–94; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 981

[Docket No. FV93–981–4FR]

Almonds Grown in California; Final Rule Revising Quality Control Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the quality control provisions established under the Federal marketing order for California almonds. This rule better reflects current almond processing capabilities, marketing standards and practices. This rule is based on a recommendation of the Almond Board of California (Board), which is responsible for local administration of the order.

EFFECTIVE DATE: July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, 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) 720–1509, or FAX (202) 720–5698, or Martin Engeler, Assistant Officer-in-Charge, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102–B, Fresno, California 93721; (209) 487–5901, or FAX (209) 487–5906.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 981 (7 CFR part 981), both as amended, regulating the handling of almonds grown in California. The marketing agreement and order are authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule 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 8c(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 a 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 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 final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 115 handlers of almonds that are subject to regulation under the marketing order and approximately 7,000 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 the almond producers and handlers may be classified as small entities.

This rule revises § 981.442—Subpart—Administrative Rules and Regulations and is based on a recommendation (by a 5–4 vote) of the Almond Board of California (Board) on May 11, 1993, and other available information.

The processing of almonds involves various steps taken by growers and handlers prior to shipment to market. Initially, growers take their almonds to a huller/sheller operation where the hulls and shells are mechanically removed. The almonds are then delivered to a handler, who has the almonds inspected by the Federal-State Inspection Service. Through sampling procedures, the inspector determines the percentage of inedible almond

kernels, as defined in § 981.408, in each lot.

Under the quality control provisions of the marketing order, handlers incur a disposition obligation of inedible almonds, based on the results of this inspection. The weight of inedible kernels in excess of 0 percent of the kernel weight determined by the inspection service constitutes the inedible disposition obligation. In order to meet this disposition obligation, handlers must deliver packer pickouts, kernels rejected in blanching, pieces of kernel, meal accumulated in manufacturing, or other material to crushers, feed manufacturers, feeders or dealers in nut wastes on record with the Board as accepted users.

The Board maintains a list of approved accepted users, which includes feedlots and oil mills. Handlers must notify the Board at least 72 hours prior to delivery to an accepted user.

The quality control provisions previously required that the almond meat content of the inedible shipments must be at least 10 percent of the shipment to the accepted user or it cannot be used as a credit against the handler's disposition obligation.

Although there are no minimum grade requirements under the marketing order, USDA standards for almonds do exist and are widely used in the industry. The highest USDA standard allows for a tolerance of 1½ percent inedible almonds per container, based on an outgoing inspection.

The standards recognize that handlers may not be able to separate 100% of the inedible nuts from the end product. However, the current quality control provisions under the marketing order require that handlers dispose of a quantity of almonds equal to 100% of the inedible obligation as determined by incoming inspections. When this was first implemented, it was thought that handlers could meet the disposition obligation by supplementing pickouts with material generated in handlers' processing operations (slicing, dicing, etc.). However, many handlers do not have a processing operation wherein excess almond material is generated. In order to meet their disposition obligation, they often purchase a mixture of almonds and foreign material such as hulls, shells, etc., mixed with a low percentage of almond meats from a hulling and/or shelling operation and mix it with their inedibles. These low percentage lots are usually disposed of to feedlots, whereas the higher meat percentage lots are usually disposed of to oil mills.

The Board contends that the intent of the quality control provisions of the rules and regulations was not being met with these requirements. For the above-mentioned reasons, the Board recommended, by a 5 to 4 vote, that the base tolerance level be revised from 0 percent to 1 percent and that the minimum meat content for inedible deliveries available for credit be revised from 10 percent to 50 percent. The Board feels that these changes will better reflect current industry processing and marketing capabilities while maintaining the integrity of the quality control provisions of the marketing order.

With a 1 percent tolerance, these changes are expected to enable handlers to pick out enough inedible material to satisfy their disposition obligations. Because the foreign material has already been removed in the hulling and shelling operation, the inedible portion of the shipments should most likely contain well over 50 percent meat content. Although it is likely these lots will be primarily sold to oil mills, those shipments with less than 50 percent meat content will also likely continue to go to accepted users, either directly from hullers and shellers or from handlers. However, handlers will not receive credit against their disposition obligation on shipments with less than 50 percent meat content. Handlers will no longer have to supplement their shipments with huller and sheller purchases because sufficient inedibles will be picked out by the handlers. The marketing of inedible almonds should not be affected by the changes.

