

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 979

[Docket No. FV00-979-1 PR]

Melons Grown in South Texas; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the South Texas Melon Committee (Committee) for the 1999-2000 and subsequent fiscal periods from \$0.04 to \$0.05 per carton of melons handled. The Committee is responsible for local administration of the marketing order which regulates the handling of melons (cantaloupes and honeydews) grown in South Texas. Authorization to assess melon handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began October 1 and ends September 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by February 9, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698, or E-mail: moab.docketclerk@usda.gov. 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: Cynthia Cavazos, Marketing Assistant, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, Texas

78501; telephone: (956) 682-2833, Fax: (956) 682-5942; 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. 156 and Order No. 979, both as amended (7 CFR part 979), regulating the handling of melons grown in South Texas, 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, South Texas melon 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 melons beginning on October 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 would increase the assessment rate established for the Committee for the 1999-2000 and subsequent fiscal periods from \$0.04 to \$0.05 per carton of melons handled.

The South Texas melon 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 growers and handlers of South Texas melons. 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 1997-1998 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period 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, in a mail vote, unanimously recommended 1999-2000 expenses of \$219,148 for personnel, office, compliance, promotion, and research expenses. These expenses were approved in September 1999. The assessment rate and specific funding for research and promotion projects were to be recommended at a later Committee meeting.

The Committee met on November 4, 1999, and unanimously recommended 1999-2000 expenditures of \$265,500 and an assessment rate of \$0.05 per carton of melons. In comparison, 1998-99 budgeted expenditures were \$219,148. The assessment rate of \$0.05 is \$0.01 higher than the rate currently in

effect. The Committee voted to increase its assessment rate because the current rate would not generate the income needed to administer the marketing order and would reduce the Committee's reserve funds beyond the level acceptable to the Committee. Assessment income, along with funds from the Committee's authorized reserve, would provide the Committee with adequate funds to meet its 1999–2000 fiscal period's expenses.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include \$98,800 for personnel and administrative expenses, \$31,200 for compliance activities, \$110,500 for research projects, and \$25,000 for promotional activities. Budgeted expenses for these items in 1998–99 were \$97,600, \$32,400, \$79,148, and \$10,000, respectively.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected shipments of South Texas melons, and the amount of funds in the Committee's operating reserve. Melon shipments for the year are estimated at 4,200,000 cartons, which should provide \$210,000 in assessment income at the \$0.05 per carton rate. Income derived from handler assessments, along with funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses for the 1999–2000 fiscal period. Funds in the reserve (currently \$316,208) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 979.44).

The proposed assessment rate would 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 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 the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department 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 1999–2000 budget and those for subsequent fiscal

periods 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 initial 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 20 growers of South Texas melons in the production area and 20 handlers subject to regulation under the marketing order. Small agricultural growers have been defined by the Small Business Administration (SBA) (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.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing melons. For the 1998–99 marketing year, melons produced on 8,364 acres were shipped by the industry's 20 handlers with the average acreage being 418 acres and the median volume handled was 193,867 cartons. In terms of production value, average revenues for the 20 handlers were estimated to be \$2.9 million.

The South Texas melon industry is characterized by growers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of melons. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the melon production season is complete. For this reason, typical melon growers and handlers either double-crop melons during other times of the year or produce alternate commodities, like onions.

Based on the SBA's definition of small entities, the Committee estimates that a majority of the 20 handlers regulated by the order would be considered small entities if only their spring melon revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers

above the \$5,000,000 annual receipt threshold. Of the 20 growers within the production area, few have sufficient acreage to generate sales in excess of \$500,000; therefore, the majority of growers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1999–2000 and subsequent fiscal periods from \$0.04 to \$0.05 per carton of melons. The Committee unanimously recommended 1999–2000 expenditures of \$265,500 and an assessment rate of \$0.05 per carton of melons. In comparison, last year's budgeted expenditures were \$219,148. The proposed assessment rate of \$0.05 is \$0.01 higher than the rate currently in effect. At the rate of \$0.05 per carton and an estimated 2000 melon production of 4,200,000 cartons, the projected income derived from handler assessments (\$210,000), along with funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 1999–2000 fiscal period include \$98,800 for personnel and administrative expenses, \$31,200 for compliance activities, \$110,500 for research projects, and \$25,000 for promotional activities. Budgeted expenses for these items in 1998–1999 were \$97,600, \$32,400, \$79,148, and \$10,000, respectively.

