

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 911 and 944

[Docket No. FV01-911-2 PR]

#### Limes Grown in Florida and Imported Limes; Suspension of Regulations

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

**ACTION:** Proposed rule; suspension.

**SUMMARY:** This rule would suspend regulations for one year for limes grown in Florida and for limes imported into the United States that are shipped to the fresh market. This rule would suspend grade, size, quality, maturity, pack, inspection, assessment collection, reporting, and other requirements currently prescribed under the Florida lime marketing order (order). The order is administered locally by the Florida Lime Administrative Committee (Committee). This suspension would give the industry time to evaluate citrus canker eradication efforts and the market effects of suspending regulations for one year. This change would reduce costs and help the industry recover from the effects of citrus canker. The suspension of the grade, size, quality, maturity, and inspection requirements specified in the import regulation is required under section 8e of the Agricultural Marketing Agreement Act of 1937.

**DATES:** Comments must be received by September 5, 2001.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-8938, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and

will be available for public inspection in the office of the Docket Clerk during regular business hours, or can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

**FOR FURTHER INFORMATION CONTACT:** Doris Jamieson, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (863) 299-4770, Fax: (863) 299-5169; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jay.Guerber@usda.gov.

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Agreement No. 126 and Order No. 911, both as amended (7 CFR part 911), regulating the handling of limes grown in Florida, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including limes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule would 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 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 to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This rule invites comments on a suspension of regulations currently prescribed under the Florida lime marketing order. This rule would suspend grade, size, quality, pack, inspection, assessment collection, and other requirements for one year. This suspension would give the industry time to evaluate citrus canker eradication efforts and assess the market effects of no regulation on the industry after the one-year suspension. This change would also reduce costs and help the industry recover from the effects of citrus canker.

Section 911.48 of the order authorizes the issuance of regulations for grade, size, quality, and pack for limes grown in the production area. Section 911.49 authorizes the modification, suspension, or termination of regulations issued under § 911.48. Section 911.51 provides that whenever limes are regulated pursuant to § 911.48, such limes must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations. The cost of inspection and certification is borne by handlers.

Under the order, fresh market shipments of Florida limes are required

to be inspected and are subject to grade, size, quality, pack, and container requirements. Section 911.344 *Grade and Size Requirements* [7 CFR part 911.344] states that no handler shall handle any variety of limes grown in the production area unless such limes of the group known as seeded or true limes meet the requirements specified for U.S. No. 2 grade, except as to color. Further, if such limes do not meet these requirements, they may be handled within the production area if they meet the minimum juice content requirement of at least 42 percent by volume and if handled in containers other than those specified in § 911.329. Such limes of the group known as seedless, large-fruited, or Persian limes must meet the requirements of §§ 911.311 and 911.329 and grade at least a U.S. Combination, Mix Color. They also must be at least two inches in diameter from January 1 through May 31, and at least 1<sup>7</sup>/<sub>8</sub> inches in diameter from June 1 through December 31. Further, they must contain not less than 42 percent juice content by volume. Section 911.344 also includes some container specifications and inspection requirements.

The order's pack and container requirements are specified in §§ 911.311 and 911.329. These sections state, in part, that limes must be packed in containers of 5.5, 8, 10, 20, and 38 pounds designated net weight. Each container of limes in each lot must be marked or stamped on the outside end in letters at least 1/4 inch in height to show the United States grade and either the average juice content of the limes or the phrase "average juice content forty-two percent (42%) or more." The containers must also be marked with a Federal-State Inspection Service lot stamp number showing that the limes have been inspected and with a stamp indicating size. Related provisions appear in the regulations at § 911.110 *Exemption certificates*; § 911.120 *Handler registration*; § 911.130 *Limes not subject to regulation*; and § 911.131 *Limes for processing*.