The members who voted against the recommendation were concerned that a negative perception might be projected by increasing the tolerance to 1 percent; i.e., that the industry is relaxing its quality requirements. The members believed that buyers may question the industry's commitment to quality control. They also felt that it may appear that the tolerance is being increased in order for the handlers to have more product to sell. For the reasons previously stated, the Board members in favor of this rule believed that the changed tolerance and minimum meat content requirement will improve the quality control program administered under the marketing order.

The proposed rule was published in the **Federal Register** (58 FR 64175), on December 6, 1993. That rule provided a 30-day comment period which ended January 5, 1994. Two comments were received within the prescribed time period, and one comment was received late. The late comment cannot be considered. However, it was essentially the same as those received on a timely basis. The comments were all from independent almond handlers.

The commenters supported the recommended changes but objected to the decision regarding the effective date of this rule, July 1, 1994. The first commenter stated that he relied on the original recommendation of the Board and planned his business operations for this crop year as if the recommendation was in effect. He believed that the recommendation was intended for the 1993 crop and the Board would reconsider the issue for the 1994 crop at an appropriate time.

The second commenter stated, among other things, that he understood that the provisions on base tolerance for inedibles were designed to apply to conditions particular to a specific crop year. He further stated that handlers, in the past, have made operating decisions based on recommendations of the Board, such as reserve recommendations, even though the rule did not become final until later in the crop year. He believed that the intent of the Board was to have this recommendation effective in the 1993–94 crop year. He added that the failure to implement this recommendation in the current crop year could have serious financial implications for several handlers who have been operating on the assumption it would be effective for the 1993–94 crop year. Finally, he stated that most inedible shipments are more at the end of the crop year, thus implementing the rule in mid-year should not cause a problem for handlers.

These commenters are correct that the Board recommended that this rule become effective in the 1993–94 crop year, which began on July 1, 1993. However, many factors were considered in the Department's decision to make this change effective beginning with the 1994–95 crop year. The vote on these recommendations was a divided 5 to 4 decision. The Department deemed it necessary to solicit comments from interested parties prior to implementing the rule. In addition, the required explanation and justification for the proposed changes was not received by the Department until after the 1993–94 crop year had begun. Thus, the Department was unable to complete this rulemaking proceeding prior to the beginning of the 1993–94 crop year.

The Department also believes that making this change effective in the middle of a crop year would be difficult to administer fairly. It would be inequitable to handlers who disposed of inedible almonds during the early part of the crop year based on the 0 percent base tolerance because this action

relaxes that tolerance to 1 percent. With this change, an additional 1 percent of almonds becomes available for sale on the open market. Also, dispositions made prior to the issuance of this rule would have been disallowed if they were below the 50 percent nut meat content.

While it is true that the base tolerance for inedible dispositions is considered annually by the Board, the information received by the Department indicates that the recommended changes in the base tolerance and minimum nut meat content of the lots to be disposed of in satisfaction of inedible obligations should be treated as a package (not individually). The increase in the base tolerance relaxes handler requirements while the increase of the meat content tightens handler requirements, but together the two changes are intended to better reflect handler processing capabilities and improve the quality of almonds made available to consumers. Accordingly, handlers should be allowed ample time to modify their operations.

With respect to the commenter's belief that the Board's recommendation was intended solely for the 1993–94 crop year, the recommendation was not limited to the 1993–94 crop year, but was presented as an overall improvement of the quality control provisions.

For the reasons stated, the Department is making no changes based on these comments.

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

After consideration of the Board's recommendation, the comments received, and other relevant information, it is found that this final rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR 981

Almonds, Marketing agreements, Nuts, Reporting and recording requirements.

For the reasons set forth in the preamble, 7 CFR Part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 981.442(a)(4) is amended by changing the words "0 percent" to read "1 percent".

3. Section 981.442(a)(5) is amended by changing the words "10 percent" to read "50 percent".

Dated: March 16, 1994.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–6653 Filed 3–21–94; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 1150

[Docket No. DA–94–01]

RIN 0581–AB10

Dairy Promotion Program; Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Dairy Promotion and Research Order to modify the composition of the National Dairy Promotion and Research Board by adding one Board seat to Region 4 and removing one Board seat from Region 8. The modification is necessary to ensure that the Board will best reflect the 1992 geographic distribution of milk production volume in the United States.

EFFECTIVE DATE: May 1, 1994.

FOR FURTHER INFORMATION CONTACT: Silvio Capponi, Jr., Deputy Director, USDA/AMS/Dairy Division, room 2753, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–4664.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Invitation to Submit Comments on Proposed Amendments to the Order: Issued on January 20, 1994; published on January 31, 1994 (59 FR 4260).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this final rule will not have a significant economic impact on a substantial number of small entities. This change in the composition of the National Dairy Promotion and Research Board will not have an economic effect on any entity engaged in the dairy industry.

