

access to Government information and services, and for other purposes.

In addition, the Committee's meeting was widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 6, 2006, meeting was a public meeting and all entities, both large and small, were encouraged to express their views on these issues.

An interim final rule concerning this action was published in the **Federal Register** on October 3, 2006. Copies of the rule were mailed by the Committee's staff to all Committee members and kiwifruit handlers. In addition, the rule was made available through the Internet by USDA and the Office of the **Federal Register**. That rule provided for a 60-day comment period which ended December 4, 2006. 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/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

#### Paperwork Reduction Act

The interim final rule published on October 3, 2006, provided a 60-day period for comments on the reporting requirements in that rule. No comments were received. In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], the information collection was approved by the Office of Management and Budget (OMB), under OMB No. 0581-0238, "Kiwifruit Grown in California."

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (71 FR 58246, October 3, 2006) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 920—KIWIFRUIT GROWN IN CALIFORNIA

■ Accordingly, the interim final rule amending 7 CFR part 920, which was published at 71 FR 58246 on October 3,

2006, is adopted as a final rule without change.

Dated: February 12, 2007.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. E7-2732 Filed 2-15-07; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 958

[Docket No. AMS-FV-06-0179; FV06-958-1 FIR]

#### Onions Grown in Certain Designated Counties in Idaho, and Malheur County, OR; Change in Reporting Requirements

**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 changing the reporting requirements established under the Idaho-Eastern Oregon onion marketing order, which regulates the handling of onions grown in designated counties in Idaho and Oregon and is administered locally by the Idaho-Eastern Oregon Onion Committee. This rule continues in effect the action that: Established a credit application procedure for assessments paid on onions that are subsequently regraded, resorted, or repacked within the production area or diverted to exempt special purpose outlets; changed the reporting requirements for fresh onions for peeling, chopping, or slicing, and for special purpose shipments; and added "disposal" as a special purpose shipment.

**DATES:** *Effective Date:* March 19, 2007.

**FOR FURTHER INFORMATION CONTACT:** Susan M. Hiller, Marketing Specialist, or Gary D. Olson, Regional Manager, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or E-mail: [Susan.Hiller@usda.gov](mailto:Susan.Hiller@usda.gov) or [GaryD.Olson@usda.gov](mailto:GaryD.Olson@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. 130 and Marketing Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon, 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. This rule is not intended to have retroactive effect. 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.

This rule continues in effect the action that established an application procedure for handlers to receive credit for assessments paid on onions that are subsequently regraded, resorted, or repacked within the production area or diverted to exempt special purpose outlets; changed the reporting requirements for fresh onions for peeling, chopping, or slicing; changed the reporting requirements for special purpose shipments; and added "disposal" as a special purpose shipment. These actions were unanimously recommended by the Committee at a meeting on June 15, 2006.

Section 958.53 provides authority for the Committee, with the approval of USDA, to exempt special purpose

shipments from assessment and handling regulations established under the order. Under this authority, § 958.328(e) exempts onions for planting, livestock feed, charity, dehydration, canning, freezing, extraction, and pickling from the minimum grade, size, maturity, assessment, and inspection requirements. Section 958.56 provides authority for the Committee, with the approval of USDA, to prescribe safeguards to prevent onions from entering channels of trade for other than the purpose authorized. Safeguards in effect are delineated in § 958.328(f). Section 958.65 provides authority for the Committee, with the approval of USDA, to require such reports and other information as may be necessary for the Committee to perform its duties.

The Committee conducted an industry-wide meeting on January 17, 2006, to review the compliance and safeguard provisions of the order. The Committee appointed a Compliance Subcommittee, which met on May 16, 2006, to review the comments received. The three main areas of concern expressed by industry members were: (1) The need to provide a procedure for handlers to obtain credit for assessments paid on onions that are subsequently regraded, resorted, or repacked within the production area or diverted into exempt special purpose outlets; (2) improving the method of reporting fresh market onions for peeling, chopping, or slicing; and (3) improving and streamlining the safeguards for special purpose shipments. An overriding concern expressed was the need to decrease the reporting burden on receivers (buyers) of Idaho-Eastern Oregon onions.

The Committee met on June 15, 2006, to hear the report of the Compliance Subcommittee. The Committee thereafter unanimously recommended changing the reporting requirements established under the order to address these three areas of concern. The Committee recommended adding a new § 958.250 and a new form, "Assessment Credit Report", which establishes a procedure for those handlers who would like credit for assessments paid on onions in accordance with §§ 958.42 and 958.240 that are subsequently regraded, resorted, or repacked within the production area, or shipped into special purpose outlets. The Committee also recommended that "disposal" be added to § 958.328(e) as a special purpose to allow handlers to receive assessment credit on onions for which assessments have been paid when such onions are disposed of. Disposal means

destroying the onions, generally by burying the onions in special pits.

The Committee unanimously recommended changing the reporting requirements for fresh onions for peeling, chopping, or slicing in § 958.328(d) by removing receiver reporting requirements. Previously, the name of Form No. FV-37 was the "Rehandling of Onions Report", which handlers found confusing and unrelated to the actual activity. The form has been renamed "Fresh Cut Report" (same form number) and will be submitted by handlers to report multiple shipments rather than individual shipments.

The Committee agreed with industry concerns that reporting burdens should not be placed on the receivers of Idaho-Eastern Oregon onions. Receivers are able to acquire onions from regions that do not have a marketing order in effect and thus avoid reporting requirements. The Committee received information that handlers in the production area may have lost sales due to receiver reporting requirements.

This rule also continues in effect the action that changed the safeguard reporting requirements in § 958.328(f) by clarifying that the safeguard procedures are required only for onions shipped outside the Idaho-Eastern Oregon onion production area.

