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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

[Docket No. FV05–958–1 IFR]

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, OR; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Idaho-Eastern Oregon Onion Committee (Committee) for the 2005–2006 and subsequent fiscal periods from $0.105 to $0.10 per hundredweight of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon. Authorization to assess onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective June 4, 2005. Comments received by August 2, 2005, 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 to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; E-mail: *moab.docketclerk@usda.gov*; or Internet: *http://www.regulations.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, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Susan M. Hiller, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Suite 385, Portland, Oregon 97204–2807; Telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 130 and Marketing 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, 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 of Agriculture (USDA) 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, Idaho-Eastern Oregon onion 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 onions beginning July 1, 2005, 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 USDA 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 USDA 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 USDA'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 decreases the assessment rate established for the Committee for the 2005–2006 and subsequent fiscal periods from $0.105 per hundredweight to $0.10 per hundredweight of onions.

The Idaho-Eastern Oregon onion marketing order provides authority for the Committee, with the approval of USDA, 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 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 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 2004–2005 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on April 14, 2005, and unanimously recommended 2005–2006 expenditures of $956,001 and an assessment rate of $0.10 per hundredweight of onions. In comparison, last year's budgeted expenditures were $997,442. The recommended assessment rate of $0.10 is $0.005 lower than the rate currently in effect. The decreased assessment rate recommended by the Committee reflects the reduction in anticipated expenditures.

Both producers and handlers in the regulated production area expressed a need to decrease the assessment rate to help offset the lower prices received by the handlers. The National Agricultural Statistics Service (NASS) reported in the *Vegetables 2004 Summary*, published in January 2005, that the 2004 average F.O.B. price for the Idaho-Eastern Oregon onions was $8.14 per hundredweight. That price is $1.42 below the three year average F.O.B. price of $9.56 per hundredweight for this production area. The Committee considered assessment rates lower than $0.10 per hundredweight; however, it determined the lower rates would not generate the income necessary to sustain the current level of programs desired by the industry.

The major expenditures recommended by the Committee for the 2005–2006 year include $10,000 for committee expenses, $104,371 for salary expenses, $81,160 for travel/office expenses, $62,470 for production research expenses, $32,000 for export market development expenses, $616,000 for promotion expenses, and $50,000 for unforeseen marketing order contingencies. Budgeted expenses for these items in 2004–2005 were $10,000, $163,482, $81,960, $60,000, $32,000, $600,000, and $50,000, respectively.

The Committee based its recommended assessment rate decrease on the 2005–2006 crop estimate, the 2005–2006 program expenditure needs, and the current and projected size of its monetary reserve. The Committee estimated onion shipments for 2005–2006 at 8,464,000 hundredweight which should provide $846,400 in assessment income. Income derived from handler assessments, along with contributions ($73,600), interest income ($7,400), other income ($2,000), and funds from the Committee's authorized reserve ($26,601), should be adequate to cover budgeted expenses. The Committee estimates that its operating reserve will be approximately $596,074 at the end of the 2005–2006 fiscal period. Funds in the reserve will be kept within the maximum permitted by the order of approximately one fiscal year's operational expenses (§ 958.44).

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

Although this assessment rate is effective for an indefinite period, the Committee 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 Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA 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 2005–2006 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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 233 producers of onions in the production area and approximately 37 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,000,000.

According to the NASS *Vegetables 2004 Summary*, the total F.O.B. value of onions in the regulated production area for 2004 was $110,355,000. Therefore, based on an industry of 233 producers and 37 handlers, it can be concluded that the majority of handlers and producers of Idaho-Eastern Oregon onions may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2005–2006 and subsequent fiscal periods from $0.105 to $0.10 per hundredweight of onions. The Committee unanimously recommended 2005–2006 expenditures of $956,001 and an assessment rate of $0.10 per hundredweight. The recommended assessment rate of $0.10 is $0.005 lower than the current rate. The quantity of assessable onions for the 2005–2006 year is estimated at 8,464,000 hundredweight which should provide $846,400 in assessment income. Income derived from handler assessments, along with contributions ($73,600), interest income ($7,400), other income ($2,000), and funds from the Committee's authorized reserve ($26,601), should be adequate to cover budgeted expenses. The decreased assessment rate recommended by the Committee reflects the reduction in anticipated expenditures from $997,442 to $956,001.

