

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 925 which was published at 63 FR 655 on January 7, 1998, is adopted as a final rule without change.

Dated: March 30, 1998.

Sharon Bomer Lauritsen,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-8785 Filed 4-2-98; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 959**

[Docket No. FV98-959-1 FIR]

**Onions Grown in South Texas;
Decreased Assessment Rate**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the South Texas Onion Committee (Committee) under Marketing Order No. 959 for the 1997-98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess Texas onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: May 4, 1998.

FOR FURTHER INFORMATION CONTACT: Cynthia Cavazos or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501; telephone: (956) 682-2833, Fax: (956) 682-5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order

Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the "order." The marketing agreement and order are 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 (Department) 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 issued herein will be applicable to all assessable onions beginning August 1, 1997, 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 the Secretary 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 the Secretary 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 Secretary'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 continues to decrease the assessment rate established for the Committee for the 1997-98 and subsequent fiscal periods from \$0.07 per 50-pound container or equivalent to \$0.05 per 50-pound container or equivalent.

The Texas onion marketing order provides authority for the Committee, with the approval of the Department, 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 of 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 1996-97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee, in a telephone vote, unanimously recommended 1997-98 administrative expenses of \$100,000 for personnel, office, and the travel portion of the compliance budget. These expenses were approved in July 1997. The assessment rate and funding for research and promotion projects, and the road guard station maintenance portion of the compliance budget were to be recommended at a later Committee meeting.

The Committee subsequently met on November 6, 1997, and unanimously recommended 1997-98 expenditures of \$245,000 and an assessment rate of \$0.05 per 50-pound container or equivalent of onions. In comparison, last year's budgeted expenditures were \$448,000. The assessment rate of \$0.05 is \$0.02 less than the rate previously in effect. At the former rate of \$0.07 per 50-pound container or equivalent, the assessment income would have exceeded anticipated expenses by about \$35,000, and the projected reserve of \$220,000 on July 31, 1998, would have exceeded the level the Committee believes to be adequate to administer the program. The Committee voted to lower its assessment rate and use more of the reserve to cover its expenses. The reduced assessment rate is expected to bring assessment income closer to the amount necessary to administer the program for the 1997-98 fiscal period.

Major expenses recommended by the Committee for the 1997-98 fiscal period include \$80,912 for personnel and administrative expenses, \$45,000 for compliance, \$33,088 for promotion, and \$86,000 for onion breeding research. Budgeted expenses for these items in

1996-97 were \$80,000, \$120,000, \$150,000, and \$98,000, 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 year are estimated at 4 million 50-pound equivalents, which should provide \$200,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently \$185,000) will be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 959.43).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will 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 the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The remainder of the Committee's 1997-98 budget was approved November 24, 1997, and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), 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 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. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 producers of South Texas onions in the production area and approximately 38 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts less than \$500,000 and small agricultural service firms are defined as those whose annual receipts are less than \$5,000,000.

Since the interim final rule was issued, the Department received additional information from the Committee on handlers and producers in the South Texas onion industry. This information is summarized below. Most of the handlers are vertically integrated corporations involved in producing, shipping, and marketing onions. For the 1996-97 marketing year, onions produced on 12,175 acres were shipped by the industry's 38 handlers. The average acreage and median acreage handled was 310 acres and 177 acres, respectively. In terms of production value, total revenues from the 38 handlers were estimated to be \$23.6 million; with average and median revenue being \$620,000 and \$146,000, respectively. The industry is highly concentrated as the largest 8 handlers (largest 25 percent) controlled 62 percent of the acreage and 77 percent of onion production.

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 of alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all the 38 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 \$5,000,000 annual receipt threshold. All of the 70 producers may be classified as small entities based on the SBA definition if only their revenue from spring onions is considered. When revenue from all sources is considered, a majority of the producers would not

be considered small entities because the income of many of the producers would exceed the \$500,000 figure.

This rule continues in effect the assessment rate of \$0.05 per 50-pound container or equivalent established for the Committee and collected from handlers for the 1997-98 and subsequent fiscal periods. The Committee unanimously recommended 1997-98 expenditures of \$245,000 and an assessment rate of \$0.05 per 50-pound container or equivalent of onions. In comparison, last year's budgeted expenditures were \$448,000. The assessment rate of \$0.05 is \$0.02 less than the rate previously in effect. At the former assessment rate of \$0.07 per 50-pound container or equivalent and an estimated 1998 onion production of 4 million 50-pound equivalents, the projected reserve on July 31, 1998, would have exceeded the level the Committee believes necessary to administer the program. The Committee decided that an assessment rate of less than \$0.05 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1997-98 fiscal period include \$80,912 for personnel and administrative expenses, \$45,000 for compliance, \$33,088 for promotion, and \$86,000 for onion breeding research. Budgeted expenses for these items in 1996-97 were \$80,000, \$120,000, \$150,000, and \$98,000, respectively.

