

handlers more cost-saving options. Accordingly, no changes have been made to the rule based on this comment.

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.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (72 FR 18847, April 16, 2007) will tend to effectuate the declared policy of the Act. With regard to revision to the rules and regulations under the order and concerning those provisions that were removed or terminated, it is found that those provisions no longer tend to effectuate the declared policy of the Act.

#### List of Subjects

##### 7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

##### 7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

#### PARTS 916 and 917—[AMENDED]

■ Accordingly, the interim final rule amending 7 CFR parts 916 and 917 which was published at 72 FR 18847 on April 16, 2007, is adopted as a final rule without change.

Dated: August 21, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07-4161 Filed 8-27-07; 8:45 am]

BILLING CODE 3410-02-M

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 922

[Docket No. AMS-FV-07-0085; FV07-922-2 PR]

#### Apricots Grown in Designated Counties in Washington; Increased Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** This rule increases the assessment rate established for the Washington Apricot Marketing Committee (Committee) for the 2007–2008 and subsequent fiscal periods from \$1.00 to \$1.50 per ton for Washington apricots. The Committee is responsible for local administration of the marketing order regulating the handling of apricots grown in designated counties in Washington. Assessments upon handlers of apricots are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period for the marketing order began April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended or terminated.

**EFFECTIVE DATE:** August 29, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Robert J. Curry or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Suite 385, Portland, OR 97204; Telephone: (503) 326-2724; Fax: (503) 326-7440; or E-mail:

[Robert.Curry@usda.gov](mailto:Robert.Curry@usda.gov) or

[GaryD.Olson@usda.gov](mailto:GaryD.Olson@usda.gov).

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, 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 rule is issued under Marketing Order No. 922 (7 CFR part 922), as amended, regulating the handling of apricots grown in designated counties in Washington, 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, apricot handlers in designated counties in Washington 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 Washington

apricots beginning April 1, 2007, and will 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 established for the Committee for the 2007–2008 and subsequent fiscal periods from \$1.00 to \$1.50 per ton for Washington apricots handled under the order.

The 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 apricots in designated counties in Washington. 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 at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2005–2006 and subsequent fiscal periods, the Committee recommended, and the USDA approved, an assessment rate of \$1.00 per ton of apricots handled. This rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 24, 2007, and unanimously recommended 2007–2008 expenditures of \$6,743. In comparison, the budgeted expenditures

for 2006–2007 were \$6,400. In addition to the budget, the Committee recommended that the \$1.00 per ton assessment rate approved for the 2005–2006 and subsequent fiscal periods be increased by \$0.50 to \$1.50 per ton of apricots handled. The Committee recommended the higher assessment rate to cover budgeted expenses while increasing its monetary reserve to a level commensurate with program objectives and requirements.

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include \$4,800 for management fees, \$1,000 for Committee travel, \$500 for the annual financial audit, and \$100 for compliance. Budgeted expenses for these items in 2006–2007 were \$4,800, \$1,000, \$600, and \$100, respectively. The Committee added \$343 to its budgeted expenses this year for equipment maintenance, insurance, bonds, and miscellaneous expenses.

The assessment rate recommended by the Committee was derived by dividing its anticipated expenses of \$6,743 by the projected apricot crop of 5,400 tons. Applying the \$1.50 per ton assessment rate to the Committee's 5,400 ton crop estimate should provide \$8,100 in assessment income. Income derived from handler assessments should adequately cover budgeted expenses while adding approximately \$1,357 to the \$3,980 2006–2007 fiscal year-end reserve fund. As a consequence, the projected 2007–2008 fiscal year-end reserve balance of \$5,337 should be within the maximum permitted by the order of approximately one fiscal period's operational expenses.

The assessment rate 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 will be 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 the Committee's meetings are available from the Committee or USDA. The Committee's meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committee's 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 2007–2008 budget and

those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

#### **Final 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 final 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.

There are approximately 300 apricot producers within the regulated production area and approximately 22 regulated handlers. 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 are defined as those whose annual receipts are less than \$6,500,000.