This rule has been determined to be non-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. The Dairy and Tobacco Adjustment Act of 1983 provides in section 121(a) that nothing in the Act may be construed to preempt or supersede any other program relating to dairy product promotion organized and operated under the laws of the United States or any State.

The Dairy and Tobacco Adjustment Act of 1983 provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 118(a) of the Act, any person subject to any order issued under the Act may file with the Secretary a petition stating that any such order or any obligation imposed in connection therewith is not in accordance with the law and requesting a modification thereof or an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing on the petition. The Act provides that the district court of the United States in any district in which the person is an inhabitant or carries on business has jurisdiction to review the Secretary's ruling on the petition, provided a complaint is filed within 20 days from the date of the entry of the ruling.

Preliminary Statement

The Dairy Promotion and Research Order specifies in § 1150.131(c) that the National Dairy Promotion and Research Board shall review the geographic distribution of milk production volume throughout the United States and, if warranted, shall recommend to the Secretary a reapportionment of the regions and/or a modification of the number of members from regions in order to best reflect the geographic distribution of milk production volume in the United States. Section 1150.131(d) of the order specifies the formula to be used to determine the number of Board seats to represent each of the 13 geographic regions of the country designated in the order. Under the formula, total milk production for the 48 States for the previous calendar year is divided by 36 to determine a factor of pounds of milk represented by each Board member. The resulting factor is then divided into the pounds of milk produced in each region to determine the number of Board members for each region.

The initial Board that was established in 1984 was based on 1983 milk production. The Board was last modified in 1989 based on 1987 milk production. In 1983, each Board member represented about 3,875 million pounds of the 139,509 million pounds of milk produced in the 48 States. During 1992, total milk production increased to 151,589 million pounds, which indicated that each of the 36

Board members would represent 4,211 million pounds of milk.

Based on a review of the 1992 geographic distribution of milk production, the Board has concluded that the number of Board members for two of the 13 geographic regions should be changed. Milk production in Region 4 (Arkansas, Kansas, New Mexico, Oklahoma, and Texas) increased to 11,000 million pounds in 1992 from 8,438 million pounds in 1987, indicating 2.61 Board members based on 1992 production (11,000 divided by 4,211 = 2.61) compared to 2.14 Board members based on 1987 production (8,438 divided by 3,952 = 2.14). Also, milk production in Region 8 (Alabama, Kentucky, Louisiana, Mississippi, and Tennessee) decreased to 6,547 million pounds in 1992 from 6,706 million pounds in 1987, indicating 1.55 Board members based on 1992 production (6,547 divided by 4,211 = 1.55) compared to 1.70 Board members based on 1987 production (6,706 divided by 3,952 = 1.70). Thus, the Board proposed that the number of Board members for Region 4 be increased from two to three and that the number of Board members for Region 8 be decreased from two to one so that the Board will best reflect the geographic distribution of milk production volume throughout the United States.

A notice of the proposed amendment to the order to modify the composition of the Board was published in the **Federal Register** on January 31, 1994. Interested parties were invited to submit written comments on the proposal by March 2, 1994.

Findings

Three comments of support were received in response to the invitation to submit written comments on the proposal to add one Board seat to Region 4 and remove one Board seat from Region 8. Mid-America Dairymen, Inc., and two individual dairy farmers, supported the change on the basis that such a modification would result in a National Dairy Promotion and Research Board that best reflects the geographic distribution of milk production volume throughout the United States. Thus, the proposed amendments to the order as contained in the notice of proposed rulemaking are hereby adopted as a final rule.

The order should be amended effective May 1, 1994. Such date is appropriate since Board members serve until April 30 of the year in which his/her term expires and a new Board, with up to one-third of the Board members being replaced, is seated on May 1 of each year. Thus, such effective date for the modification of the number of Board members for Regions 4 and 8 will be the least disruptive to the functioning of the Board.

List of Subjects in 7 CFR Part 1150

Dairy products, Reporting and recordkeeping requirements, Research.

For the reasons set forth in the preamble, the following provisions in title 7, Part 1150 is amended as follows:

PART 1150—DAIRY PROMOTION PROGRAM

1. The authority citation for 7 CFR part 1150 continues to read as follows:

Authority: Pub. L. 98–180, 97 Stat. 1128.

