List of Subjects in 7 CFR Part 915

Avocados, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ 1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Two new paragraphs (d) and (e) are added to § 915.305 to read as follows:

§ 915.305 Florida Avocado Container Regulation 5.

* * * * *

(d) Avocados handled for the fresh market in containers other than those authorized under § 915.305(a) and shipped to destinations within the production area must be packed in 1-bushel containers.

(e) All containers in which the avocados are packed must be new, and clean in appearance, without marks, stains, or other evidence of previous use.

3. In § 915.306, paragraphs (a)(1), (a)(6) and (a)(7) are revised to read as follows:

§ 915.306 Florida avocado grade, pack, and container marking regulation.

(a) * * *

(1) Such avocados grade at least U.S. No. 2, except that avocados handled to destinations within the production area may be placed in containers with avocados of dissimilar varietal characteristics.

* * * * *

(6) Such avocados when handled in containers authorized under § 915.305, except for those to export destinations, are marked once with the grade of fruit in letters and numbers at least 1 inch in height on the top or one side of the container, not to include the bottom.

(7) Such avocados when handled in containers other than those authorized under § 915.305(a) for shipment to destinations within the production area are marked once with the grade of fruit in letters and numbers at least 3 inches in height on the top or one side of the container, not to include the bottom. Each such container is also to be marked at least once with either the registered handler number assigned to the handler at the time of certification as a registered handler or with the name and address of the handler.

* * * * *

Dated: November 5, 2008.

David R. Shipman,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. E8–26855 Filed 11–10–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. AMS–FV–08–0044; FV08–981–1 FIR]

Almonds Grown in California; Relaxation of Incoming Quality Control Requirements

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 relaxing the incoming quality control requirements prescribed under the California almond marketing order (order). The order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). This rule continues in effect the action that changed the date by which almond handlers must satisfy their inedible disposition obligation from August 31 to September 30 of each year. This change provides handlers more flexibility in their operations in light of larger almond crops.

DATES: *Effective Date:* December 12, 2008.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Senior Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; *Telephone:* (559) 487–5901, *Fax:* (559) 487–5906, or *E-mail: Terry.Vawter@usda.gov* or *Kurt.Kimmel@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 Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in 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.''

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 the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect a relaxation of the incoming quality control requirements prescribed under the order by changing the date by which almond handlers must satisfy their inedible disposition obligation from August 31 to September 30 of each year. This provides handlers more flexibility in their operations in light of larger almond crops.

Section 981.42 of the order provides authority for a quality control program. Paragraph (a) of this section requires handlers to obtain incoming inspections on almonds received from growers to determine the percent of inedible kernels in each lot of any variety. Inedible kernels are poor quality kernels or pieces of kernels as defined in § 981.408. A handler's inedible disposition obligation is based on the percentage of inedible kernels in lots received by such handler during a crop year, as determined by the Federal-State inspection service. Handlers must satisfy their obligation by disposing of inedible kernels and other almond material in Board-accepted, non-human consumption outlets like oil and animal feed. Section 981.42(a) also provides

authority for the Board, with approval of the Secretary, to establish rules and regulations necessary to administer this program.

Prior to publication of the interim final rule, § 981.442(a)(5) of the order's administrative rules and regulations specified that handlers must satisfy their inedible disposition obligation no later than August 31 succeeding the crop year in which the obligation was incurred. The crop year runs from August 1 through July 31.

Since the mid-1990's, almond crops have doubled in size and are now over 1 billion pounds annually. Larger crops have resulted in larger quantities of inedible kernels. Between the 1993–94 and 1997–98 crop years, almond production averaged about 570 million pounds and inedible disposition obligations averaged about 7 million pounds annually. Between the 2003–04 and 2007–08 crop years, production averaged about 1 billion pounds and inedible disposition obligations averaged about 10 million pounds annually.

Many handlers now operate year-round and dispose of their inedible kernels at one time after the end of the crop year. With larger crops, it has become difficult for handlers to meet the August 31 inedible-disposition deadline because of the larger volume of inedible kernels that must be disposed of under the program. Thus, the Board recommended extending the deadline from August 31 to September 30, giving handlers an additional month to meet their prior year's obligation. This provides handlers more flexibility in their operations in light of larger almond crops. The revision of § 981.442(a)(5) continues in effect, accordingly.

This rule also continues in effect the removal of obsolete language in § 981.442(a)(5). That section was modified in 2006 to specify that at least 50 percent (increased from 25 percent) of a handler's crop year inedible disposition obligation must be satisfied with dispositions consisting of inedible kernels. The 50 percent requirement does not apply to handlers with total inedible obligations of less than 1,000 pounds. However, that section still contained the sentence referencing the 25 percent requirement. This rule continues in effect both the removal of that sentence and the revision of § 981.442(a)(5), accordingly.

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 action 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 6,200 producers of almonds in the production area and approximately 100 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 are defined as those whose annual receipts are less than $6,500,000.