Onion shipments for the year are estimated at 4 million 50-pound equivalents, which should provide \$200,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (currently \$185,000) will be kept within the maximum permitted by the order (approximately two fiscal periods' expenses; § 959.43).

Recent price information indicates that the grower price for the 1997-98 marketing season will range between \$7.00 and \$12.00 per 50-pound container or equivalent of onions. Therefore, the estimated assessment revenue for the 1997-98 fiscal period as a percentage of total grower revenue will range between .714 and .417 percent.

This rule continues to decrease the assessment obligation imposed on handlers. While this rule imposes some additional costs on handlers, the costs are minimal and in the form of uniform assessments 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 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 6, 1997, 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 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.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on December 30, 1997 (62 FR 67694). The interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended March 2, 1998, and no comments were received.

After consideration of all relevant matter 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.

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 amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 959 which was published at 62 FR 67694 on December 30, 1997, is adopted as a final rule without change.

Dated: March 30, 1998.

Sharon Bomer Lauritsen,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98-8786 Filed 4-2-98; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Regulation B; Docket No. R-0978]

Equal Credit Opportunity

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending certain model forms in its Regulation B to reflect statutory amendments to the Fair Credit Reporting Act (FCRA) disclosures contained in those forms. Creditors have the option of including the FCRA disclosures with the notice of action taken required under Regulation B. In addition, a technical revision has been made to Appendix A.

DATES: The rule is effective April 30, 1998.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Senior Attorney, or Pamela Morris Blumenthal, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or 452-2412; users of Telecommunications Device for the Deaf (TDD) only, contact Diane Jenkins at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

Regulation B, which implements the Equal Credit Opportunity Act, requires creditors to provide consumers with a notice of action taken if an application for credit is denied, an account is terminated, or the terms of an account are unfavorably changed. The Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681a) requires creditors that take adverse action against a consumer, such as by denying an application for credit, to provide consumers with certain disclosures if the action is based on information provided by a third party or a consumer reporting agency. The required FCRA disclosures include, for example, the name and address of the consumer reporting agency that supplied the information. For information obtained from a third party, the required disclosures include a statement that the consumer has the right to request the reason for the denial within sixty days. Creditors have the option of including the FCRA disclosures with the notice of action taken required under Regulation B; Appendix C to Regulation B provides model forms that combine the FCRA and ECOA disclosures.

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub.

L. 104-208, 110 Stat. 3009) made extensive changes to the FCRA. Among other changes, the amendments require that additional disclosures be given to consumers who are denied credit based on information from an affiliate or from a consumer reporting agency.

On July 11, 1997, the Board published for public comment proposed amendments to several model forms in Regulation B (61 FR 37166). The Board is issuing a final rule amending the FCRA portion of Regulation B's model forms C-1 through C-5 and the general instructions for these forms to reflect the changes to the FCRA, which were effective September 30, 1997. The forms include language that may be used when credit is denied based on information obtained from a consumer reporting agency, from a third party other than a consumer reporting agency, or from an affiliate. To minimize the number of changes to the forms, and thereby ease compliance for creditors, the Board is changing the language only in the forms that are affected by the FCRA amendments.

II. New Model Language

Action Based on Information From a Consumer Reporting Agency

When adverse action is taken against a consumer based on information from a consumer reporting agency, section 615(a) of the FCRA now requires the following additional disclosures: a telephone number for the consumer reporting agency (toll-free if the agency compiles and maintains files on consumers nationwide); a statement that the consumer reporting agency did not make the decision to take the adverse action, and cannot state the reason why the adverse action was taken; the consumer's right to a free copy of the credit report from the consumer reporting agency, if the request is made within 60 days of receipt of the adverse action notice; and the consumer's right to dispute with the consumer reporting agency the accuracy or completeness of the credit report. These revisions have been incorporated into the model forms that may be used to comply with the FCRA when credit is denied, an account is terminated, or the terms of an account are unfavorably changed based on information from a consumer reporting agency.

Action Based on Information From an Affiliate

The Board specifically solicited comment on which, if any, disclosure should be provided when adverse action is based on a consumer report obtained from an affiliate. The Board proposed