2. In § 1150.131, paragraphs (a)(4) and (a)(8) are revised to read as follows:

§ 1150.131 Establishment and membership.

(a) * * *

(4) Three members from region number four comprised of the following States: Arkansas, Kansas, New Mexico, Oklahoma and Texas.

* * * * *

(8) One member from region number eight comprised of the following States: Alabama, Kentucky, Louisiana, Mississippi and Tennessee.

* * * * *

Dated: March 16, 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–6650 Filed 3–21–94; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 707

Truth in Savings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule; corrections and correcting amendments.

SUMMARY: The National Credit Union Administration is amending part 707 of the NCUA Rules and Regulations ("part 707"), which implements the Truth in Savings Act for credit unions. The effective date for part 707 is January 1, 1995. This document extends the compliance date for nonautomated credit unions that have assets of $1 million or less as of December 31, 1993. The extensions give the smaller nonautomated credit unions time needed to come into compliance with part 707. The extensions also give NCUA additional time to assist the smaller nonautomated credit unions with compliance issues. This document also contains clarifications, technical amendments and revisions to part 707.

DATES: *Effective Date:* This document is effective January 1, 1995. Sections 707.3—707.9 contain information collection requirements that are not effective until approved by the Office of Management and Budget. When approval is received, NCUA will publish a document announcing the effective date.

Compliance Dates: The compliance date of part 707 is extended to March 31, 1995, for credit unions of an asset size between $500,000 and $1 million as of December 31, 1993, that are not automated. The compliance date of part 707 is extended to June 30, 1995, for credit unions of an asset size of less than $500,000 as of December 31, 1993, that are not automated. The compliance date for all other credit unions remains January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Martin S. Conrey, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

NCUA's final part 707, published September 27, 1993 (58 FR 50394), which is the subject of these revisions, implements the Truth in Savings Act (12 U.S.C. 4301 *et seq.*). The final regulation and the Truth in Savings Act require credit unions to disclose fees, dividend and interest rates and other terms concerning share and deposit accounts, and limit the methods by which credit unions determine the balance on which dividends are calculated.

Need for Technical Amendments

As published, the Supplementary Information to the final rule, the final rule, and appendix B to the final rule contained several drafting and technical errors that are confusing or erroneous, and need to be clarified.

Need for Extensions of Compliance Date

Since the Truth in Savings Act was enacted in 1991, NCUA has been studying the effects it might have upon small credit unions. NCUA has determined that there are at least 1,299 credit unions under $1 million in assets that have no computers or in-house data processing capability. Of these credit unions, approximately 977 have less than $500,000 in assets and approximately 322 have between

$500,000 and $1 million in assets. The NCUA Board has determined that these small, nonautomated credit unions will need more time to comply with the Truth in Savings rule than other credit unions. An extended compliance date for these credit unions will enable NCUA and other interested parties to complete the extensive training and preparation that will be necessary to ensure that these credit unions comply with part 707 by the extended compliance dates. This action is being taken to preserve, educate, and possibly automate (by providing access to minimal cost computer hardware, software and services) many of these small credit unions; ensure compliance with Truth in Savings at the earliest possible date; assist administrative convenience; reduce the risk of potential losses to the National Credit Union Share Insurance Fund; enable credit union data processing vendors to assist larger credit unions in Truth in Savings compliance, thus avoiding a potential shortage of credit union data processors if many of the small credit unions automate; and to allow time for coordination in this effort among NCUA, affected credit unions, data processors and other interested parties.

NCUA intends to use the December 31, 1993, NCUA Form 5300 report to determine the requisite nonautomation status and asset size for those credit unions filing Form 5300 reports that are eligible for the extensions in required compliance. Credit unions which do not file Form 5300 reports will be permitted to prove nonautomation status and asset size by other means. NCUA will consider verified self-certifications, certifications by appropriate state supervisory authorities, and other equivalent forms of proof as sufficient for eligibility for the extensions by these non-federally insured credit unions.

Need for Final Extensions and Amendments; Voluntary Compliance

The extensions and amendments made to this part are not subject to the notice and comment provisions of the Administrative Procedure Act (the "APA"), 5 U.S.C. 551 *et seq.* The extensions relate to a few credit unions that need more assistance in complying with part 707. The amendments relate merely to technical amendments, clarifications and revisions designed to eliminate confusion. No major changes are contemplated, or made, by these revisions. Also, even though the mandatory effective date for most credit unions is January 1, 1995, many credit unions are proceeding with plans for early voluntary compliance with part 707. Any notice and comment proceedings on these minor changes would hinder these credit unions from these plans. Early compliance will benefit members of those credit unions. Therefore, the NCUA Board has determined that, in this case, the APA notice and comment procedures for these extensions and amendments are impracticable, unnecessary, and contrary to the public interest. 5 U.S.C. 553(b)(3)(B).

