

Country/locality of origin	Common name	Botanical name	Plant part(s)	Additional requirements
Korea, Republic of .....	Dasheen .....	<i>Colocasia</i> spp., <i>Alocasia</i> spp., and <i>Xanthosoma</i> spp.	Root .....	(b)(2)(iv).
	Sand pear .....	<i>Pyrus pyrifolia</i> var. <i>culta</i> .....	Fruit .....	(b)(5)(ix).
	Strawberry .....	<i>Fragaria</i> spp .....	Fruit .....	(b)(5)(i).

(b) \* \* \*  
 (5) \* \* \*  
 (ix) Except for sand pears entering Hawaii, only precleared consignments are authorized. The consignment must be accompanied by a PPQ Form 203 signed by the APHIS inspector on site in the exporting country.

#### § 319.56–29 [Amended]

- 5. Section 319.56–29 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

Done in Washington, DC, this 25th day of February 2008.

**Kevin Shea,**  
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8–3901 Filed 2–28–08; 8:45 am]

BILLING CODE 3410–34–P

Department of Agriculture, Beacon Facility—Mail Stop 0812, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulation that is the subject of these corrections was intended to amend certain Florida Citrus Fruit Crop Insurance Provisions to be used in conjunction with the Common Crop Insurance Policy Basic Provisions for ease of use and consistency of terms.

##### Need for Corrections

As published at 73 FR 7190, the final regulation contained errors that may prove to be misleading and need to be clarified.

1. The first error is contained in the beginning in the Final Rule on page 7190 where it indicates the Effective Date of the amendments is March 10, 2008. This is incorrect. The text should read: *Effective Date*: March 15, 2008.

2. The second error is on page 7196 in the words of issuance. This text should have stated the amendments are effective for the 2009 and succeeding crop years. The text should read as follows:

“Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457, Common Crop Insurance Regulations, for the 2009 and succeeding crop years as follows:”

3. The third error is on page 7199 in section 10(e)(2)(iv). This correction replaces the semi-colon at the end of paragraph (e)(2)(iv) with a period.

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

**Eldon Gould,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. E8–3854 Filed 2–28–08; 8:45 am]

BILLING CODE 3410–08–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 959

[Docket Nos. AO–322–A4; AMS–2006–0079; FV06–959–1]

### Onions Grown in South Texas; Order Amending Marketing Order No. 959

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends Marketing Order No. 959 (order), which regulates the handling of onions grown in South Texas. The amendments are based on those proposed by the South Texas Onion Committee (committee), which is responsible for local administration of the order, and the Department of Agriculture (USDA). The amendments will authorize interest and late payment charges on assessments not paid within a prescribed time period and require that a continuance referendum be conducted every six years to determine grower support for the order. The amendments were approved by onion growers in a mail referendum conducted from September 10 through September 28, 2007. The amendments are intended to improve the operation and functioning of the South Texas onion marketing order program. Proposed amendments that failed in referendum and are not included in this final order include authority for supplemental assessment rates, marketing promotion and paid advertising authority, and tenure limitations for committee members.

**DATES:** This rule is effective March 31, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Martin Engeler, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, 2202 Monterey Street, #102–B, Fresno, CA 93721; telephone: (559) 487–5110, Fax: (559) 487–5906, E-mail: [Martin.Engeler@usda.gov](mailto:Martin.Engeler@usda.gov); or Kathleen

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563–AC01

### Common Crop Insurance Regulations, Florida Citrus Fruit Crop Insurance Provisions; Correction

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains corrections to the final regulation which was published Thursday, February 7, 2008. The regulation pertains to the insurance of Florida Citrus Fruit.

**DATES:** *Effective Date*: The effective date for the final rule published February 7, 2008 (73 FR 7190), is corrected to March 15, 2008. Other corrections in this document are also effective March 15, 2008.

**FOR FURTHER INFORMATION CONTACT:** Bill Klein, Risk Management Specialist, Product Management, Product Administration and Standards Division, Risk Management Agency, United States

M. Finn, 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, E-mail:

*Kathy.Finn@usda.gov.*

Small businesses may request information on this proceeding 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, E-mail: *Jay.Guerber@usda.gov.*

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding include a Notice of Hearing issued on May 23, 2006, and published in the May 30, 2006, issue of the **Federal Register** (71 FR 30629); a Recommended Decision issued on March 29, 2007 and published in the April 6, 2007, issue of the **Federal Register** (72 FR 17037); and a Secretary's Decision and Referendum Order issued on August 2, 2007, and published in the August 10, 2007, issue of the **Federal Register** (72 FR 44984).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