Under the new safeguard procedures, with newly revised forms, handlers will notify the Committee and obtain a Certificate of Privilege permit number by completing form FV-34, "Application to Make Special Purpose Shipments—Certificate of Privilege." Receivers of special purpose onions will only need to complete form FV-36, "Special Purpose Shipment Receiver Certification" indicating they will use the onions in an approved special purpose outlet. Receivers will no longer be required to submit form FV-35, "Onion Diversion Report" for every shipment. Handlers will submit additional information to the Committee on form FV-34, "Application to Make Special Purpose Shipments—Certificate of Privilege." This information includes type of sale, total hundredweight for the sale, and the type of container for the sale. This form can be used to report multiple shipments.

These changes are intended to enhance compliance with the special purpose shipment procedures established under the order and contribute to the efficient operation of the program.

And finally, this rule continues in effect the action that reorganized the rules and regulations issued under this order by removing the heading "Subpart—Assessment Rates" and

adding a new heading "Subpart—Rules and Regulations."

### Final Regulatory Flexibility Analysis

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 250 producers of onions in the production area, 38 handlers, and 24 receivers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (SBA)(13 CFR 121.201) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$6,500,000.

The National Agricultural Statistics Service (NASS) reported in the "Vegetables 2005 Summary", published in January 2006, that the total F.O.B. value of onions in the regulated production area for 2005 was \$148,685,000. Therefore, based on an industry of 250 producers, 38 handlers, and 24 receivers, the majority of producers, handlers, and receivers of Idaho-Eastern Oregon onions may be classified as small entities.

This rule continues in effect the action that added a new § 958.250, which establishes an application procedure for handlers to receive credit for assessments paid on onions in accordance with §§ 958.42 and 958.240 that are subsequently regraded, resorted, repacked within the production area, or sent to exempt special purpose outlets. This rule also finalizes the action that added "disposal" as a special purpose shipment.

The rule also continues in effect the action that changed the reporting requirements for fresh onions for peeling, chopping, or slicing and for special purpose shipments by reducing receiver reporting requirements and streamlining handler reporting requirements.

Regarding the impact of these actions on affected entities, this rule imposes minimal additional costs. This rule

continues in effect the action that established a procedure to make it easier for handlers to apply for an assessment credit. The change in the reporting requirements for fresh onions for peeling, chopping, or slicing, as well as the change to the safeguards for special purpose shipments were requested by industry members and should decrease the overall reporting burden. The benefits of this rule are not expected to be disproportionately greater or lesser for small handlers or producers than for larger entities.

An alternative to these actions would be to have handlers report onion shipments rather than utilizing the information from each handler's inspection certificates. However, most handlers were opposed to this alternative because it would increase their reporting burden.

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. In addition, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this 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.

The Committee has a number of appointed subcommittees to review certain issues and make recommendations to the Committee. The Compliance Subcommittee met on May 16, 2006, and discussed these issues in detail. All interested persons were invited to attend this meeting and participate in the industry's deliberations.

Further, the Committee's meeting on June 15, 2006, was widely publicized throughout the onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the June 15, 2006, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

An interim final rule concerning this action was published in the **Federal Register** on November 7, 2006. Copies of the rule were mailed by the Committee's staff to all Committee members, onion handlers, and interested persons. In addition, the rule was made available through the Internet by USDA and the Office of the **Federal Register**. That rule provided for a 60-day comment period,

which ended January 8, 2007. 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/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

#### Paperwork Reduction Act

The interim final rule published on November 7, 2006, provided a 60-day period for comments on the reporting requirements in that rule. No comments were received. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirements that are contained in this rule were approved by OMB, under OMB No. 0581-0241, "Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon, M.O. No. 958."

In summary, this rule continues in effect the actions that established an application procedure for handlers to receive credit for assessments paid on onions that are subsequently regraded, resorted, or repacked within the production area or diverted to exempt special purpose outlets; changed the reporting requirements for fresh onions for peeling, chopping, or slicing; added "disposal" as a special purpose shipment; and changed the reporting requirements for special purpose shipments. This rule continues in effect the actions that removed reporting requirements for receivers and streamlined handler reporting requirements. These changes should enhance compliance with the special purpose shipment procedures established under the marketing order and contribute to the efficient operation of the program.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing this interim final rule, without change, as published in the **Federal Register** (71 FR 65037, November 7, 2006) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

#### PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

■ Accordingly, the interim final rule amending 7 CFR part 958, which was published at 71 FR 65037 on November 7, 2006, is adopted as a final rule without change.

Dated: February 12, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7-2724 Filed 2-15-07; 8:45 am]

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#### FEDERAL ELECTION COMMISSION

##### 11 CFR Part 111

[Notice 2007-04]

#### Policy Statement Establishing a Pilot Program for Probable Cause Hearings

**AGENCY:** Federal Election Commission.

**ACTION:** Statement of policy.

**SUMMARY:** The Federal Election Commission ("Commission") is establishing a pilot program that will allow respondents in enforcement proceedings under the Federal Election Campaign Act, as amended ("FECA"), to have an oral hearing before the Commission. Hearings will take place prior to the Commission's consideration of the General Counsel's recommendation on whether to find probable cause to believe that a violation has occurred. The Commission will grant a request for a probable cause hearing if any two commissioners agree to hold a hearing. The program will provide respondents with the opportunity to present arguments to the Commission directly and give the Commission an opportunity to ask relevant questions. Further information about the procedures for the pilot program is provided in the supplementary information that follows.

**DATES:** *Effective Date:* February 16, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Mark D. Shonkwiler, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Federal Election Commission is establishing a pilot program to afford respondents in pending enforcement matters the opportunity to participate in hearings (generally through counsel) and present oral arguments directly to