

and small agricultural producers are defined as those having annual receipts of 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 2011–12 season was approximately \$20.79 per 55-pound bushel container and total shipments were slightly higher than 1.2 million 55-pound bushels. Using the average price and shipment information, 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 increases the assessment rate for the 2013–14 and subsequent fiscal periods from the current rate of \$0.25 to \$0.30 per 55-pound bushel container of avocados. The Committee unanimously recommended the increased assessment rate, and 2013–14 expenditures of \$472,553. The increase was recommended to provide an additional \$100,000 for research to address the Laurel Wilt fungus, which can infect and kill avocado trees. As previously stated, income from handler assessments and interest, and funds from reserves, should be adequate to meet this year's expenses.

Alternative expenditure and assessments levels were discussed prior to arriving at this budget. However, the Committee agreed on \$472,553 in expenditures, reviewed the quantity of assessable avocados and available reserves, and recommended an assessment rate of \$0.30 per 55-pound bushel container.

This action increases 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 June 12, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C.

Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189 Generic OMB Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule 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. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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.

A proposed rule concerning this action was published in the **Federal Register** on September 17, 2013 (78 FR 57099). Copies of the proposed rule were also mailed or sent via facsimile to all Florida avocado handlers. Finally, the proposal was made available through the internet by USDA and the Office of the Federal Register. A 15-day comment period ending October 2, 2013, was provided for interested persons to respond to the proposal. No comments were received.

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/MarketingOrdersSmallBusinessGuide>. Any questions about the compliance guide should be sent to Jeffrey Smutny 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 that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers are already receiving avocados from the 2013–14 crop from growers, the fiscal period began on

April 1, 2013, and the assessment rate applies to all Florida avocados received during the 2013–14 and subsequent seasons. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule and no comments were received.

#### List of Subjects in 7 CFR Part 915

Avocados, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 915 is amended as follows:

#### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

- 1. The authority citation for 7 CFR part 915 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

- 2. Section 915.235 is revised to read as follows:

##### § 915.235 Assessment rate.

On and after April 1, 2013, an assessment rate of \$0.30 per 55-pound container or equivalent is established for avocados grown in South Florida.

Dated: January 10, 2014.

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2014–00753 Filed 1–15–14; 8:45 am]

**BILLING CODE 3410–02–P**

#### DEPARTMENT OF AGRICULTURE

##### Agricultural Marketing Service

##### 7 CFR Part 930

[Doc. No. AMS–FV–13–0030; FV13–930–2 FIR]

#### Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Revising Handler Reporting and Grower Diversion Requirements

**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 changed handler reporting and grower diversion requirements prescribed under the marketing order for tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin (order). The Cherry Industry

Administrative Board (Board) locally administers the order. The interim rule changed the deadline for submitting the handler reserve plan from November 1 to October 1 and extended the deadline for redeeming or transferring grower diversion certificates from November 1 to June 30 of a given crop year. These changes provide the industry with a more complete and timely picture of the available supply of tart cherries earlier in the season and give handlers more time and flexibility in meeting their obligations under volume regulation.

**DATES:** Effective January 17, 2014.

**FOR FURTHER INFORMATION CONTACT:**

Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 325-8793, or Email: [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 obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide/>

or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: [Jeffrey.Smutny@ams.usda.gov](mailto:Jeffrey.Smutny@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order and Agreement No. 930, as amended (7 CFR part 930), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, 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 Orders 12866 and 13563.

Prior to this change, handlers were required to submit a handler reserve plan and use grower diversion credits by November 1 of the crop year. A crop year is a 12-month period beginning on July 1 and ending on June 30 of the following year. The order was recently amended to exempt cherries diverted in the orchard (grower diversion) from inclusion in a handler's total volume calculation. When a volume regulation is issued, handlers are obligated to keep a percentage of their total volume in

reserve or account for the restricted volume with diversion certificates. These certificates can be earned through export sales, new market or new product sales, or through grower diversion. Before the amendment, the volume of cherries represented by a grower diversion certificate was added to the handler's total volume.

As the volume represented by diversion certificates is no longer part of the total volume calculation, handlers no longer need these certificates to complete the reserve plan. Consequently, the Board believes handlers will be able to complete the simplified reserve plan at an earlier date and recommended changing the date of submission from November 1 to October 1 to provide the industry with a more complete and timely picture of the available supply of tart cherries.

Further, with the amendment to the order, grower diversion certificates no longer need to be linked to when the handler reserve plan is due. To bring consistency to the use of all types of diversion certificates, the Board recommended allowing handlers to transfer and redeem grower diversion certificates through the end of the season, June 30. This change provides handlers with additional time and flexibility in meeting their restriction obligations.

In addition to adjusting the deadline for submitting the handler reserve plan and extending the deadline for redeeming grower diversion certificates, this rule also makes a minor wording change to § 930.158 to facilitate the change in date.

In an interim rule published in the **Federal Register** on August 1, 2013, and effective on August 2, 2013, (78 FR 46494, Doc. No. AMS-FV-13-0030; FV13-930-2 IR), § 930.158 was amended by changing the date "November 1" to "June 30." Further, § 930.159 was amended by changing "November" to "October" in the first sentence and by revising the words "certificates redeemed" to read "certificates to be redeemed" in the fourth sentence.

**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 action 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 businesses 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 essentially through group action of essentially small entities acting on their own behalf.

There are approximately 600 tart cherry producers in the regulated area and approximately 40 tart cherry handlers who are subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$750,000 and small agricultural service firms have been defined as those having annual receipts of less than \$7,000,000 (13 CFR 121.201).

