

was to allow round potatoes to be exempted from regulations under Certificate of Privilege provisions provided within the order. This option also was rejected because it would allow lower quality potatoes to be shipped to the fresh market. Lastly, the Committee considered further relaxing the size requirement for all round potatoes below the 1 $\frac{7}{8}$  inches minimum diameter. The Committee believed that relaxing the minimum size requirement for U.S. No. 2 round potatoes below 1 $\frac{7}{8}$  inches would result in buyer dissatisfaction. Producers and handlers who wish to ship smaller round potatoes may do so by conforming to the U.S. No. 1 grade standard.

With only a small amount of the total potato crop in the production area expected to be affected by relaxing the size requirement, the Committee believes that the proposed change to relax the size requirement of non-red-skinned U.S. No. 2 round potatoes to a 1 $\frac{7}{8}$  inches minimum diameter would provide the greatest amount of benefit to the industry with the least amount of cost.

This proposed rule would relax the size requirements under the marketing order. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large potato handlers and importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule. However, as previously stated, potatoes handled under the order have to meet certain requirements set forth in the United States Standards for Potatoes (7 CFR 51.1540–51.1566) issued under the Agricultural Marketing Act of 1946 (7 CFR part 1621, *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

Further, the Committee's meeting was widely publicized throughout the potato industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the November 4, 2004, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, 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 the following Web site: <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.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

#### List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth above, 7 CFR part 945 is proposed to be amended as follows:

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

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

**Authority:** 7 U.S.C. 601–674.

#### **§ 945.341 [Amended]**

2. In § 945.341, paragraph (a)(2)(i), remove the words “*Round red varieties.*” and add in their place “*Round varieties.*”

Dated: January 13, 2005.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05–1178 Filed 1–21–05; 8:45 am]

**BILLING CODE 3410–02–P**

#### **DEPARTMENT OF AGRICULTURE**

#### **Agricultural Marketing Service**

#### **7 CFR Part 987**

**[Docket No. FV04–987–1 PR]**

#### **Domestic Dates Produced or Packed in Riverside County, CA; Modification of the Qualification Requirements for Approved Manufacturers of Date Products**

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

**ACTION:** Proposed rule.

**SUMMARY:** This rule invites comments on modifications to the requirements to be an approved manufacturer of date products under the Federal date marketing order (order). The order regulates the handling of domestic dates produced or packed in Riverside County, California, and is administered

locally by the California Date Administrative Committee (committee). The committee's approved product manufacturer program helps assure that higher quality whole and pitted dates are shipped within the USA and to Canada. This rule would clarify the application procedures and qualifications for a manufacturer to continue to be listed as an approved manufacturer of date products. This proposal would also require an applicant who is also a date handler under the order to be in compliance with the order. These modifications would help safeguard the integrity of the approved date product manufacturer program under the order and the quality of whole and pitted dates that are shipped within the USA and Canada.

**DATES:** Comments must be received by February 3, 2005.

**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, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: [moab.docketclerk@usda.gov](mailto: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 made 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:** Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; 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, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposal is issued under Marketing

Agreement and Order No. 987, both as amended (7 CFR part 987), regulating the handling of domestic dates produced or packed in Riverside County, California, 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."

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA 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 USDA 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 USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

### Summary

This proposal invites comments on changes to the requirements to be an approved manufacturer of date products in § 987.157 of the date administrative rules and regulations. This rule would clarify the application procedures and qualifications for a manufacturer to continue to be listed as an approved manufacturer of date products. This proposal would also require an applicant who is a date handler under the order to be in compliance with the order. These changes would help safeguard the integrity of the approved manufacturer program under the order and the quality of whole and pitted dates that are shipped within the United States and to Canada. This proposed rule was recommended unanimously by the committee in a meeting on April 23, 2004.

### Order Authority for Approved Manufacturers

Section 987.57 of the date order provides authority for qualification requirements to be an approved manufacturer of date products. Section 987.57 states in part: "Diversion of dates pursuant to § 987.55 or § 987.56 shall be accomplished only by such persons (which may include handlers) as are approved manufacturers or feeders \* \* \*. The application and approval shall be in accordance with such rules, regulations and safeguards as may be prescribed pursuant to § 987.59."

Section 987.59 states: "The Committee may prescribe, with the approval of the Secretary, such rules, regulations and safeguards as are necessary to prevent dates covered by §§ 987.55 and 987.56 from interfering with the objectives of this part."

Pursuant to the authority in §§ 987.57 and 987.59 of the order, § 987.157 of the order's administrative rules and regulations prescribes the qualification requirements to become an approved manufacturer of date products.

### Background and Action Taken

At its public meeting on April 23, 2004, the committee unanimously recommended modifying the qualification requirements for approved manufacturers of date products. The committee's approved product manufacturer program helps assure that higher quality whole and pitted dates are shipped within the United States and to Canada. Whole and pitted dates shipped within the United States and to Canada must, at least, meet the requirements of U.S. Grade B. Dates used for date products are permitted to be U.S. Grade C, a lower quality.

