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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 925

[Doc. No. AMS-FV-06-0185; FV06-925-610 Review]

#### Grapes Grown in a Designated Area of Southeastern California; 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 Marketing Order No. 925 regulating the handling of grapes grown in a designated area of southeastern California (order). Based upon its review, AMS has concluded that there is a continued need for the order.

**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 Internet: <http://www.regulations.gov>. The review may also be viewed online at: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kathie Notoro, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906; or E-mail: [Kathie.Notoro@ams.usda.gov](mailto:Kathie.Notoro@ams.usda.gov) or [Kurt.Kimmel@ams.usda.gov](mailto:Kurt.Kimmel@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** Marketing Order 925, as amended (7 CFR part 925),

regulates the handling of grapes grown in a designated area of southeastern California. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601-674).

The desert grape marketing order establishes the California Desert Grape Administrative Committee (Committee) as the administrative body charged with overseeing program operations. Staff is hired to conduct the daily administration of the program. The Committee consists of 12 members. Five members represent producers, five represent handlers, one represents either producers or handlers (the "at large" member), and one member represents the public. Each member has an alternate. Members and alternate members are elected at annual nomination meetings.

Currently, there are approximately 50 producers and 14 handlers of California desert grapes. In addition, there are approximately 100 importers of grapes. The majority of the handlers and importers may be classified as small entities and the majority of producers may not be classified as small entities. The regulations implemented under the order are applied uniformly to small and large entities, and are designed to benefit all entities, regardless of size.

AMS published in the **Federal Register** (64 FR 8014; February 18, 1999), its plan to review certain regulations, including Marketing Order 925, under criteria contained in section 610 of the RFA (5 U.S.C. 601-612). Updated plans were published in the **Federal Register** on January 4, 2002 (67 FR 525), August 14, 2003 (68 FR 48574), and again on March 24, 2006 (71 FR 14827). Accordingly, AMS published a notice of review and request for written comments on the California desert grape marketing order in the February 21, 2006, issue of the **Federal Register** (71 FR 8810). The deadline for comments ended April 24, 2006. Five comments were received in response to the notice, and are discussed later in this document.

The review was undertaken to determine whether the desert grape marketing order should be continued without change, amended, or rescinded to minimize the impacts on small entities. In conducting this review, AMS considered the following factors: (1) The continued need for the marketing order;

(2) the nature of complaints or comments received from the public concerning the marketing order; (3) the complexity of the marketing order; (4) the extent to which the marketing order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the marketing order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the marketing order.

The marketing order authorizes the following activities: Quality control with mandatory outgoing inspection; container and pack requirements; packing holidays; production research; market research and development; and reporting requirements for collection and dissemination of shipment information.

The quality control provisions of the order have helped to ensure a good quality of fruit is provided to consumers. Pack and container requirements provide uniformity in the marketing of grapes. Wholesalers and retailers are assured of consistency in the packaging of the product they receive and market. Packing holidays can help reduce buildup of excess inventories in handlers' warehouses. This can help to provide a more stable flow of product to market and relieve downward pressure on pricing. Collection and dissemination of handler information is useful to the industry in making production and marketing decisions. Finally, production research activities have helped the industry address specific issues that impact the growing of grapes in the production area. The quality control and inspection regulations are also applied to imported grapes under section 608e of the Act.

Market research and development activities are authorized under the order but have not been implemented. Should the industry determine such programs may be beneficial in the future, it may choose to implement them. Funds to administer the marketing order are obtained from handler assessments.

Based on the potential benefits of the marketing order to producers, handlers, and consumers, AMS has determined that the order should continue without change.

In regard to complaints or comments received from the public regarding this

review, USDA received five comments from interested parties. In general, the comments addressed issues that were the subject of a separate notice and comment informal rulemaking action concerning proposed changes to the regulatory period under the marketing order that was completed with publication of a final rule on February 5, 2010 (75 FR 5879). It is noted that the commenters also submitted similar comments in response to that rulemaking action. The comments have been addressed in that rulemaking proceeding.