Data for the 2006–07 crop year indicate that about 50 percent of the handlers shipped under $6,500,000 worth of almonds. Dividing average almond crop value for 2006–07 reported by the National Agricultural Statistics Service of $2.258 billion by the number of producers (6,200) yields an average annual producer revenue estimate of about $364,190. Based on the foregoing, about half of the handlers and a majority of almond producers may be classified as small entities.

This rule continues in effect both the revision and relaxation of § 981.442(a)(5) of the order's administrative rules and regulations, whereby handlers are permitted to satisfy their inedible disposition obligation no later than September 30 of each year for obligations incurred in the previous crop year, rather than the previous deadline of August 31 of each year. This rule also continues in effect the removal of an obsolete sentence in that section that referenced handler dispositions containing 25 percent inedible kernels. Authority for this action is provided in § 981.42(a) of the order.

Regarding the impact of this action on affected entities, extending the disposition deadline provides handlers with additional flexibility in light of larger almond crops. Handlers who operate year round and dispose of their inedible kernels at one time after the end of the crop year have an additional month to satisfy their prior year's inedible obligation.

The Board considered alternatives to this action. The Board's Food Quality and Safety Committee (committee) met in September and November 2007 and discussed the difficulties that handlers were experiencing with meeting the August 31 disposition deadline. The committee recommended revising the regulation to allow July dispositions to be counted towards either the current year or the following year's obligation. However, the intent of the inedible program is to ensure that poor quality almonds from the current crop year are removed from the market. Thus, allowing July dispositions to count towards the following year's obligation would not meet the intent of the program.

The committee deliberated on this issue again in April 2008. The committee considered the option of extending the August 31 deadline to September 30. The Board concurred with this option at its meeting on April 2, 2008, and referred the issue back to the committee for full discussion. The committee met again on April 22, 2008, to discuss the potential change. Ultimately, the committee recommended this option to the Board, and the Board subsequently unanimously recommended this change at its May 2008 meeting.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large almond 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. In addition, as noted in the initial regulatory flexibility analysis, 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.

Further, the committee and Board meetings where this issue was discussed were widely publicized throughout the almond industry and all interested persons were invited to attend the meetings and encouraged to participate in Board deliberations. Like all committee and Board meetings, the meetings held in September and November 2007, and in April and May 2008 were all public meetings and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on July 24, 2008. Copies of the rule were provided to all Board members and almond handlers by the

Board's staff. In addition, the rule was made available through the Internet by USDA and the Office of the Federal Register. That rule provided for a 60-day comment period which ended on September 22, 2008. 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/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide.* 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 Board's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** on July 24, 2008 (73 FR 43056), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 981—ALMONDS GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 981, which was published at 73 FR 43056 on July 24, 2008, is adopted as a final rule without change.

Dated: November 5, 2008.

David R. Shipman,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. E8–26851 Filed 11–10–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 611

RIN 1901–AB25

Advanced Technology Vehicles Manufacturing Incentive Program

AGENCY: Office of the Chief Financial Officer, Department of Energy (Department or DOE).

ACTION: Interim final rule; request for comment.

SUMMARY: Today's interim final rule establishes the Advanced Technology Vehicles Manufacturing Incentive Program authorized by section 136 of the Energy Independence and Security Act of 2007, as amended. Section 136 provides for grants and loans to eligible automobile manufacturers and component suppliers for projects that reequip, expand, and establish manufacturing facilities in the United States to produce light-duty vehicles and components for such vehicles, which provide meaningful improvements in fuel economy performance beyond certain specified levels. Section 136 also provides that grants and loans may cover engineering integration costs associated with such projects. This interim final rule establishes applicant eligibility and project eligibility requirements for both the grant and the loan program. Today's interim final rule also establishes the application requirements and the general terms for the loan program. At present, Congress has appropriated funds through the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, for only the loan program. As such, DOE will be implementing the loan program only at this time, though issuing rules for both the grant and loan programs.

DATES: This interim final rule is effective November 12, 2008. Applications for a direct loan will be reviewed by DOE in tranches. To be eligible for the first tranche, applications may be submitted or hand delivered to the Postal Mail address listed in **ADDRESSES** until December 31, 2008. The deadline for loan applications for subsequent tranches of loans will be the end of every calendar quarter thereafter as funds and available loan authority permit. Comments must be received by DOE no later than December 12, 2008. If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of Information regulations at 10 CFR 1004.11.

ADDRESSES: You may submit comments, identified by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: ATVMLoan@hq.doe.gov*.
- *Postal Mail:* Advanced Technology Vehicles Manufacturing Incentive Program, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.
- *Hand Delivery/Courier:* Advanced Technology Vehicles Manufacturing Incentive Program, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Instructions: All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Lachlan Seward, Advanced Technology Vehicles Manufacturing Incentive Program, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–8146; or Daniel Cohen, Assistant General Counsel for Legislation and Regulatory Law, Office of the General Counsel, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–2918.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Section 136 of the Energy Independence and Security Act of 2007 (''EISA''), enacted on December 19, 2007, Public Law 110–140, authorizes the Secretary of Energy (''Secretary'') to make grants and direct loans to eligible applicants for projects that reequip, expand, or establish manufacturing facilities in the United States to produce qualified advanced technology vehicles, or qualifying components and also for