According to data from the National Agricultural Statistics Service and the Board, the average annual grower price for tart cherries during the 2012-13 season was \$0.54 per pound, and total shipments were around 85 million pounds. Therefore, average receipts for tart cherry producers were around \$76,200, well below the SBA threshold for small producers. In 2013, The Food Institute estimated an f.o.b. price of \$0.84 per pound for frozen tart cherries, which make up the majority of processed tart cherries. Based on this information, average annual handler receipts were about \$1.8 million, also below the SBA threshold for small agricultural service firms. Assuming a normal distribution, the majority of tart cherry producers and handlers may be classified as small entities.

This rule continues in effect an interim rule that changed the deadline for submitting the handler reserve plan from November 1 to October 1 and extended the deadline for redeeming or transferring grower diversion certificates from November 1 to June 30 of a given crop year. These changes provide the industry with a more complete and timely picture of the available supply earlier in the season. In addition, the new deadline gives handlers more time and flexibility to meet their obligations under volume regulation. This rule amends the provisions of §§ 930.158 and 930.159. Authority for the change in the order's rules and regulations is provided in §§ 930.58 and 930.59.

It is not anticipated that this rule will generate any additional costs for growers or handlers. This action is intended to adjust regulations to reflect recent amendments to the order and to allow the order to function more efficiently. These changes are expected to benefit the industry by providing a clear picture of available supply earlier in the season, and by allowing handlers more time to utilize grower diversion

certificates to meet their obligations under volume regulation. These changes should impact all entities positively, regardless of size.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0177, (Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin). This rule required changes to Cherry Industry Administrative Board Form 4, "Handler Reserve Plan and Final Pack Report." However, these changes are minor and the currently approved burden for the form remains the same. The revised form has been submitted to OMB for approval as part of the routine three-year renewal of all forms related to this order.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large tart cherry 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. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend videoconference meetings at regional locations or call in to participate in Board deliberations. Like all Board meetings, the March 21, 2013, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before September 30, 2013. 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/#!documentDetail;D=AMS-FV-13-0030-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, and 13563, 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** (78 FR 46494, August 1, 2013)

will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

#### PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

Accordingly, the interim rule that amended 7 CFR part 930 and was published at 78 FR 46494 on August 1, 2013, is adopted as a final rule, without change.

Dated: January 10, 2014.

**Rex A. Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2014-00769 Filed 1-15-14; 8:45 am]

**BILLING CODE 3410-02-P**

#### SECURITIES AND EXCHANGE COMMISSION

##### 17 CFR Parts 240 and 249

[Release No. 34-71288; File No. S7-45-10]

**RIN 3235-AK86**

#### Registration of Municipal Advisors; Temporary Stay of Final Rule

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule; stay.

**SUMMARY:** The Securities and Exchange Commission ("Commission") is staying temporarily Rules 15Ba1-1 through 15Ba1-8 and Rule 15Bc4-1 ("Rules") under the Securities Exchange Act of 1934 and Forms MA, MA-I, MA-W, and MA-NR ("Forms") until July 1, 2014 and making conforming, non-substantive amendments to Rule 15Ba1-8 regarding recordkeeping requirements to conform the dates referenced in certain provisions of that rule to the July 1, 2014 date (the "Amendment"). The effective date for the Rules and Forms was January 13, 2014. This stay of the Rules and Forms means that persons are not required to comply with the Rules and Forms until July 1, 2014. The Amendment is the only action the Commission is taking in this release with respect to the Rules and Forms. Therefore, the phased-in compliance period that begins on July 1, 2014, for the requirement to use the Forms to register as municipal advisors under the Rules remains unchanged.

**DATES:** Effective January 13, 2014, 17 CFR 240.15Ba1-1 through 15Ba1-8 and

240.15Bc4-1 and 17 CFR 249.1300, 249.1310, 249.1320, and 249.1330 are stayed until July 1, 2014.

**FOR FURTHER INFORMATION CONTACT:** John Cross, Director; Jessica Kane, Senior Special Counsel to the Director; Rebecca Olsen, Attorney Fellow; Mary Simpkins, Senior Special Counsel; Edward Fierro, Attorney-Adviser; or Cori Shepherd, Attorney-Adviser; Office of Municipal Securities, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-7010. Contact phone number: (202) 551-5680

#### SUPPLEMENTARY INFORMATION:

##### I. Discussion

Section 15B(a)(1) of the Exchange Act,<sup>1</sup> as amended by Section 975(a)(1)(B) of the Dodd-Frank Act,<sup>2</sup> makes it unlawful for a municipal advisor to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, unless the municipal advisor is registered with the Commission. Section 15B(a)(2) of the Exchange Act,<sup>3</sup> as amended by Section 975(a)(2) of the Dodd-Frank Act, provides that a municipal advisor may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning the municipal advisor and any person associated with the municipal advisor as the Commission by rule may prescribe as necessary or appropriate in the public interest or for the protection of investors.

On September 20, 2013, the Commission issued Rules and Forms to provide for municipal advisor registration under a permanent registration regime.<sup>4</sup> The effective date for the Rules and Forms was January 13, 2014. The Commission provided a phased-in compliance period, beginning on July 1, 2014, for the requirement to use the Forms to register as municipal advisors under the Rules. Municipal advisors currently are subject to the statutory regime under Section 15B of the Exchange Act, which imposes on municipal advisors a fiduciary duty to municipal entities, and the temporary registration regime under which municipal advisors are required to

<sup>1</sup> 15 U.S.C. 78o-4(a)(1).

<sup>2</sup> Public Law 111-203, 124 Stat. 1376 (2010).

<sup>3</sup> 15 U.S.C. 78o-4(a)(2).

<sup>4</sup> See Registration of Municipal Advisors, Release No. 34-70462 (September 20, 2013), 78 FR 67467 (November 12, 2013), available at <http://www.sec.gov/rules/final/2013/34-70462.pdf> (the "Adopting Release").