

Rules and Regulations

Federal Register

Vol. 73, No. 107

Tuesday, June 3, 2008

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Docket No. AMS-FV-07-0159; FV08-955-1 FR]

Vidalia Onions Grown in Georgia; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Vidalia Onion Committee (Committee) for the 2008 and subsequent fiscal periods from \$0.10 to \$0.13 per 40-pound container of Vidalia onions handled. The Committee locally administers the marketing order which regulates the handling of Vidalia onions grown in Georgia. Assessments upon Vidalia onion handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins January 1 and ends December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* June 4, 2008.

FOR FURTHER INFORMATION CONTACT:

Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; *Telephone:* (863) 324-3375, *Fax:* (863) 325-8793, or *E-mail:*

Doris.Jamieson@usda.gov, or *Christian.Nissen@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*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and 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 on January 1, 2008, 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 established for the Committee for the 2008 and subsequent fiscal periods from \$0.10 to \$0.13 per 40-pound container of Vidalia onions.

The Vidalia onion marketing 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 2005 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue 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 December 13, 2007, and unanimously recommended 2008 expenditures of \$712,000 and an assessment rate of \$0.13 per 40-pound container of Vidalia onions. In comparison, last year's budgeted expenditures were \$835,200. The assessment rate of \$0.13 is \$0.03 higher than the rate currently in effect.

Over the past few years, the Committee has been using funds from reserves rather than increasing assessments to cover their expanded marketing program. This has reduced the reserve fund. The increase in the assessment rate allows the Committee to fund its recommended level of promotion, while reducing the amount drawn from its authorized reserve fund.

The major expenditures recommended by the Committee for the 2008 fiscal year include \$410,000 for marketing, \$86,350 for salaries, \$42,800 for compliance, and \$37,200 for research. Budgeted expenses for these items in 2007 were \$505,000, \$82,000, \$20,000, and \$65,500, respectively.

The assessment rate recommended by the Committee was derived by considering available reserves, and dividing anticipated expenses by expected shipments of Vidalia onions. Vidalia onion shipments for the year are estimated at 4,300,000 40-pound containers, which should provide \$559,000 in assessment income. Income derived from handler assessments, along

with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses. Funds in the reserve (currently \$204,000) will be kept within the maximum permitted by the order (according to § 955.44, approximately three fiscal periods' expenses).

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 will be in effect 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 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 86 producers of Vidalia onions in the production area and approximately 65 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts less than \$750,000, and small agricultural service firms, which include handlers, are defined as those whose annual receipts are less than \$6,500,000 (13 CFR 121.201).

Based on the Georgia Agricultural Statistical Service and Committee data, the average annual grower price for fresh Vidalia onions during the 2007 season was around \$15 per 40-pound container. Total Vidalia onion shipments for the 2007 season were around 4,868,000 40-pound containers. Using available data, more than 90 percent of Vidalia onion handlers could be considered small businesses under the SBA definition. In addition, based on information from the Georgia Department of Agriculture, Committee data, and the National Agricultural Statistics Service, the majority of producers could be considered small entities. Thus, the majority of handlers and producers of Vidalia onions may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2008 and subsequent fiscal periods from \$0.10 to \$0.13 per 40-pound container of Vidalia onions. The Committee unanimously recommended 2008 expenditures of \$712,000 and an assessment rate of \$0.13 per 40-pound container. The assessment rate of \$0.13 is \$0.03 higher than the 2007 rate. The quantity of assessable Vidalia onions for the 2008 fiscal year is estimated at 4,300,000. Thus, the \$0.13 rate should provide \$559,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, should be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2008 fiscal year include \$410,000 for marketing, \$86,350 for salaries, \$42,800 for compliance, and \$37,200 for research. Budgeted expenses for these items in 2007 were \$505,000, \$82,000, \$20,000, and \$65,500, respectively.

Over the past few years, the Committee has been using funds from reserves rather than increasing assessments to cover their expanded marketing program. This has reduced the reserve fund. The increase in the assessment rate allows the Committee to fund its recommended level of promotion, while reducing the amount drawn from its authorized reserve fund. Funds in the reserve (currently \$204,000) will be kept within the maximum permitted by the order.

The Committee reviewed and unanimously recommended 2008 expenditures of \$712,000 which included increases in administrative expenses, and compliance programs. Prior to arriving at this budget, the Committee considered information from various sources, including the Executive Committee and the Research

Subcommittee. 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 \$0.10 per 40-pound bag or equivalent assessment rate. However, keeping the assessment rate at \$0.10 per 40-pound bag would not allow the Committee to fund many of the proposed promotional projects. The assessment rate of \$0.13 per 40-pound container of assessable Vidalia onions was then determined by considering available reserves, and dividing the total recommended budget by the quantity of assessable Vidalia onions, estimated at 4,300,000 40-pound containers for the 2008 fiscal year. This is approximately \$138,000 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2008 season could range between \$10.00 and \$34.00 per 40-pound container of Vidalia onions. Therefore, the estimated assessment revenue for the 2008 fiscal period as a percentage of total grower revenue could range between .4 and 1 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 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 13, 2007, 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 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.

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.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

A proposed rule concerning this action was published in the **Federal Register** on March 18, 2008 (73 FR 14400). Copies of the proposed rule were also mailed or sent via facsimile to all Vidalia onion 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 April 17, 2008, 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 handlers are already receiving 2008 crop Vidalia onions from growers. In addition, the fiscal year began on January 1, 2008, 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. The Committee also needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed 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, 2008, an assessment rate of \$0.13 per 40-pound carton or equivalent is established for Vidalia onions.

Dated: May 29, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–12318 Filed 6–2–08; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2001–0010]

RIN 3150–AG24

Licenses, Certifications, and Approvals for Nuclear Power Plants; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule: correcting amendment.

SUMMARY: On August 28, 2007 (72 FR 49352), the Nuclear Regulatory Commission (NRC) published a final rule revising the provisions applicable to the licensing and approval processes for nuclear power plants (i.e., early site permit, standard design approval, standard design certification, combined license, and manufacturing license). These amendments clarify the applicability of various requirements to each of the licensing processes by making necessary conforming amendments throughout the NRC's regulations to enhance the NRC's regulatory effectiveness and efficiency in implementing its licensing and approval processes. This document is necessary to include a paragraph that was inadvertently omitted in that final rule.

DATES: The correction is effective June 3, 2008, and is applicable to September 27, 2007.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administrative Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–7163, e-mail Michael.Lesar@nrc.gov.

SUPPLEMENTARY INFORMATION: This document corrects an inadvertent

omission in the Code of Federal Regulations by adding 10 CFR 50.55a(f)(3)(iv)(B).

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

■ 1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5841). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

■ 2. In § 50.55a, paragraph (f)(3)(iv)(B) is added to read as follows:

§ 50.55a Codes and standards.

* * * * *
(f) * * *
(3) * * *
(iv) * * *

(B) Pumps and valves, in facilities whose construction permit under this part or design certification or combined license under part 52 of this chapter is issued on or after November 22, 1999, which are classified as ASME Code Class 2 and 3 must be designed and be provided with access to enable the performance of inservice testing of the pumps and valves for assessing operational readiness set forth in