#### Preliminary Statement

This final rule was formulated on the record of a public hearing held on June 15, 2006, in Mission, Texas. Notice of this hearing was issued on May 23, 2006 and published in the **Federal Register** on May 30, 2006 (71 FR 30629). The hearing was held to consider the proposed amendment of Marketing Agreement No. 143 and Order No. 959 regulating the handling of onions grown in South Texas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), hereinafter referred to as the "Act," and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The Notice of Hearing contained proposals submitted by the committee and USDA. Committee proposal number four, pertaining to container marking requirements was withdrawn at the hearing, resulting in a total of five proposed amendments.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of the Agricultural Marketing Service (AMS) on March 29, 2007, filed with the Hearing Clerk, U.S. Department of

Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by May 7, 2007. No exceptions were filed.

A Secretary's Decision and Referendum Order was issued on August 2, 2007, directing that a referendum be conducted during the period September 10 through 28, 2007, among South Texas onion producers to determine whether they favored the proposed amendments to the order. To become effective, the amendments had to be approved by at least two-thirds of those producers voting or by voters representing at least two-thirds of the volume of onions represented by voters voting in the referendum. Voters voting in the referendum favored two of the five proposed amendments.

The amendments favored by voters and included in this order will:

1. Add authority to collect interest and late payment charges on unpaid handler assessments; and
2. Require that a continuance referendum be conducted every six years to determine industry support for the order.

Three amendments pertaining to: Establishing supplemental assessment rates on specified containers of onions; authority for marketing promotion, including paid advertising; and limiting the number of consecutive years a member may serve on the committee, failed to obtain the requisite level of support needed to pass in referendum.

USDA also proposed to allow such changes as may be necessary to the order so that all of the orders' provisions conform to the effectuated amendments. None were deemed necessary.

The amended marketing agreement was subsequently mailed to all South Texas onion handlers in the production area for their approval. The marketing agreement was not approved by handlers representing at least 50 percent of the volume of onions handled by all handlers during the representative period of August 1, 2006, through July 31, 2007.

#### Small Business Considerations

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, the AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Small agricultural growers have been defined

by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$750,000. Small agricultural service firms are defined as those with annual receipts of less than \$6,500,000.

There are approximately 114 growers of onions in the production area and approximately 38 handlers subject to regulation under the order. For the 2005-06 marketing year, the industry's 38 handlers shipped onions produced on 17,694 acres with the average and median volume handled being 182,148 and 174,437 fifty-pound equivalents, respectively. In terms of production value, total revenues for the 38 handlers were estimated to be \$44.2 million, with average and median revenues being \$1.16 million and \$1.12 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 all of the 38 handlers regulated by the order would be considered small entities if only their onion revenues are considered. However, revenues from other productive enterprises would likely push a number of these handlers above the \$6,500,000 annual receipt threshold. Likewise, all of the 114 producers may be classified as small entities based on the SBA definition if only their revenue from onions is considered.

The committee is comprised of 10 growers and 7 handlers, representing both large and small entities. Committee meetings are open to the public. All members are able to participate in committee deliberations and each has an equal vote in committee decisions. When the committee met on October 28, 2004, and recommended the proposed amendments, all views expressed by the members and others in attendance were considered.

In addition, the hearing to receive evidence on the proposed changes was open to the public and all interested parties were invited and encouraged to participate and provide their views.

The amendments are intended to improve the operation and

administration of the order, and to provide producers an opportunity to indicate whether they favor continuance of the order. Record evidence indicates that the amendments are intended to benefit onion producers and handlers under the order regardless of size.

The amendment to authorize the committee to charge interest and/or late payment fees on assessments not paid within a prescribed time period will not have a differential impact on small and large entities. According to the record, late fees and interest charges will be based on handlers' timeliness of payments, regardless of size. A hearing witness familiar with the assessment collection operations under the order stated that there is no relationship between a handler's performance with regard to timely assessment payment and the size of the handler's business operation. Any increased costs will be borne only by those handlers that fail to pay their assessments in a timely manner. These potential costs will offset any potential advantage handlers could gain by not paying their assessments when due and will thus promote equity for all handlers. It will provide an incentive to pay on time. This proposed amendment is strictly a performance-based measure and will thus be applied based on handlers' performance with respect to their payment of assessments.

