

whole and whole pitted uses to be used in the production of limited-use styles. Such authority will be on a continuing basis, rather than on an annual basis, as has been done in previous years.

This final rule also modifies paragraphs (b)(12)(i) through (b)(12)(v) by relaxing the minimum sizes of olive permitted to be imported for limited-use styles.

Permitting the use of smaller olives in the production of limited-use styles will allow importers to better take advantage of the strong market for sliced, wedged, halved, and chopped style olives. Importers will be able to import and market more olives than would be permitted in the absence of this relaxation in size requirements.

The two largest exporters of ripe and bulk olives to the United States are Spain and Mexico, respectively. Imports comprise approximately 50 percent of total annual U.S. consumption.

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

After consideration of all relevant material presented, the information and recommendations submitted by the committee, and other information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (61 FR 40507, August 5, 1996) will tend to effectuate the declared policy of the Act.

#### List of Subjects

##### 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

##### 7 CFR Part 944

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

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

#### **PART 932—OLIVES GROWN IN CALIFORNIA**

Accordingly, the interim final rule amending 7 CFR part 932 which was published at 61 FR 40507 on August 5, 1996, is adopted as a final rule without change.

#### **PART 944—FRUITS; IMPORT REGULATIONS**

Accordingly, the interim final rule amending 7 CFR part 944, which was published at 61 FR 40507 on August 5, 1996, is adopted as a final rule without change.

Dated: October 18, 1996.

Eric M. Forman,

*Acting Director, Fruit and Vegetable Division.*

[FR Doc. 96-27456 Filed 10-24-96; 8:45 am]

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#### **7 CFR Part 1137**

[DA-96-13]

#### **Milk in the Eastern Colorado Marketing Area; Suspension of Certain Provisions of the Order**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Suspension of rule.

**SUMMARY:** This document suspends certain performance standards of the Eastern Colorado Federal milk order. Mid-America Dairymen, Inc., a cooperative association that supplies milk for the market's fluid needs, requested the suspension. The suspension will make it easier for handlers to qualify milk for pool status and will prevent uneconomic milk movements that otherwise would be required to maintain pool status for milk of producers who have been historically associated with the market.

**EFFECTIVE DATES:** The suspension to § 1137.7 is effective from September 1, 1996, through February 28, 1997. The suspensions to § 1137.12 are effective September 1, 1996, through August 31, 1997.

**FOR FURTHER INFORMATION CONTACT:**

Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9368.

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding:

Notice of Proposed Suspension: Issued August 30, 1996; published September 6, 1996 (61 FR 47092).

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), 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 provisions of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. 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 its 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.

#### **Small Business Consideration**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than \$500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the \$500,000 per year criterion was used to establish a milk marketings guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy farmers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500 employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of June 1996, 429 dairy farmers were producers under the Eastern Colorado milk order. Of these, all but 108 would be considered small businesses, having less than 326,000 pounds of milk marketings a month. Of the dairy farmers in the small business category, 181 marketed less than 100,000 pounds of milk, 105 marketed between 100,000 to 200,000 pounds, and 35 marketed between 200,000 to 326,000 pounds of milk during June.

There were 10 handlers operating 11 plants for the month of June 1996 which were pooled, or regulated, under the Eastern Colorado order. The individual plants, for the most part, would meet

the Small Business Administration's definition of a small business, having less than 500 employees. However, most of these plants are part of larger businesses that operate multiple plants and meet the definition of large entities on that basis.

This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act, as amended, and of the order regulating the handling of milk in the Eastern Colorado marketing area.

Notice of proposed rulemaking was published in the Federal Register on September 6, 1996 (61 FR 46214), concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. Two comments supporting and no comments opposing the suspension were received.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. For the months of September 1, 1996, through February 28, 1997: In the second sentence of § 1137.7(b), the words "plant which has qualified as a" and "of March through August"; and

2. For the months of September 1, 1996, through August 31, 1997: In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing pool plant"; and in the second sentence, the words "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of", and the word "distributing".

#### Statement of Consideration

This rule suspends certain portions of the pool plant and producer definitions of the Eastern Colorado order. The suspension will make it easier for handlers to qualify milk for pooling under the order.

The suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that has pooled milk of dairy farmers on the Eastern Colorado order for several years. Mid-Am requested the suspension to prevent the uneconomic and inefficient

movement of milk for the sole purpose of pooling the milk of producers who have been historically associated with the Eastern Colorado order.

For the months of September 1996 through February 1997, the restriction on the months when automatic pool plant status applies for supply plants will be removed. For the months of September 1996 through August 1997, the touch-base requirement will not apply and the diversion allowance for cooperatives will be raised.

These provisions have been suspended for several years to maintain the pool status of producers who have historically supplied the fluid needs of Eastern Colorado distributing plants. The marketing conditions which justified the prior suspensions continue to exist.

Mid-Am asserts that they have made a commitment to supply the fluid milk requirements of distributing plants if the suspension request is granted. Without the suspension action, to qualify certain of its milk for pooling, it would be necessary for the cooperative to ship milk from distant farms to Denver-area bottling plants. The distant milk would displace milk produced on nearby farms that would then have to be shipped from the Denver area to manufacturing plants located in outlying areas.

There are ample supplies of locally produced milk that can be delivered directly from farms to distributing plants to meet the market's fluid needs without requiring shipments from supply plants.

This suspension is found to be necessary for the purpose of assuring that producers' milk will not have to be moved in an uneconomic and inefficient manner to ensure that producers whose milk has long been associated with the Eastern Colorado marketing area will continue to benefit from pooling and pricing under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they

were afforded opportunity to file written data, views or arguments concerning this suspension. Two comments supporting the suspension were received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the Federal Register.

#### List of Subjects in 7 CFR Part 1137

Milk marketing orders.

For the reasons set forth in the preamble 7 CFR Part 1137, are amended as follows:

#### **PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA**

1. The authority citation for 7 CFR Part 1137 continues to read as follows:

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

#### **§ 1137.7 [Suspended in part]**

2. In § 1137.7, paragraph (b), the second sentence is amended by suspending the words "plant which has qualified as a" and "of March through August" for the months of September 1, 1996, through February 28, 1997.

#### **§ 1137.12 [Suspended in part]**

3. In § 1137.12, paragraph (a)(1), the first sentence the words "from whom at least three deliveries of milk are received during the month at a distributing pool plant" are suspended from September 1, 1996, through August 31, 1997.

4. In § 1137.12, paragraph (a)(1), in the second sentence the words "30 percent in the months of March, April, May, June, July, and December and 20 percent in other months of", and the word "distributing" are suspended from September 1, 1996, through August 31, 1997.

Dated: October 17, 1996.

Terry Medley,

*Acting Assistant Secretary, Marketing and Regulatory Programs.*

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#### **Food Safety and Inspection Service**

**9 CFR Parts 304, 308, 310, 320, 327, 381, 416, and 417**

[Docket No. 93-016-9N]

#### **Demonstration Projects for Small Plants**

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is holding a