

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 958.328 is amended by revising paragraphs (a)(1)(ii), (a)(3)(i), and (b) to read as follows:

§ 958.328 Handling regulation.

* * * * *

(a) * * *

(1) * * *

(ii) U.S. No. 2 or U.S. Commercial grade, at least 1½ inches minimum diameter but not more than 30 percent of the lot shall be comprised of onions of U.S. No. 1 quality when packed in containers weighing less than 60 pounds; or

* * * * *

(3) * * *

(i) U.S. No. 2 or U.S. Commercial grade, at least 3 inches minimum diameter, but not more than 30 percent of the lot shall be comprised of onions of U.S. No. 1 quality when packed in containers weighing less than 60 pounds; or

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(b) *Pack.* Onions packed as U.S. Commercial grade in containers weighing less than 60 pounds shall have the grade marked permanently and conspicuously on the container.

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Dated: July 25, 1996.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 96–19375 Filed 7–30–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 981

[Docket No. FV96–981–2 IFR]

Almonds Grown in California; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the Almond Board of California (Board)

under Marketing Order No. 981 for the 1996–97 and subsequent crop years. The Board is responsible for local administration of the marketing order which regulates the handling of almonds grown in California.

Authorization to assess almond handlers enables the Board to incur expenses that are reasonable and necessary to administer the program.

DATES: Effective July 1, 1996. Comments received by August 30, 1996, 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 in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, FAX # (202) 720–5698. 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.

FOR FURTHER INFORMATION CONTACT:

Tershirra Yeager, Marketing Assistant, Marketing Order Administrative Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2522–S, Washington, DC 20090–6456, telephone (209) 720–5127, or FAX # (202) 720–5698; or Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2522–S, Washington, DC 20090–6456, telephone (202) 720–1509 or FAX # (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax# (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 981 (7 CFR part 981), regulating the handling of almonds grown in California. The marketing agreement and order are 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 (Department) 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, California almonds 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 almonds beginning July 1, 1996, and continuing 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 the Secretary 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 the Secretary 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 the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to the 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.

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 7,000 producers of California almonds under this marketing order, and approximately 115 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000. The majority of California almond producers and handlers may be classified as small entities.

The California almond marketing order provides authority for the Board, with the approval of the Department, to formulate an annual budget of expenses

and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California almonds. They are familiar with the Board'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. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The Board met on May 10, 1996, and unanimously recommended 1996-97 crop year expenditures of \$6,426,500 and an assessment rate of \$0.01 per pound of almonds. In comparison, last year's budgeted expenditures were \$4,952,591 with the assessment rate of \$0.75 per pound. Major expenditures recommended by the Board for the 1996-97 crop year include \$3,333,500 for information and research, \$731,534 for salaries, \$660,500 for international programs, \$558,131, production research, \$97,470 for travel, and \$91,160 for crop estimate.

Of the \$3,333,500 budgeted for information and research, the Board allotted \$1.553 million for a "coupon" promotion project to be conducted on a national scale. In the 1995-96 crop year, \$250,000 was budgeted for a similar project on a smaller scale. The Board will only conduct the 1996-97 budgeted project if the 1995-96 smaller scale project proves to be beneficial to the industry. The success of this program will be determined after the 1995-96 crop year is completed. In the event the Board decides not to undertake this project, appropriate adjustments will be made when billing handlers.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected receipts of California almonds. Almond shipments for the year are estimated at 504.4 million pounds which should provide \$5.044 million in assessment income. Income derived from handler assessments, interest, a production research conference, Market Access Program, along with funds derived from the Board's authorized reserve will be adequate to cover budgeted expenses. Any unexpended funds from the 1996-97 crop year may be carried over to cover expenses during the first four months of the 1997-98 crop year.

While this rule may impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS

has determined that this rule will not have a significant economic impact on a substantial number of small entities. Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

Although this assessment rate is effective for an indefinite period, the Board 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 Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 1996-97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board 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 action until 30 days after publication in the Federal Register because: (1) The Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the crop year began on July 1, 1996, and the marketing order requires that the rate of assessment for the crop year apply to all assessable California almonds handled during the crop year; (3) handlers are aware of this action which was unanimously recommended by the Board at a public meeting and is similar to other budget actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be

considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 981

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

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601-674.

Note: This section will appear in the Code of Federal Regulations.

2. In part 981, a new subpart is added consisting of section 981.343 to read as follows:

Subpart—Assessment rates.

§ 981.343 Assessment rate.

On and after July 1, 1996, an assessment rate of \$0.01 cent per pound of assessable almonds is established for California almonds.

Dated: July 25, 1996.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 96-19377 Filed 7-30-96; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 993

[Docket No. FV96-993-1 IFR]

Dried Prunes Produced in California; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the Prune Marketing Committee (Committee) under Marketing Order No. 993 for the 1996-97 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of dried prunes produced in California. Authorization to assess prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

DATES: Effective on August 1, 1996. Comments received by August 30, 1996, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments