

# Rules and Regulations

Federal Register

Vol. 60, No. 127

Monday, July 3, 1995

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 958

[Docket No. FV95-958-1FIR]

#### Idaho-Eastern Oregon Onions; Expenses and Assessment Rate

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that authorized expenses and established an assessment rate that generated funds to pay those expenses. Authorization of this budget enables the Idaho-Eastern Oregon Onion Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

**EFFECTIVE DATE:** July 1, 1995, through June 30, 1996.

**FOR FURTHER INFORMATION CONTACT:** Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone 202-720-9918, or Robert J. Curry, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204, telephone 503-326-2724.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon. 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, Idaho-Eastern Oregon onions are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions handled during the 1995-96 fiscal period, which began July 1, 1995, and ends June 30, 1996. This final 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 in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of 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 450 producers of Idaho-Eastern Oregon

onions under the marketing order and approximately 35 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 Idaho-Eastern Oregon onion producers and handlers may be classified as small entities.

The budget of expenses for the 1995-96 fiscal period was prepared by the Idaho-Eastern Oregon Onion Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of Idaho-Eastern Oregon onions. 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. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Idaho-Eastern Oregon onions. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

The Committee met on March 21, 1995, and unanimously recommended a 1995-96 budget of \$1,111,447, \$91,408 more than the previous year. Budget items for 1995-96 which have increased compared to those budgeted for 1994-95 (in parentheses) are: Manager's salary, \$33,472 (\$30,429), office salaries, \$66,222 (\$62,816), payroll taxes, \$9,229 (\$8,642), health and medical insurance, \$9,182 (\$8,700), workman's compensation, \$1,084 (\$929), rent, \$11,000 (\$10,000), property insurance, \$1,700 (\$1,400), miscellaneous, \$12,500 (\$9,000), promotion, \$724,076 (\$668,500), and contingency, \$75,000 (\$50,000). Items which have decreased compared to those budgeted for 1994-95 (in parentheses) are: Salary and disability insurance, \$1,072 (\$1,099), research, \$59,340 (\$60,154), and property tax (\$800) for which no funding was recommended this year.

All other items are budgeted at last year's amounts.

The Committee also unanimously recommended an assessment rate of \$0.10 per hundredweight, the same as last season. This rate, when applied to anticipated shipments of 8,800,000 hundredweight, will yield \$880,000 in assessment income. This, along with \$45,000 in interest income and \$186,447 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve at the end of the 1994-95 fiscal period, estimated at \$921,500, were within the maximum permitted by the order of one fiscal period's expenses.

An interim final rule was published in the **Federal Register** on May 9, 1995 (60 FR 24539). That interim final rule added § 958.239 to authorize expenses and establish an assessment rate for the Committee. That rule provided that interested persons could file comments through June 8, 1995. No comments were received.

While this rule will 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 Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995-96 fiscal period began on July 1, 1995. The marketing order requires that the rate of assessment for the fiscal period apply to all assessable onions handled during the fiscal period. In addition, handlers are aware of this rule which was recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule.

#### 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

Accordingly, the interim final rule adding § 958.239 which was published at 60 FR 24539, May 9, 1995, is adopted as a final rule without change.

Dated: June 27, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 95-16225 Filed 6-30-95; 8:45 am]

BILLING CODE 3410-02-P

#### Rural Housing and Community Development Service

#### Rural Business and Cooperative Development Service

#### Rural Utilities Service

#### Consolidated Farm Service Agency

#### 7 CFR Part 1955

#### Acquired Property Records

**AGENCIES:** Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, Consolidated Farm Service Agency.

**ACTION:** Final rule.

**SUMMARY:** The issuing agencies amend their property management regulations to remove solely internal procedures and to make several nomenclature changes.

**EFFECTIVE DATE:** July 3, 1995.

**FOR FURTHER INFORMATION CONTACT:** Ron Gianella, Staff Accountant, Accounting Policy and Procedures Section I, Rural Housing and Community Development Service, USDA, Finance Office, 1520 Market Street, St. Louis, Missouri 63103, Telephone 314-539-6024.

**SUPPLEMENTARY INFORMATION:** Since this action has no impact on the public and involves only internal Agency management, it has been determined to be exempt from the requirements of Executive Order 12866.

#### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, Environmental Program. The issuing agencies have determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969,

Public Law 91-190, an environmental impact statement is not required.

#### Intergovernmental Consultation

These programs/activities are listed in the Catalog of Federal Domestic Assistance under numbers:

- 10.404 Emergency Loans
- 10.405 Farm Labor Housing Loans and Grants
- 10.406 Farm Operating Loans
- 10.407 Farm Ownership Loans
- 10.410 Very Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.415 Rural Rental Housing Loans
- 10.416 Soil and Water Loans
- 10.421 Indian Tribes and Tribal Corporation Loans
- 10.434 Nonprofit National Corporations Loan and Grant Program
- 10.760 Water and Waste Disposal Loan and Grant Program
- 10.764 Resource Conservation and Development Loans
- 10.765 Watershed Protection and Flood Prevention Loans
- 10.766 Community Facilities Loans
- 10.767 Intermediary Relending Program
- 10.768 Business and Industrial Loans

This internal management regulation does not directly affect these programs or activities; therefore, the intergovernmental consultation requirement of Executive Order No. 12372 does not apply.

#### Paperwork Reduction Act

The information collection requirements contained in these regulations have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0575-0109 and 0575-0110 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). The final rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

#### Discussion of Final Rule

The issuing agencies are amending their property management regulations to remove solely administrative procedures in an effort to reduce federal agencies regulation. The procedures will remain in internal agency instructions. References to Farmers Home Administration ("FmHA") and "County Committee" have been removed to reflect changes made by sections 226 and 227 of the Department of Agriculture Reorganization Act of 1994. Due to the reorganization of USDA, FmHA Farmer Programs now are being