At its April 18, 2001, meeting, in a vote of six in favor and one opposed the Committee recommended suspending the grade, size, quality, pack, inspection, assessment collection, and other requirements for one year. The Committee met again on May 16, 2001, to review the recommendation made at the earlier meeting and to clarify its original motion. The Committee requested that this rule be in place for one year beginning with the effective date of this rule.

The objective of the handling and inspection requirements is to ensure that only limes of acceptable quality

enter fresh market channels, thereby ensuring consumer satisfaction, increasing sales, and improving returns to producers. While the industry continues to believe that quality is an important factor in maintaining sales, the Committee believes the costs associated with the order may exceed the benefits derived at this time, especially in view of the reduction in production due to citrus canker.

The Committee is concerned, however, that the elimination of current requirements could possibly result in lower quality limes being shipped to fresh markets and that markets will be hurt by poor quality. For this reason, the Committee recommended that the suspension of requirements be effective for one-year only. This would enable the Committee to study the impacts of canker and the suspension and consider appropriate actions for ensuing seasons.

This rule would enable handlers to ship limes without regard to the minimum grade, size, quality, pack, and inspection requirements for one year. This would allow handlers to decrease costs by eliminating the costs associated with inspection and assessments. This rule does not restrict handlers from seeking inspection on a voluntary basis.

This rule would suspend §§ 911.110, 911.120, 911.130, 911.131, 911.311, 911.329, and 911.344 of the rules and regulations in effect under the order. Section 911.110 provides for hardship exemptions from inspection. Section 911.120 provides for the registration of handlers, § 911.130 specifies minimum quantity and gift exemptions, and defines commercial processing. Section 911.131 provides requirements for limes for processing.

This rule would also suspend § 911.234 requiring that an assessment rate of \$0.16 per 55 pound bushel equivalent of limes be collected from Florida lime handlers. Authorization to assess lime handlers enables the Committee to incur expenses that are necessary to administer the marketing order. With the suspension of handling, inspection, and assessment requirements, a limited Committee budget would be needed for program administration. For the period of the suspension, the Committee would meet and recommend a reduced budget. The Committee would have about \$26,000 in operating reserves to cover approved Committee expenses.

In 1995, citrus canker was detected near the Miami International Airport. Citrus canker spread throughout South Florida and by March 2000, almost 1,500 acres of lime groves had tested positive for citrus canker. Prior to the outbreak of citrus canker, there were

approximately 3,200 acres of commercial lime groves in Dade County. Estimates now place the Florida lime industry at somewhere between 600 and 1,000 acres of production. During the 1999–2000 season fresh lime production was 774,111 bushels. This past season, production fell to 344,032 bushels. Production in 2000–2001 is estimated to be 300,000 bushels.

Citrus canker is a highly infectious disease that attacks citrus trees. Canker attacks the tree and the fruit and may produce a variety of effects, including defoliation, severely blemished fruit, reduced fruit quality, and premature fruit drop. The only known method of eradicating citrus canker is to bulldoze and burn infected and exposed trees. Trees surrounding infected trees must also be bulldozed and burned. At the beginning of the eradication program, trees within a 125 foot radius of an infected tree were destroyed. However, after research was conducted, it was determined that all trees within a 1,900 foot radius had to be destroyed. The removal of these additional trees has quickened the reduction of lime acreage in South Florida.

Many lime growers have lost all of their production to canker. By regulation, until citrus canker is eradicated, lime growers are not permitted to replant. The production area is also under a quarantine that makes it difficult to sell harvested fruit. Lost income from reduced volume and the cost of maintaining groves with reduced monetary returns have hurt the industry. Because of this and the substantially reduced crop, the Committee believes that regulation should be suspended.

By suspending regulation, the industry would have an opportunity to evaluate how the citrus canker eradication efforts are progressing. The industry would also have an opportunity to assess the market impact of having no regulation. Also, under a suspension, inspection fees and program assessment costs would be eliminated. This would be a savings for both growers and handlers. The savings would help offset some of effects of citrus canker.