In considering the order's complexity, AMS has determined that the marketing order is not unduly complex.

During the review, the order was also checked for duplication and overlap with other regulations. AMS did not identify any relevant Federal rules, or State and local regulations that duplicate, overlap, or conflict with the marketing order for California desert grapes.

The marketing order was established in 1980. Since its inception, AMS and the California desert grape industry have continuously monitored its operations. Changes in regulations have been implemented to reflect current industry operating practices, and to solve marketing problems as they occur. The goal of these evaluations is to assure that the order and the regulations implemented under it fit the needs of the industry and are consistent with the Act.

The Committee meets whenever needed to discuss the marketing order and the various regulations issued thereunder, and to determine if, or what, changes may be necessary to reflect current industry practices. As a result, numerous regulatory changes have been made over the years to address industry operation changes and to improve program administration. The marketing order itself has never been amended since its inception, but several regulatory changes have been made through informal rulemaking, as noted above, to ensure the program continues to meet the industry's needs.

Accordingly, AMS has determined that the California desert grape marketing order should be continued. The marketing order was established to help the desert grape industry work with USDA to solve marketing problems. The marketing order continues to be beneficial to producers, handlers, and consumers.

AMS will continue to work with the California desert grape industry in maintaining an effective program.

Dated: June 22, 2011.

**Rayne Pegg,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 2011-16136 Filed 6-27-11; 8:45 am]

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 955

[Doc. No. AMS-FV-11-0016; FV11-955-1 FR]

#### **Vidalia Onions Grown in Georgia; Change in Late Payment and Interest Requirements on Past Due Assessments**

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

**ACTION:** Final rule.

**SUMMARY:** This rule changes the delinquent assessment requirements in effect under the marketing order for Vidalia onions grown in Georgia (order). The order regulates the handling of Vidalia onions grown in Georgia and is administered locally by the Vidalia Onion Committee (Committee). This rule establishes a late payment charge of 10 percent on unpaid assessments that are 10 days past due and increases the interest rate applied to delinquent assessments from 1 percent to 1.5 percent per month. This action should improve handler compliance with the assessment and reporting provisions of the order and help reduce the Committee's collection expenditures.

**DATES:** *Effective Date:* June 29, 2011.

**FOR FURTHER INFORMATION CONTACT:** Jennie M. Varela, 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: [Jennie.Varela@ams.usda.gov](mailto:Jennie.Varela@ams.usda.gov) or [Christian.Nissen@ams.usda.gov](mailto:Christian.Nissen@ams.usda.gov).

Small businesses may request information on complying with this regulation by contacting Laurel May, 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: [Laurel.May@ams.usda.gov](mailto:Laurel.May@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This final rule is issued under Marketing Agreement and Order No. 955, both as amended (7 CFR part 955), regulating

the handling of Vidalia onions grown in Georgia, 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

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.

This final rule changes the delinquent assessment requirements in effect under the order. This rule establishes a late payment charge of 10 percent on unpaid assessments that are 10 days past due and increases the interest rate applied to delinquent assessments from 1 percent to 1.5 percent per month. The change was recommended unanimously by the Committee at a meeting on February 17, 2011.

Section 955.42 of the order provides authority for imposition of a late charge or interest rate or both on delinquent assessments. Section 955.142 of the order's rules and regulations prescribes the requirements for delinquent assessments. Prior to this action, § 955.142 specified that each handler pay an interest charge of 1 percent per month on any unpaid assessments and accrued unpaid interest beginning the day after the assessments are due. This rule modifies § 955.142 to include a 10 percent late charge on delinquent assessments that are 10 days past due and increases the interest rate on delinquent assessments to 1.5 percent per month.

The order requires handlers to pay to the Committee a pro rata assessment on the volume of onions handled. The volume of onions handled is based on