

approval, this collection will be merged with the forms currently approved for use under OMB No. 0581-0189 "Generic OMB Fruit Crops."

The 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.

In summary, this rule establishes procedures for handlers to ship kiwifruit that has been inspected, meets applicable grade and size requirements, and is subsequently placed into new containers without PLI. This rule is intended to reduce handler inspection costs and facilitate the marketing of kiwifruit. The additional reporting requirement will contribute to the efficient operation of the program and assist in ensuring handler compliance with marketing order provisions. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final 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 in good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule should be in place as soon as possible because the 2006-07 season began on August 1, 2006, and handlers will begin shipping kiwifruit by mid-September; (2) the Committee unanimously recommended this change at a public meeting and all interested parties had an opportunity to provide input; (3) this rule relaxes requirements currently in effect and kiwifruit producers and handlers are aware of this rule and need no additional time to comply with the relaxed requirements; (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

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

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

#### PART 920—KIWIFRUIT GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 920 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

■ 2. In § 920.303, revise paragraph (d), and add a new paragraph (f) to read as follows:

#### § 920.303 Container marking regulations.

\* \* \* \* \*

(d) Except as provided in paragraph (f) of this section, containers of kiwifruit must be positive lot identified prior to shipment in accordance with the following requirements. All exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on the pallet, shall be positive lot identified with a plain mark corresponding to the lot inspection conducted by an authorized inspector, except for individual consumer packages within a master container and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service. Individual consumer packages of kiwifruit placed directly on a pallet shall have all outside or exposed packages on a pallet positive lot identified with a plain mark corresponding to the lot inspection conducted by an authorized inspector or have one inspection label placed on each side of the pallet. Reusable plastic containers of kiwifruit, placed on a pallet, shall be positive lot identified in accordance with Federal or Federal-State Inspection Service procedures and shall have required information on the cards of the individual containers, as provided in this section of the regulations.

\* \* \* \* \*

(f) Kiwifruit that has been inspected and certified, and is subsequently placed into new containers, does not have to be positive lot identified, as prescribed in paragraph (d) of this section: *Provided*, That:

(1) Such kiwifruit is of the same grade and size as originally inspected; and

(2) The handler requests a verification number from the Federal or Federal-State Inspection Service prior to shipment; plainly marks one end of each container with such number and the letter "R," both of which shall be at least one-half inch in height; and submits a Kiwifruit Verification Form to the Federal or Federal-State Inspection Service within 3 business days of such request. The handler shall provide the following information on the Kiwifruit Verification Form.

(i) From the original inspection:

(A) The positive lot identification numbers;

(B) The identity of the handler;

(C) The inspection certificate numbers;

(D) The grade and size of the kiwifruit;

(E) The number and type of containers; and

(F) The handler's brand; and

(ii) On the kiwifruit placed into new containers:

(A) The number and type of containers; and

(B) The applicable brand.

Dated: September 27, 2006.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. E6-16279 Filed 10-2-06; 8:45 am]

**BILLING CODE 3410-02-P**

#### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

#### 7 CFR Part 955

[Docket No. FV06-955-1 FIR]

#### Vidalia Onions Grown in Georgia; Revision of Reporting and Assessment 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 and assessment requirements 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 continues in effect the action that changed the reporting requirements for handlers from filing weekly shipment reports to monthly reporting. It also continues in effect a change in when assessments are due and how delinquent assessments are handled. These changes are expected to benefit handlers without negatively affecting program compliance.

**DATES:** *Effective Date:* November 2, 2006.

**FOR FURTHER INFORMATION CONTACT:** Doris Jamieson, Marketing Specialist, or Christian 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@usda.gov](mailto:Doris.Jamieson@usda.gov), or [Christian.Nissen@usda.gov](mailto:Christian.Nissen@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 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."

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 revised the reporting and assessment requirements prescribed under the order. This rule continues in effect to change the reporting requirements for handlers from filing weekly shipment reports to monthly reporting. It also continues in effect to change when assessments are due and how delinquent assessments are handled. These changes are expected to

benefit handlers without negatively affecting program compliance. The Committee unanimously recommended these changes at a meeting on January 19, 2006.

Section 955.60 of the order provides authority for the Committee to require handlers to file reports and provide other information as may be necessary for the Committee to perform its duties. Section 955.101 of the regulations provides the requisite reporting requirements. Prior to this action, handlers were required to file weekly reports that included, among other things, the name and address of the handler, the period covered in the report, the total volume of Vidalia onions received by the handler, and the handler's total fresh market shipments.

Section 955.42 provides the authority for the formulation of an annual budget of expenses and the collection of assessments from handlers to administer the order. Section 955.42(f) provides the authority to impose a late payment charge or an interest charge or both, on any handler who fails to pay assessments in a timely manner and the authority to establish the time and rate of such charges. Section 955.142 of the rules and regulations outlines the procedures for applying interest charges to delinquent assessments.

