

**SUPPLEMENTARY INFORMATION:** It has been determined that publication of this rule for notice and comment is not required because the rule relates solely to internal agency management to update FCIC's regulations by revising the crops to which this part applies.

This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1997.

This rule has been determined to be "not significant" for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget ("OMB").

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or record-keeping requirements included in this rule have been approved by OMB and assigned OMB No. 0563-0023.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

This regulation will not have a significant impact on a substantial number of small entities. The amount of work required of the insurance companies delivering this policy option and the procedures therein will not increase from the amount of work currently required to deliver previous policies to which this regulation applies. This rule does not have any greater or lesser impact on the insured farmer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605) and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet

the applicable standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J or promulgated by the National Appeals Division, whichever is applicable, must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

### Background

On May 17, 1989, FCIC published a final rule in the **Federal Register** at 54 FR 21195 setting out the specific crop insurance endorsements to which the Late Planting Agreement Option would apply. Upon review of this regulation, FCIC determined that the provisions of this section should be updated to remove the wheat, barley, oat, rye and flaxseed endorsements because they are now located in the small grains crop insurance provisions under part 457 and the sunflower seed endorsement because it is now located under part 457 and to add the Tobacco (guaranteed plan) endorsement. Therefore, FCIC clarifies the availability of the Late Planting Agreement Option by amending § 401.107(e) for this purpose.

### List of Subjects in 7 CFR Part 401

Crop insurance.

### Final Rule

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends 7 CFR part 401, effective for the 1995 and succeeding crop years, to read as follows:

### PART 401—[AMENDED]

1. The authority citation for 7 CFR part 401 is continues to read as follows:

**Authority:** 7 U.S.C. 1506(l).

2. Section 401.107 is amended by revising paragraph (e) to read as follows:

#### § 401.107 Late planting agreement option.

\* \* \* \* \*

(e) *Applicability to crops insured.* (1) The provisions of this section for insuring crops for the 1995 and

subsequent crop years will be applicable only under the following endorsements:

- 401.114 Canning and Processing Tomato Endorsement.
- 401.118 Canning and Processing Bean Endorsement.
- 401.123 Safflower Seed Endorsement.
- 401.126 Onion Endorsement.
- 401.129 Tobacco (guaranteed plan) Endorsement.

(2) The Late Planting Agreement Option will be available in all counties in which the Corporation offers insurance on these crops unless limited by the actuarial table, crop endorsement, or crop endorsement option.

Done in Washington, D.C., on July 31, 1995.

**Kenneth D. Ackerman,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 95-19249 Filed 8-4-95; 8:45 am]

BILLING CODE 3410-08-P

## Agricultural Marketing Service

### 7 CFR Part 905

[Docket No. FV95-905-2FIR]

### Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Expenses and Assessment Rate for 1995-96 Fiscal Year

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (Department) is adopting as a final rule, without change, this provisions of the interim final rule which authorized expenses and established an assessment rate for the 1994-95 fiscal year under Marketing Order No. 905. Authorization of this budget enables the Citrus Administration 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:** Effective August 1, 1995, through July 31, 1996.

**FOR FURTHER INFORMATION CONTACT:** Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone: (202) 720-5127; or William Pimental, Southeast Marketing Field Office, Fruit & Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883-2276; telephone: (813) 299-4770.

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement and Marketing Order No. 905 (7 CFR part 905), as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos 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 is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, oranges, grapefruit, tangerines, and tangelos grown in Florida are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable citrus fruit during the 1995–96 fiscal year, beginning August 1, 1995, through July 31, 1996. 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 8c(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 requesting 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 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 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 100 citrus handlers subject to regulation under the marketing order covering fresh oranges, grapefruit, tangerines, and tangelos grown in Florida, and approximately 10,200 producers of these fruits in Florida. 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. A minority of these handlers and a majority of these producers may be classified as small entities.

This marketing order, administered by the Department, requires that the assessment rate for a particular fiscal period shall apply to all assessable citrus fruit handled from the beginning of such period. An annual budget of expenses and assessment rate is prepared by the Committee and submitted to the Department for approval. The Committee members are handlers and producers of Florida citrus. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate appropriate budgets. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by the expected cartons ( $\frac{4}{5}$  bushels) of fruit shipped. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The annual budget and assessment rate are usually recommended by the Committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the Committee will have funds to pay its expenses.

