

Order 12988. Finally, this action is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and, thus, is exempt from the provisions of the Act.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

§ 319.40-5 [Amended]

2. In § 319.40-5, paragraphs (g)(1), (g)(2)(i), (g)(6), and (i) are amended by removing the word "fumigated," each time it appears and adding the phrase "fumigated and aerated," in its place.

§ 319.40-7 [Amended]

3. In § 319.40-7, paragraph (f), the introductory text is amended by adding a third sentence to read as follows: "Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with the Treatment Manual and label instructions approved by the U.S. Environmental Protection Agency."

Done in Washington, DC, this 27th day of October 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99-28606 Filed 11-2-99; 8:45 am]

BILLING CODE 3410-34-U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV99-928-1 FR]

Papayas Grown in Hawaii; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate from \$0.0063 to \$0.008 per pound of assessable papayas established for the Papaya Administrative Committee (Committee) under Marketing Order No. 928 for the 1999-2000 and subsequent fiscal years. The Committee is responsible for local administration of the marketing order which regulates the handling of papayas grown in Hawaii. Authorization to assess papaya handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year began on July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: November 4, 1999.

FOR FURTHER INFORMATION CONTACT:

Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (559) 487-5901; Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698. Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 155 and Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, hereinafter referred to as the "order." 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, papaya 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 papayas beginning July 1, 1999, 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 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.

This rule increases the assessment rate established for the Committee for the 1999-2000 and subsequent fiscal years from \$0.0063 per pound to \$0.008 per pound of assessable papayas.

The papaya marketing order provides authority for the Committee, 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 Committee are producers and handlers of papayas. 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 1998-1999 and subsequent fiscal years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on April 22, 1999, to discuss the crop estimate, budget, and assessment rate for the 1999-2000 fiscal year. On July 15, 1999, the Committee completed a mail ballot on the crop estimate and assessment rate, and on an eight-to-one vote, adopted a crop estimate of 40 million pounds of

assessable papayas and an assessment rate of \$0.008 per pound for the 1999–2000 and subsequent fiscal years. The person who voted no objected to the higher assessment rate. The Committee unanimously recommended a 1999–2000 fiscal year budget of \$522,500.

The assessment rate of \$0.008 is \$0.0017 higher than the rate currently in effect. The budgeted expenses are \$39,000 less than the \$561,500 budgeted for last year. The Committee determined that a higher assessment rate was necessary to meet the recommended expenses and maintain a reserve fund for the 1999–2000 fiscal year. For several fiscal years, money from the reserve fund has been used to meet a portion of budgeted expenses in an effort to keep the assessment rate as low as possible. The Committee believes a further reduction of the reserve fund would not be prudent.

The Committee is authorized to maintain reserve funds in an amount not to exceed approximately one fiscal year's operational expenses. Last year, the reserve fund was \$25,200. This year it is expected to be \$25,000, which is approximately one percent lower than the previous year and considered adequate by the Committee. After consideration of the estimated crop size and anticipated expenses for the 1999–2000 fiscal year, it was determined that increasing the assessment rate by approximately 27 percent will provide sufficient funds to meet anticipated expenses and maintain an adequate reserve fund.

The major expenditures recommended by the Committee for the 1999–2000 year include \$230,000 for marketing and promotion, \$90,500 for research and development, and \$98,000 for salaries. Budgeted expenses for these items in 1998–99 were \$183,000 for marketing and promotion, \$171,500 for research and development, and \$98,000 for salaries, respectively.

The assessment rate recommended by the Committee was derived by dividing assessment income needed by expected shipments of papayas. Papaya shipments for the year are estimated at 40 million pounds which should provide \$320,000 in assessment income. Income derived from handler assessments, when combined with income from the Hawaii Department of Agriculture, State of Hawaii (Research), USDA's Foreign Agricultural Service, County of Hawaii, and the Japanese Inspection program, along with interest income of \$16,000, will be adequate to cover budgeted expenses. Funds in the reserve (estimated to be \$25,000 at the end of the 1999–2000 fiscal year) will be kept within the maximum permitted in

§ 928.42(a)(2) of the order. The order authorizes approximately one fiscal year's expenses for the reserve.

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 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 year 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 the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department 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 1999–2000 budget and those for subsequent fiscal years would be reviewed and, as appropriate, approved by the Department.

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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 400 producers of papayas in the production area and approximately 60 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Based on a reported average f.o.b. price of \$1.30 per pound of papayas, a handler would have to ship in excess of 3.85 million pounds of papayas to have annual receipts of \$5,000,000. Last year,

a majority of the handlers shipped less than 3.85 million pounds of papayas, and, therefore, could be considered small businesses under SBA's definition.

