The committee reviewed and unanimously recommended 2005 expenditures of $210,691 which included increases in salaries and research programs. Prior to arriving at this budget, the committee considered alternative expenditure and assessment rate levels, but ultimately decided that the recommended levels were reasonable to properly administer the order.

The assessment rate recommended by the committee was derived by the following formula: Total shipments (8.5 million 18-pound lugs) times the recommended assessment rate ($0.0175 per 18-pound lug), plus the anticipated interest income ($300) and the 2005 beginning reserve ($78,000), minus the anticipated expenses ($210,691), results in a 2005 ending reserve of $16,359.

This increased assessment rate will provide sufficient funds in combination with interest and reserve funds to meet the anticipated expenses of $210,691 and result in a December 2005 ending reserve of $16,359, which is acceptable to the committee. This reserve fund level is within the maximum permitted by the order of approximately one fiscal period's expenses.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the on-vine grower price for the 2005 season could range between $5.00 and $9.00 per 18-pound lug of grapes. Therefore, the estimated assessment revenue for the 2005 fiscal period as a percentage of total grower revenue could range between approximately 0.2 and 0.4 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. In addition, the committee's meeting was widely publicized throughout the California grape industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the November 9, 2004, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large desert grape handlers. 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 rule.

A proposed rule concerning this action was published in the **Federal Register** on January 11, 2005 (70 FR 1837). Copies of the proposed rule were also mailed or sent via facsimile to all desert grape handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 30-day comment period ending on February 10, 2005, was provided for interested persons to respond to the proposal. No comments were received.

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.

After consideration of all relevant material presented, including the information and recommendation submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 2005 fiscal period began on January 1, 2005, and the order requires that the rate of assessment for each fiscal period apply to all assessable desert grapes handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the committee at a public meeting; and (4) a 30-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 925 is amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

■ 1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 925.215 is revised to read as follows:

§ 925.215 Assessment rate.

On and after January 1, 2005, an assessment rate of $0.0175 per 18-pound lug is established for grapes grown in a designated area of southeastern California.

Dated: March 2, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–4449 Filed 3–7–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. FV05–955–1 IFR]

Vidalia Onions Grown in Georgia; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the assessment rate and changes the assessable unit established for the Vidalia Onion Committee (Committee) for the 2005 and subsequent fiscal periods from $0.12 per 50-pound bag or equivalent to $0.10 per 40-pound carton of Vidalia onions. The assessment rate of $0.10 per 40-pound carton is $0.0001 per pound more than the assessment rate previously in effect. The Committee locally administers the marketing order which regulates the handling of Vidalia onions grown in Georgia. Authorization to assess Vidalia onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: March 9, 2005. Comments received by May 9, 2005, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. 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; E-mail:

moab.docketclerk@usda.gov; or Internet: *http://www.regulations.gov.* 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, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 799 Overlook Drive, Suite A, Winter Haven, Florida 33884–1671; telephone: (863) 324–3375, Fax: (863) 325–8793; 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.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order No. 955, both as amended (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia, 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 of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Vidalia onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable Vidalia onions beginning January 1, 2005, and continue until amended, suspended, or terminated. 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 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. Such 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.

This rule increases the assessment rate and changes the assessable unit established for the Vidalia Onion Committee (Committee) for the 2005 and subsequent fiscal periods from $0.12 per 50-pound bag or equivalent to $0.10 per 40-pound carton of Vidalia onions. The assessment rate of $0.10 per 40-pound carton is $0.0001 per pound more than the assessment rate previously in effect.

The Vidalia onion order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Vidalia onions. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2001–02 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of $0.12 per 50-pound bag or equivalent that would continue in effect from 2001 and subsequent fiscal periods unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met December 15, 2004, and unanimously recommended 2005 expenditures of $450,300 and an assessment rate of $0.10 per 40-pound carton of Vidalia onions. In comparison, last year's budgeted expenditures were $312,215.

The assessment rate of $0.10 per 40-pound carton is $0.0001 per pound more than the rate currently in effect. The increase in the assessment rate is based on the reduction in size of the assessable unit from 50-pounds to 40-pounds. Although the reduction in size of the assessable unit increases the number of assessable cartons, it only slightly increases the actual assessment per pound of Vidalia onion handled from $0.0024 per pound to $0.0025 per pound.

The major expenditures recommended by the Committee for the 2005 year include $92,500 for salaries and benefits, $59,800 for administrative expenses, $290,000 for marketing expenses, $5,000 for research expenses, and $3,000 for compliance. Budgeted expenses for these items in 2004 were $66,280, $237,435, $7,500, $1000, and $0 respectively.

The assessment rate recommended by the Committee was derived by multiplying the assessment rate by the number of 40-pound cartons of Vidalia onions the industry is expected to ship for the 2005 fiscal period, and took into consideration the availability of matching funds for research and promotion from the State of Georgia. Vidalia onion shipments for the 2005 fiscal period are estimated at 3,350,000 40-pound cartons which should provide $335,000 in assessment income. Income derived from handler assessments, interest income ($3,000), contributions from the Georgia Department of Agriculture ($150,000), and income from the sale of Point-of-Sale advertisement material ($6,000) should be adequate to cover budgeted expenses. Funds in the reserve (currently $67,331) will be kept within the maximum permitted by the order, which is three fiscal periods' budgeted expenses (§ 955.44).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2005 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

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 rule 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 the 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 145 producers of Vidalia onions in the production area and approximately 110 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms, which include handlers, are defined as those whose annual receipts are less than $5,000,000.