List of Subjects in 12 CFR Part 707

Advertising, Credit unions, Consumer protection, Interest, Interest rates, Truth in savings.

For the reasons set forth above the following changes are made to 12 CFR part 708 as indicated below:

PART 707—TRUTH IN SAVINGS

Preamble Corrections

The final rule published in the **Federal Register** of September 27, 1993 (58 FR 50394) is corrected as follows:

1. On page 50404, in the first column, under the heading *Paragraph (q)—Member*, in the third full paragraph, the seventh sentence is corrected to read as follows: "The Board adopts this approach, and finds that it would *not* cover persons holding trust, estate and court-ordered accounts, and other accounts held in a professional capacity."

2. On page 50421, in the third column, under the heading *Timing and format requirements*, in the first paragraph, in the third sentence, the date "July 15" is corrected to read "January 15."

3. On page 50424, in the first column, under the heading *Alternative timing rule*, in the first paragraph, in the second sentence, the term "time accounts" is corrected to read "term share accounts."

4. On page 50431, in the second column, the heading *Tiered rate accounts* is corrected by adding a hyphen between "tiered" and "rate" to read "*Tiered-rate accounts.*"

5. On page 50435, in the first column, under the heading *Advertising 'Free' Accounts*, in the first paragraph, the fourth, fifth, sixth and seventh sentences are corrected to read as follows: "To be consistent with the FRB, which limited the prohibition to "regular" transaction or service fees, the final rule limits the scope of a maintenance or activity fee to such charges as, for example, periodic service charges and fees imposed to deposit, withdraw or transfer funds (including per share draft or check charges and fees to use the credit union's ATMs). A maintenance fee also includes fees imposed if a minimum balance requirement is not met or if a transaction limit is exceeded. A maintenance or activity fee does not include fees imposed by a third party to print share drafts or checks for an account; stop payment fees; fees for copies of share drafts or checks; fees for checks returned for insufficient funds; or fees unrelated to the account such as a fee for purchasing a cashier's check or traveler's checks."

6. On page 50436, in the third column, under the heading *Paragraph (c)(5)—Effect of fees*, the first paragraph is corrected by adding a new fourth sentence (after the third sentence) to read as follows: "In order to be consistent with the FRB, the Board has decided to limit the scope of the disclosure to the imposition of maintenance and activity fees alone."

Correcting Amendments

1. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

§ 707.2 [Corrected]

2. In § 707.2, paragraph (r) is amended by adding a hyphen between "non" and "dividend" in the term "nondividend."

3. In § 707.8, paragraph (c)(5), is revised to read as follows:

§ 707.8 Advertising.

* * * * *

(c) * * *

(5) A statement that fees could reduce the earnings on the account.

* * * * *

4. In § 707.9, paragraph (b) is revised to read as follows:

§ 707.9 Enforcement and record retention.

* * * * *

(b) Section 271 of TISA (12 U.S.C. 4310) contains the provisions relating to civil liability for failure to comply with the requirements of TISA and this regulation.

* * * * *

Appendix B [Corrected]

5. In section B–1, paragraph (a)(iv), in the model clause entitled *3. Other Dividend-bearing Accounts, Tiering Method A*, in paragraph "1*", the second sentence is amended by removing the phrase "on your account" at the end of the sentence.

6. In section B–1, paragraph (a)(iv), in the model clause entitled *3. Other Dividend-bearing Accounts; Tiering Method A*, in paragraph "2*", the second sentence is amended by removing the phrase "on your account" at the end of the sentence.

7. In section B–1, paragraph (a)(iv), in the model clause entitled *3. Other Dividend-bearing accounts; Tiering Method A*, in paragraph "3*", the first and second sentences are revised to read as follows:

"[As of the last dividend declaration date/ (date)], if your [daily balance/ average daily balance] was $_____ or less, the dividend rate paid on the entire balance in your account will be _____% with an annual percentage yield (APY) of _____%. /or If your [daily balance/average daily balance] is $_____ or less, the prospective dividend rate of _____% will be paid on the entire balance in your account with a prospective annual percentage yield (APY) of _____% for this dividend period."