Based on a reported average grower price of \$0.45 per pound and industry shipments of 36 million pounds, total grower revenues would be \$16.2 million. Average grower revenue would thus be \$40,500. Based on the foregoing, the majority of producers of papayas may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal years from \$0.0063 per pound to \$0.008 per pound of assessable papayas. The Committee recommended 1999–2000 expenditures for \$522,500 and the \$0.008 per pound assessment rate. The assessment rate of \$0.008 is \$0.0017 higher than the 1998–99 rate. The quantity of assessable papayas for the 1999–2000 fiscal year is estimated at 40 million pounds. Thus, the \$0.008 rate should provide \$320,000 in assessment income. Income derived from handler assessments, the Hawaii Department of Agriculture, State of Hawaii (Research), USDA's Foreign Agricultural Service, County of Hawaii, and the Japanese Inspection program, along with interest income of \$16,000, will be adequate to cover budgeted expenses. Funds in the reserve (estimated to be about \$25,000 at the end of the 1999–2000 fiscal year) will be kept within the maximum permitted in § 928.42(a)(2) of the order. The order authorizes approximately one fiscal year's expenses for the reserve.

The Committee recommended 1999–2000 expenditures of \$522,500. The major expenditures recommended for the 1999–2000 year include \$230,000 for marketing and promotion, \$90,500 for research and development, and \$98,000 for salaries. Budgeted expenses for these items in 1998–99 were \$183,000 for marketing and promotion, \$171,500 for research and development, and \$98,000 for salaries, respectively.

The Committee discussed the alternative of decreasing expenditure levels for marketing and promotion and further reducing research and development expenditures. It determined that the programs should be funded at the recommended levels. The assessment rate of \$0.008 per pound of assessable papayas was determined by dividing the assessment income needed by the quantity of assessable papayas, estimated at 40 million pounds for the 1999–2000 fiscal year. This estimate would generate \$320,000 in assessment income. When combined with \$208,800 in anticipated income from the

previously mentioned sources, and \$16,000 in interest income, the Committee will have adequate funds to meet its 1999–2000 expenses.

A review of historical information and preliminary information pertaining to the 1999–2000 fiscal year indicates that the grower price for the season could range between \$.30 and \$.45 per pound of papayas. Therefore, the estimated assessment revenue for the 1999–2000 fiscal year as a percentage of total grower revenue could range between 1.8 and 2.7 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 Hawaii papaya industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 22, 1999, 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 Hawaii papaya 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.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on September 2, 1999 (64 FR 48115). Copies of the proposed rule were also mailed or sent via facsimile to all papaya handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register. The period of comments ended October 4, 1999. No comments were received.

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 material presented, including the

information and recommendation submitted by the Committee and other available information, it 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: (1) Handlers are already receiving 1999–2000 crop papayas from growers; (2) the 1999–2000 fiscal year began on July 1 and the order requires that the assessment rate apply to all papayas received during that fiscal year; (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 at a public meeting, and is similar to other assessment rate actions issued in past years; (5) a 30-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 928.226 is revised to read as follows:

§ 928.226 Assessment rate.

On and after July 1, 1999, an assessment rate of \$0.008 per pound is established for Hawaii papayas.

Dated: October 28, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–28751 Filed 11–2–99; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL ELECTION COMMISSION

[Notice 1999–23]

11 CFR Parts 110, 9004, and 9034

Party Committee Coordinated Expenditures; Costs of Media Travel With Publicly Financed Presidential Campaigns

AGENCY: Federal Election Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: On August 5, 1999, the Commission published the text of revised regulations governing publicly financed Presidential campaigns. These rules address the costs of transportation and ground services that federally funded Presidential primary and general election campaigns may pass on to the news media covering their campaigns, as well as party committee coordinated expenditures that are made before the date their candidates receive the nomination. 64 FR 42579. The Commission announces that these rules are effective as of November 3, 1999.

EFFECTIVE DATE: November 3, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Acting Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463, (202) 694–1650 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is announcing the effective date of revised regulations at 11 CFR 110.7(d), 9004.6(a) and (b), and 9034.6(a) and (b). New section 11 CFR 110.7(d) addresses party committee coordinated expenditures that are made before the date the party's candidate receives the Presidential nomination. The remaining cited sections address the costs of transportation and ground services that federally funded Presidential primary and general election campaigns may pass on to the news media covering their campaigns.

Section 438(d) of Title 2, United States Code, and sections 9009(c) and 9039(c) of Title 26, United States Code, require that any rules or regulations prescribed by the Commission to carry out the provisions of Title 2 or 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. These rules were transmitted to Congress on July 30, 1999. Thirty legislative days expired in the Senate and the House of Representatives on October 19, 1999.

Announcement of Effective Date: New 11 CFR 110.7(d) and revised 11 CFR 9004.6(a) and (b) and 9034.6(a) and (b), as published at 64 FR 42579 (August 5, 1999), are effective as of November 3, 1999.

Dated: October 29, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–28703 Filed 11–2–99; 8:45 am]

BILLING CODE 6715–01–U