

inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects

##### 7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

##### 7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, 7 CFR parts 300 and 318 are amended as follows:

#### **PART 300—INCORPORATION BY REFERENCE**

1. The authority citation for part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a), introductory text, is revised to read as follows:

##### **§ 300.1 Materials incorporated by reference; availability.**

(a) *Plant Protection and Quarantine Treatment Manual*. The Plant Protection and Quarantine Treatment Manual, which was reprinted on November 30, 1992, and includes all revisions through November 1995, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

\* \* \* \* \*

#### **PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES**

3. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, 164a, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

4. Section 318.13-1 is amended by revising the definition for *Inspector* to read as follows:

##### **§ 318.13-1 Definitions.**

\* \* \* \* \*

*Inspector*. An inspector of Plant Protection and Quarantine, Animal and

Plant Health Inspection Service, United States Department of Agriculture.

\* \* \* \* \*

5. Section 318.13-4d is revised to read as follows:

##### **§ 318.13-4d Administrative instructions concerning the interstate movement of avocados from Hawaii.**

(a) Subject to the requirements of §§ 318.13-3 and 318.13-4 and all other applicable provisions of this subpart, avocados may be moved interstate from Hawaii only if they are treated under the supervision of an inspector with a treatment authorized by the Administrator for the following pests: the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Dacus cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

(b) Treatments authorized by the Administrator are listed in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

##### **§ 318.13-4e [Removed and Reserved]**

6. Section 318.13-4e is removed and reserved.

Done in Washington, DC, this 2nd day of February 1996.

Terry L. Medley,

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 96-3381 Filed 2-14-96; 8:45 am]

BILLING CODE 3410-34-P

#### **Agricultural Marketing Service**

##### **7 CFR Part 966**

[Docket No. FV95-966-2FIR]

#### **Tomatoes Grown in Florida; Exemption of Specialty Packed Red Ripe Tomatoes From Container Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which exempted shipments of specialty packed red ripe tomatoes from the container net weight requirements in the Florida tomato handling regulation. This exemption was unanimously recommended by the Florida Tomato Committee (committee) which locally administers the marketing order. This rule continues that exemption and allows handlers to ship specialty packed red ripe tomatoes in containers with different net weights than those

currently authorized under the order. This rule will continue to facilitate the movement of such tomatoes, further the development of this relatively new market, and is expected to improve returns to producers of Florida tomatoes.

**EFFECTIVE DATE:** March 18, 1996.

##### **FOR FURTHER INFORMATION CONTACT:**

Aleck Jonas, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: 941-299-4770, or FAX: 941-299-5169; or Mark Kreaggor, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2431, or FAX: 202-720-5698.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 125 and Order No. 966 (7 CFR Part 966), both as amended, regulating the handling of tomatoes grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act." The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have 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 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 approximately 75 handlers of tomatoes who are subject to regulation under the marketing order and approximately 90 producers of tomatoes in the regulated area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of handlers and producers of Florida tomatoes may be classified as small entities.

Under the Florida tomato marketing order, tomatoes produced in the production area and shipped to fresh market channels outside of the regulated area are required to meet certain handling requirements specified in § 966.323. Current requirements include a minimum grade of U.S. No. 3 and a minimum size of 2<sup>8</sup>/<sub>32</sub> inches in diameter. Pack and container specifications are also in effect. In addition, all lots are required to be inspected and certified as meeting these grade, size, pack and container requirements by authorized representatives of the Federal or Federal-State Inspection Service. The regulated area is defined as the portion of the State of Florida which is bounded by the Suwannee River, the Georgia border, the Atlantic Ocean, and the Gulf of Mexico. Basically, it is the entire State of Florida, except the panhandle. The production area is part of the regulated area.

Prior to publication of the interim final rule in the Federal Register on November 24, 1995 (60 FR 57906), handlers were not allowed to ship specialty packed red ripe tomatoes exempt from container net weight requirements in § 966.323(a)(3)(i). To provide such an exemption, the interim final rule amended paragraph (d)(1) of § 966.323. The exemption is the same as the exemption provided for yellow meated tomatoes in paragraph (d)(1). This rule finalizes the interim final rule and continues to allow handlers to ship specialty packed red ripe tomatoes exempt from the container net weight

requirements in § 966.323(a)(3)(i). The specialty packed red ripe tomatoes are still subject to all other provisions of the handling regulation, including established grade, size, container marking, condition and inspection requirements.

Section 966.52 of the Florida tomato marketing order provides authority for the modification, suspension, and termination of regulations. Section 966.323(a)(3)(i) currently requires certain types of tomatoes packed by registered handlers to be packed in containers of 10, 20, and 25 pounds designated net weights. The net weight of the contents cannot be less than the designated weight and cannot exceed the designated weight by more than two pounds. Section 51.1863 of the U.S. Standards for Grades of Fresh Tomatoes (7 CFR Part 51.1855 through 51.1877, hereafter referred to as the "standards") applies.

Specialty packed red ripe tomatoes are a product recently available from Florida. They are shipped in relatively small volume and marketed as a specialty item.

The interim final rule added a definition for specialty packed red ripe tomatoes to paragraph (g) of § 966.323. Specialty packed red ripe tomatoes are defined as tomatoes which, at the time of inspection, are light red (#5 color) or red (#6 color) according to color classification requirements in the standards, have their calyx ends and stems attached, and are cell packed in a single layer container.

Cell packed tomatoes are placed in containers with fiber board or plastic compartments for such tomatoes to provide separation and reduce bruising during transport and handling. This is especially important in shipping tomatoes at an advanced stage of ripeness when tomatoes have their calyx ends and stems attached. The separation provided by the individual compartments permits the tomatoes from moving around inside the shipping container during transport and handling, thus ensuring arrival at destination with tomato calyx ends and stems attached and no tomato stem punctures.

Most tomatoes shipped from Florida are shipped at the mature green stage without calyx ends and stems, and are packed in volume fill containers. When volume fill containers are packed, the tomatoes are placed by hand or machine into the container until the required net weight is reached. Mature green tomatoes are not as susceptible to bruising and other damage during transport as red ripe tomatoes. These specialty tomatoes have to be packaged

so that they do not touch each other. If volume fill containers were used by registered handlers in Florida to ship specialty tomatoes, serious product bruising and stem punctures would result, which would detract from the unique appearance and marketability of these tomatoes.

However, the cell pack method of packaging needed to ensure that these specialty tomatoes arrive at markets in good condition does not lend itself well when packing to meet a required net weight. Normally, such packs are used when the product is packed by count per container. The tomatoes have to be properly sized to fit snugly in the container.

During the harvesting season, the weight of equal size tomatoes or the shape of tomatoes of equal weight may vary dramatically. If the red ripe tomatoes are light in weight, handlers cannot add extra tomatoes because all cells are full, or if the tomatoes are heavier than normal, the removal of a tomato by a handler results in an empty cell. Because the buyer expects a full tray, empty cells are viewed suspiciously and a marketing problem results.

To overcome this problem and allow this market to be further developed, the committee unanimously recommended that shipments of specialty packed red ripe tomatoes, as defined herein, be exempt from the container net weight requirements of the order. As stated earlier, all other order requirements will continue to apply to such shipments.

This rule reflects the committee's and the Department's appraisal of the need to exempt specialty packed red ripe tomatoes from the net weight requirements for tomatoes grown in Florida. The Department's view is that continuation of the exemption will have a beneficial impact on producers and handlers since it will allow tomato handlers to make additional supplies of tomatoes available to meet consumer needs consistent with crop and market conditions.

As stated earlier, the interim final rule on this matter was published in the Federal Register on November 24, 1995 (60 FR 57960). That rule provided that interested persons could file comments through December 26, 1995. No comments were received.

Based on these considerations, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found

that this final rule will tend to effectuate the declared policy of the Act.

**List of Subjects in 7 CFR Part 966**

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

**PART 966—TOMATOES GROWN IN FLORIDA**

Accordingly, the interim final rule amending 7 CFR Part 966 which was published at 60 FR 57906 on November 24, 1995, is adopted as a final rule without change.

Dated: February 8, 1996.  
 Sharon Bomer Lauritsen,  
*Deputy Director, Fruit and Vegetable Division.*  
 [FR Doc. 96-3349 Filed 2-14-96; 8:45 am]  
 BILLING CODE 3410-02-P

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 201**

[Regulation A]

**Extensions of Credit by Federal Reserve Banks; Change in Discount Rate**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors has amended its Regulation A on Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

**EFFECTIVE DATE:** The amendments to part 201 (Regulation A) were effective February 5, 1996. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

**FOR FURTHER INFORMATION CONTACT:** William W. Wiles, Secretary of the Board (202/452-3257); for users of Telecommunications Device for the Deaf (TDD), please contact Dorothea Thompson, (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority of sections 10(b), 13, 14, 19, et.al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates

are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit. In decreasing the basic discount rate, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. Moderating economic expansion in recent months has reduced potential inflationary pressures going forward. In this environment, the decrease in rates is consistent with continued inflation and sustainable growth.

**Regulatory Flexibility Act Certification**

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

**Paperwork Reduction Act**

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

**Administrative Procedure Act**

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for "good cause" finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

**List of Subjects in 12 CFR Part 201**

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR Part 201 is amended as set forth below:

**PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)**

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et. seq.*, 347a, 347b, 347c, 347d, 348 *et. seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

**§ 201.51 Adjustment credit for depository institutions.**

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston .....	5.00	February 1, 1996.
New York .....	5.00	January 31, 1996.
Philadelphia .	5.00	January 31, 1996.
Cleveland .....	5.00	January 31, 1996.
Richmond .....	5.00	February 1, 1996.
Atlanta .....	5.00	January 31, 1996.
Chicago .....	5.00	February 1, 1996.
St. Louis .....	5.00	February 5, 1996.
Minneapolis ..	5.00	January 31, 1996.
Kansas City ..	5.00	February 1, 1996.
Dallas .....	5.00	January 31, 1996.
San Francisco.	5.00	January 31, 1996.

By order of the Board of Governors of the Federal Reserve System, February 9, 1996.

William W. Wiles,  
*Secretary of the Board.*

[FR Doc. 96-3389 Filed 2-14-96; 8:45 a.m.]

BILLING CODE 6210-01-P

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Parts 303 and 359**

RIN 3064-AB11

**Regulation of Golden Parachutes and Other Benefits Which May Be Subject to Misuse**

**AGENCY:** Federal Deposit Insurance Corporation (FDIC or Corporation).

**ACTION:** Final rule.

**SUMMARY:** The FDIC is adopting a rule limiting golden parachute and indemnification payments to institution-affiliated parties by insured depository institutions and depository institution holding companies. The