

(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:

(1) Phylloxera, regardless of cause; or

(2) Inability to market the table grapes for any reason other than the actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

11. Duties in the Event of Damage or Loss.

In addition to the requirements of section 14 of the Basic Provisions, the following will apply:

* * * * *

12. Settlement of Claim.

* * * * *

(b) * * *

(2) Multiplying the result in section 12(b)(1) by the respective price election for the variety or type;

* * * * *

(4) Multiplying the total production to be counted of the variety or type (see section 12(c)) by the respective price election;

* * * * *

(c) * * *

(1) * * *

(iii) Unharvested production that meets, or would meet if properly handled, the state quality standards or the appropriate USDA grade standard (if no state standard is applicable); and

* * * * *

Signed in Washington, DC, on February 21, 2008.

Eldon Gould,
Manager, Federal Crop Insurance Corporation.

[FR Doc. E8-3850 Filed 2-28-08; 8:45 am]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. AMS-FV-07-0151; FV08-959-1 PR]

Onions 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 Onion Committee (Committee) for the 2007-08 and subsequent fiscal periods from \$0.02 to \$0.03 per 50-pound equivalent of onions handled. The Committee locally administers the marketing order which regulates the handling of onions grown in South Texas. Assessments upon onion handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by March 17, 2008.

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; 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.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, Texas Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; Telephone: (956) 682-2833, Fax: (956) 682-5942, or E-mail: Belinda.Garza@usda.gov.

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 Order No. 959, as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, 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, South Texas onion 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 onions beginning on August 1, 2007, 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 would increase the assessment rate established for the Committee for the 2007-08 and subsequent fiscal periods from \$0.02 to \$0.03 per 50-pound equivalent of onions.

The South Texas 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 South Texas 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 2004-05 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 November 16, 2007, and unanimously recommended 2007–08 expenditures of \$202,315 and an assessment rate of \$0.03 per 50-pound equivalent of onions. In comparison, last year's budgeted expenditures were \$193,315. The assessment rate of \$0.03 is \$0.01 higher than the rate currently in effect. The Committee recommended the increased rate to continue to support the increased budget for research started last season, while reducing the amount of funds drawn from the Committee's authorized reserve. Without the increase, the Committee's reserve funds would drop to \$114,728. The Committee believes a reserve that low is not adequate for its operations.

The major expenditures recommended by the Committee for the 2007–08 fiscal period include \$64,315 for personnel and office expenses, \$45,000 for compliance, \$25,000 for promotion, and \$30,000 for research. Budgeted expenses for these items in 2006–07 were \$62,315, \$43,000, \$25,000, and \$25,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the fiscal period are estimated at 5,775,000 fifty-pound equivalents, which should provide \$173,250 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (currently \$196,543) would be kept within the maximum permitted by the order (approximately two fiscal periods' expenses, \$ 959,43).

The proposed assessment rate would 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 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 USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA 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 2007–08 budget and those for subsequent fiscal periods would 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.

There are approximately 118 producers of onions in the production area and approximately 34 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 less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,500,000.

Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 2006–07 marketing year, the industry's 34 handlers shipped onions produced on 12,460 acres with the average and median volume handled being 179,457 and 171,537 fifty-pound equivalents, respectively. In terms of production value, total revenues for the 34 handlers were estimated to be \$86.7 million, with average and median revenues being \$2.55 million and \$2.35 million, respectively.