The Committee member who opposed the recommendation believes that there are enough limes remaining to warrant regulation. Without regulation, the member believes that poor quality lime shipments would negatively impact better quality shipments. He also stated that he believes imported limes will flood the market and destroy the market for domestically produced limes. As mentioned earlier, the Committee has similar concerns, but believes that a

one-year suspension of regulations is necessary to help reduce costs for those producers and packers who still have limes to market. The suspension would provide time to assess canker eradication efforts, evaluate the effects on the market of having no regulations for one year, and offer the industry some needed cost relief from assessments and inspection fees. For these reasons, the Committee voted to recommend that grade, size, quality, maturity, pack, inspection, assessment collection, and other requirements be suspended for one year.

Suspension of all of the specified requirements is expected to reduce the reporting burden on small or large Florida lime handlers by about 22 hours, and should further reduce industry expenses. During the suspension period, handlers would not have to file the following forms with the Committee: Application for Registered Handler (16.5 burden hours); Application for Registered Processor (10 minutes); Application for Lime Grade Label (5.5 burden hours).

Section 8e of the Act provides that when certain domestically produced commodities, including limes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule would suspend regulations for domestically produced limes, a corresponding change to the import regulations must also be provided.

Minimum grade, size, maturity, and quality requirements for limes imported into the United States are currently in effect under § 944.209 (7 CFR 944.209). This proposal would suspend § 944.209 requiring that limes imported into the United States be inspected for grade, size, maturity, and quality. As this rule would suspend import requirements for one year, it could also result in reduced costs for importers.

Mexico is the largest exporter of limes to the United States. In calendar year 2000, Mexico exported approximately 9,630,909 bushels of limes to the United States, while all other import sources shipped a combined total of approximately 98,182 bushels during the same time period. Other sources of lime imports to the United States include Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, and Venezuela. Mexico's highest volume occurs in the months of June through September.

#### Initial Regulatory Flexibility Analysis

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

Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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 52 producers of limes in production area and approximately 10 handlers subject to regulation under the marketing order. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000.

The average f.o.b. price for fresh limes during the 2000–01 season was around \$14.75 per bushel and total shipments were 344,032 bushels for the season. Using this price and total volume for the season, all lime handlers could be considered small businesses under the SBA definition, excluding receipts from other sources. The majority of Florida lime producers and handlers may be classified as small entities.

This proposal would suspend grade, size, quality, pack, inspection, assessment collection, and other requirements as specified in §§ 911.110, 911.120, 911.130, 911.131, 911.234, 911.311, 911.329, and 911.344. Section 944.209 of the import regulations, specifying the requirements for limes imported into the United States, would also be suspended in its entirety. The suspensions would be in effect for one year.

Citrus canker has reduced Florida lime production from 3,200 acres to between 600 and 1,000 acres. The only known method to eradicate citrus canker is to bulldoze and burn infected trees and exposed trees. This suspension would give the industry time to evaluate citrus canker eradication efforts and assess the effects on the market of having no regulations for one year. This change would also reduce costs and help the industry recover from the effects of citrus canker.

At the April and May meetings, the Committee discussed the impact of this change on handlers and producers in terms of cost. This rule would enable handlers to ship limes without regard to

the minimum grade, size, quality, maturity, pack, and inspection requirements. It would decrease handler costs associated with inspection. This action would also eliminate the cost of assessments. Currently, handlers are required to pay an inspection fee of \$0.14 per bushel and an assessment rate of \$0.16 per bushel handled. Eliminating these costs would result in a savings for growers and handlers. Importers would also benefit from the reduction in inspection costs. These savings would help offset the loss of income from canker, as well as assist in the costs of replanting, when replanting is again authorized. The benefits of this rule are expected to be available to lime handlers, growers, and importers, regardless of their size of operation.