Based on information from the Georgia Agricultural Statistical Service and Committee data, around 90 percent of Vidalia onion handlers ship under $5,000,000 worth of onions on an annual basis. In addition, based on acreage, production, grower prices reported by the National Agricultural Statistics Service, and the total number of Vidalia onion growers, the average annual grower revenue is approximately $489,000. Thus, the majority of handlers and producers of Vidalia onions may be classified as small entities.

This rule increases the assessment rate and changes the assessable unit from $0.12 per 50-pound bag or equivalent to $0.10 per 40-pound carton of Vidalia onions for the 2005 and subsequent fiscal periods. The Committee unanimously recommended 2005 expenditures of $450,300 and an assessment rate of $0.10 per 40-pound carton of Vidalia onions. The assessment rate of $0.10 per 40-pound carton is $0.0001 per pound higher than the $0.12 per 50-pound bag or equivalent assessment rate in effect during 2004. The quantity of assessable Vidalia onions for the 2005 season is estimated at 3,350,000 40-pound cartons. Thus, the $0.10 per 40-pound carton rate should provide $335,000 in assessment income. Income derived from handler assessments, interest income ($3,000), contributions from the Georgia Department of Agriculture ($150,000), and income from the sale of Point-of-Sale advertisement material ($6,000) should be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2005 year include $92,500 for salaries, $59,800 for administrative expenses, $290,000 for marketing expenses, $5,000 for research expenses, and $3,000 for compliance. Budgeted expenses for these items in 2004 were $66,280, $237,435, $7,500, $1,000, and $0, respectively.

The Committee at its December 15, 2004, meeting unanimously recommended reducing the assessable carton size from a 50-pound bag or equivalent to the current industry standard 40-pound carton size. The reduction in the assessable unit size increases the number of assessable units. The assessable unit size reduction also causes a slight increase in the actual per pound rate of assessment from $0.0024 to $0.0025, or an increase of $0.0001 per pound.

The Committee reviewed and unanimously recommended 2005 expenditures of $450,300 which includes increases in marketing, compliance, administrative expenses, and research programs. Prior to arriving at this budget, the Committee considered information from various sources. Alternative expenditure levels were discussed by the Committee based upon the relative value of various research and promotion projects to the Vidalia onion industry. The committee also discussed keeping the current $0.12 per 50-pound bag or equivalent assessment rate. The Committee believes, however, that using the current industry standard unit of 40-pounds will increase efficiency by saving handlers the considerable time and expense previously spent in converting 40-pound units to the 50-pound assessment rate unit. The Committee also felt that the slight increase of $0.001 per pound in assessments is insignificant when considering the benefits of using the industry standard unit. Thus the assessment rate of $0.10 per 40-pound carton of assessable Vidalia onions was approved unanimously. The expected income was derived by multiplying the assessment rate by the estimated number of 40-pound cartons the industry expects to ship for the 2005 season. Also available for expenditure are interest income and matching funds from the State of Georgia (for expenditures pursuant to § 955.50; production research, marketing research development, and marketing promotion including paid advertising).

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2005 season could range between $13.75 and $17.15 per 40-pound carton of Vidalia onions. Therefore, the estimated assessment revenue for the 2005 fiscal period as a percentage of total grower revenue could range between 0.58 and 0.73 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. As noted earlier, the savings in time and expense previously spent on converting the industry standard 40-pound carton to the 50-pound unit used by the Committee more than offsets the negligible assessment increase of $0.001 per pound of onions handled. In addition, the Committee's meeting was widely publicized throughout the Vidalia onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the December 15, 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.

This action imposes no additional reporting or recordkeeping requirements on either small or large Vidalia onion handlers. 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 rule.

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.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, 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 rule until 30 days after publication in the **Federal Register** because: (1) The 2005 fiscal period began on January 1, 2005, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Vidalia onions handled during such fiscal period; (2) this action changes the assessable carton size from a 50-pound bag or equivalent to the current industry standard 40-pound carton size; (3) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; (4) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (5) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 955

Onions, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 955 is amended as follows:

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

■ 1. The authority citation for 7 CFR part 955 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 955.209 is revised to read as follows:

§ 955.209 Assessment rate.

On and after January 1, 2005, an assessment rate of $0.10 per 40-pound carton or equivalent is established for Vidalia onions.

Dated: March 2, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–4447 Filed 3–7–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. FV04–987–1 FR]

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: Final rule.

SUMMARY: This rule modifies the requirements for approved manufacturers of date products under the marketing order regulating the handling of domestic dates produced or packed in Riverside County, California. The marketing order is administered locally by the California Date Administrative Committee (committee). The committee's approved product manufacturer program helps assure that only high quality whole and pitted dates are shipped within the United States and exported to Canada. This rule clarifies the application procedures and qualification requirements for an approved manufacturer of date products. This rule also specifies that a regulated date handler must be in compliance with the marketing order to be an approved manufacturer of date products. These modifications will help safeguard the integrity of the approved date product manufacturer program, as well as the quality of whole and pitted dates marketed both domestically and in Canada.

EFFECTIVE DATE: This final rule becomes effective March 9, 2005.

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.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 987, 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 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 of Agriculture (USDA) is issuing this 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 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 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 of the Rule Change

This final rule modifies the requirements for approved manufacturers of date products in § 987.157 of the order's administrative rules and regulations. This rule clarifies the application procedures and qualification requirements for approved manufacturers of date products. This rule also specifies that, to be an approved manufacturer of date products, a regulated date handler must be in compliance with the order. These modifications will help safeguard the integrity of the approved date product manufacturer program, as well as the quality of whole and pitted dates marketed both domestically and in