The Washington Agricultural Statistics Service has prepared a report showing that the total 5,400 ton apricot utilization sold for an average of \$1,150 per ton in 2006 with a total value of approximately \$6,200,000. Based on the number of producers in the production area (300), the average annual producer revenue from the sale of apricots in 2006 can thus be estimated at approximately \$20,700. In addition, based on information from the Committee and USDA's Market News Service, 2006 f.o.b. prices ranged from \$15.00 to \$20.00 per 24-pound loose-pack container, and from \$16.00 to \$18.00 for 2-layer tray-pack containers. During the 2006 season, approximately 3,728 tons of fresh apricots were packed. Of this total, about 1,569 tons were packed in loose-pack containers and about 2,159 tons were packed in tray-pack containers (weighing an average of about 20 pounds each). The total receipts for 2006 were less than \$6,500,000. Thus, the majority of producers and handlers of Washington apricots may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2007–2008 and subsequent fiscal periods from \$1.00 to \$1.50 per ton for apricots handled under authority of the order.

The Committee also unanimously recommended 2007–2008 expenditures of \$6,743. With the 2007–2008 Washington apricot crop estimate of 5,400 tons, the Committee anticipates assessment income of \$8,100. The Committee recommended the assessment rate increase to cover budgeted expenses and to increase the monetary reserve. With the \$1.50 per ton assessment rate and the \$6,743 budget of expenditures, the Committee should add about \$1,357 to its monetary reserve. Thus, the Committee projects a reserve balance of approximately \$5,337 on March 31, 2008. This amount is within the maximum permitted by the order of approximately one fiscal period's operational expenses.

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include \$4,800 for management fees, \$1,000 for Committee travel, \$500 for the annual financial audit, and \$100 for compliance. Budgeted expenses for these items in 2006–2007 were \$4,800, \$1,000, \$600, and \$100, respectively. The Committee added \$343 to its budgeted expenses this year for equipment maintenance, insurance, bonds, and miscellaneous expenses.

The Committee discussed alternatives to this assessment rate increase. Leaving the assessment at the \$1.00 per ton rate was discussed, but not seriously considered since such a rate would have further eroded the Committee's reserves. Higher and lower rates were also considered but not recommended because the \$1.50 rate not only meets the Committee's objectives for the 2007–2008 season, but also increases the reserve to a level commensurate with order provisions.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2007–2008 season could average about \$1,000 per ton for fresh Washington apricots. Therefore, the estimated assessment revenue for the 2007–2008 fiscal period as a percentage of total producer revenue is 0.15 percent for Washington apricots.

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 order.

The Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend and

participate in Committee deliberations on all issues. Like all Committee meetings, the May 24, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on the budget and assessment rate issues.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Washington apricot 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. Furthermore, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule regarding this action was published in the **Federal Register** on July 13, 2007 (72 FR 38496). Copies of the proposed rule were made available to industry members by the Committee, and by the USDA and the Office of the Federal Register through the Internet. A 10-day comment period ending July 23, 2007, 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 is 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 2007–2008 fiscal period began on April 1, 2007, and the order requires that the assessment rate for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) the Washington apricot harvest and shipping season is currently under way; (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 recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (5) a 10-day comment period was provided for in the proposed rule.

#### List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 922 is amended as follows:

#### PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR part 922 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 922.235 is revised to read as follows:

##### § 922.235 Assessment rate.

On or after April 1, 2007, an assessment rate of \$1.50 per ton is established for the Washington Apricot Marketing Committee.

Dated: August 22, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7–16971 Filed 8–27–07; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 959

[Docket No. AMS–FV–06–0214; FV07–959–1 FIR]

#### Onions Grown in South Texas; Change in Regulatory Period

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule revising the regulatory period for minimum grade, size, quality, and maturity requirements applicable to onions grown in South Texas under Marketing Order No. 959 (order). Prior to implementation of the interim final rule, the regulatory period for South Texas onions was March 1 through June 4 of each year. Changes in available varieties, growing seasons, and marketing opportunities over the years

have resulted in a prolonged onion shipping season that now extends beyond June 4 into mid-July. This rule continues in effect the action that extended the regulatory period through July 15. The South Texas Onion Committee (Committee), which locally administers the order, unanimously recommended the change.

**EFFECTIVE DATE:** September 27, 2007.

**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, Regional Manager, Texas Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (956) 682–2833, Fax: (956) 682–5942, or E-mail: [Belinda.Garza@usda.gov](mailto:Belinda.Garza@usda.gov).

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 rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, 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.”

USDA is issuing this rule in conformance with Executive Order 12866.

This 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