Both producers and handlers in the regulated production area expressed a need to decrease the assessment rate to help offset the lower prices received by the handlers. The NASS reported in the *Vegetables 2004 Summary*, which was published in January 2005, that the 2004 average F.O.B. price for the Idaho-Eastern Oregon onions was $8.14 per hundredweight. That price is $1.42 below the three year average F.O.B. price of $9.56 per hundredweight for this production area. The Committee considered lower assessment rates; however, it determined that lower rates would not generate the income necessary to sustain the current level of programs desired by the industry.

The major expenditures recommended by the Committee for the 2005–2006 year include $10,000 for committee expenses, $104,371 for salary expenses, $81,160 for travel/office expenses, $62,470 for production research expenses, $32,000 for export market development expenses, $616,000 for promotion expenses, and $50,000 for unforeseen marketing order contingencies. Budgeted expenses for these items in 2004–2005 were $10,000, $163,482, $81,960, $60,000, $32,000, $600,000, and $50,000, respectively.

The Committee reviewed and unanimously recommended 2005–2006 expenditures of $956,001 which includes decreases in salary expenses and travel/office expenses, as well as increases in production research expenses and promotion expenses. Prior to arriving at this budget, the Committee considered information from various sources, such as the Committee's Executive, Promotion, Research, and Export subcommittees. These subcommittees discussed alternative expenditure levels, based upon the relative value of various research and promotion projects to the onion industry. The assessment rate of $0.10 per hundredweight of assessable onions was then determined by taking into consideration the estimated level of assessable shipments, the current market situation, program expenditure needs, and the desire to sustain a monetary reserve at a viable level.

A review of historical information and preliminary information pertaining to the upcoming year indicates that the producer price for the 2005–2006 season could range between $5.50 and $8.00 per hundredweight of onions. Therefore, the estimated assessment revenue for the 2005–2006 year as a percentage of total producer revenue could range between 1.82 and 1.25 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Idaho-Eastern Oregon onion 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 14, 2005, 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 action imposes no additional reporting or recordkeeping requirements on either small or large Idaho-Eastern Oregon onion 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.

USDA 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: *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 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 rule until 30 days after publication in the **Federal Register** because: (1) The 2005–2006 fiscal period begins on July 1, 2005, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (3) this action decreases the assessment rate for assessable onions beginning with the 2005–2006 fiscal period; (4) 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; and (5) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 958

Onions, Marketing agreements, 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 958.240 is revised to read as follows:

§ 958.240 Assessment rate.

On and after July 1, 2005, an assessment rate of $0.10 per hundredweight is established for Idaho-Eastern Oregon onions.

Dated: May 27, 2005.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 05–11023 Filed 6–2–05; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–16–AD; Amendment 39–13970; AD 2005–03–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in airworthiness directive (AD) 2005–03–14, which was published in the **Federal Register** on February 14, 2005 (70 FR 7384). The typographical error resulted in an incorrect reference to an AD number. This AD is applicable to certain Airbus Model A300 B2 and B4 series airplanes. This AD supersedes an existing AD that currently requires determining the part and amendment number of the variable lever arm (VLA) of the rudder control system to verify that the parts were installed using the correct standard, and corrective actions if necessary. For certain VLAs, this new AD requires repetitive inspections of the VLA and corrective action if necessary. This new AD also provides a terminating action for the repetitive inspections. Furthermore, this new AD reduces the applicability of affected airplanes.

DATES: Effective March 21, 2005.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 2005–03–14, amendment 39–13970, applicable to certain Airbus Model A300 B2 and B4 series airplanes, was published in the **Federal Register** on February 14, 2005 (70 FR 7384). That AD supersedes an existing AD that currently requires determining the part and amendment number of the variable lever arm (VLA)