The proposal to require continuance referenda on a periodic basis to ascertain grower support for the order will allow growers to vote on whether to continue the operation of the program. This provides a means for those whom the order was intended to benefit with an opportunity to express their views regarding continuation of the marketing order. USDA will conduct the referenda, and thus USDA will bear the majority of any associated costs.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impacts of the proposed amendments to the order on small entities. The record evidence is that while some minimal costs may occur, those costs will be outweighed by the benefits expected to accrue to the South Texas onion industry.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. The amendments are designed to improve the administration and operation of the order and to provide an opportunity to ascertain producer support for the order.

#### **Paperwork Reduction Act**

Current information collection requirements for Part 959 are currently approved by the Office of Management

and Budget (OMB) under OMB number 0581-0178, "Vegetable and Specialty Crops." No changes in those requirements as a result of this proceeding are needed. Should any changes become necessary, they will be submitted to OMB for approval.

As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The 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.

#### **Civil Justice Reform**

The amendments to Marketing Order 959 stated herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. They 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 (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with the Department 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. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the 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 the Department's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

#### **Order Amending the Order Regulating Onions Grown in South Texas**

##### ***Findings and Determinations***

The findings and determinations set forth hereinafter are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed, except as such findings and determinations may be in conflict

with the findings and determinations set forth herein.

##### *(a) Findings and Determinations Upon the Basis of the Hearing Record.*

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to Marketing Order No. 959 (7 CFR part 959), regulating the handling of onions grown in South Texas.

Upon the basis of the evidence introduced at such hearing and the record thereof it is found that:

(1) The marketing order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The marketing order, as amended, and as hereby further amended, regulates the handling of onions grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial and industrial activity specified in the marketing order upon which hearings have been held;

(3) The marketing order, as amended, and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of onions grown in the production area; and

(5) All handling of onions grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

(1) Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping onions covered by the order as hereby amended) who, during the period August 1, 2006 through July 31, 2007, handled 50 percent or more of the volume of such onions covered by the order, as hereby amended, have not signed an amended marketing agreement; and,

(2) The issuance of this amendatory order, further amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum and who, during the period August 1, 2006 through July 31, 2007 (which has been determined to be a representative period), have been engaged within the production area in the production of onions for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

(3) In the absence of a signed marketing agreement, the issuance of this amendatory order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers of onions in the production area.

#### **Order Relative to Handling of Onions Grown in South Texas**

*It is therefore ordered,* That on and after the effective date hereof, all handling of onions grown in South Texas shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended as follows:

The provisions of proposals contained in Material Issue numbers 2 and 5 of the proposed order amending the order contained in the Recommended Decision issued by the Administrator on March 29, 2007, and published in the **Federal Register** on April 6, 2007, shall be and are the terms and provisions of this order amending the order and set forth in full herein.

#### **List of Subjects in 7 CFR Part 959**

Marketing agreements, Onions, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, Title 7 of Chapter XI of the Code of Federal Regulations is amended by amending part 959 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. Add a new paragraph (e) to § 959.42 to read as follows:

#### **§ 959.42 Assessments.**

\* \* \* \* \*

(e) If a handler does not pay assessments within the time prescribed by the committee, the assessment may be increased by a late payment charge and/or an interest rate charge at

amounts prescribed by the committee with approval of the Secretary.

■ 3. In § 959.84, redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

#### **§ 959.84 Termination.**

\* \* \* \* \*

(d) The Secretary shall conduct a referendum within six years after the effective date of this paragraph and every sixth year thereafter to ascertain whether continuance is favored by producers. The Secretary would consider termination of this part if less than two-thirds of the growers voting in the referendum and growers of less than two-thirds of the volume of onions represented in the referendum favor continuance.

\* \* \* \* \*

Dated: February 26, 2008.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E8-3944 Filed 2-28-08; 8:45 am]

**BILLING CODE 3410-02-P**

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#### **DEPARTMENT OF AGRICULTURE**

#### **Agricultural Marketing Service**

#### **7 CFR Part 966**

**[Docket No. AMS-FV-07-0014; FV07-966-2 FIR]**

#### **Tomatoes Grown in Florida; Decreased Assessment Rate**

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

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Florida Tomato Committee (Committee) for the 2007–08 and subsequent fiscal periods from \$0.035 to \$0.0325 per 25-pound carton of tomatoes handled. The Committee locally administers the marketing order which regulates the handling of tomatoes grown in Florida. Assessments upon tomato 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 will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** *Effective Date:* March 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** William G. Pimental, Marketing Specialist or Christian D. Nissen,

Regional Manager, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 325-8793, or E-mail: [William.Pimental@usda.gov](mailto:William.Pimental@usda.gov) or [Christian.Nissen@usda.gov](mailto:Christian.Nissen@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](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes 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.”

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, Florida tomato 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 tomatoes beginning 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. A 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.