The Committee met May 23, 1995, and unanimously recommended expenses of \$215,000 for the 1995–96 fiscal year, with an assessment rate of \$0.00325 per  $\frac{4}{5}$  bushel carton of fresh fruit shipped.

In comparison, 1994–95 budget expenses were \$210,000 with an approved assessment of \$0.003. Thus, for the 1995–96 fiscal year, expenses are being increased \$5,000 and the assessment rate is being increased

\$0.00025 from the levels established in 1994–95.

The assessment rate, when applied to anticipated shipments of 66,000,000 cartons of assessable fruit, will yield a total of \$214,500 in assessment income. Interest income for 1995–96 is estimated at \$3,500. Income will be adequate to cover budgeted expenses. Funds in the reserve at the end of the 1995–96 fiscal year, estimated at \$100,000, will be within the maximum permitted by the order of approximately one-half of one fiscal year's expenses.

Major expense categories for the 1995–96 fiscal year include \$101,740 for salaries, \$36,000 for the Manifest Department, and \$13,350 for insurance and bonds.

The Committee budget was authorized by an interim final rule issued on June 22, 1995, and published in the **Federal Register** [60 FR 33329, June 28, 1995]. A 30-day comment period was provided for interested persons. No comments were received.

While this action 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 from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action 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 interim final 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 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 Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1995–96 fiscal year begins on August 1, 1995, and the marketing order requires that the rate of assessment for the fiscal year apply to all assessable oranges, grapefruit, tangerines, and tangelos handled during the fiscal year; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule that is adopted in this action as a final rule without change.

**List of Subjects in 7 CFR Part 905**

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

**PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA**

Accordingly, the interim final rule that revised 7 CFR part 905 which was published at 60 FR 33329 on June 28, 1995, is adopted as a final rule without change.

Dated: July 31, 1995.

**Sharon Bomer Lauritsen,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 95-19328 Filed 8-4-95; 8:45 am]

BILLING CODE 3410-02-P

**7 CFR Part 931**

[Docket No. FV95-931-11FR]

**Fresh Bartlett Pears Grown in Oregon and Washington; Expenses and Assessment Rate for the 1995-96 Fiscal Year**

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

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This interim final rule authorizes expenses and establishes an assessment rate for the Northwest Fresh Bartlett Pear Marketing Committee (Committee) under Marketing Order No. 931 for the 1995-96 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer the program are derived from assessments on handlers.

**DATES:** Effective July 1, 1995, through June 30, 1996. Comments received by September 6, 1995, will be considered prior to issuance of a final rule.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this action. 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, or by 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:**

Karen T. Chaney, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456, telephone: 202-720-5127; or Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, Room 369, 1220 Southwest Third Avenue, Portland, Oregon 97204, telephone: 503-326-2724.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 141 and Marketing Order No. 931, both as amended [7 CFR Part 931], regulating the handling of fresh Bartlett pears grown in Oregon and Washington. 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 interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order now in effect, Bartlett pears grown in Oregon and Washington are subject to assessments. Funds to administer the Bartlett pear marketing order are derived from such assessments. It is intended that the assessment rate as specified herein will be applicable to all assessable pears handled during the 1995-96 fiscal year which began July 1, 1995, and ends June 30, 1996. This interim 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 8c(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 requesting 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 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 65 handlers regulated under the marketing order each year and approximately 1,800 producers of Bartlett pears. 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 Bartlett pear handlers and producers in Oregon and Washington may be classified as small entities.

The budget of expenses for the 1994-95 fiscal year was prepared by the 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 Bartlett pears. 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 fresh Bartlett pears grown in Oregon and Washington. 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 June 1, 1995, and unanimously recommended total expenses of \$92,254 with an assessment rate of \$0.02 per standard box or equivalent for the 1995-96 fiscal year. In comparison, 1994-95 budgeted expenses were \$96,410, with an approved assessment rate of \$0.02 per standard box or equivalent. This