The South Texas onion industry is characterized by producers 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 onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that 32 of the 34 (94 percent) handlers regulated by the order would be considered small entities if only their spring onion revenues are considered. However, revenues from other productive enterprises would likely push a large number of these handlers above the \$6,500,000 annual receipt threshold. All of the 118 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenues from all sources are considered, a majority of the producers would not be considered small entities because receipts would exceed \$750,000.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2007–08 and subsequent fiscal periods from \$0.02 to \$0.03 per 50-pound equivalent. The Committee unanimously recommended 2007–08 expenditures of \$202,315 and an assessment rate of \$0.03 per 50-pound equivalent. The proposed assessment rate of \$0.03 is \$0.01 higher than the current rate. The quantity of assessable onions for the 2007–08 fiscal period is estimated at 5,775,000 fifty-pound equivalents. Thus, the \$0.03 rate should provide \$173,250 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be more than adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2007–08 fiscal period include \$64,315 for personnel and office expenses, \$45,000 for compliance, \$25,000 for promotion, and \$30,000 for research. Budgeted expenses for these items in 2006–07 were \$62,315, \$43,000, \$25,000, and \$25,000, respectively.

The Committee recommended the increased rate to continue funding a research project begun last year without having to draw a large amount from reserves. Without the increase, the Committee's reserve funds would drop to \$114,728. The Committee believes a reserve that low is not adequate for its operations.

The Committee reviewed and unanimously recommended 2007–08 expenditures of \$202,315, which included increases in the management fee, compliance, and research. Numerous alternative expenditure levels were discussed based upon the relative value of the research project to the onion industry. The assessment rate of \$0.03 per 50-pound equivalent of assessable onions was then determined

by dividing the total recommended budget by the quantity of assessable onions, estimated at 5,775,000 fifty-pound equivalents for the 2007–08 fiscal period. The assessment rate should generate \$173,250 in income. Considering income from interest and assessments, total income should be approximately \$24,065 below the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming fiscal period indicates that the grower price for the 2007–08 fiscal period could range between \$10.00 and \$28.00 per 50-pound equivalent of onions. Therefore, the estimated assessment revenue for the 2007–08 fiscal period as a percentage of total grower revenue could range between .11 and .30 percent.

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 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 November 16, 2007, 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 comments on this proposed rule, including 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 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.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

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.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2007–08 fiscal period began on August 1, 2007, 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; 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 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is proposed to be amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 959.237 is revised to read as follows:

§ 959.237 Assessment rate.

On and after August 1, 2007, an assessment rate of \$0.03 per 50-pound equivalent is established for South Texas onions.

Dated: February 26, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 08–898 Filed 2–26–08; 3:31 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1005, 1006 and 1007

[AMS–DA–07–0059; AO–388–A22, AO–356–A43 and AO–366–A51; Docket No. DA–07–03–B]

Milk in the Appalachian, Florida and Southeast Marketing Areas; Partial Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	AO No.
1005	Appalachian ..	AO–388–A22
1006	Florida	AO–356–A43
1007	Southeast	AO–366–A51

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule, Partial recommended decision.

SUMMARY: This decision recommends adoption of proposals that would increase the maximum administrative assessment rate in the Appalachian, Florida and Southeast Federal milk marketing orders.

DATES: Comments must be submitted on or before April 29, 2008.

ADDRESSES: Comments (six copies) should be filed with the Hearing Clerk, United States Department of Agriculture, STOP 9200–Room 1031, 1400 Independence Avenue, SW., Washington, DC 20250–1031. You may send your comments by the electronic process available at the Federal eRulemaking portal: <http://www.regulations.gov> or by submitting comments to amsdairycomments@usda.gov. Reference should be made to the title of the action and docket number.

FOR FURTHER INFORMATION CONTACT: Gino M. Tosi, Associate Deputy Administrator, Order formulation and Enforcement Branch, USDA/AMS/Dairy Programs, STOP 0231–Room 2971, 1400 Independence Ave., SW., Washington, DC 20250–0231, (202) 690–1366, e-mail address: gino.tosi@usda.gov.

SUPPLEMENTARY INFORMATION: This decision recommends adoption of amendments that would allow the market administrator in the Appalachian, Florida and Southeast marketing areas to increase the maximum administrative assessment rate up to 8 cents per cwt on all pooled milk, if necessary, to maintain the mandated reserve fund level.