Only firms on the committee's list of approved date product manufacturers are allowed to receive dates for conversion into products. These entities, among other things, agree to alter the form and appearance of the lower quality dates so the dates cannot be marketed in competition with higher quality whole and pitted dates in the United States and to Canada.

The committee recommended that the application procedures for an entity to qualify to become, and to continue to be, an approved manufacturer of date products be revised to help assure that each applicant is treated similarly and to ensure that an approved product manufacturer remains qualified to receive dates for conversion into products.

Within the regulated area (Riverside County, California), all approved manufacturers are also date handlers

regulated under the order. Outside the regulated area, the approved manufacturers are not regulated date handlers.

Finally, the committee wants to safeguard the integrity of the approved manufacturer program by requiring handlers regulated under the order, who are applying to be approved date product manufacturers, to be in compliance with the requirements of the order, including the payment of assessments and filing required reports. Once approved, handlers would have to continue to be in compliance with the order to remain on the committee's approved date product manufacturers' list.

Prior to revoking a handler's approved manufacturer status for non-compliance with the requirements of the order, including reporting and assessment payment requirements, the committee staff would consult with USDA. If, after consultation with USDA and appropriate communications, the approved product manufacturer continues to be non-compliant with the order requirements, the committee staff would announce the revocation of such handler's approved manufacturer status by mailing or faxing a revised approved manufacturer list to all date handlers in the regulated area. Initial applicants who are handlers under the order would also have to be in compliance with the order and meet the other qualification requirements to become an approved date product manufacturer.

Further, the approved manufacturers would continue to be required to maintain accurate date product information and provide this to the committee staff to enable the committee to update each approved date product manufacturer's status periodically. To ensure that each approved manufacturer is qualified, the approved date product manufacturers would be required to reapply for approved manufacturer status once a year. The procedures for reapplication would be the same as to become a new approved date product manufacturer.

### 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.

### Industry Profile

There are approximately 124 date producers in the regulated area and approximately 10 handlers of California dates subject to regulation under the marketing order. The Small Business Administration (13 CFR 121.201) defines small agricultural service firms as those having annual receipts of less than \$5,000,000, and defines small agricultural producers as those having annual receipts of less than \$750,000.

An industry profile shows that 4 out of 10 handlers (40 percent) shipped over \$5,000,000 worth of California dates and could be considered large handlers by the Small Business Administration. Six of the 10 handlers (60 percent) shipped under \$5,000,000 worth of California dates and could be considered small handlers.

An estimated 7 producers, or less than 6 percent, of the 124 total producers, would be considered large producers with annual incomes over \$750,000. The majority of handlers and producers of California dates may, thus, be classified as small entities.

Within the regulated area (Riverside County, California), all approved manufacturers are also date handlers regulated under the order. Outside the regulated area, the approved manufacturers are not regulated date handlers. Currently, there are three approved manufacturers outside the regulated area. We do not have information on the size of these entities, but believe most of them are small entities.

### Summary of Rule Change

This proposal invites comments on changes to the requirements to be an approved manufacturer of date products in § 987.157 of the date administrative rules and regulations. This rule would clarify the application procedures and qualifications for a manufacturer to continue to be listed as an approved manufacturer of date products. This proposal would also require an applicant who is a date handler under the order to be in compliance with the order. These changes would help safeguard the integrity of the approved manufacturer program under the order and the quality of whole and pitted dates that are shipped within the United States and to Canada. This proposed rule was recommended unanimously by

the committee in a meeting on April 23, 2004.

### Impact of Regulation

At the meeting, the committee discussed the impact of this change on handlers and approved manufacturers. The proposed rule would clarify the application procedures and qualifications for a product manufacturer to be an approved manufacturer of date products under the order. These changes will help assure that each applicant to be an approved date manufacturer is treated equitably. These changes would also clarify the qualifications each applicant must meet to become, and to continue as, an approved manufacturer.

In addition, the committee wants to safeguard the integrity of the approved manufacturer program by requiring a handler under the order who is applying for an approved date product manufacturer status to be in compliance with the order. The benefits of this rule are not expected to be disproportionately greater or less for small handlers or approved manufacturers than for large entities.

### Alternatives Considered

The committee discussed alternatives to this change, including not making a change to requirements to become an approved date product manufacturer. The committee decided that this would likely lessen the effectiveness of safeguards ensuring the quality of whole and pitted dates that are shipped within the United States and to Canada.

A second alternative would be to require an applicant to pay all the costs for repeated inspections to verify that the applicant can, indeed, meet the requirements of an approved manufacturer. There was some discussion about whether the committee should continue to pay for the committee staff's time for verification inspections beyond the initial visit. However, there is no authority to charge applicants for verification inspections under this program.