The Committee voted to increase its assessment rate because the current rate would not generate the income needed to administer the marketing order and would reduce the Committee's reserve funds beyond the level acceptable to the Committee. Assessment income, along with funds from the Committee's authorized reserve, would provide the Committee with adequate funds to meet its 1999–2000 fiscal period's expenses.

The Committee reviewed and unanimously recommended 1999–2000 expenditures of \$265,500, which included increases in personnel, promotion, and research projects. Prior to arriving at this budget, the Committee considered information from various sources, including the Research and Post Harvest Subcommittees. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the melon industry. The assessment rate of \$0.05 per carton of assessable melons was then determined by considering the total recommended budget, the quantity of assessable melons, estimated at 4,200,000 million cartons for the 1999–2000 fiscal period,

and amount of funds in the Committee's operating reserve. The recommended rate will generate \$210,000, which is \$55,500 below the anticipated expenses. The Committee found this acceptable because reserve funds will be used to make up the deficit.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 1999–2000 marketing season could range between \$9.00 and \$12.00 per carton of cantaloupes and between \$6.00 and \$9.00 per carton of honeydew melons. Therefore, the estimated assessment revenue for the 1999–2000 fiscal period as a percentage of total grower revenue could range between .55 and .42 percent for cantaloupes and between .83 and .55 percent for honeydew melons.

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. In addition, the Committee's meeting was widely publicized throughout the South Texas melon industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the November 4, 1999, 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 information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large South Texas melon 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 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.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 1999–2000 fiscal period began on October 1, 1999, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable melons 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 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is proposed to be amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 979.219 is revised to read as follows:

§ 979.219 Assessment rate.

On and after October 1, 1999, an assessment rate of \$0.05 per carton is established for South Texas melons.

Dated: January 4, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–507 Filed 1–7–00; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Liquidation of Collateral

AGENCY: Small Business Administration (SBA).

ACTION: Proposed rule.

SUMMARY: SBA proposes to amend its regulation regarding the liquidation and sale of loans. As part of a government-wide initiative, federal credit agencies are being directed by the Office of Management and Budget (OMB) to sell their loan portfolios. Previously, SBA amended its regulations to permit the sale of direct and purchased loans made under the authorities of the 7(a) and 501, 502, 503, and 504 programs (64 FR

44109). SBA now proposes to sell its physical disaster home loans, physical disaster business loans and economic injury disaster loans (collectively referred to as Disaster Assistance Loans). This will include sales of both secured and unsecured Disaster Assistance Loans in performing and non-performing status. The Disaster Assistance Loans will be sold to qualified bidders by means of competitive procedures at publicly advertised sales. Bidder qualifications will be set for each sale in accordance with the terms and conditions of each sale.

DATES: Submit comments on or before February 9, 2000.

ADDRESSES: Comments should be mailed to Arnold S. Rosenthal, Assistant Administrator for Portfolio Management, Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Richard Blewett, 202–205–4202.

SUPPLEMENTARY INFORMATION: 13 CFR 120.540 sets forth SBA's policy for the liquidation of collateral and the sale of commercial loans. SBA now proposes to amend and expand this rule to include the sale of Disaster Assistance Loans in asset sales.

Public Law 104–134, the “Debt Collection Improvement Act of 1996,” enacted on April 26, 1996, provides that, “the head of an executive * * * agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any non-tax debt owed to the United States that is delinquent for more than 90 days.” 31 U.S.C. 3711(i)(1).

The Small Business Act, 15 U.S.C. 634(b)(2), provides that “(The Administrator) may sell at public or private sale . . . in (her) discretion * * * any evidence of debt * * * personal property, or security. * * *” It further provides in 15 U.S.C. 634(b)(7) that the Administrator may “take any and all actions * * * when (she) determines such actions are necessary or desirable in * * * liquidating or otherwise dealing with or realizing on loans. * * *” Pursuant to this statutory authority, SBA is establishing an Asset Sales Program to sell portions of its direct and participation loan portfolios.

Compliance With Executive Orders 13132, 12988, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Paperwork Reduction Act (44 U.S.C. Ch. 35).

This proposed rule is not a significant rule within the meaning of Executive