This rule continues in effect the action that revised § 955.101 to require handlers to file shipping reports on a monthly basis rather than weekly. This rule also continues in effect the action that revised § 955.142 to specify when assessments are due and to adjust the way interest is applied to delinquent assessments.

Previously, § 955.101 required handlers to provide the Committee with information regarding the volume of Vidalia onions they received and shipped during each week of the shipping season. The shipping reports were to be filed no later than 4 p.m. on the Tuesday immediately following the shipping week. The Committee provided a form to assist handlers with supplying the required shipping information. Fresh Vidalia onions are primarily shipped from April through June with some limited shipments through December with the use of Controlled Atmosphere storage.

Handler reports are used by the Committee to calculate the assessments owed by each handler. When handler reports are not received in a timely manner, it delays the receipt of assessment payments and in turn, the collection process the Committee uses to pursue late payments. Thus, timely receipt of handler reports is important.

In 2002, the Committee changed from monthly reporting and assessment collection to weekly (67 FR 58511). This change was made to address the problems the Committee staff was experiencing in receiving monthly reports and assessment payments in a timely manner. The change was made in an effort to provide an earlier indication to Committee staff of potential problems with handlers not reporting or paying their assessments so these potential problems could be addressed before the amounts involved grew to significant levels.

After several seasons of weekly reporting, the Committee received requests from the industry to return to monthly reporting. It was reported that several handlers considered weekly reporting too cumbersome and unnecessary. In discussing this issue, Committee members stated that during harvest, handlers utilize all their resources to get the onions harvested and to market. They stated that weekly reporting is very time consuming and puts an additional burden on their staff to ensure weekly reports are submitted on time to avoid penalties and interest. In addition, many handlers do not ship onions every week of the season. Nevertheless, under the reporting requirements then in effect, handlers had to file a report each week.

Committee members recognized that monthly reporting would reduce Committee expenditures. The Committee also recognized that several adjustments have been made in the compliance and assessment collection process which have helped address some of the problems relating to late reporting and assessment collection. The Committee has implemented an electronic tracking system to ensure all reports and assessment payments are received from each handler. A database has been created with each handler's name and the date reports are due. As reports are received from each handler, the data is entered into the computer. A detailed report listing all handlers, the date reports are due, and whether all handlers have submitted reports for each due date can be generated to assist with compliance efforts. If a handler fails to file a report for a specific reporting date, the tracking report reflects that information. The handler can then be notified that a report is due.

The Committee has also hired a part-time compliance officer. The compliance officer visits handlers on a routine basis throughout the season to ensure compliance with the order, including the timely submission of reports and payment of assessments.

Further, the Committee's compliance plan has been modified to better address late reports and assessment payments. Consequently, the Committee follows up more rapidly on late reports and assessments. These efforts will help prevent an accumulation of a large assessment debt from handlers.

The Committee believes that the adjustments to its compliance and assessment collection process and the addition of a compliance officer better address the problems with late payment and reporting that were experienced previously during monthly reporting. Therefore, the Committee voted unanimously to return to monthly reporting.

This rule also continues in effect to revise the rules and regulations specifying when reports and assessments are to be received by the Committee office. Prior to this change, handler reports and assessments were both due at 4 p.m. the Tuesday immediately following the week in which the shipments were made. This action continues in effect to change §§ 955.101 and 955.142 to require that reports and assessments must be submitted to the Committee office by 5 p.m. on the fifth day of each month following a month of active shipping. Should the fifth day of the month fall on a weekend or holiday, payments and reports are due by the first business day prior to the fifth day of the month.

This rule also continues in effect to change the way delinquent assessments are handled to reflect the change to monthly reporting. Previously, § 955.142 specified that handlers must pay interest charges of 1 percent per week on any unpaid assessments and on any accrued unpaid interest beginning the day immediately after the date the weekly assessments were due, until the delinquent handler's assessments, plus applicable interest, had been paid in full. This rule continues in effect to revise § 955.142 by adjusting the way interest charges are applied so that interest accrues at 1 percent per month on any unpaid assessments and on any accrued unpaid interest beginning the day immediately after the date the monthly assessments are due until the delinquent handler's assessments plus applicable interest has been paid in full.

#### **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 100 producers of Vidalia onions in the production area and approximately 100 handlers of Vidalia onions who are subject to regulation under the marketing 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, which include handlers, are defined as those whose annual receipts are less than \$6,500,000 (13 CFR 121.201).

Based on the Georgia Agricultural Statistical Service and Committee data, the average annual grower price for fresh Vidalia onions during the 2005 season was around \$12 per 40-pound bag. Total Vidalia onion shipments for the 2005 season were around 3,571,500 40-pound bags. Using available data, more than 90 percent of Vidalia onion handlers could be considered small businesses under the SBA definition. In addition, based on acreage, production, grower prices as reported by the National Agricultural Statistics Service, and the total number of Vidalia onion growers, the average annual grower revenue is below \$750,000. Thus, the majority of handlers and producers of Vidalia onions may be classified as small entities.