### Recordkeeping and Reporting Requirements

This proposed rule would clarify the application procedures and qualification requirements to become or maintain an approved manufacturer status of date products under the date marketing order. Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large date handlers. This information collection burden has been approved by the Office of Management and Budget (OMB) under

OMB No. 0581-0178. This is the Vegetable and Specialty Crop Generic information collection package. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

In addition, the committee's meeting was widely publicized throughout the date industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the April 23, 2004 meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, 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.

A 10-day comment period is provided to allow interested persons to respond to this proposal. Ten days is deemed appropriate because date handlers are now handling 2004 new crop dates and any changes resulting from this proposed rule should be in place as soon as possible. All written comments timely received will be considered before a final determination is made on this matter.

### List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is proposed to be amended as follows:

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

1. The authority citation for 7 CFR part 987 continues to read as follows:

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

2. Section 987.157 is revised to read as follows:

#### § 987.157 Approved date product manufacturers.

Any person, including date handlers, with facilities for converting dates into products may apply to the Committee,

by filing CDAC Form No. 3, for listing as an approved date product manufacturer.

(a) The applicant shall indicate on such form: the products he/she intends to make; the quantity of dates he/she may use; the location of his/her facilities; and agree that all dates obtained for manufacturing into products shall be used for that purpose, none shall be resold or disposed of as whole or pitted dates.

(b) As a condition to become an approved date product manufacturer: each applicant is subject to an inspection of his/her manufacturing plant to verify that proper equipment to convert dates into products is in place and that the plant meets appropriate sanitation requirements; the applicant also shall agree to file a report of the disposition of each lot of dates on the Committee's CDAC Form No. 8 within 24 hours of the transaction, and to file an annual usage and inventory report on CDAC Form No. 4 by October 10 of each year; and an applicant who is also a handler under the order shall be in compliance with the order, including the assessment payment and reporting requirements.

(c) The Committee shall approve each such application on the basis of information furnished or its own investigation, and may revoke any approval for cause. The name and address of all approved manufacturers shall be placed on a list and made available to each date handler in Riverside County.

(d) If an application is disapproved, the Committee shall notify the applicant in writing of the reasons for disapproval, and allow the applicant an opportunity to respond to the disapproval. When the applicant has complied with all the qualification requirements to become an approved manufacturer, the Committee shall notify the applicant in writing of the Committee's approval. The applicant's name shall be added to the list of approved manufacturers, which shall be made available to each date handler in Riverside County.

(e) Each approved manufacturer of date products are required to renew their approved manufacturer status with the Committee by submitting an updated CDAC Form No. 3 at the end of a crop year, but no later than October 10 of the new crop year. In addition, the approved manufacturer must continue to meet the other approved manufacturer qualification requirements.

(f) In the event an approved date product manufacturer does not remain in compliance with the order, or fails or

refuses to submit reports or to pay assessments required by the Committee, such date product manufacturer shall become ineligible to continue as an approved date product manufacturer. Prior to making a determination to remove a date product manufacturer from the approved date product manufacturer list, the Committee shall notify such manufacturer in writing of its intention and the reasons for removal. The Committee shall allow the date product manufacturer an opportunity to respond. In the event that a date product manufacturer's name has been removed from the list of approved date product manufacturers, a new application must be submitted to the Committee and the applicant must await approval.

Dated: January 13, 2005.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 05-1179 Filed 1-21-05; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2005-20111; Directorate Identifier 2004-NM-154-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Raytheon Model HS.125 Series 700A Airplanes, Model BAe.125 Series 800A Airplanes, and Model Hawker 800 and Hawker 800XP Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Raytheon Model HS.125 series 700A airplanes, Model BAe.125 series 800A airplanes, and Model Hawker 800 and Hawker 800XP airplanes. This proposed AD would require an inspection to determine the current rating of the circuit breakers of certain cockpit ventilation and avionics cooling system blowers; and for replacing the circuit breakers and modifying the blower wiring, as applicable. This proposed AD is prompted by a report indicating that a blower motor seized up and gave off smoke. Investigation revealed inadequate short circuit protection on the blower motor electrical circuit. We are proposing this

AD to prevent smoke and fumes in the cockpit in the event that a blower motor seizes and overheats due to excessive current draw.

**DATES:** We must receive comments on this proposed AD by March 10, 2005.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- *Government-wide Rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL-401, Washington, DC 20590.

- *By Fax:* (202) 493-2251.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201-0085.

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA-2005-20111; the directorate identifier for this docket is 2004-NM-154-AD.

**FOR FURTHER INFORMATION CONTACT:**

Philip Petty, Aerospace Engineer, Electrical Systems Branch, ACE-119W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4139; fax (316) 946-4107.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2005-20111; Directorate Identifier 2004-NM-154-AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to <http://>