8. In section B–1, paragraph (a)(iv), in the model clause entitled *3. Other Dividend-bearing Accounts; Tiering Method B*, in paragraph "3*", the second sentence is revised to read as follows:

"/or If your [daily balance/average daily balance] was $_____ or less, the prospective dividend rate paid on the entire balance in your account will be _____% with a prospective annual percentage yield (APY) of _____% for this dividend period."

9. In section B–1, the heading for paragraph (f), is amended by adding a parenthesis before the citation § 704.4(b)(3)(iii).

10. In section B–6, under the heading *Regular Share Account Disclosures*, in the first paragraph entitled *1. Rate information*, the second sentence is amended by removing the phrase "on your share account" at the end of the sentence.

11. In section B–6, under the heading *Regular Share Account Disclosures*, the first paragraph entitled *1. Rate information*, is amended by adding a third sentence (after the second sentence) to read as follows:

"The dividend rate and annual percentage yield may change every quarter as determined by the credit union board of directors."

12. In section B–6, under the heading *Regular Share Account Disclosures*, in the sixth paragraph entitled *6. Fees and charges*, item (e) is revised to read as follows:

"Minimum balance service fee—$5.00 per quarter."

13. In section B–8, under the heading *Money Market Share Account Disclosures*, in the sixth paragraph entitled *6. Fees and charges*, items (e), (h) and (i) are revised to read as follows:

"(e) Minimum balance service fee—$5.00 per (time period).

* * * * *

(h) Certified checks—$5.00 per check.

(i) Stop Payment Order—$5.00 per order".

14. In section B–9, under the heading *Term Share (Certificate) Account Disclosures*, in the first paragraph entitled *1. Rate information*, the first sentence is revised to read as follows:

"[Repeat rates disclosed on face of term share certificate, *see* § B–5, Sample Form (Term Share (Certificate) Account)]."

15. In section B–9, under the heading *Term Share (Certificate) Account Disclosures*, the twelfth paragraph entitled *12. Nature of dividends*, is removed and reserved.

16. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Regular Share*, the entry "Dividend Rate as of Last _____% Dividend Declaration Date." is revised to read as follows:

"Dividend Rate as of Last Dividend Declaration Date _____%."

17. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Regular Share*, the entry "Annual Percentage Yield as of _____% Last Dividend Declaration Date." is revised to read as follows:

"Annual Percentage Yield as of Last Dividend Declaration Date _____%."

18. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Regular Share*, the entry "Prospective Annual Percentage _____% Yield." is revised to read as follows:

"Prospective Annual Percentage Yield _____%."

19. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Share Draft*, the entry "Dividend Rate as of Last _____% Dividend Declaration Date." is revised to read as follows:

"Dividend Rate as of Last Dividend Declaration Date _____%."

20. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Share Draft*, the entry "Annual Percentage Yield as of _____% Last Dividend Declaration Date." is revised to read as follows:

"Annual Percentage Yield as of Last Dividend Declaration Date _____%."

21. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Share Draft*, the entry "Prospective Annual Percentage _____% Yield." is revised to read as follows:

"Prospective Annual Percentage Yield _____%."

22. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Money Market*, the entry "Dividend Rate as of Last _____% Dividend Declaration Date." is revised to read as follows:

"Dividend Rate as of Last Dividend Declaration Date _____%."

23. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Money Market*, the entry "Annual Percentage Yield as of _____% Last Dividend Declaration Date." is revised read as follows:

"Annual Percentage Yield as of Last Dividend Declaration Date _____%."

24. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Money Market*, the entry "Prospective Annual Percentage _____% Yield." is revised to read as follows:

"Prospective Annual Percentage Yield _____%."

25. In section B–11, under the heading *Rate and Fee Schedule*, under the subheading *Fees Applicable to All Accounts*, the entry "Minimum balance violation fee" is revised to read as follows:

"Minimum balance service fee."

By the National Credit Union Administration Board on February 28, 1994.

Becky Baker,

Secretary of the Board.

[FR Doc. 94–6644 Filed 3–21–94; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–225–AD; Amendment 39–8855; AD 94–06–07]

Airworthiness Directives; Airbus Industrie Model A300 and A310 Series Airplanes Equipped with BFGoodrich Evacuation Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 and A310 series airplanes. This action requires modification of the evacuation system regulator assembly in certain escape slides and slide/rafts installed on these airplanes. This amendment is prompted by reports indicating that the evacuation system regulator assembly functioned inappropriately, and cases of the evacuation system inflating when the regulator safety pin was removed. The actions specified in this AD are intended to prevent delayed or