This rule continues in effect the action that revised the reporting and assessment requirements prescribed under the order. This rule continues in effect to change the reporting requirements for handlers from filing weekly shipment reports to monthly reporting. It also continues in effect to change when assessments are due and how delinquent assessments are handled. These changes reduce the number of reports a handler must submit annually and are expected to benefit handlers without negatively affecting program compliance. This rule continues in effect to revise §§ 955.101 and 955.142. Authority for this action is provided for in §§ 955.42 and 955.60 of the order. This change was unanimously recommended by the Committee at a meeting held on January 19, 2006.

Requiring handlers to file shipping reports on a monthly basis rather than

weekly reduces the reporting burden on both small and large handlers. Fresh Vidalia onions are primarily shipped from April through June with some limited shipments through December. Therefore, total reporting requirements per handler for weekly reporting totaled around 60 minutes per handler annually (5 minutes per response times approximately 12 responses). This resulted in a total annual industry burden of about 100 hours (60 minutes per handler times 100 handlers).

Requiring handlers to report monthly decreases the annual burden on a handler to around 15 minutes annually (5 minutes per response times approximately 3 responses), for a total annual industry burden of approximately 25 hours (15 minutes times 100 handlers). Thus, the total annual burden for handlers is decreased by around 75 hours, which is expected to benefit all handlers.

This rule is not expected to result in any additional costs for handlers. This rule continues in effect to reduce the number of reports and assessment payments handlers are required to submit annually, which reduces the amount of time necessary for handlers to file reports and assessments.

It also continues in effect to reduce the amount of time required by the Committee staff to monitor shipping reports and assessment payments by reducing the number of submissions. Thus, this rule offers the potential for cost savings. The potential reduction in Committee costs would benefit all handlers regardless of their size. Consequently, the benefits of this rule are expected to be equally available to all.

The Committee did consider the alternative of making no change in the regulation. However, the change to monthly reporting reduces the number of reports a handler must submit annually and the Committee believes it benefits handlers without negatively affecting program compliance. Therefore, this alternative was rejected and the Committee unanimously agreed to return to monthly reporting and assessment collection requirements.

The 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.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this rule have been previously approved by the Office of Management and Budget (OMB) and

assigned OMB No. 0581-0178, Vegetable and Specialty Crops. 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, as noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Vidalia onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the January 19, 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 June 15, 2006. Copies of the rule were mailed by the Committee's staff to all Committee members and Vidalia onion 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 August 14, 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.

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 34507, June 15, 2006) will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 955

Onions, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 955—VIDALIA ONIONS GROWN IN GEORGIA

■ Accordingly, the interim final rule amending 7 CFR part 955 which was published at 71 FR 34507 on June 15, 2006, is adopted as a final rule without change.

Dated: September 27, 2006.

**Kenneth C. Clayton,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. E6-16257 Filed 10-2-06; 8:45 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 77

[Docket No. APHIS-2006-0145]

#### Tuberculosis in Cattle and Bison; State and Zone Designations; Texas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the bovine tuberculosis regulations regarding State and zone classifications by raising the designation of Texas from modified accredited advanced to accredited-free. We have determined that Texas meets the criteria for designation as an accredited-free State.

**DATES:** This interim rule is effective September 29, 2006. We will consider all comments that we receive on or before December 4, 2006.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>, select "Animal and Plant Health Inspection Service" from the agency drop-down menu, then click "Submit." In the Docket ID column, select APHIS-2006-0145 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS-2006-0145, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2006-0145.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the

USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Kathy Orloski, Epidemiologist, National Tuberculosis Eradication Program, National Center for Animal Health Programs, VS, APHIS, 2150 Centre Avenue, Building B, M/S 3E20, Fort Collins, CO 80526-8117, (970) 494-7221.

#### SUPPLEMENTARY INFORMATION:

##### Background

Bovine tuberculosis is a contagious and infectious granulomatous disease caused by *Mycobacterium bovis*. It affects cattle, bison, deer, elk, goats, and other warm-blooded species, including humans. Tuberculosis in infected animals and humans manifests itself in lesions of the lung, lymph nodes, bone, and other body parts, causes weight loss and general debilitation, and can be fatal. At the beginning of the past century, tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for tuberculosis in livestock. Through this program, the Animal and Plant Health Inspection Service (APHIS) works cooperatively with the national livestock industry and State animal health agencies to eradicate tuberculosis from domestic livestock in the United States and prevent its recurrence.

Federal regulations implementing this program are contained in 9 CFR part 77, "Tuberculosis" (referred to below as the regulations), and in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" (UMR), which is incorporated by reference into the regulations. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of tuberculosis. Subpart B of the regulations contains requirements for the interstate movement of cattle and bison not known to be infected with or exposed to tuberculosis. The interstate movement requirements depend upon whether the animals are moved from an accredited-free State or zone, modified accredited advanced State or zone, modified accredited State or zone,