

per hundred units to align it with current industry practices, based on the AFFI request.

7. AMS did not modify use of 450 gram samples in response to AFFI questioning why we used 450 grams for the individual sample sizes for styles other than whole instead of 454 grams, which equals one pound. AMS responded that AQLs are based on increments of 50 units so rounding to the nearest AQL results in using 450 grams per sample unit or approximately one pound. AFFI concurred with use of 450 gram samples.

8. In response to a request to revise the definitions of “good appearance” and “reasonably good appearance” because they were too similar, AMS added flowability, brightness, and overall appearance to the description of “reasonably good appearance,” and also added the classification and definition for “poor appearance.” AFFI agreed to the new terminology and additional classification.

9. In response to a comment received, AMS did not include a requirement for heat treatment but added that option in the product description, by means of blanching. The revised statement is: “have been properly prepared, washed, blanched or unblanched, and then frozen in accordance with good commercial practice and maintained at temperatures necessary to preserve the product.” AFFI concurred with the revised product description.

10. In response to AFFI comments, AMS agreed to limit the product description to “individually quick frozen” onions.

11. In accordance with AMS’ policy requiring commodities covered by U.S. grade standards to comply with all federal, state, and local laws, AMS did not include microbiological requirements, storage temperatures, shelf life requirements, and limits for chemical and pesticide residues to the proposed frozen onion grade standards. Such requirements are not typically included in the voluntary U.S. grade standards. AFFI concurred.

12. In response to a request from AFFI members, AMS changed the proposed size descriptions for “whole” styles as follows:

Type I from  $\frac{3}{4}$  inch (19mm) to  $1\frac{1}{8}$  inch (48mm) changed to  $\frac{7}{8}$  inch (22mm) to  $1\frac{1}{8}$  inch (48mm).

Type II (Pearl) from  $\frac{1}{4}$  inch (6mm) to  $\frac{7}{8}$  inch (22mm) changed to  $\frac{3}{8}$  inch (10mm) to  $\frac{7}{8}$  inch (22mm).

13. In response to an AFFI member’s comment to the AMS’ **Federal Register** notice published on June 1, 2011 (76 FR 31575), AMS revised the Defect Tables and Definitions of the proposed

standards. The AFFI member, a major processor and distributor of strips and diced styles of frozen onions, agreed with most of the proposal, but provided additional suggestions concerning whole, strips, diced, and other styles containing crown material defects in its comments. The member also suggested additional provisions for defects, such as core material, sprouts, seed stems, and root material; and, suggested that portions of root crown exceeding  $\frac{3}{8}$  inch (10 mm) in diameter be listed in a separate category. AMS agreed and revised Defect Tables I (whole style) and II (strips, diced, and other styles) of the proposed grade standards and definitions to include major and minor defects in core material, to include root crown, with dimensions listed accordingly.

AMS sent a discussion draft of the proposed standards to AFFI members for concurrence. AMS received confirmation in November 2015 that AFFI members agreed with the changes, and had no additional comments.

#### Conclusions

These proposed standards would establish the grade levels “A,” “B,” and “Substandard,” as well as proposed AQL tolerances and acceptance numbers for each quality factor as defined for each grade level.

AMS used the standard format for U.S. standards for grades using “individual attributes.” Specifically, the proposed grade standards would provide for tolerance limits for defects; acceptance numbers of allowable defects with single letter grade designation based on a specified number or weight of sample units; a product description for frozen onions; and, style designations for “whole,” “strips,” “diced,” and “other” styles. The proposal also would define quality factors, AQLs, and tolerances for defects in frozen onions, and determine sample unit sizes for this commodity. The grade of a sample unit of frozen onions would be ascertained considering the factors of varietal characteristics, color, flavor and odor, appearance, absence of grit or dirt, defects, and character.

These voluntary grade standards would provide a common language for trade, a means of measuring value in marketing, and guidance in the effective use of frozen onions.

The official grade of a lot of frozen onions covered by these standards would be determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain

Other Processed Food Products (7 CFR 52.1 to 52.83).

AMS is publishing this notice with a 60-day comment period that will provide a sufficient amount of time for interested persons to comment on the proposed new grade standards for frozen onions.

**Authority:** 7 U.S.C. 1621–1627

Dated: November 18, 2016.

