

Rules and Regulations

Federal Register

Vol. 76, No. 27

Wednesday, February 9, 2011

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 915

[Doc. No. AMS-FV-10-0067; FV10-915-1 FIR]

Avocados Grown in South Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that increased the assessment rate established for the Avocado Administrative Committee (Committee), for the 2010-11 and subsequent fiscal periods from \$0.27 to \$0.37 per 55-pound bushel container of Florida avocados handled. The Committee locally administers the marketing order which regulates the handling of avocados grown in South Florida. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* Effective February 10, 2011.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, 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: Doris.Jamieson@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=Marketing>

OrdersSmallBusinessGuide; or by contacting Antoinette Carter, 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: Antoinette.Carter@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 915, as amended (7 CFR part 915), regulating the handling of avocados grown in South 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.

Under the order, Florida avocado handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable avocados for the entire fiscal period, and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on April 1, and ends on March 31.

In an interim rule published in the **Federal Register** on September 15, 2010, and effective on September 16, 2010 (75 FR 55942, Doc. No. AMS-FV-10-0067; FV10-915-1 IR), § 915.235 was amended by increasing the assessment rate established for the Committee for the 2010-11 and subsequent fiscal periods from \$0.27 to \$0.37 per 55-pound container or equivalent of Florida avocados. The increase in the per-unit assessment rate was necessary to fund research to find an insecticide that will kill or control the Red Bay Ambrosia beetle.

Final Regulatory Flexibility Analysis

Pursuant to 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 rule on small entities. Accordingly, 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 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 30 handlers of Florida avocados subject to regulation under the order and approximately 300 producers of avocados in the production area. Small agricultural service firms, which include avocado handlers, are defined by the Small Business Administration (SBA) as those whose annual receipts are less than \$7,000,000, and small agricultural producers are defined as those having annual receipts less than \$750,000 (13 CFR 121.201).

According to Committee data and information from the National Agricultural Statistical Service, the average price for Florida avocados during the 2009-10 season was around \$16.50 per 55-pound bushel container and total shipments were near 900,000 55-pound bushels. Using the average price and shipment information provided by the Committee, the majority of avocado handlers could be considered small businesses under SBA's definition. In addition, based on avocado production, producer prices, and the total number of Florida avocado producers, the average annual producer revenue is less than \$750,000. Consequently, the majority of avocado handlers and producers may be classified as small entities.

This rule continues in effect the action that increased the assessment rate established for the Committee and collected from handlers for the 2010-11 and subsequent fiscal periods from \$0.27 to \$0.37 per 55-pound bushel container of Florida avocados. The Committee unanimously recommended 2010-11 expenditures of \$351,502 and an assessment rate of \$0.37 per 55-pound bushel container. The assessment rate of \$0.37 is \$0.10 higher than the 2009-10 rate. The quantity of assessable Florida avocados for the 2010-11 season is estimated at 1,000,000. Thus, the \$0.37 rate should provide \$370,000 in assessment income and be adequate to meet this year's expenses. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve fund will be adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2010–11 year include \$110,000 for research, \$98,732 for salaries, \$48,000 for employee benefits, and \$25,300 for insurance and bonds. Budgeted expenses for these items in 2009–10 were \$25,000, \$94,030, \$48,000, and \$25,300, respectively.

The increase in assessment rate is needed to fund research to find an insecticide that will kill or control the Red Bay Ambrosia beetle. The beetle carries the Laurel Wilt fungus which can infect and kill avocado trees. Research into the beetle and fungus had been funded by the University of Florida. However, the Committee was informed that funding ceased on August 1, 2010. Without funding, researchers would have been unable to continue testing to determine which insecticides work best to kill/control the beetle and at what application rate. The Committee believes it is essential for the industry that the research continues. Therefore, they voted to increase the assessment rate to provide the additional research money.

Prior to arriving at this budget, alternative expenditure levels were discussed based upon the relative value of various research projects to the Florida avocado industry. The assessment rate of \$0.37 per 55-pound bushel container of assessable Florida avocados was then determined by dividing the total recommended budget by the quantity of assessable avocados, estimated at 1,000,000 55-pound bushel containers for the 2010–11 season. Considering income from assessments and interest, total income will be approximately \$18,400 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2010–11 season could range between \$9.00 and \$66.00 per 55-pound bushel container of avocados. Therefore, the estimated assessment revenue for the 2010–11 season as a percentage of total grower revenue could range between .6 and 4 percent.

This rule continues in effect the action that increased 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 are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the

Florida avocado industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 22, 2010, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Florida avocado 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.

Comments on the interim rule were required to be received on or before November 15, 2010. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change. To view the interim rule, go to <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b4f5ec>.

This action also affirms information contained in the interim rule concerning the Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (75 FR 55942, September 15, 2010) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 915

Avocados, Reporting and recordkeeping requirements.

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ Accordingly, the interim rule amending 7 CFR part 915, which was published at 75 FR 55942 on September 15, 2010, is adopted as a final rule, without change.

Dated: February 3, 2011.

David R. Shipman,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2011-2888 Filed 2-8-11; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 996

[Doc. No. AMS-FV-10-0030; FV10-996-610 Review]

Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This action summarizes the results under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA), of an Agricultural Marketing Service (AMS) review of the Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States contained in 7 CFR part 996 (Standards). AMS has determined that the Standards should be continued.

ADDRESSES: Interested persons may obtain a copy of the review. Requests for copies should 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 E-mail: moab.docketclerk@usda.gov. A copy of the review may also be obtained via the Internet at: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

The Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States (Standards), as amended (7 CFR part 996), were established at 7 U.S.C. 7958 pursuant to Public Law 107-171, the Farm Security and Rural Investment Act of 2002 (Act). The Standards regulate the quality and handling of domestic and imported peanuts marketed in the United States.