The Committee discussed alternatives to this change, including not suspending regulations at all, as well as terminating the order. Terminating the order was deemed too drastic an action at this time. However, most of the Committee members believe that suspension is necessary because of the substantially reduced crop and to reduce inspection and assessment costs. Citrus canker has had a negative economic impact on the lime industry and cost savings would be beneficial. Suspending regulations also would provide the Committee time to evaluate the effects of canker and to consider what actions should be taken in the future. The Committee acknowledged that quality problems might occur in the absence of regulation, but believed that suspension was the best course of action at this time given the industry situation. Therefore, the alternatives of termination and continuing without change were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements being suspended by this rule were approved previously by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189. Suspension of all of the specified requirements is expected to reduce the reporting burden on small or large Florida lime handlers by 22 hours, and should further reduce industry expenses. During the suspension period, handlers would not have to file the following forms with the Committee: Application for Registered Handler (16.5 burden hours); Application for Registered Processor (10 minutes); Application for Lime Grade Label (5.5 burden hours). As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and

duplication by industry and public sectors.

Pursuant to section 8e of the Act, this action would also suspend the lime import regulation (7 CFR 944.209). That regulation currently specifies grade, size, quality, maturity, inspection, and other requirements.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

The Committee's meetings were widely publicized throughout the lime industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the April 18, 2001, and the May 16, 2001, meetings were public meetings and all entities, both large and small, were able to express views on this issue. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule would need to be in place as soon as possible since handlers are already shipping limes from the 2001–2002 crop. This rule needs to be in effect as soon as possible to provide relief to the Florida lime industry. Also, the industry has been discussing this issue for some time, and the Committee has kept the industry well informed. It has also been widely discussed at various industry and Committee meetings. Interested persons have had time to determine and express their positions. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects

##### 7 CFR Part 911

Limes, Marketing agreements, 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 above, 7 CFR parts 911 and 944 are proposed to be amended as follows:

#### **PART 911—LIMES GROWN IN FLORIDA**

1. The authority citation for 7 CFR parts 911 and 944 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. In Part 911, §§ 911.110, 911.120, 911.130, 911.131, 911.234, 911.311, 911.329, and 911.344 are suspended in their entirety effective [Insert date one day after final rule is published in the **Federal Register**], through [Insert date 365 days after final rule is published in the **Federal Register**].

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

3. In Part 944, § 944.209 is suspended in its entirety effective [Insert date one day after final rule is published in the **Federal Register**], through [Insert date 365 days after final rule is published in the **Federal Register**].

Dated: August 1, 2001.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 01–19594 Filed 8–3–01; 8:45 am]

**BILLING CODE 3410–02–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

#### **14 CFR Part 39**

**[Docket No. 99–CE–87–AD]**

**RIN 2120–AA64**

#### **Airworthiness Directives; GARMIN International GNS 430 Units**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to certain GARMIN International (GARMIN) GNS 430 units that are installed on aircraft. The proposed AD would require you to modify the unit to incorporate circuitry changes to the GNS 430 unit's deviation and flag outputs. The proposed AD is the result of reports of inaccurate course deviations caused by external electrical noise to the GNS 430 unit's course

deviation indicator (CDI). The actions specified by the proposed AD are intended to prevent such external noise from causing inaccurate course deviation displays in the GNS 430 unit's CDI or horizontal situation indicator (HSI). Such displays could result in the pilot making flight decisions that put the aircraft in unsafe flight conditions.

**ADDRESSES:** The Federal Aviation Administration (FAA) must receive any comments on this rule on or before September 21, 2001. Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–87–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

You may obtain service information that applies to the proposed AD from GARMIN International, 1200 East 151st Street, Olathe, Kansas 66062. You may also examine this information at the Rules Docket at the address above.

**FOR FURTHER INFORMATION CONTACT:** Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4134; facsimile: (316) 946–4407; e-mail: [roger.souter@faa.gov](mailto:roger.souter@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

*How do I comment on the proposed AD?* The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

*Are there any specific portions of the proposed AD I should pay attention to?* The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the RulesDocket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that