**Elanor Starmer,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2016–28255 Filed 11–22–16; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 966

[Doc. No. AMS–SC–16–0088; SC16–966–1 PR]

#### Tomatoes Grown in Florida; Increased Assessment Rate

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement a recommendation from the Florida Tomato Committee (Committee) to increase the assessment rate established for the 2016–17 and subsequent fiscal periods from \$0.03 to \$0.035 per 25-pound carton of tomatoes handled under the marketing order (order). The Committee locally administers the order and is comprised of producers of tomatoes operating within the area of production. Assessments upon Florida tomato handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by December 8, 2016.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: <http://www.regulations.gov>. Comments should reference the document 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.regulations.gov>. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

**FOR FURTHER INFORMATION CONTACT:**

Steven W. Kauffman, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 291-8614, or Email: [Steven.Kauffman@ams.usda.gov](mailto:Steven.Kauffman@ams.usda.gov) or [Christian.Nissen@ams.usda.gov](mailto:Christian.Nissen@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202)720-8938, or Email: [Richard.Lower@ams.usda.gov](mailto:Richard.Lower@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), 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 of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable Florida tomatoes beginning on August 1, 2016, and continue until amended, suspended, or terminated.

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 proposed rule would increase the assessment rate established for the Committee for the 2016-17 and subsequent fiscal periods from \$0.03 to \$0.035 per 25-pound carton of tomatoes.

The Florida tomato 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 of Florida tomatoes. They are familiar with the Committee's needs and with the costs of 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 2015-16 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of \$0.03 per 25-pound carton of tomatoes 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 August 16, 2016, and unanimously recommended 2016-17 expenditures of \$1,494,600 and an assessment rate of \$0.035 per 25-pound carton of tomatoes. In comparison, last year's budgeted expenditures were \$1,513,177. The assessment rate of \$0.035 is \$0.005 higher than the rate currently in effect. At the current assessment rate, assessment income would equal only \$990,000, an amount insufficient to cover the Committee's anticipated expenditures of \$1,494,600. The Committee considered the proposed expenses and recommended increasing the assessment rate.

The major expenditures recommended by the Committee for the 2016-17 year include \$450,000 for salaries, \$400,000 for research, and \$400,000 for education and promotion.

Budgeted expenses for these items in 2015-16 were \$435,377, \$400,000, and \$400,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida tomatoes. Florida tomato shipments for the 2016-17 year are estimated at 33 million 25-pound cartons, which should provide \$1,155,000 in assessment income. Income derived from handler assessments, along with interest income, block grants, and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (approximately \$999,361) would be kept within the maximum permitted by the order of no more than approximately one fiscal period's expenses as stated in § 966.44.

The proposed assessment rate would 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 would be in effect for an indefinite period, the Committee would 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 would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2016-17 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

**Initial Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed 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 businesses 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 100 producers of tomatoes in the production area and approximately 80 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 are defined as those whose annual receipts are less than \$7,500,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2015–16 season was approximately \$11.27 per 25-pound carton, and total fresh shipments were approximately 28.2 million cartons. Using the average price and shipment information, number of handlers, and assuming a normal distribution, the majority of handlers have average annual receipts below \$7,500,000. In addition, based on production data, an estimated grower price of \$6.25, and the total number of Florida tomato growers, the average annual grower revenue is above \$750,000. Thus, a majority of the handlers of Florida tomatoes may be classified as small entities while a majority of the producers may be classified as large entities.

This proposal would increase the assessment rate established for the Committee and collected from handlers for the 2016–17 and subsequent fiscal periods from \$0.03 to \$0.035 per 25-pound carton of tomatoes. The Committee unanimously recommended 2016–17 expenditures of \$1,494,600 and an assessment rate of \$0.035 per 25-pound carton handled. The proposed assessment rate of \$0.035 is \$.005 higher than the 2015–16 rate. The quantity of assessable tomatoes for the 2016–17 season is estimated at 33 million 25-pound cartons. Thus, the \$0.035 rate should provide \$1,155,000 in assessment income. Income derived from handler assessments, along with funds from interest income, MAP funds, and block grants, should provide sufficient funds to meet this year's anticipated expenses.

The major expenditures recommended by the Committee for the 2016–17 year include \$450,000 for salaries, \$400,000 for research, and \$400,000 for education and promotion. Budgeted expenses for these items in 2015–16 were \$435,377, \$400,000, and \$400,000, respectively.

At the current assessment rate, assessment income would equal only \$990,000, an amount insufficient to cover the Committee's anticipated

expenditures of \$1,494,600. The Committee considered the proposed expenses and recommended increasing the assessment rate.

Prior to arriving at this budget and assessment rate, the Committee considered information from various sources, such as the Committee's Executive Subcommittee, Research Subcommittee, and Education and Promotion Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various activities to the tomato industry. The Committee determined that 2016–17 expenditures of \$1,494,600 were appropriate, and the recommended assessment rate, along with funds from interest income, block grants, and funds from reserves, would be adequate to cover budgeted expenses.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the average grower price for the 2016–17 season could be approximately \$6.50 per 25-pound carton of tomatoes. Therefore, the estimated assessment revenue for the 2016–17 crop year as a percentage of total grower revenue would be approximately 0.5 percent.

This action would increase 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 would be offset by the benefits derived by the operation of the marketing order.

The Committee's meeting was widely publicized throughout the Florida tomato industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 16, 2016, 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 comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178 Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Florida tomato 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.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

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/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2016–17 fiscal period began on August 1, 2016, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Florida tomatoes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; and (3) 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.

#### 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 proposed to be amended as follows:

#### **PART 966—TOMATOES GROWN IN FLORIDA**

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

■ 2. Section 966.234 is revised to read as follows:

#### **§ 966.234 Assessment rate.**

On and after August 1, 2016, an assessment rate of \$0.035 per 25-pound carton is established for Florida tomatoes.

Dated: November 18, 2016.

**Elanor Starmer,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2016-28259 Filed 11-22-16; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**7 CFR Parts 1150, 1160, 1205, 1206, 1207, 1208, 1209, 1210, 1212, 1214, 1215, 1216, 1217, 1218, 1219, 1222, 1230, 1250, and 1260**

[Document Number AMS-DA-16-0101]

#### Provisions for Removing Commodity Research and Promotion Board Members and Staff

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

**ACTION:** Proposed rule.

**SUMMARY:** This proposal would amend the research and promotion orders—or the regulations under the orders—overseen by the Agricultural Marketing Service (AMS) to provide uniform authority for the removal of board members and staff who fail to perform their duties or who engage in dishonest actions or willful misconduct. The removal provisions in 13 of the orders would be modified to allow the U.S. Department of Agriculture (USDA) to take action necessary to ensure the boards can continue to fulfill their intended purposes with minimal disruption. Removal provisions would be added to the six orders that do not currently provide for such action.

**DATES:** Comments must be received by December 8, 2016.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposed rule. Comments may be submitted on the internet at: <http://www.regulations.gov>. Written comments may also be sent to Laurel L. May, Senior Marketing Specialist, Order Formulation and Enforcement Division, USDA/AMS/Dairy Program, 1400 Independence Avenue SW., Room 2967-S—Stop 0231, Washington, DC 20250-0231; facsimile: 202-690-0552. All comments should reference the document number and the date and page number of this issue of the **Federal Register**, and will be made available for public inspection in the above office during regular business hours, or may be viewed at: <http://www.regulations.gov>. Please be advised that the identity of the individuals or entities submitting the comments will

be made public on the internet at the address provided above.

#### FOR FURTHER INFORMATION CONTACT:

Laurel L. May, Senior Marketing Specialist, USDA/AMS/Dairy Program, telephone 202-690-1366, or email [Laurel.May@ams.usda.gov](mailto:Laurel.May@ams.usda.gov); or Whitney Rick, Director; Promotion, Research, and Planning Division; USDA/AMS/Dairy Program; telephone 202-720-6961; or email [Whitney.Rick@ams.usda.gov](mailto:Whitney.Rick@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued under 19 of the commodity research and promotion orders established under the following acts: Beef Promotion and Research Act of 1985 (7 U.S.C. 2901-2911); Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411-7425); Cotton Research and Promotion Act of 1966 (7 U.S.C. 2101-2118); Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501-4514); Egg Research and Consumer Information Act of 1974 (7 U.S.C. 2701-2718); Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401-6417); Hass Avocado Promotion, Research, and Information Act of 2000 (U.S.C. 7801-7813); Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101-6112); Popcorn Promotion, Research, and Consumer Information Act of 1996 (7 U.S.C. 7481-7491); Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819); Potato Research and Promotion Act of 1971 (7 U.S.C. 2611-2627); and Watermelon Research and Promotion Act (7 U.S.C. 4901-4916). These acts are collectively referred to as “commodity research and promotion laws” or “acts.”

The preceding acts provide that administrative proceedings must be exhausted before parties may file suit in court. Under those acts, any person subject to an order may file a petition with the Secretary of Agriculture (Secretary) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with laws and request a modification of the order or to be exempted therefrom. The petitioner is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary will make a ruling on the petition. The acts provide that the district courts of the United States in any district in which the person is an inhabitant, or has his or her principal place of business, has the jurisdiction to review the Secretary's rule, provided a complaint is filed within 20 days from the date of the entry of the ruling. There are no administrative proceedings that must be exhausted prior to any judicial

challenge to the provision of the Beef Promotion and Research Act of 1985.

#### Executive Order 12866 and Executive Order 13563

USDA is issuing this proposed rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action has been designated as a “non-significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has waived the review process.

#### Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

#### Executive Order 12988

*Beef Promotion and Research Act of 1985*

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 11 of the Beef Promotion and Research Act of 1985 (7 U.S.C. 2910) provides that it shall not preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State.

*Commodity Promotion, Research, and Information Act of 1996*

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.